

to apply the – whatever they call that rule – the whole-something rule.

[Brunswick]: Entire market value?

[The Court]: Right.

Appx2552-2553(552:23-553:4). Even Cobalt acknowledged the requirements for the EMVR were not satisfied:

[The Court]: ... The evidence does not support the proposition that the reason for buying the boat was the swim step --

[Cobalt]: I absolutely agree, Your Honor.

[The Court]: -- it only supports the fact that it was one of the factors.

[Cobalt]: You're right.

Appx2556(556:10-15).

At the *Daubert* hearing, Cobalt's damages expert, Mark Hoffman, confirmed his opinion on the reasonable royalty for the swim step was based on the entire profit for a boat. Appx2587-2588(587:10-588:4); Appx2590(590:2-22); Appx2593(592:8-10); Appx2595-2596(595:17-596:15). After hearing Mr. Hoffman's expected testimony, the district court excluded his opinions that were based on revenue of the whole boat. Appx2597-2587(597:22-598:3).