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IN THE TRIAL COURTS FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT
AT ANCHORAGE

STATE OF ALASKA,
Plaintiff,
VS
JOSEPH HAZELWOOD,
Defendant.

No. 3AN 89-7217; 3AN 89-7218

TRIAL BY JURY
JANUARY 31, 1989
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BEFORE THE HONORABLE KARL JOHNSTONE
Superior Court Judge

Anchorage, Alaska
January 31, 1989
9:01 a.m.

APPEARANCES:

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1 PROCEEDINGS

2 JANUARY 31, 1990

3 (Tape: C-3584)

4 (1857)

5 (On record - 9:01 a.m.)

6 THE CLERK: ...with the Honorable Karl
7 Johnstone is now in session.

8 THE COURT: Good morning. You may be seated.
9 Do we have our bailiff who is going to be assisting us?

10 UNIDENTIFIED: (Indiscernible - away from
11 mike)

12 THE COURT: Hold on just a second. We have
13 19 -- we have 10 from batch 2 coming in today, leaving
14 approximately 20 from batch 2 and then we have tomorrow
15 all of batch 3 coming in. I'm thinking now of calling
16 them up, all of batch 3 and telling them to come in on
17 Friday. The way we're going, I doubt we're going to
18 get through all of batch 1 and 2 today, although we'll
19 try, but any problem with that counsel?

20 MR. MADSON: I don't have any, Your Honor.

21 MR. COLE: No.

22 THE COURT: Okay, we'll do that. All of batch
23 3 will be instructed to come in on Friday unless
24 otherwise directed.

25 I recognize the need to explore in detail the

1 impact of publicity on jurors and the impact that the
2 recreational, emotional, personal, financial impact
3 that this incident has had on jurors and for that
4 matter -- for that reason, I recognize the need to take
5 longer to select this jury than other juries.

6 We had each attorney submit proposed juror's
7 questions and from the two lists I received, I proposed
8 a juror questionnaire. It's a three-page
9 questionnaire of almost 50 questions which, if asked,
10 in open court will be the equivalent of about 20 to 30
11 minutes of questioning -- at least 20 minutes. And
12 when you add to that approximately 10 minutes of voir
13 dire here in Court, that's equivalent to 30 minutes per
14 juror and I think that's sufficient.

15 If you hit a vein of gold -- if you hit something
16 that needs to -- that you need to delve in a little
17 deeper, I'll be flexible, but I'd like you to limit
18 your inquiry, unless you do, to the 10 minutes. I
19 didn't do this for drill; I did it to speed up the jury
20 selection process, so I'm going to ask that you use
21 your best efforts to keep it down to approximately 10
22 minutes each.

23 Who's our next juror?

24 UNIDENTIFIED SPEAKER: I believe it's William
25 E. Schauermann, Your Honor.

1 THE COURT: William Schauer mann. Is that who
2 you have next, counsel?

3 MR. COLE: Yes.

4 THE COURT: Okay. Let's go get William
5 Schauer mann. (Pause) Good morning, Mr. Schauer mann.
6 Come on in. You don't need to knock. You're welcome.
7 Have a seat in the front row there, wherever is
8 convenient for you but you'll have to grab that
9 microphone off of the stand.

10 A Yes, sir.

11 THE COURT: Mr. Schauer mann, can you read
12 those questions on the board?

13 A Yes, sir.

14 THE COURT: Okay, we'll start out with those
15 and then the attorneys will have a chance to ask you
16 some questions.

17 A Yes, sir. My name is William Schauer mann,
18 S-c-h-a-u-e-r-m-a-n-n. I'm a life member of
19 Disabled American Vets, American Legion. Usually
20 -- I belonged over 20 years to John Birch Society
21 and I'm a Republican.

22 I don't know anybody or any of the witnesses
23 and any of the panel.

24 THE COURT: Any reason you should not serve
25 on the jury?

1 A No.

2 THE COURT: Okay. Mr. Cole will ask
3 questions first and then Mr. Madson and Mr. Chalos
4 next.

5 VOIR DIRE EXAMINATION OF MR. SCHAUERMANN
6 BY MR. COLE:

7 Q Hi, Mr. Schaueremann. How are you?

8 A Fine.

9 Q Can you tell me a little bit about your
10 military service?

11 A I was drafted and then I volunteered for the
12 draft. I was ready to be drafted.

13 Q When was that?

14 A '57 to '63, sir.

15 Q Did you serve overseas at all?

16 A Yes, sir.

17 Q Where would that have been?

18 A I was in (indiscernible - unclear) Regimental
19 Headquarters and headquarters in the
20 (indiscernible - unclear) Cavalry Regiment in the
21 southern part of Germany and company clerk for
22 rest of time -- most of the time and field duty.

23 Q You indicated on your questionnaire that you
24 have served on two jury trials in the past?

25 A Yes, sir.

1 Q Can you tell me what type of trials those
2 were? What the charges were?

3 A Criminal, drugs. One of them was cocaine
4 possession and the man was on probation
5 (indiscernible - unclear) and the other one was a
6 draft evader. He would not evade the draft; he
7 would not step forward to take the oath.

8 Q That would have been -- would that have been
9 up here in Alaska?

10 A Yes, sir. In '68 and in '70, I think. I'm
11 not too sure, but...

12 Q Were you the foreman on either one of those
13 juries?

14 A No, sir.

15 Q You're self-employed. Is that right, as a
16 real estate broker?

17 A Yes, sir, but I had radiation poisoning for
18 U.S. Army so sometimes, they had to stick me in
19 the hospital for an extended period of time.
20 That was an accident and I was exposed to it and
21 that's...

22 Q What was it that you were exposed to?

23 A Radiation. I was treated with radiation for
24 four and a half months for concentrate
25 (indiscernible - unclear) in the '50s and

1 every one of them. I mostly use a palette knife
2 because my hands are destroyed from my...

3 Q How long have you been doing that?

4 A The last three years. I do quite a few and as
5 long as I do them with a palette knife, they come
6 out -- to benefit society, I donate them to
7 Veterans Administration or Disabled Vets or
8 churches.

9 Q When you found out that you were going to be a
10 juror on this case, what were your first
11 impressions?

12 A I have no personal impressions. I keep myself
13 emotionally detached from mostly anything.
14 That's how I was raised, you know, we -- weren't
15 allowed to form any opinion, you know, good or
16 bad. Very conservative.

17 Q Do you know anyone in the maritime shipping
18 industry?

19 A No, sir.

20 Q Do you have any knowledge about that at all?

21 A No.

22 Q And have you lived in Anchorage the whole time
23 you've lived in Alaska?

24 A Yes, sir.

25 Q Have you travelled much around the state?

1 A Well, I used to have a branch office in
2 Wasilla, one of my branches in the earlier '70s
3 when I was more active in real estate. I still
4 do, you know, because of transactions in land.

5 Q On a scale of 1 to 10, where would you place
6 yourself if 1 was a light drinker and 10 was a
7 heavy drinker?

8 A Sir, may I elaborate? We have a winery at
9 home and since for many centuries in the family,
10 we bring (indiscernible - unclear) label on --
11 around 1450. So the oldest son usually gets the
12 winery and the youngest son, you know, we just
13 jokingly say to him, take a measure of him and
14 take throw him back in the Rhine River. I would
15 say quite generous but we're very, very --
16 extremely conservative people and we didn't even
17 market the wine -- probably 40 -- \$60,000 a year.
18 I cannot exactly -- we didn't even drink wine at
19 our table. We were exposed to it because wine is
20 a commodity at home and -- but we didn't even
21 drink wine at our table.

22 In other words, no parties but you can see
23 parties with just people coming over. I never
24 were even allowed to have even as a young child
25 to have people -- children over. It was strictly

1 -- like a strict segregation. Wine was a
2 commodity to be marketed and be respected but I
3 don't think -- the doctor asked me, in the last
4 year, I probably -- for a total period of a year,
5 I probably didn't drink two bottles of wine and
6 not even a 6 pack of beer, very very -- yeah,
7 when I am over there, I have a glass but that is
8 the end of it.

9 If I have to drive in four hours, I wouldn't
10 touch it. All the people in our lineage had
11 drunk about two bottles in the morning and
12 evening. Never were drunk. It was just part of
13 their system.

14 Q I'd like to ask you just a couple of questions
15 about the John Birch Society.

16 A Yes, sir.

17 Q My understanding of the John Birch Society is
18 that it's a conservative group.

19 A Yes, sir.

20 Q And that one of the tenets underlying it is
21 that there should be very little state
22 intervention in people's lives and affairs?

23 A That's correct.

24 Q How do you believe that your feelings -- your
25 political feelings would affect your ability to

1 be a fair and impartial juror here in this case?

2 A I necessarily didn't agree in the last few
3 years. I didn't belong to it anymore because
4 they didn't send me any renewal but to give you
5 an example, I had an accident. Somebody run into
6 me in -- a kid fell asleep in November, run into
7 me and it was his fault. He pleaded guilty and
8 so far, I don't take any action -- didn't take
9 any action against him and the insurance didn't
10 even compensate me yet.

11 I took an attorney just to represent for paper
12 work but I did not, you know -- I'm glad I was
13 still alive. I did not take any actions and I
14 probably will not, except for refund of my car.
15 That is pretty much of an emotional detachment.
16 Don't you think so?

17 Q Do you believe that the state should not
18 prosecute people?

19 A That's not up to me to decide. Sometimes,
20 they probably do just to make a point, but I'm in
21 no position to...

22 Q Have you formed any opinions on whether that
23 this is one of those cases where the state is
24 doing this just to make a point?

25 A No, sir. Because I had so many losses filed

1 against me for error and omission, you know, like
2 I thought there would be which were all laid on
3 prop -- you know, I kept pretty much emotionally
4 detached myself to it. That's what I always --
5 was my attorney advised me, you know. There's
6 nothing you can do until you reach the bridge.

7 Q What kind of lawsuits did you have filed?

8 A Oh, I was codefendant in error and omission
9 suits where the land was sold 10 years before for
10 \$1 an acre and then it raised -- it went up to 25
11 -- not an acre, a square foot and then the land
12 was going up to 20 or \$30 a square foot and since
13 it was measured out incorrectly and I -- the
14 broker was gone that worked at that time, I --
15 the people got back to me. So it's just a normal
16 thing, being sued or being codefendant and I
17 turned everything over to an attorney. I don't
18 carry any malice or revenge, because it wouldn't
19 do any -- it would only hurt me.

20 Q Do you understand the importance of this case,
21 both to Captain Hazelwood and the State of
22 Alaska?

23 A I do.

24 Q And would you be willing to, if you were
25 called upon in this case to sit as a juror, base

1 your decision on the evidence that's presented
2 through the witnesses and the evidence that's
3 admitted in court and your own common sense and
4 good judgment?

5 A If I'm called, I wouldn't have any choice. I
6 mean I...

7 Q You're a salesman by nature? It sounds like
8 a little bit.

9 A Well, I was some kind of forced into it
10 because through damage to my system -- to my
11 hands, I could not -- you know, I couldn't keep
12 on in construction so in a way, I was forced
13 into, you know, in real estate and later on I was
14 forced semi-forced out of it, but I don't even
15 carry malice against the government. They pay
16 me compensation for it and pay my medical
17 expenses but I never really put into it. The
18 government itself determined my disability. In
19 other words, I did not put in or apply or jump up
20 and down to have it raised. The government
21 itself determined it through observation. I want
22 to make that clear.

23 Q Do you feel that you could be a fair and
24 impartial juror in this case?

25 A I feel I could.

1 Q And would you be willing to give both sides a
2 fair trial?

3 A I would.

4 Q And would you be willing to reach a decision
5 if called upon that would be a fair and just
6 determination verdict for both sides?

7 A I think I could.

8 Q Do you have any reservations about that?

9 A No, sir.

10 Q Thank you, Mr. Schauermann.

11 MR. COLE: I have no further questions.

12 (2700)

13 VOIR DIRE EXAMINATION OF MR. SCHAUERMANN

14 BY MR. MADSON:

15 Q Good morning, Mr. Schauermann.

16 A Good morning.

17 Q As you've been through this process before,
18 you know how it works, so...

19 A Yes, sir. I was several times -- you know --
20 I don't know how many times, only twice -- I
21 think twice I was elected for...

22 Q Had you gone through this questioning process
23 in addition to those other two times that you
24 served on a jury?

25 A Yes, sir.

1 Q Those times you actually did not serve. Is
2 that right?

3 A I think so. Sometimes there was an agreement
4 reached before jury selection several times, so
5 there was no need to serve.

6 Q Sure. How long have you been a member of the
7 John Birch Society?

8 A I'm not a member anymore. I was a member for
9 20 years for patriotic cause, you know.

10 Q Could I ask you why you're not a member
11 anymore?

12 A Well, I just -- they raised -- they doubled
13 the fees and it was not the reason of course, I -
14 -- some way, they didn't send me a renewal and
15 for several years, three or four years and I
16 thought since I belonged to it for 20 years, I
17 -- you know, I was fair to mention it.

18 Q Well, do you still share most of the same
19 beliefs of the John Birch Society or...

20 A I never shared anybody's -- each person, you
21 know, I'm old enough to make up my own opinion
22 but I thought -- you know, other people could
23 benefit, you know, from -- well...

24 Q Let me just ask you this. Why were you a
25 member for 20 years? What is it about the

1 organization that caused you in your mind to say
2 I'd like to be a member and I'll pay these dues.

3 A Oh, I thought -- you know, the same thing --
4 everybody has a certain duty to serve a time into
5 service when you are called on. You know,
6 nobody is exactly jumping up and down for joy,
7 but you know, I think it's a necessity.
8 Somebody doesn't want to carry weapons; they
9 could serve in the hospital but I think a certain
10 amount of time we should return to society, you
11 know.

12 Like I pay 10% of my income to charity or
13 church, you know. I mean I think as long as I'm
14 alive, I should return a certain amount to
15 society, you know, of a country I adopted.

16 Q And by that, you mean the John Birch Society?

17 A No, not necessarily.

18 Q Or just anything?

19 A No, no -- church -- well, see I mean any --
20 any society. Not necessarily religiously
21 affiliated society. Could be individuals, could
22 be state, even...

23 Q I don't want to beat on this too long but...

24 A Oh, no, no. That's okay.

25 Q ...I guess, the bottom line is whether you

1 were a member of that society or not isn't going
2 to affect your judgment in this case, right?

3 A No, sir.

4 Q And you've gone through the process twice
5 before in criminal cases. You know how it
6 works?

7 A Yes. Yes, sir.

8 Q And there's nothing about that experience in
9 either one of those cases that's going to
10 interfere with this?

11 A No. No.

12 Q You indicated the radiation poisoning that you
13 suffered from the United States Government.
14 That was while you were in the service?

15 A In the service, yes.

16 Q You were being treated as an American veteran
17 then. Is that right?

18 A Yes. As a veteran.

19 Q Do you have to go to Seattle for treatment?

20 A No. Right here at Elmendorf, sir.

21 Q Oh.

22 A I was in Seattle for two months once in the
23 hospital but I -- just mostly observation to
24 determine the extent of it.

25 Q And you don't hold any animosity toward any

1 governmental organization or the State of Alaska?

2 A No, sir. No, sir. I was told at a fairly
3 early age -- don't forget that I grew up in the
4 war and even when people were killed by the
5 thousands sometimes (indiscernible - unclear) the
6 next morning, we went right back to school. We
7 had no -- no opinion -- I'm speaking about
8 strictly in our family, extremely conservative
9 and they even -- they wouldn't even allow any
10 criticism one way or another. We just kept
11 [sic] on going.

12 Q Let me ask you about that. When did you come
13 to the United States, sir?

14 A On 16th of October, 1957.

15 Q And you would have been drafted just shortly
16 after you got here?

17 A Yes, I had to register for the draft right
18 away. Already before I left. By law, I was
19 required to register for the draft.

20 Q And you were an alien at that time? You were
21 not a U.S. citizen?

22 A No. But I had security clearance.

23 Q When did you become a citizen then, sir?

24 A In '64.

25 Q What rank did you receive when you finished

1 your army...

2 A E-2. Because that was the only thing -- for
3 (indiscernible - unclear) process, you only can
4 go so high. Also my test score was high enough
5 to, but...

6 Q Now, let me ask you a little bit -- Mr. Cole
7 touched on this a little, but obviously you heard
8 all about the Exxon Valdez oil spill down in
9 Valdez?

10 A Yes, I did.

11 Q Was it papers, newspapers, magazines or how
12 did you hear about it, -- t.v.?

13 A Well, I watch it on television and I watched
14 it in the paper but you know, I mean I didn't
15 elaborate too long on it. To me it was just an
16 event, an accident and you know, so it's like my
17 accident, I cannot dwell on it. I mean it
18 happened.

19 Q Well, did you read any accounts or see any
20 t.v. accounts where the reporter was more or less
21 or somebody was saying Captain Hazelwood did all
22 these things wrong and was drinking. Anything
23 like this?

24 A I didn't pay any attention. I only watched
25 it once or twice and that was the end of it, you

1 know. I don't care for the kind of reporting,
2 you know.

3 Q Did you ever discuss it with any friends of
4 yours or business acquaintances?

5 A Really not. I mean, you know, I mentioned it
6 like anything else. It's very -- few people I
7 know, they really didn't care one way or another
8 about it.

9 Q At this point, while you're sitting here
10 today, do you have any different feelings other
11 than that -- just don't care, you know, one way
12 or the other?

13 A No, I wouldn't say care because, but I'm fully
14 aware that oil is lifeblood of, you know,
15 American economy, you know, and out there, it was
16 an accident, you know, and that's about -- to my
17 extent, that's about all I...

18 Q So you still feel today that it was an
19 accident unless somebody can prove to you
20 otherwise? Right?

21 A Yes.

22 Q And in that regards, you will follow with the
23 instructions the judge gives you as to accident
24 versus criminal responsibility...

25 A Absolutely.

1 Q A number of times you've mentioned that you're
2 very conservative. You know, that can mean a
3 lot of things to a lot of people. Can you
4 describe what you mean by conservative, if that's
5 not too broad a question?

6 A No, I want to say as long as I can manage my
7 own affairs, as long as I can support myself, as
8 long as I can be a useful member of society, you
9 know, instead of taking my pension, whatever it
10 is and sitting in Hawaii on the beach. You
11 understand what I'm saying is I try to be, you
12 know -- that's the reason I still help people to
13 put transactions together because I don't want to
14 throw over 20 years of experience away. That's
15 the reason I finish several paintings a week,
16 just on a part-time basis to give away. Every
17 one of them, I give to charity. I mean or for
18 sale to -- for Disabled Vets.

19 Q I take it, if I understand correctly, that as
20 far as being conservative means you want to lead
21 your own life your way pretty much without a lot
22 of interference from any government, but you're
23 not going to necessarily impose that...

24 A View on anybody else.

25 Q ...requirement on anybody else?

1 A No. Because at any time of our lives, you
2 know, we needed help. I mean we were young
3 enough not to care for ourselves; when we are old
4 enough, we won't to be able to take care of
5 ourselves too, but in the meantime our life span,
6 you know, it's too important not to help, for as
7 long as I can contribute, you know, I do.

8 Q But as far as you know, there's nothing about
9 your feelings of being conservative that would
10 interfere with what may or may not be the
11 government's right to be involved in the Exxon
12 Valdez thing?

13 A No. No.

14 Q You don't have any feelings right now that
15 government shouldn't have been down there,
16 shouldn't have been involved. It was strictly
17 a...

18 A No. No. I wouldn't know enough about it
19 unless, you know, it was explained to me,
20 probably through proceedings.

21 Q Do you actively sell real estate now or do you
22 just...

23 A No. Only my -- what I'm involved in it
24 myself with partnerships. That still keeps me,
25 you know, half of the time occupied.

1 Q When you say partnerships, is this rental
2 units or..

3 A No, no. Mostly land.

4 Q Unimproved land?

5 A Unimproved land, yes.

6 Q Do you feel the oil spill has affected you
7 economically, one way or the other at all?

8 A No, sir. And even if it did, it's, to me, an
9 act of God and I -- it does not -- it doesn't
10 affect me.

11 Q Then lastly, you indicated that you were a
12 defendant at least one time in an E and O case?
13 Is that right? Errors and Omission. Right?

14 A Yeah, I was a defen -- it was -- I was -- the
15 case did not reach trial because it was not even
16 my fault. The broker wrote down -- he -- you
17 know the hypotenuse; he drew a straight line
18 instead of a curve. So there were 2,000 feet,
19 he chopped off. The broker was retired and it
20 was the first time in Alaskan history where a
21 former salesman was served, you know, and of
22 course it took two years to untangle and you
23 know, of course, I won, but still these things
24 -- when you deal with the public, I realize too I
25 had -- even through all of the proceedings and

1 the hearings, we still always have coffee
2 together. Still now, I don't bear any malice
3 whatsoever to him.

4 Q You mean with the person that sued you?

5 A Oh, yes. We're sitting on two weeks of
6 hearings, we're sitting right together and had
7 coffee together, you know, I mean...

8 Q But you said it didn't actually go to trial, a
9 jury trial?

10 A No, he didn't have any choice. He sued me and
11 at the same time -- codefendant -- and at the
12 same time, he complained to the real estate
13 commission so they only had a choice, either to
14 go to the real estate commission or to sue me so
15 they decided to take it up before real estate
16 commission first, but the lawyer took the case
17 for nothing. He even told me that, so, I was a
18 friend of his, so he really didn't have any
19 expenses where I did.

20 Q I see. But neither -- it ended favorably to
21 you as far as you were concerned?

22 A Yes. But I even in that -- I think there
23 must have been 20 or \$30,000 worth of attorney
24 fees, but even here, that's what I mean speaking
25 of conservatism, I never sued to have for

1 attorneys fees I paid out which I was entitled
2 to. That should help you form an opinion, I
3 suppose.

4 Q Yes, it does. What we're trying to do here
5 obviously in a few minutes is to get to know
6 something about you. And you know, it's kind of
7 like a job interview. If you're lucky to get
8 the job, you get to sit on the jury.

9 THE COURT: Questions, not statements,
10 please, Mr. Madson.

11 MR. MADSON: Thank you, Your Honor.

12 Q But, Mr. Schauermann, is there anything that
13 we haven't asked you, let's put it this way, that
14 you feel is important enough that if you were us
15 sitting over here, you'd want us to know about
16 you?

17 A No, I think you have all the pertinent
18 questions, and you know, unless you want to ask
19 some, you know, anything you didn't find in the
20 questionnaires, I suppose.

21 Q There's nothing, no reason you can think of
22 right now, that hasn't been covered that would
23 give you the slightest hesitation as to your
24 ability to serve fairly on this jury?

25 A It's not up to me to decide, you know. I mean

1 I...

2 Q Well, what my question is there's nothing in
3 your mind though that we don't know about that
4 cause you to hesitate for a minute..

5 A No, I mean I have no criminal records and I
6 mean, if that's what you're talking about,
7 something in my records or no driving violations
8 or...

9 Q No, anything -- I didn't mean to insinuate
10 there might be a problem...

11 A No, no.

12 Q ...in your record there somewhere.

13 A Not that I know.

14 Q And lastly, there is your feeling right now is
15 such that you can sit here and look at Captain
16 Hazelwood and say he is presumed innocent. I
17 have absolutely no reason to believe he is not
18 until it's proven to the contrary. Is that
19 right?

20 A That's correct.

21 Q Thank you, sir.

22 MR. MADSEN: I'll pass for cause.

23 THE COURT: Sir, I'm going to excuse you so
24 you can go home now but you'll have to come back to the
25 Court on Friday at 8:30 a.m. downstairs to the jury

1 assembly room. Do you remember where that room is?
2 A Yes, sir.
3 THE COURT: Okay. Can you be back there at
4 8:30 a.m. on Friday?
5 A On Friday? Friday at 8:30, sir. Jury
6 assembly...
7 THE COURT: Pardon me?
8 A To the jury assembly room?
9 THE COURT: Yes, sir. Do you have any
10 personal belongings in the court room next door?
11 A Yes.
12 THE COURT: You can just pick them up, sir and
13 go out the double doors in that room and thank you very
14 much.
15 A Thank you.
16 THE COURT: We'll get the next juror. I
17 think it's John Gagnon. (Pause) We'll get that.
18 (Pause) See you Friday. (Pause)
19 Good morning, Mr. Gagnon. Have a seat behind
20 the microphone and go ahead and take it off the stand.
21 It just snaps on.
22 A Okay.
23 THE COURT: Can you read the questions?
24 A Yes, sir.
25 THE COURT: Okay, will you please answer those

1 first four and then when you're finished, the lawyers
2 will have some questions for you too.

3 A Okay, my name is John Gagnon, G-a-g-n-o-n.

4 THE COURT: Gagnon?

5 A Gagnon.

6 THE COURT: Thank you. I'm sorry I pronounced
7 it wrong.

8 A Oh, that's okay. Let's see. I work for St.
9 Patrick's Church so I don't know if that
10 membership would have any influence. I'm
11 certainly a member of the church. Let's see,
12 other organizations. My wife is...

13 THE COURT: Social organizations or
14 recreational organizations?

15 A Not really.

16 THE COURT: Okay.

17 A In regard to number 3, there may be some
18 problems with work. I'm the business manager of
19 the church office and it may be difficult to get
20 some things done. There's a lot of things that I
21 do that nobody else has really the authority or
22 the ability to do at this point.

23 Also, we have a major event coming up in
24 March. We have a big Saint Patrick's show every
25 March. It will be kind of difficult to manage

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that if I'm not actually there.

And two other people I work with are planning to get married in February which will also put a bind on the staff. There's only three of us that do maintenance and they would be two out of the three and they're going to be taking off a couple of weeks in March too, so there may be some difficulties with that.

Otherwise, really not any specific problems with serving. I don't know the defendants, attorneys, plaintiffs or any of the witnesses as far as I could tell. I've heard, of course, some of the names of the witnesses in the news and in some of the things that I've read and heard.

THE COURT: As to your employment, I can tell you after the first three weeks of this proceeding, if it goes that long and presumably, it will, we'll probably go to an 8:30 to 1:30 schedule and the jurors will be released at 1:30 because I have an afternoon calendar of events that I've got to take care of too.

A I see.

THE COURT: And I don't know if it's going to go into middle or late March or even to March at all. Who really knows at this time. I just go by the best estimates of counsel and my own judgment. If you are

1 given the opportunity to serve on this jury, Mr.
2 Gagnon, will your attention be diverted any measurable
3 way to distract you from what's going on here because
4 you're not at work?

5 A If it were the afternoon off type of
6 situation, I could probably manage it, as far as
7 I know.

8 THE COURT: Would you give this matter the
9 attention it deserves which would be your sole,
10 undevoted attention when you're in Court here,
11 listening to the evidence?

12 A Oh, I think I could, sir.

13 THE COURT: Okay. And if I don't release you
14 because of the hardships you've expressed to me, would
15 you agree not to hold that against the attorneys or
16 Captain Hazelwood?

17 A Certainly.

18 THE COURT: Okay. Hold it against me if you
19 have to do that, but I prefer you don't do that too.

20 A No problem.

21 THE COURT: Okay. Thank you very much. I'll
22 have Mr. Cole start and then Mr. Chalos and Mr. Madson
23 afterwards.

24 A Okay.

25 (3836)

1 VOIR DIRE EXAMINATION OF MR. GAGNON

2 BY MR. COLE:

3 Q Good morning, Mr. Gagnon.

4 A Good morning.

5 Q I'd like to just talk briefly a little bit
6 about your job. What do you do there?

7 A As business manager, I started out actually
8 doing maintenance for about the first four years
9 that I was there and oh, I keep track of the
10 bookkeeping system, payroll, administrative
11 duties, paying bills and I still do a lot of
12 maintenance work too. It's a small operation so
13 we all have to do whatever needs to be done at
14 the time.

15 Q How many people do you work with?

16 A There are about seven or eight people in the
17 office, part-time and full-time. Most part-
18 time, actually.

19 Q Are you in a supervisory capacity at all?

20 A Yeah. I would say.

21 Q Have you been in that position for a long
22 time?

23 A Business manager since the fall of '83, so
24 it's about 6 1/2 years.

25 Q Do you evaluate the performances of the people

1 that you work with or have you ever had to tell
2 somebody that they weren't doing an adequate job?

3 A There have been a couple of occasions like
4 that but again, it's a small group. We really
5 don't have formal evaluations on a regular basis
6 or anything like that.

7 Q Can you tell me -- I'm not familiar with the
8 St. Patrick's Church. Can you tell me a little
9 bit about that faith?

10 A Well, it's the Catholic Church in Muldoon
11 which is kind of the eastern end of the city. I
12 guess it's pretty much your normal Catholic
13 parish, about 620 families. Not particularly
14 large but one of the medium to larger size
15 parishes in Anchorage.

16 Q It appears -- did you grow up in Wisconsin?

17 A I did.

18 Q Did you go to college there?

19 A I did.

20 Q Where did you go to college?

21 A St. Norbert's in De Pere, Wisconsin.

22 Q And your relatives still live back there?

23 A Yeah, pretty much, all of my family, yeah. My
24 sister is in Minneapolis but they're all still in
25 that area.

1 Q Where did you meet your wife?
2 A At St. Norbert's.
3 Q And when she came back up, you came up with
4 her?
5 A Actually, yeah. I guess it was more my fault
6 than hers, but we came back together.
7 Q What do you do in your spare time?
8 A Well, mostly -- we've got three small children
9 and that occupies pretty much all the time that
10 I'm not working.
11 Q Do you take them outside at all?
12 A Sure.
13 Q At that age, would you take them outside?
14 A Sure.
15 Q Do you go on walks or anything?
16 A Oh, yeah. Sure.
17 Q Your children, are they at the age where
18 sometimes when you come home or when you go
19 upstairs to their room, there's an argument going
20 on and you have two different stories being told?
21 A Absolutely.
22 Q Would it be fair to say that in reaching a
23 decision that satisfies you as to what went on in
24 your absence, you look at the stories and you
25 look at what they're telling you and you rely on

1 did follow a lot of the stuff that was on the
2 radio in the early days. They had the briefings
3 from Valdez almost every day and I did also
4 listen to quite a bit of the NTSB hearings that
5 were held.

6 Q And was that on the radio?

7 A I believe it was.

8 Q Were your interests more when you were
9 listening to this information what events
10 transpired up to the grounding or the oil spill
11 clean-up action itself?

12 A Oh, I guess, both. I think, you know, in any
13 kind of event like this, it's major disaster
14 afterward, you'd like to get some idea of what
15 might have caused it, if there's any way to
16 prevent future occurrences of this type, so I
17 think probably an equal interest in both things.

18 Q Did you, in the course of listening or since
19 then, have you reached any opinion about the
20 respective roles of any of the parties? When I
21 say parties, I mean the crew members, the
22 Alyeska, Exxon Shipping Corporation, the
23 Department of Environmental Conservation, the
24 Coast Guard, did you ever reach any opinions as
25 to what roles or responsibilities each might have

1 played in causing this -- the grounding of the
2 Exxon Valdez?

3 A Well, I think certainly it seemed to me that
4 Ex -- Alyeska was ill prepared for such an event,
5 having downgraded their response capability over
6 the years because there were no problems
7 certainly of this magnitude. I guess in
8 listening primarily to the NTSB hearings, you
9 know, some of the evidence there that -- some of
10 the statements made there, I guess I should say,
11 related to some of the roles of the crew members
12 on the ship. I don't know if I've really formed
13 -- again, you know, I don't know what degree of
14 opinion is acceptable or not.

15 They certainly found, I guess, some question
16 in terms of the third mate being put in charge in
17 those waters and I guess another thing that
18 really stuck in my mind was the testimony of the
19 engineer to the effect that after the grounding,
20 the captain was running the engines for some
21 extended period of time. I suppose that -- I
22 mean I don't have any knowledge of vessels or
23 anything. I suppose it could have been an
24 attempt to stabilize the ship, but it seemed to
25 me like an attempt to take off.

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But again, maybe with other evidence. You know, I haven't really concluded, I guess, those things.

Q Would it be fair to say that -- would you be willing to set aside any of those opinions and reach a decision based on the evidence that you hear in Court and the physical evidence and would you be able to do that?

A I would certainly try. I guess I, you know, I'm not really sure how that would work. I would make an effort to do that, certainly. I know that's the intent here but I did hear a lot of that stuff and I don't know.

Q You don't -- well, one of the concerns that both parties have, both Captain Hazelwood and the State of Alaska, is say for instance, things that you heard outside of this court room, the parties don't have an opportunity to cross examine those statements. Whereas if a witness comes forward here and say, the state calls that witness and I ask questions and Mr. Madson has a chance to cross examine him in Mr. Hazelwood's interests. Can you understand both of our concerns that you be willing and able to set aside things that you've heard outside the court room and only base

1 your verdict, if you're called upon to make one,
2 on what we hear in here or see in here?
3 A I can certainly try.
4 Q Would you be willing to give us your best shot
5 on that?
6 A Absolutely. Absolutely. Sure.
7 Q And if at some point in the course of this
8 trial, you felt that you couldn't do that, would
9 you be also willing to bring that to the Court's
10 and our attention?
11 A Sure. I would.
12 Q Do you do any fishing at all?
13 A Oh, a little bit of sport fishing from time to
14 time. Not very much. Very little, actually. I
15 wish I could do more, but...
16 Q The lake fishing that you mentioned in
17 Wisconsin, is that big lakes or small lakes?
18 A Lake Michigan. Yeah, it's a big lake.
19 Q And do you use radar?
20 A No, uh-uh.
21 Q Have you ever looked in a radar screen before?
22 A No. Never have.
23 Q You put in some of the questionnaires some
24 answers concerning the damages that were done to
25 the Prince William Sound and how that's affected

1 you and your family. Would you be willing to set
2 aside those feelings and could you keep those
3 outside any deliberation process if you were
4 called upon to make that?

5 A I think so.

6 (Tape: C-3585)

7 (0103)

8 Q Can you tell me a little bit about the
9 alcohol-related accident that apparently you had
10 a -- friend of your sister was killed?

11 A Right.

12 Q Was that a close friend?

13 A Very close, yeah. I knew...

14 Q Was that up here in Alaska or down in
15 Wisconsin?

16 A No, that was in Wisconsin. About 10 or 11
17 years ago. Maybe 12 years ago.

18 Q How do you feel that would affect your ability
19 to be fair and impartial in this case?

20 A Well, this case certainly didn't involve any
21 fatalities as a result of alcohol. It's a
22 concern, I think, but certainly there's been a
23 lot more death and destruction on highways than
24 this type of incident, as far as human life.

25 Q You also indicated that your house was -- the

1 work that you worked at was burglarized.

2 A Right.

3 Q Can you tell me about that?

4 A Well, actually, it was burglarized a number of
5 times in that same time period which was -- oh, a
6 couple of years ago. I think I testified in '87,
7 August. They apprehended the individual and I
8 think the theft occurred in the spring of '87 and
9 he was apprehended in connection with something
10 else, I believe, but then the checks that he had
11 stolen from our office turned up and I think he
12 was involved in a lot more. I never was -- you
13 know, I didn't watch the trial with any interest
14 or anything. I only testified very briefly about
15 where the stuff was in the office. I'd never
16 seen the gentleman before.

17 Q Were you cross examined?

18 A I believe so.

19 Q By the defense attorney?

20 A Yeah. Actually, I think I testified at his
21 request. I was requested first by the
22 prosecution and then they decided they didn't
23 need me but then apparently, he thought I could
24 be of some assistance in just detailing the lay
25 out of the office and that sort of thing so

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actually I testified for him.

Q Did you come away with any ill feelings about testifying or the criminal justice system after that?

A Not really, no.

Q Anything that would affect your ability to be fair and impartial here?

A I don't think so.

Q You understand the importance of this case, both to Captain Hazelwood and the State of Alaska?

A I do.

Q Would you be willing, if called upon, to make a decision based on the evidence as presented through the witnesses and the evidence that's admitted and your own common sense and good judgment?

A I would.

Q Would you be willing to give both sides a fair trial?

A I'll try.

Q And reach a fair and just verdict?

A I would try to do that, sure.

Q Does that seem fair to you?

A I think so.

1 Q Thank you, Mr. Gagnon.

2 A You're welcome.

3 Q I have no further questions.

4 MR. COLE: Pass for cause.

5 VOIR DIRE EXAMINATION OF MR. GAGNON

6 BY MR. CHALOS:

7 Q Good morning, Mr. Gagnon.

8 A Good morning.

9 Q When Mr. Cole asked you if you would be
10 willing to give both sides a fair trial, you seem
11 to hesitate a little bit and then you said, "I'll
12 try." Is there anything from what you learned
13 and what you heard about this case that causes
14 you to pause in regard to giving Captain
15 Hazelwood a fair trial?

16 A Well, certainly some of the things I referred
17 to earlier still stand out very definitely in my
18 mind. Some of the people I've talked to, very
19 negative about his -- very definite about his
20 guilt. I guess I would have to make an effort to
21 kind of put some of that out of my mind to
22 consider it fairly. It would take some effort.
23 Yes, it would.

24 Q I'm sure you understand from what Judge
25 Johnstone told you early on that Captain

1 Hazelwood is entitled to a fair and impartial,
2 unbiased jury.

3 A Yes, sir.

4 Q Can you say, sitting here today, based on what
5 you've heard and read and talked about with your
6 friends that you can unequivocally put all that
7 aside and give Captain Hazelwood a fair trial?
8 And I use the word unequivocally.

9 A Yeah. I guess I can't really say that with
10 absolute certainty. It would require some
11 effort. I mean there's been, you know, a lot of
12 information out about the situation and I have
13 heard a lot of opinion expressed from various
14 people close to me and otherwise that...

15 Q I think you said some of that opinion was
16 negative.

17 A Oh, yes. In fact, pretty much all of it, I
18 think, has been. It would take an effort. I
19 could try but I'm not completely sure that I
20 could, no.

21 Q Have you....

22 THE COURT: Excuse me, could counsel approach
23 the bench, please?

24 MR. CHALOS: Yes, sir.

25 (0378)

1 (Whispered bench conference as follows:)

2 THE COURT: If it's your intention to apply
3 and excuse him for cause, don't waste any more of our
4 time. He's demonstrated an ability to...

5 (End of whispered bench conference)

6 (0385)

7 THE COURT: Mr. Chalos?

8 MR. CHALOS: May I address the juror, sir?

9 THE COURT: Do you have an application?

10 MR. CHALOS: Yes. But before I make my
11 application, may I say to the juror that I thank him
12 for his honesty and candor?

13 THE COURT: Certainly. Certainly. We all
14 thank you.

15 MR. CHALOS: I would like to apply to have
16 this juror excused for cause, Your Honor.

17 THE COURT: All right. Thank you very much.
18 You've just had too much contact and you have too many
19 opinions and you've not been able to demonstrate
20 unequivocally that you can set them aside and that's
21 not a comment on you in any way adverse. Do you have
22 any personal belongings next door?

23 A I do.

24 THE COURT: Okay. Please don't mention your
25 questions and answers to the jurors as you go through

1 and you can pick them up and you can take the card Mr.
2 Purden will give you to the jury clerk downstairs. My
3 thanks.

4 A Sure. Thank you, sir.

5 THE COURT: Before you get the next juror, I
6 want to take a matter up with counsel. (Pause) Thank
7 you, Mr. Chalos for exploring that up front, the
8 publicity issue, and I'm going to direct counsel for
9 the State to explore that issue right at the beginning
10 because if we do have jurors that have formed strong
11 opinions they cannot unequivocally set aside, we can
12 speed up the process by eliminating those jurors and
13 not ask them what movies they go to and if they go with
14 walks with their children ahead of time. Let's get
15 down to the essence of this jury selection. And let's
16 do it up front. Let's get the next juror.

17 (0482)

18 THE COURT: I have Mr. Erick Johnson next.

19 (Pause) Good morning, Mr. Johnson.

20 A Howdy.

21 THE COURT: Have a seat on the front row.
22 Take the microphone off the stand. Can you read those
23 questions up there enough to answer them?

24 A Yeah.

25 THE COURT: Okay. Why don't you go ahead?

1 A My name is Erick Johnson. I'm a member of
2 the American Welding Society, a member of a
3 hockey organization, Knik Kanoers Kayak Club and
4 Arctic Ski Club.

5 And well, the only reason I would have right
6 now would be financial is that I could not afford
7 this. I don't get paid for this time; I don't
8 get paid for vacation or sick time and it's my
9 wife who -- we've recently had a child this year
10 is not working now. So it's -- we're just
11 basically dependent on my pay.

12 And I don't know any one here.

13 THE COURT: Where are you working?

14 A Arctic Foundations.

15 THE COURT: Okay. I don't have your
16 questionnaire right in front of me. What do you do for
17 them?

18 A I'm shop superintendent.

19 THE COURT: What happens when you take a
20 vacation or you get sick? Does somebody take over for
21 you when you're not there?

22 A No, I try to plan around our jobs.

23 THE COURT: Have you talked to your employer
24 about this jury service?

25 A Yeah, I've been there for eight years.

1 THE COURT: After about the third week which
2 will be about 2 1/2 weeks from now, we'll start going,
3 I believe, to 8:30 to 1:30 days. The jury will be
4 released at 1:30 each day. And you would be allowed
5 to go to work at that time. Get in approximately half
6 a day.

7 If you are given the opportunity to serve on this
8 jury, I would want you to be able to devote the
9 attention -- give it the undevoted attention it needs
10 when you're here. Would you be able to do that?

11 A Probably not. Being a shop superintendent,
12 my mind would be at work.

13 THE COURT: You're excused, sir. Call down
14 and get him on a shorter jury in the future. (Pause)
15 Good morning.

16 A Good morning.

17 (0610)

18 THE COURT: Have a seat in the first row.
19 You're Kathryn Rosselle?

20 A Yes.

21 THE COURT: Okay. Have a seat and take the
22 microphone off the stand, please. Try not to be
23 nervous. I know you're kind of on the spot here but
24 just relax and answer the first four questions on the
25 board, please.

1 A My name is Kathryn Ann Rosselle. I'm a member
2 of the National Air Traffic Controllers
3 Association.

4 Any reasons I shouldn't serve. Two. I'm in
5 the middle of a training program right now that
6 will be disrupted and I need to have surgery done
7 by the end of April.

8 THE COURT: By the end of April?

9 A Yeah. I don't know how long it's going to
10 last but...

11 THE COURT: This trial will be over before the
12 end of April.

13 A Okay. And do I know any of the defendants,
14 attorneys, plaintiffs, witnesses? No.

15 THE COURT: Okay. And your training, are you
16 being trained or are you training?

17 A I'm being trained.

18 THE COURT: What for?

19 A Air traffic controller.

20 THE COURT: Okay. As I understand, working
21 for the government, you will not be penalized for
22 serving on this jury financially. Is that correct?

23 A No. Yeah, I still get my pay.

24 THE COURT: Okay. You may proceed. I'm not
25 going to let you go for that reason at this time, Ms.

1 Rosselle.

2 A Okay.

3 VOIR DIRE EXAMINATION OF MS. ROSSELLE

4 BY MR. COLE:

5 Q Hi, Mrs. Rosselle. Have you heard about this

6 case in the newspaper at all

7 A Not recently. I remember hearing about it

8 last year, but I didn't pay much attention.

9 Q Have you formed any opinions about any of the

10 roles or responsibilities of the crew members or

11 of Exxon or Alyeska, the Coast Guard or the

12 Department of Environmental Conservation?

13 A No.

14 Q Can you be fair and impartial on this jury?

15 A Yes.

16 Q You've worked with the Air Traffic Controllers

17 about two years?

18 A About 2 1/2 years, yes.

19 Q Can you tell me what your job is there?

20 A Well, right now, I'm in the developmental

21 phase. I work at Enroute Center right outside of

22 Elmendorf and we basically control airplanes

23 throughout Alaska and to the North Pole and

24 pretty much all the way to the Orient.

25 Q I'm not familiar with the FAA but is there an

1 alcohol or drug testing program there now?
2 A Drug testing, yes.
3 Q Have you formed any strong opinions about
4 whether that's appropriate or not?
5 A I'm not real fond of it because you don't
6 really have much of a recourse. However, I'm
7 aware of the necessity of it in my line of work.
8 Q Are there any requirements as to when and when
9 you cannot drink before work?
10 A I believe it's eight hours before you come to
11 work, you're not allowed to drink.
12 Q You came up to Alaska with your spouse?
13 A Yes.
14 Q And how long are you scheduled to be here?
15 A Indefinitely. He's retiring.
16 Q And do you plan to move from Alaska or stay
17 here?
18 A Stay here for quite a while.
19 Q You answered that your home was broken into by
20 juveniles.
21 A Yes.
22 Q Can you tell me about that incident?
23 A It's been quite a while. I would imagine
24 about five years, five or six years. There were
25 just three teenage boys that broke into my

1 apartment and took various things. They were
2 caught before they left but that was about the
3 extent of it.

4 Q That wasn't up here in Alaska?

5 A No. It was North Carolina.

6 Q Anything about that that would affect your
7 ability to be fair and impartial in this case?

8 A No.

9 Q It appears that you don't drink a lot from
10 your questionnaire?

11 A No, I don't.

12 Q Is that for personal reasons or medical
13 reasons?

14 A Just personal reasons.

15 Q Have you been around people that have had too
16 much to drink?

17 A Oh, yes.

18 Q Do you have any strong feelings or opinions
19 about people that do drink, either favorable or
20 unfavorable?

21 A None.

22 Q I notice from your questionnaire that one of
23 your relatives is an office manager; soon to be a
24 sales rep for an oil company.

25 A Yes.

1 Q Have you talked to him at all about this case?
2 A Her.
3 Q Her, I'm sorry.
4 A She was in Nashville, so she's not real
5 familiar with it.
6 Q Anything about her job or your relationship
7 that would prevent you from being fair and
8 impartial in this case?
9 A No.
10 Q And you indicated that you have someone who
11 worked in the drug or alcohol counseling field?
12 A Yes. She used to be my step sister. She's a
13 drug and alcohol counselor in Baton Rouge,
14 Louisiana.
15 Q Did you talk to her about her job?
16 A No. We don't speak very often.
17 Q Anything about that, her job that would affect
18 your ability to be fair and impartial here?
19 A No.
20 Q When you wrote down in your questionnaire
21 about working for a law firm that did criminal
22 defense. Was that you or your spouse?
23 A That was me. But it was part-time work and it
24 was several years ago. I don't really remember
25 much about it.

1 Q Anything about that experience that would
2 affect your ability to be fair and impartial?
3 A No.
4 Q And your brother is chief of police in Pine
5 Lake, Georgia?
6 A Yeah, it's about as small as it sounds. It's
7 more of an elected position.
8 Q And where is Pine Lake?
9 A It's right outside of Atlanta.
10 Q In this case, there will be law enforcement
11 officials that come in and testify and the judge
12 will instruct you that all witnesses are to be
13 judged the same. You're not to give law
14 enforcement officials more credibility simply
15 because they are law enforcement officials. If
16 after listening to them, you will be entitled to
17 give their testimony what ever weight you think
18 is appropriate. Would you have any problems
19 following that instruction?
20 A No.
21 Q This case is an important case, I assume you
22 understand, for both Captain Hazelwood and the
23 State of Alaska. Do you believe that if you're
24 chosen to sit on this jury that you would be
25 willing to listen to the evidence that's

1 presented here in court and the exhibits that the
2 judge allows in and base the decision on that
3 and your own common sense and good judgment?

4 A I'd try my best.

5 Q Do you have any reservations about that?

6 A No.

7 Q Would you be willing to give both sides a fair
8 trial?

9 A Yes.

10 Q And would you be willing to reach a fair and
11 just verdict for both parties?

12 A Yes.

13 Q Does that seem like a fair way to go about
14 this?

15 A Yes.

16 Q Thank you, Ms. Stumpff [sic]. I have no
17 further questions. I'm sorry. Ms. Rosselle.

18 VOIR DIRE EXAMINATION OF MS. ROSSELLE

19 BY MR. MADSON:

20 Q All right, Ms. Rosselle, I just want to follow
21 up a little bit on what Mr. Cole asked you just a
22 minute ago and really get right to the heart of
23 the matter first. You understand that because
24 of all the publicity in this case, as you would
25 agree, would you not, that it would be essential

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to have fair jurors in the case?

A Yes.

Q In other words, people that have been exposed to all the publicity, it's normal and natural they could form opinions that might interfere with that ability.

THE COURT: Excuse me. Excuse me. Let's just ask questions instead of lead the witness.

MR. MADSON: We're leading up to what I'm going to say, Your Honor.

THE COURT: Please just ask the question, Mr. Madson.

Q With that in mind, Ms. Rosselle, can you unequivocally state that based on everything you've known and heard that you can put that aside and judge the case only on what you hear in this Court?

A Yes.

Q Can I ask you why you feel so strongly you can do that?

A Well, when all this happened last year, I was first diagnosed as having cancer, so I was very much in my own little world. I didn't care what was going on anywhere else.

Q I don't want to pry in this, but I mean, is

1 this what the operation is for April?

2 A Yeah, it's a preventative measure for it ever
3 happening again.

4 Q Would this in any way interfere with your
5 ability to sit and listen to the evidence? And
6 the reason I say that is sometimes if you have...

7 THE COURT: Excuse me, Mr. Madson. Just
8 questions. Don't say, sometimes these things happen.
9 Just ask questions, please sir.

10 MR. MADSON: Your Honor, sometimes it's easier
11 for...

12 THE COURT: Mr. Madson, please just ask
13 questions. Don't argue with me.

14 Q Would this interfere at all, ma'am, with your
15 ability to sit and evaluate the testimony because
16 you might be worried or concerned about personal
17 problems?

18 A No, I don't believe so.

19 Q That "don't believe so" kind of raises a flag.
20 Are you absolutely sure?

21 A Well, I am not one who can absolutely be sure
22 about anything when it comes down to it.
23 There's no absolutes as far as I'm concerned.

24 Q This is in the same area I was asking you
25 about before. We went over the area about

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unequivocally being fair and putting aside
publicity prior to trial, but the same question
would be can you unequivocally state to us that
you would be paying full attention to the
testimony in the Court and not have your personal
affairs or problems interfere with that to the
extent that it might interfere?

A Yes, I can pay attention. It won't interfere.

Q As far as your position is concerned as an FAA
controller, Mr. Cole asked you some questions.
Do you have a lot of federal regulations that
pertain to your job?

A Yes.

Q Are you trained in them or instructed in them
in any way?

A Yes.

Q Attend classes in what you can do and what you
can't do, sort of thing?

A Oh, yes.

Q Now, in this case that obviously doesn't
involve that, but you -- if the judge instructs
you on rules and regulations, statutes that are
different or depart from those that you deal with
in your everyday life, can you set all that aside
and say, well, it may be different for me but I

1 will only base a judgment on what the law is in
2 this court pertaining to this case?

3 A Yes.

4 Q Would you do that, even if you may disagree
5 with him and say, well, I think the FAA
6 regulation or rule is better?

7 A Yes.

8 Q You indicated, I think, earlier you had some
9 problem with at least the -- was it mandatory
10 drug testing?

11 A Well, yes. The problem I have is the fact
12 that if they find out that you test positive, you
13 don't have much recourse. You're automatically
14 pulled off the training floor and subjected to
15 -- I don't know what you'd call it -- you have to
16 go through a process to get back on the floor
17 that takes about a year.

18 Q It's kind of like you're guilty until you can
19 later prove yourself innocent type thing. Is
20 that right?

21 A You're just basically guilty.

22 Q For instance, just along this line, I think
23 you said something like you cannot drink eight
24 hours before going to work. Is that correct?

25 A Yes.

1 Q That's by a regulation that you're aware of?
2 A Yes.
3 Q And again, say a regulation were different in
4 the maritime industry, you won't confuse the two
5 at all?
6 A Right.
7 Q You indicated that -- well, getting back to
8 the publicity again, I think, have you followed
9 this at all lately? This case at all lately?
10 The last few weeks?
11 A No, not really.
12 Q And have you read any editorials in the paper
13 or magazines concerning the case?
14 A No, I remember an article in National
15 Geographic that just was about the oil spill but
16 I hate to say it, I just looked at the pictures.
17 Q From what you have learned or read about the
18 case, have you formed any opinions at all -- not
19 -- with regard to any entity Exxon, Alyeska, the
20 crew members, or anything at all that makes you
21 think that well, this organization or this person
22 is at fault or may be at fault? Anything like
23 that?
24 A No.
25 Q Have you talked about this at work or with

1 your social friends at all?

2 A Oh, sure. We've talked about it at work.
3 There's people who are real upset by what
4 happened and then there are people who like to go
5 out and fish in the summertime that are in a way
6 glad because they caught a lot of fish last
7 summer, so just a little bit of everyone at work.

8 Q Have you ever expressed any personal opinion
9 to any of these people about the spill?

10 A No.

11 Q Has any opinion expressed by anybody to you
12 affected you in the slightest about what you
13 think should or should not happen?

14 A No.

15 Q Would you say you're about as neutral in this
16 area as you are in any other kind of a case? If
17 this were any other type of case, you could be as
18 neutral a juror in this one as say, a burglary, a
19 robbery or something you knew nothing about?

20 A Yes.

21 Q Well lastly, about your job, you've been doing
22 that for 2 1/2 years. Is that right?

23 A Yes, sir.

24 Q And you went directly to the FAA. I mean is
25 that where you got your initial training and

1 everything?

2 A Yes.

3 Q Why, -- if I can ask, why did you choose this
4 -- it's kind of high pressure, stress occupation.

5 A It just kind of fell into my lap when I got up
6 here. I was looking for a job and I applied and
7 I got it.

8 Q Was it what you expected it to be, as far
9 as...

10 A It's not as stressful as I expected it to be.

11 Q Do you work right out here at the main airport
12 then?

13 A No, sir. I work -- there is a building right
14 outside the main gate, the Boniface gate of
15 Elmendorf. That's where the center is.

16 Q Oh, at Elmendorf. Maybe I missed it when I
17 was trying to write and follow what you were
18 saying. The planes you control, are they just
19 military aircraft then?

20 A No. I'm a civilian air traffic controller.

21 Q Okay. That's -- I'm sorry. I have to
22 apologize. I didn't know where FAA fit into the
23 picture here.

24 A It confuses a lot of people.

25 Q So you have control of all aircraft coming

1 into the Anchorage area?

2 A No, there's tower and approach controllers
3 that handle Anchorage. We handle the rest of the
4 state.

5 Q Do you expect to be transferred at all in the
6 near future to some other place?

7 A Not unless I ask for it.

8 Q And what about your husband? Is there a time
9 he's going to be sent out? Transferred?

10 A No, he'll be retiring at the end of April.

11 Q Do you intend to stay here in this area then?

12 A Yes.

13 Q You indicated you don't drink for personal
14 reasons. Could I inquire as to what those would
15 be?

16 A I used to drink. I don't like what it does
17 to me.

18 Q In other words, you drank more than you do
19 now?

20 A Yes.

21 Q But you just quit for -- you know, quit
22 altogether?

23 A Well, I still have a few drinks a year but I
24 don't get drunk, no.

25 Q I take it then, ma'am, that you wouldn't

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necessarily enforce your own opinions on others?
In other words, what may be bad for you, you're
not going to say everyone else should follow that
example?

A No.

Q Have you friends that drink, I take it?

A Oh, sure. My husband drinks. People in my
family drink. I don't tell them not to.

Q Is there anything at all about the issue of
alcohol in this case that causes you any concern
or worry about being fair and impartial at all?

A No.

Q And I guess lastly, is your -- you said your
brother is a police chief, but you've minimized I
think, the law enforcement aspect of that. Am I
correct?

A Yeah, it's -- he has another full-time job.
It's basically just -- the people that live in
the community elected him chief of police. I
don't really know what he does or if he has any
enforcement at all that he does.

Q The fact that he's in that occupation doesn't
give you any feelings that law enforcement people
are more credible or less credible for that
matter than anybody else?

1 A No.

2 Q Thank you, ma'am.

3 MR. MADSON: I'll pass for cause.

4 THE COURT: Thank you. Ms. Rosselle, that
5 means you can go home now but I'll need you to come
6 back on Friday morning at 8:30 a.m. down to the jury
7 assembly room where you assembled today and yesterday.
8 I'll need you to arrive there at 8:30 a.m. We can't
9 proceed without you so it's important you be there.
10 Will there be any problem with that?

11 A No, none at all.

12 THE COURT: Good. See you then. And don't
13 discuss the matter with anybody.

14 A Okay.

15 (1384)

16 THE COURT: Linda Stumpff is next. (Pause)
17 Good morning. Just sit behind the microphone and pull
18 it off the stand and if you can read those questions,
19 would you answer them, please?

20 A Sure. My name is Linda Stumpff. I'm not a
21 member of any organization. I only feel there's
22 one reason that I shouldn't serve on the jury.
23 I had an experience with a drunk driver where a
24 boyfriend was killed. It's a very emotional
25 issue. I have a real hard time dealing with

1 that. I don't know any of the defendants or
2 attorneys or anything.

3 THE COURT: Have you read anything about this
4 case concerning alcohol?

5 A Not really. No, I haven't.

6 THE COURT: If evidence of alcohol comes in
7 this case, would you be able to set aside your personal
8 experience concerning alcohol and give both sides a
9 fair shake in this case?

10 A I don't believe so, no.

11 THE COURT: Okay, I'm going to excuse you.
12 Thank you very much. Just take it downstairs to the
13 jury clerk for further instructions. Thank you.

14 A Thank you.

15 MR. COLE: Your Honor? The next juror coming
16 in, Mr. Nigh. We haven't received a questionnaire.

17 MR. MADSON: We haven't either.

18 THE COURT: Well, we'll find out when he comes
19 in if he filled one out. (Pause) Hello, Mr. Nigh.

20 A Hello.

21 THE COURT: Have a seat in the front row
22 there. And would you take the microphone off? You can
23 sit over there and take the microphone off the stand.
24 And answer those first four questions, please.

25 A My name is Richard H. Nigh. I'm not a member

1 of any organization. The only reason that I
2 would think that I wouldn't be able to serve on
3 the jury is that I worked on the oil spill this
4 summer and no, I do not know any plaintiffs or
5 defendants or witnesses.

6 THE COURT: Who did you work for?

7 A For VECO.

8 THE COURT: Are you presently employed by
9 VECO?

10 A No, I'm not. I worked for VendAlaska, right
11 now.

12 THE COURT: Have you any expectation of going
13 back to work on the oil spill?

14 A No.

15 THE COURT: We have juror questionnaires that
16 have been filled out but counsel say they haven't got a
17 copy of yours. Did you fill out one of the
18 questionnaires?

19 A Yes, I did. Well, the three-page
20 questionnaire?

21 THE COURT: Yes, sir.

22 A And I gave it to the little -- the lady in the
23 juror room.

24 THE COURT: (Pause) I have it here, counsel.
25 Are you sure you don't have it?

1 Mr. Madson: Judge, I went through all my
2 stuff yesterday and I don't have a copy.

3 THE COURT: It's about one-third of the way
4 down. (Pause) I just have one copy.

5 Mr. Madson: May we approach the bench, Your
6 Honor?

7 (1580)

8 (Whispered bench conference as follows:)

9 (Indiscernible - whispering)

10 THE COURT: Sure, I'll ask a couple of
11 questions of this juror before you do that and then
12 we'll take a break.

13 (End of whispered bench conference)

14 (1587)

15 THE COURT: We're going to take a break in
16 just a minute, Mr. Nigh, so we can make a photocopy of
17 that.

18 A Okay.

19 THE COURT: But your answer to question
20 number 3, your employment reason. Obviously you've
21 talked to people about this case.

22 A Yes, previously. Yes. More about the -- not
23 about the case but someone mentioned to me that
24 there was -- that people weren't being taken due
25 to the fact that they worked at the spill.

1 THE COURT: No, that's not necessarily true.
2 It depends on what the impact on that is to you. Have
3 you read anything about the case in the newspapers?

4 A Previously, yes. When it first happened and
5 throughout the time that it had been taking
6 place, yes, I had.

7 THE COURT: Have you read anything recently
8 about the case?

9 A Up until I came down here, I had read a little
10 bit but they hadn't talked about the case so far
11 as Mr. Hazelwood was charged with being drunk or
12 whatever during the accident but that was about
13 it.

14 THE COURT: Did you watch television, see it
15 on television or hear it on television?

16 A Not in the last couple of days, no.

17 THE COURT: But in the past, have you?

18 A Yes, I have.

19 THE COURT: What do you recall reading or
20 seeing and hearing on television or being told about
21 Captain Hazelwood's participation in this?

22 A Well, what I understand is that after the
23 spill he was -- he reported the accident which,
24 to my information, excluded him from some sort of
25 -- I don't know what the charge is and then there

1 was a test approximately nine hours after the
2 accident and he was still intoxicated to the
3 level of not being able to drive a boat.

4 THE COURT: Okay. Anything else you recall?

5 A That -- no, not really.

6 THE COURT: Okay. At the time you were
7 exposed to this publicity and this other information,
8 did you form an opinion, however slight, about whether
9 Captain Hazelwood would be guilty of any crime?

10 A Actually no. Since I don't know all the
11 evidence and whatever, I thought that maybe he
12 would be guilty but then there's also reasons why
13 he may not be guilty, so I -- everybody assumes
14 one way or the other but -- no, I really didn't
15 feel -- have any huge opinions. Like everybody
16 else, you think that he may be guilty, but I
17 haven't heard all the evidence so I really don't
18 -- can't form a solid opinion.

19 THE COURT: Did you form an opinion even a
20 very slight opinion that he may be guilty of a crime?

21 A Yes, I did.

22 THE COURT: All right. Can you assure both
23 the State and the defendant unequivocally -- now,
24 unequivocally is a pretty strong word that you would be
25 able to set aside any opinions you may have formed,

1 however slight they may have been and decide this case
2 based solely on the evidence that is presented in this
3 Court and in accordance with this Court's instructions
4 and set aside unequivocally, 100%, any opinions you may
5 have formed?

6 A I really think I could, yes.

7 THE COURT: When you say "I think I could",
8 what does that mean to you?

9 A Well, actually, I know I could. The reason I
10 say I think I could is -- I shouldn't even say I
11 think I could. I know I could.

12 THE COURT: Okay. We'll take a break and
13 we'll let counsel go over the questionnaire. It will
14 be about a 10 or 15-minute break and you can go back to
15 the jury room. We'll call you back when they're
16 finished.

17 A Okay.

18 THE CLERK: Please rise. This court stands in
19 recess and recall.

20 (Off record - 10:24 a.m.)

21 (On record - 10:44 a.m.)

22 THE COURT: Is counsel ready for the next
23 juror?

24 MR. COLE: Yes, Your Honor.

25 THE COURT: Okay.

1 UNIDENTIFIED SPEAKER: Bring Richard back?

2 THE COURT: Please. We'll try to get through
3 three more before lunch. (Pause) The attorneys will
4 ask you some questions now, Mr. Nigh. Thanks. Mr.
5 Cole?

6 MR. COLE: Thank you, Judge.

7 (2200)

8 VOIR DIRE EXAMINATION OF MR. NIGH

9 BY MR. COLE:

10 Q Hi, Mr. Nigh. What did you think when you
11 found out that you -- have you ever served on a
12 jury before?

13 A No, sir.

14 Q I notice that you do have an accent. Are you
15 English?

16 A Yes.

17 Q And are your folks English?

18 A My mother is English; my father is American.

19 Q And have you lived in Alaska all your life?

20 A No, I haven't. I've lived here for about the
21 last eight years and I was also born here and
22 then I moved to England and lived there for
23 approximately 13 years.

24 Q What do your folks do?

25 A My father now works for the state and my

1 mother is a housewife.

2 Q What does your father do for the state?

3 A He's a mechanic over on Fort Rich.

4 Q And do you have brothers and sisters?

5 A I have two brothers.

6 Q How old are they?

7 A One is 25 and the other one is 23.

8 Q And one of them works with your father or does
9 he work someplace else?

10 A No, he works over at the airport, works for
11 the state as a maintenance mechanic.

12 Q And your other brother is a chemist?

13 A Yes.

14 Q And who does he work for?

15 A He works for -- I can't -- I don't even know
16 the name of it. He works up on the Slope and he
17 just works up there as a chemist. I don't see
18 him often, so...

19 Q You worked out on the oil spill this year?

20 A Yes, sir.

21 Q Were there any requirements out there about
22 drinking alcohol or...

23 A Yes, there were.

24 Q What were those?

25 A You could not drink and you could not have any

1 drugs of any sort and you would take a urine
2 test, coming back.

3 Q Where did you stay when you were out there?

4 A I stayed on the -- when I first went out, I
5 stayed on the Executive Explorer. It was a
6 catamaran and it was a three-story catamaran and
7 I stayed on that.

8 Q While you were out there, did you see any
9 drinking or drugs?

10 A No, sir.

11 Q Would it be fair to say you must have made
12 some money?

13 A Yes, I did make...

14 Q And would you consider that you got some
15 benefits out of the whole thing?

16 A Yes, I did.

17 Q Do you think that there is any detriments that
18 came about from the oil spill to you?

19 A No, I don't. There was nothing -- nothing bad
20 happened to me because of the oil spill. The
21 only thing that happened was that I went down
22 there and I made some money. I was only down
23 there approximately six weeks from July 4th to
24 the end of August, working two weeks on, one week
25 off.

1 Q Had you ever been out to Prince William Sound
2 before that?
3 A No, sir.
4 Q What were you doing out there?
5 A I was just cleaning the beach and I was just
6 hosing and that was about it.
7 Q Did you find -- was there -- did you talk to
8 people when you were out there about the clean-up
9 organization?
10 A We just -- we talked -- anything specific?
11 Q Did you think that they were doing a good job
12 in cleaning up?
13 A I guess I don't know very much about how to go
14 about cleaning up oil, but I don't think they
15 were doing a great job. They were doing a fair
16 job and like I say, I don't know what all the
17 ways are about cleaning it up but they say they
18 were going about it the only way they could,
19 so...
20 Q When you say they, do you mean Exxon?
21 A Exxon, VECO, mostly because that's who I was
22 employed by.
23 Q Have you ever had any friends charged with
24 crimes?
25 A Maybe misdemeanors. I can't even think of

1 any right at this moment, but nothing...

2 Q Nothing that would affect your ability to be
3 fair and impartial here?

4 A No.

5 Q You indicated in your questionnaire that you
6 drink?

7 A Yes, I do.

8 Q And on a scale of 1 to 10, if 1 being hardly
9 drink at all and 10 being a very heavy drinker,
10 where would you place yourself on that scale?

11 THE COURT: Excuse me, Mr. Cole. On page 3,
12 it says, "if so, how often?" "Three times a month."

13 MR. COLE: I'm just trying to see how much he
14 drinks during those three times.

15 THE COURT: All right, Mr. Cole.

16 A I would rate myself -- can I answer that, sir?

17 THE COURT: Sure.

18 A I would rate myself approximately a 4. I
19 don't drink a lot. When I get paid, sometimes
20 I'll go out to a bar on an evening, but that
21 would be about it. And sometimes if I, you
22 know, worked hard and done a good day's work,
23 I'll go home and have a beer with dinner or
24 something. I don't consider myself a drinker.

25 Q Have you ever had anything to drink while you

1 were at work?

2 A No.

3 Q Have you ever had any drink before you went to
4 work?

5 A No, I work early in the morning.

6 Q When you were at West, were you involved in
7 any extracurricular activities?

8 A No, I wasn't.

9 Q Given the importance of this case, do you
10 understand the importance of this case both to
11 Captain Hazelwood and the State of Alaska?

12 A I would think I do, yes.

13 Q And would you be willing, if you're chosen to
14 sit on this jury, to listen to all the evidence
15 that's presented here in Court and the evidence
16 admitted and reach a verdict, based on that
17 evidence and your own common sense and good
18 judgment?

19 A I think I could, yes. I know I could.

20 Q Have you ever had to -- have you ever bought a
21 car?

22 A Have I ever -- yes.

23 Q Did you shop around at all?

24 A Yes, I did. Not a new car.

25 Q How did you -- did you talk with people about

1 what type of cars they wanted to sell you?

2 A (No audible response.)

3 Q How did you reach a decision on whether they
4 were being truthful to you?

5 A I test drove it. I know a little bit about
6 cars myself, so...

7 Q Did you rely on the representations they made
8 to you?

9 A Yes, I did. I have to, in some case. I like
10 older cars, so I normally what I hear, I believe.

11 Q Would you be willing to give both sides a fair
12 trial in this case?

13 A Yes, I would.

14 Q And do you believe that you could reach a fair
15 and just verdict for both parties?

16 A Yes, I think -- I know I could.

17 Q Does that seem right to you?

18 A Yes.

19 Q Thank you very much, Mr. Nigh. I have no
20 further questions.

21 VOIR DIRE EXAMINATION OF MR. NIGH

22 BY MR. CHALOS:

23 Q Good morning, Mr. Nigh.

24 A Hello.

25 Q You stated in response to the judge's

1 questions that you have formed some opinions
2 already but you said "I think" and then you said,
3 "I know I can put those opinions aside." Can
4 you tell me what opinions you have formed with
5 respect to Captain Hazelwood's guilt or
6 innocence?

7 A Well, from what I've read and seen on t.v.,
8 the only thing is the fact that they say he was
9 drunk at the time of operating the craft and that
10 they didn't test him until nine hours afterwards
11 so there was a space there between, so really, I
12 don't know for a fact, but the slight opinion is
13 that he may have been drunk at the time of
14 operating the craft or he may have drunk after
15 the accident and then been over the limit when he
16 was tested, so the opinion -- I haven't really
17 formed a true opinion because I haven't seen the
18 evidence but everything seems to -- a lot of
19 things seem to lean that he was guilty. Like I
20 say, I haven't heard all the evidence and I
21 really don't know.

22 Q Do you presently hold the opinion that he's
23 guilty?

24 A Presently, I hold no opinion right now. Since
25 I've been on this selection, I'm completely open

1 minded about it, so I don't know either way.

2 Q What makes you believe that you can set aside
3 the fact that you have a slight opinion or have
4 formed some opinion as to Captain Hazelwood's
5 guilt by reason of alcohol?

6 A Could you repeat that?

7 Q Yes. I say what is it about you, your
8 character that makes you believe you can set
9 aside whatever slight opinion you might have?

10 A Well, I'm a pretty open minded person and I
11 -- I really don't know. I just -- I, myself,
12 think that I can -- or know that I can give an
13 honest opinion after hearing all the evidence.
14 I'm not out to put anybody in jail or do anything
15 of the sort, but then again, I'm not a nature
16 person, so -- I'm with no organization, either,
17 so -- I mean I love Alaska, but that's not the
18 issue here.

19 The issue is was Mr. Hazelwood at fault and
20 so, I'm pretty open minded about that.

21 Q That particular issue is very important to us,
22 so I have to ask you. The judge asked you
23 before, but I just want to reassure myself. Do
24 you feel 100% sure, unequivocally, that you can
25 set aside any preconceived notions or opinions

1 that you might have about this cas?

2 A Yes, I do.

3 Q Now, have you discussed the issue of drinking
4 with your father, for instance, as it relates to
5 Captain Hazelwood and this spill?

6 A No, not really.

7 Q But, when you say "not really"...

8 A I don't understand what you -- I haven't asked
9 his opinion about it. I mean when it first
10 happened -- I mean we sat down and talked, you
11 know, many months ago about but since I've been
12 on this jury selection, I haven't really talked
13 to anybody. I haven't mentioned -- I've only
14 mentioned that I'm on the selection, so...

15 Q Have you told any of your friends that you're
16 in this particular panel sitting for Captain
17 Hazelwood's trial?

18 A No, I haven't. My girlfriend, who I live
19 with, knows and that's it and my parents.

20 Q Do you wish to serve on this particular jury?

21 A Yes, I do.

22 Q Is there a particular reason for that?

23 A No. The only reason, I've never served on a
24 jury before and it's a very interesting case and
25 I would like to be part of it.

1 Q Have you discussed the fact that you might be
2 on this jury with your girlfriend?

3 A No. I don't even know if I'm going to be --
4 I've just mentioned that I'm up for a jury
5 selection. Since I live with her, she knows I
6 come down here every day.

7 Q How does she feel about that?

8 A It doesn't bother her one way or the other.
9 She holds no opinions either. She's not out to
10 get anybody or anything. She's pretty open
11 minded person too.

12 Q Does the fact that you might be on television
13 and have the cameras pointed at you...

14 THE COURT: Just a minute. The jury is not
15 going to be on television and the cameras have been
16 directed not to point at jurors and I don't know why
17 you make that statement after I've said that very
18 clearly to the media.

19 MR. CHALOS: Oh, I'm sorry, Your Honor. I
20 wasn't here when you had the discussion with the media.

21 THE COURT: Mr. Madson was here and...

22 MR. CHALOS: Then I apologize to the Court.

23 THE COURT: Okay.

24 Q (Mr. Nigh by Mr. Chalos:) When you were down
25 in Prince William Sound, cleaning up the oil

1 spill, did you see oil in the water?

2 A Yes.

3 Q Where exactly were you in this clean-up?

4 A I can't really remember. It was pretty close
5 to Green Island. That's where they did all the
6 chemical work down there and it wasn't far off
7 from Green Island. It was near the Bering Trader
8 which was a big vessel down there. I can't
9 remember the islands but it was pretty close to
10 Green Island, around that area.

11 Q In the course of your work, did you discuss
12 with any of your co-workers the cause of this
13 spill?

14 A Now, what do you mean by that? Did we know
15 what the cause of the spill was?

16 Q Yes, in other words, did you have any
17 discussions as to...

18 Q Who was guilty?

19 Q ...who was guilty? How the ship ran aground?
20 Who was at fault?

21 A Yes, just probably in average talking, it
22 probably came up, yes.

23 Q What opinions were expressed to you as to who
24 was guilty or at fault for this spill?

25 A Well, a number of people thought that Mr.

1 Hazelwood was guilty and when at first -- when we
2 first went down there, a lot of people thought
3 that Mr. Hazelwood was at fault.

4 Q Did those opinions influence you in any way?

5 A Well, at the time it didn't really -- it
6 didn't really bother me as much -- you know --
7 no, I wouldn't say they influenced me at all.

8 Q Did you express to anyone an opinion that
9 Captain Hazelwood was at fault?

10 A No.

11 Q Now, with respect to the opinions that held
12 Mr. -- or Captain Hazelwood guilty, what
13 specifically was discussed?

14 A What was that again?

15 Q Yes, when opinions were expressed to you that
16 Captain Hazelwood was guilty, what was
17 specifically said?

18 A That he was drunk at the -- and he gave
19 someone else the orders to control the boat. He
20 wasn't in charge. He shouldn't have been
21 controlling the boat and it ran aground through a
22 section that shouldn't have been given to the
23 lower command.

24 Q Do you have any opinion as to whether or not
25 the vessel was given to someone lower in command

1 than Captain Hazelwood?

2 A Do I have any opinion? No, I don't. I don't
3 know much about what -- when the command -- I
4 know it said in the paper that through a certain
5 point, you can give the command to a lower
6 person. I don't have any opinion -- I don't
7 really know anything about boats or command or
8 anything, so no, I don't have any opinion.

9 Q What newspapers do you read normally?

10 A I only read the Anchorage Daily News.

11 Q And have you read the Daily News since the
12 spill on a regular basis?

13 A No, not on a regular basis. When I -- I'm
14 living with my girlfriend. We didn't get a paper
15 for awhile but while the spill first happened,
16 yes, I read it. I was staying with my parents
17 then and I would read it on a regular basis.

18 Q And was it in the newspaper that you read
19 about Captain Hazelwood turning the vessel over
20 to a third mate?

21 A I think so, yes.

22 Q Now, can you assure us that you would be able
23 to sit here and listen to the evidence both on
24 the issue of whether Captain Hazelwood turned the
25 vessel over to a third mate or on the issue or

1 drinking, listen to the evidence, and be able to
2 come to a conclusion solely based on the evidence
3 rather than what you might have read or heard or
4 seen? Can you assure us 100%?

5 A Yes, I can 100%.

6 MR. CHALOS: Judge, I have no further
7 questions of this juror. I pass for cause.

8 THE COURT: Thank you, Mr. Chalos. You can
9 be excused for the day. I'll need you back to the
10 jury assembly room on Friday morning at 8:30 a.m. Do
11 you remember where you assembled today and yesterday?

12 A Yes.

13 THE COURT: The same location. 8:30 a.m.,
14 Friday. Is that going to present any problem to you at
15 all?

16 A No. Where do we go for any explanations for
17 work or such?

18 THE COURT: The jury clerk.

19 A Jury clerk, okay.

20 THE COURT: Okay. So we'll see you Friday
21 morning, 8:30 a.m.

22 A Okay.

23 THE COURT: Mr. Chalos, you may not have been
24 here -- I thought I raised that issue with counsel
25 yesterday about 10:30, but I did do it with the media

1 and we do have a rule on that as well. That no camera
2 of jurors can be -- no pictures of the jurors can be
3 taken during the course of the trial. There is a rule
4 on that.

5 MR. MADSON: Your Honor, on that subject. I
6 understand the Court's concern and I can certainly
7 agree with the question that was posed but obviously,
8 after the trial is over, the jurors are instructed
9 they're free to talk to anybody.

10 THE COURT: Certainly. That has nothing to
11 do with....

12 MR. MADSON: So I would say I think we could
13 perhaps ask questions in that vein after the trial is
14 over?

15 THE COURT: No. We're not going to ask
16 questions about whether they can -- we'll take that up
17 at another time. We're not going to discuss that in
18 front of the juror at this time. Peggy Steward?

19 (2805)

20 A Yes.

21 THE COURT: Go ahead and take the microphone
22 off the stand there, Ms. Steward, and answer the first
23 four questions on the blackboard.

24 A Peggy Steward. Organi -- do I say the name
25 first? What organizations.

1 THE COURT: Sure.

2 A What kind of organizations?

3 THE COURT: Social or recreational
4 organizations, sororities, fraternal organizations,
5 things of that nature?

6 A Well, I don't really belong to any
7 organizations.

8 THE COURT: Things you pay dues for, you
9 attend meetings?

10 A Oh, I attend meetings at AA. That's about it.
11 Are there any reasons you shouldn't serve on this
12 jury. You're going to have to tell me.

13 THE COURT: Well, that question is for you to
14 answer if you know of any off hand why you should not
15 serve on the jury.

16 A No. Number 4, no.

17 THE COURT: You're going to have to vocalize
18 your answers because we record everything in here on a
19 tape. I've got just one question I want to ask you.
20 You went to one of our security guards yesterday
21 because somebody had approached you?

22 A Right.

23 THE COURT: Why don't you describe what
24 happened?

25 A Not really much. I was just out using the

1 telephone. I had to call work and tell them I
2 would be here all day and some girl was sitting
3 on the bench and she had a piece of paper and she
4 said something and I said -- she said -- all I
5 heard was conference and oil spill and I said
6 what and she said something about a conference
7 and an oil spill and I said "hey, you're not
8 supposed to be telling me that" and then I just
9 went back in and...

10 THE COURT: Did she hand you anything?

11 A She was -- no, she didn't hand me anything
12 because I just went...

13 THE COURT: When you say "she was sitting on a
14 bench", one of the seating benches outside the court
15 room?

16 A Yeah, the one outside here. By the
17 telephones.

18 THE COURT: Okay. And that's the extent of
19 what happened?

20 A Yeah. I couldn't really tell what she was
21 saying. I just heard conference; I heard oil
22 spill. Whether she was saying do you want to go
23 to one or...

24 THE COURT: Why don't you look around the
25 court? Do you recognize that person in the court

1 room?

2 A I wouldn't recognize her, because I was just
3 walking passed and then she said -- I don't know.
4 She had a black jacket and kind of short brown
5 hair.

6 THE COURT: You did the right thing. Thank
7 you very much. I'd asked you do that and you did
8 exactly the right thing. Okay. Mr. Cole?

9 MR. COLE: Thank you, Judge.

10 VOIR DIRE EXAMINATION OF MS. STEWARD

11 BY MR. COLE:

12 Q Ms. Steward?

13 A Ms. Mrs.

14 Q Where do you work here in Alaska?

15 A Over on Gambell.

16 Q And for what department?

17 A Department of Public Health.

18 Q Have you been following the events that
19 occurred on March 23rd and March 24th, the
20 grounding of the Exxon Valdez?

21 A I heard about it.

22 Q And how did you hear about it? Was it through
23 the newspaper, through the t.v. or what?

24 A I think the kids' dad was talking about it. I
25 saw it on t.v.; I read in the newspaper, little

1 piece of it.

2 Q Now, since that happened, have you at any time
3 formed any opinions as to the parties that are
4 involved and their relative responsibilities for
5 the grounding of the Exxon Valdez?

6 A I have lots of opinions but I don't know that
7 they're relative to anything. You know, I say
8 things.

9 Q Well, for instance, do you have any opinions
10 on Captain Hazelwood's guilt or innocence? Have
11 you ever formed any opinions on that?

12 A Not really formed an opinion. I don't know
13 what he's guilty of so I don't know whether he's
14 guilty or innocent. I know that he was in the
15 boat and that the oil was spilled and whether
16 there's a law against that or not, I don't know,
17 but...

18 Q Do you have any opinions about that you formed
19 about whether or not he was drinking on that
20 evening?

21 A Yeah, I probably think he was drinking.
22 That's just from what I heard and being a
23 recovering alcoholic. So I automatically zone in
24 on that part. Sorry.

25 Q Sure. Well, there's no reason to apologize.

1 That's the whole purpose of this to try and get
2 these things out in the open so people
3 understand. You don't drink and it's for
4 personal reasons?

5 A Two years, four months and 25 days now. Ten
6 years before prior to that.

7 Q Can you tell me about what happened and why
8 you made this conscious decision to stop
9 drinking?

10 A Just -- for me, it was just a lucky break. I
11 got into some trouble and that didn't help and I
12 got into more trouble and that didn't help.

13 THE COURT: Excuse me, Mr. Cole. Let's
14 explore more about the publicity and the effect on her
15 and whether or not she can set that aside. Let's get
16 that up front.

17 Q Ma'am, if there's alcohol involved in this
18 case, do you think you could be fair based on
19 your past?

20 A Oh, sure. Yeah.

21 THE COURT: Excuse me, Ms. Steward. Based on
22 what you've read and what you've heard about this case,
23 did you form an opinion as to whether or not, however
24 slight, Captain Hazelwood is guilty of any crime?

25 A No, I more formed an opinion that he was

1 innocent because he wasn't driving the boat.

2 THE COURT: All right.

3 A I don't quite understand what where he -- I
4 knew was the captain but he wasn't driving.

5 THE COURT: Okay, so you've formed an
6 opinion as to his guilt and that was an opinion of not
7 guilty. Is that what you're saying?

8 A Yeah, if I had to have an opinion.

9 THE COURT: Okay. Now, can you unequivocally
10 tell Mr. Cole and Captain Hazelwood and his attorneys
11 that you can set aside that opinion, 100% and decide
12 this case based solely on the evidence presented in
13 this court room and nota based on anything you may have
14 read or heard about this case before coming in here?

15 A Oh, yeah.

16 THE COURT: You're sure of that?

17 A Oh, yeah. That I'm sure of. My own history
18 has nothing to do with what's happened here.

19 THE COURT: Okay. You may proceed, Mr. Cole.

20 (3247)

21 Q (Ms. Steward by Mr. Cole:) Your spouse is a
22 laborer. Is he in the Laborer's Union?

23 A I think so. I think he's Laborer and
24 Teamsters.

25 Q What did you do before you worked for the

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state?

A Just before this, I went to a year of business school and before that, I was raising kids. And before that, I worked at the school district.

Q What did you do at the school district?

A I was (indiscernible - unclear) operator.

Q And where did you go to business school?

A Alaska Business College.

Q Have you ever lived anywhere else besides Anchorage?

A Chugiak.

Q In Alaska.

A I live in Chugiak.

Q You live in Chugiak. Can you tell me about the alcohol-related incident that you noted in your questionnaire, the accidents, self-inflicted motorcycle wreck and then suicide?

A Well, I wrote it like that because he was intoxicated at the time and it wasn't caused by another person. It was -- he caused it himself. He was in a black-out and he just -- he wrecked his motorcycle.

Q Did he get hurt in that?

A Severely.

Q And your brother-in-law. Was that an alcohol-

1 related incident too?

2 A Yes, it was.

3 Q Now, you noted that there had been a time when
4 the police you felt treated you unfairly. You
5 talked about that in your...

6 A Only the police, though.

7 Q When was that?

8 A '88? '89?

9 Q Just this past year?

10 A Just recently, yeah. Charlie was in trouble
11 again and they came knocking on my door and we
12 had been separated for quite some time and I was
13 helping them, giving them all the information
14 they wanted, where he was, what he looked like
15 and they (indiscernible - unclear) came into my
16 house and I said, no and when I went to tell the
17 cops, he just laughed at me. So that's the only
18 incident I know of that police officers have been
19 unfair, just in that area.

20 Q Any of the other incidents that you've been
21 involved in, have you felt that either the police
22 or the state troopers or the district attorneys
23 had treated you unfairly?

24 A No. They've been real fair with me.

25 Q And this incident just recently, anything

1 about that, that would affect your ability to be
2 fair and impartial here?

3 A Oh, I don't believe so. That was one officer
4 and he was just -- I think he was reacting to the
5 altercation he and Charlie had had, you know, and
6 his supervisor was doing the same, so -- and
7 perhaps myself...

8 Q Have you ever come home and found your
9 children -- they must be of about that age when
10 they've had a conflict and you've heard two
11 different stories about what happened in your
12 absence?

13 A Oh, about a million times, yeah.

14 Q And would it be fair to say that in the course
15 of trying to figure out what happened, you listen
16 to their stories and you watch them and you
17 listen to who's telling what and based on your
18 own common sense and good judgment?

19 A We basically start with what they're saying
20 now and we work backwards until we get to what
21 actually happened which is totally different than
22 what happened when I walked in the door.

23 Q If you're called upon to make a similar
24 evaluation of people's testimony on the stand,
25 would you be able to use these experiences to

1 help you in that?

2 A Well, I would hope so. I've been a mother for
3 18 years. Been through a lot of that, but I
4 don't know what kind of questions you guys ask.

5 Q Have you -- understanding that you have four
6 children and you're working, do you do any other
7 things in your spare time?

8 A Laundry, dishes.

9 Q Watch t.v. or go to movies or read?

10 A Not really. When I get home, I cook dinner
11 and I sit down and watch whatever's startin'. I
12 watch it and I go to bed.

13 Q Do you watch any particular shows at all?

14 A I watch Matlock and usually Tuesdays and
15 Thursdays are the only nights that I watch t.v.
16 Unsolved Mysteries, I like that.

17 Q You haven't sat on a jury before?

18 A No. Every time they called me, I was
19 pregnant.

20 Q You understand the importance of this case to
21 both Captain Hazelwood and the State of Alaska?

22 A Not entirely.

23 Q You think it's not an important case for
24 either side or...

25 A I think every case is an important case but

1 I'm not sure what you're asking me.

2 Q Well, what I'm asking is given the fact that a
3 criminal charge has been brought, would you be
4 willing to listen to the evidence that's
5 presented through the testimony of the witnesses
6 and the exhibits that are admitted and reach a
7 fair and just verdict in this case, based on that
8 and your own common sense and good judgment?

9 A Sure. Based on what -- I don't know what the
10 law -- I don't know what kind of laws they're
11 using, what the charges -- I didn't quite get the
12 whole -- he read 'em so fast, the charges so I
13 can't tell you whether or not I don't know what
14 you're talking -- until I hear it.

15 MR. COLE: I have no further questions.

16 Q Thank you.

17 A You're welcome.

18 (3630)

19 VOIR DIRE EXAMINATION OF MS. STEWARD

20 BY MR. MADSON:

21 Q Good morning, Ms. Steward. Now, I guess it's
22 my chance for a minute or two. You work for the
23 Department of Public Health, State of Alaska?
24 Right?

25 A Yes, sir.

1 Q Is that here in Anchorage?
2 A Yes, sir. Over on Gambell.
3 Q Have you lived in Anchorage all your life?
4 All the time you've lived here?
5 A Chugiak. I lived in Anchorage, I guess, when
6 I was like to 2, and then I've been in Chugiak.
7 Q But basically your whole life has been and
8 centered around the Anchorage area?
9 A Yes, sir.
10 Q How long have you worked for the state then?
11 A 4 1/2/ months. Started in September.
12 Q What did you do before that?
13 A I went to business college.
14 Q And before that? I'm going to back up a
15 little.
16 A I was a mom and then I worked for that school
17 district before that. I had stopped working in
18 '81 to have Charlie.
19 Q I see. So, essentially you're starting to get
20 back in the work force again after a lapse here?
21 A Yes, sir.
22 Q Is it a large department you work with? You
23 know, a lot of people say in a relatively open
24 area where you can converse back and forth?
25 A Yes, sir.

1 Q And have coffee breaks and lunch breaks
2 together and everything?
3 A Well, if you want to.
4 Q Yeah, I mean you can if you want to.
5 A Yes, sir.
6 Q Do you socialize at all with some of your
7 fellow workers?
8 A Yeah, sure. We've done one thing -- I haven't
9 been there very long so I guess I'm not a very
10 social person, I don't know.
11 Q How about outside of work? Do you have kind
12 of a social circle, friends, neighbors or
13 anything like that?
14 A My kids. My mom. She lives next door.
15 Q Have you discussed the fact that you've been
16 called for jury service for this case with any of
17 these people at all?
18 A Oh, that I had jury duty?
19 Q Yes.
20 A Yes, sure. If they asked me.
21 Q Have you told them that you might be on this
22 Hazelwood case?
23 A Yeah. Well, they knew that. They asked me
24 and I said yes and that was the extent of it.
25 Q And you know it's a high publicity case, of

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course.

A Yes, sir.

Q Is that fair to say?

A Oh, I would think so.

Q Is there any of these reasons because, you know, it is a high publicity, high profile type thing. Is this any reason at all why you would want to serve on this jury? Does this affect your judgment, sitting here?

A No, sir.

Q Would you feel the same way if you were called to serve on an assault and battery or misdemeanor or something?

A Yes, sir.'

Q You'd have the same feelings?

A If somebody wants me to stay here, then I will. If they don't -- I mean I personally would like to be at work, but if it's necessary to take the time out, then I will.

Q There's nothing about this case at all that you feel would want you to be on this jury? Nothing about the nature of the case or the publicity factor it has?

A No, maybe make me not want to be on it if you have to pick.

1 Q You don't feel that, let's say, after the case
2 is over, it would be interesting to talk to your
3 friends, family and everything else about what
4 happened and you would receive, you know, a
5 certain amount of attention from people because
6 you were serving on the jury like this?

7 A I don't know. I don't know why they would be
8 interested in me now. They haven't been
9 interested in me before. Are you talking about
10 during the trial or after?

11 Q After the trial.

12 A They'd already know all the stuff then.

13 Q Well, about your experiences and how you felt
14 as an juror and what your thought and what you
15 didn't think and this sort of thing?

16 A Gosh, I don't know. I don't quite understand
17 what your question is.

18 Q Well, I appreciate that and you know, if you
19 don't understand, just please say so. What I'm
20 trying to get at, the bottom line, I don't want
21 to spend the morning talking about this, so
22 please bear with me. Is there anything just
23 about the nature of the case because it's been in
24 the press, it's been on the radio; it's been all
25 this sort of thing that would cause you to feel

1 in your mind that you would like to be on this
2 jury because of the high publicity factor. It
3 might, more or less, rub off on the jury to a
4 certain extent.

5 A No, I don't think so.

6 Q Ma'am, as a recovering alcoholic and I'm not
7 -- I don't want to go into your experiences, but
8 because of that, do you feel that you've been
9 around people who have been drinking to the
10 extent that you can tell when they've had too
11 much to drink, that they're either under the
12 influence or drunk?

13 A Some people you can and some people you can't.

14 Q Does that mean -- I realize everybody's
15 different. Is that fair?

16 A Yes.

17 Q So what I'm getting at is -- would you put
18 your personal experiences and life experiences
19 ahead of what you might hear in the Court from
20 witnesses who will testify as to what they
21 observed or what they believed?

22 A I think I would. I can't say for sure because
23 I don't know what they're going to say.

24 Q I realize we can't tell you what they're going
25 to say, but we have to ask these questions kind

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of general terms.

A Well, as I understand it, if you have to serve on a jury, you're supposed to listen to what they say and use that and not base it on anything else. That's all I know. I have never sat on a jury. I don't know what it would feel like or what would influence me or nothing. You know That's just what I heard in here, so...

Q So, with that understanding, can you say to us that you will base your opinions and verdict if necessary on what people say in here or what they do in here? What you see in the court room and not what you might remember from two years ago or three years ago in your experiences of how people act under the influence or when they're drunk?

A I don't know. If I think about that, I don't -- maybe I couldn't. I think I could but maybe I couldn't, so you know, I don't want to say yes and then wind up messing something up for somebody.

Q I don't want to misunderstand, I guess, but I guess what I'm saying -- or what I'm hearing here rather is you're saying I can't unequivocally, 100%, guarantee that I won't use my outside influences to interfere with my ability to be a

1 fair and impartial juror in deciding the case.

2 A Boy, you're getting my...

3 Q That's right, ma'am, we're getting right like
4 that.

5 A That's great. I appreciate that, but I'm not
6 sure -- I can't tell you. I've never done it.
7 I have never used my past history to judge or to
8 use it against anyone else because it's mine.

9 THE COURT: Will you use your best efforts, do
10 the best job you can?

11 A Sure, yes. I would do my best efforts.

12 THE COURT: Let's move on.

13 A If it's a problem though, I don't want to -- I
14 don't want to have to have it a problem.

15 MR. MADSON: Well, I would ask a challenge on
16 cause, Your Honor, based on the answers that have been
17 given.

18 THE COURT: I'm going to have you go next door
19 just for a minute to take this matter up outside your
20 presence.

21 A Okay. Thanks.

22 THE COURT: Don't discuss this with anybody.

23 (Pause) Okay, I'll let you articulate it now, your
24 reasons.

25 MR. MADSON: Your Honor, I realize the...

1 THE COURT: If you'd cite the rule for me,
2 please, that will be some help.

3 MR. MADSON: Well, I think it's 24 (c), Your
4 Honor. I don't (indiscernible - unclear) in front of
5 me.

6 THE COURT: (C) 3. Is what you're referring
7 to....

8 MR. MADSON: (C) 3, yes. That's correct,
9 Your Honor.

10 THE COURT: I think the juror has demonstrated
11 that she would use her best efforts. I don't know that
12 anybody can 100% unequivocally set aside their past
13 experiences. I think that's asking an awful lot of
14 anybody to set it aside 100%. She's demonstrated to
15 me that she will follow the Court's instructions. She
16 will use what she hears here. She's demonstrated to
17 me the ability to -- she has not formed a positive
18 opinion. She's demonstrated to me the ability to try
19 this case, based solely on the evidence and
20 instructions in accordance with the Court's
21 instructions. So I'm going to deny your request.

22 MR. MADSON: Your Honor, I just want the
23 record to show that the witness, I think, while she had
24 trouble understanding some questions, did seem to
25 understand the question I posed to her that she could

1 not assure us that she couldn't put her life...

2 THE COURT: Mr. Madson, let's get something
3 straight right now. When I make a ruling, that is it.
4 If you want to reconsider that ruling, you can make a
5 written application but when I make a ruling, that is
6 the end of it. I don't want us to get started on the
7 wrong foot here throughout this trial. When I make a
8 ruling, I don't want to have it argued anymore.

9 MR. MADSON: Your Honor, I wasn't trying --
10 with all due respect, sir, I wasn't trying to change
11 the Court's mind. I was simply trying to put something
12 on the record as to why I chose this juror to challenge
13 her for cause, not to argue with the Court.

14 THE COURT: Mr. Madson, let's get this
15 straight also. When I give you an opportunity to make
16 your argument, when you conclude your argument, it's
17 concluded. Once I make a ruling, there is no more
18 argument to be made. Now, you may disagree with the
19 ruling and I understand that, but I'm doing the best I
20 can. I hear your request; I make a ruling and that's
21 it. I don't want to hear you argue it after I've made
22 a ruling. That's not necessary. Get all your
23 argument in ahead of my ruling.

24 MR. MADSON: Could I raise something else,
25 Your Honor?

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THE COURT: Yes, sir.

MR. MADSON: While the juror is out, this is what we started to talk about before. It may not necessarily be with this juror but it could very well be with the next one.

In a high publicity case like this, the rules have to be, I think, relaxed a certain amount because we can't get a jury that hasn't totally unheard of the case at all. But while the Court is correct in saying there will be no camera coverage in the court room during the trial, there is certainly nothing to prevent jurors from talking with press, cameramen or anything else after the trial and I think we should be entitled to go into that area to see if the possible publicity that would perhaps put them in the spotlight would affect their ability to serve because they'd want to be on this jury.

THE COURT: Well, I'm not going to let you ask the question of whether or not they're concerned that they might be the subject of media publicity afterwards. It's not something that they know about; it's not something that it would be proper for you to inquire about concerning their qualifications to serve on the jury in this case now.

And incidentally, just for the record, when we

1 started without the jury present with Mr. Madson and
2 Mr. Chalos and Mr. Cole present, I did explain the jury
3 selection procedure and I explained that there would be
4 no media coverage of the jurors. Now, that meant just
5 media coverage during jury selection or pictures of the
6 jurors during the trial. I did not say, Mr. Madson,
7 there would be no more media coverage throughout the
8 trial. There will be media coverage during the trial.
9 I didn't mean to mislead you if I...

10 MR. MADSON: No, you did not, Your Honor. My
11 concern was only obviously after the trial, people can
12 do whatever they want to do and it's quite conceivable,
13 I think, that, you know, jurors are sometimes selected
14 out by the press or by photographers to get their
15 opinion as to what they thought and what they didn't
16 think.

17 THE COURT: I think that could happen in just
18 about any case particularly, a high profile case. I
19 get several of them and that's not a question I'm going
20 to allow. Let's bring the next juror in. Let's bring
21 that juror in so I can instruct her.

22 (Tape: C-3586)

23 (0025)

24 THE COURT: Ms. Steward, you can go home now,
25 but I'll need you back Friday at 8:30 a.m. in the jury

1 assembly room. Do you remember the room that you
2 assembled in today and yesterday downstairs?

3 A Yes.

4 THE COURT: I'll need you there Friday at 8:30
5 a.m.

6 A (Indiscernible - away from mike)

7 THE COURT: Well, I'll tell you that. In the
8 meantime -- let me ask you another question and you're
9 still under oath to answer the questions about the --
10 can you assure counsel and assure me that you will not
11 discuss this matter if selected on the jury, you'll not
12 discuss this matter with any of your friends or family
13 or any other person during the jury trial?

14 A Oh, sure.

15 THE COURT: Okay. I'm going to excuse you
16 now and we'll give you further instructions on Friday.
17 you're still part of the selection process so don't
18 discuss it at this time. Thank you very much.

19 You know, I think I'll take up any challenge
20 for cause outside the juror's presence so there be
21 nothing offensive to the juror in case you make some
22 statements that might offend them. I don't want them
23 to be affected by them.

24 UNIDENTIFIED SPEAKER: That's fine.

25 THE COURT: (Pause) Are you Kimberly Taylor?

1 A (No audible response.)

2 THE COURT: Please have a seat behind the
3 microphone. You can take the microphone off the stand
4 and answer the first four questions, please.

5 A Kimberly Ann Taylor. I'm not a member of any
6 organizations. The only reason I can think why
7 I shouldn't be on this jury is the law firm I
8 work for has Mr. Hazelwood named as a defendant
9 in a case and I don't know anybody involved in
10 this trial.

11 THE COURT: What do you do for the law firm?

12 A Secretary.

13 THE COURT: Do you work for a particular
14 attorney?

15 A Yes.

16 THE COURT: And what is that attorney's name

17 A Steve Smith and Mike Patterson.

18 THE COURT: What is the name of the law firm?

19 A Smith, Coe and Patterson.

20 THE COURT: And Captain Hazelwood is a
21 defendant in that case?

22 A Yeah, we have a case for several fishermen and
23 he's named in, I believe, at least one suit.

24 THE COURT: All right. And do you type up
25 any of the pleadings or any of the documents pertaining

1 to that case?

2 MS. TAYLOR: I have. I haven't in quite some
3 time.

4 THE COURT: Counsel, any objection to
5 refusing this juror?

6 UNIDENTIFIED SPEAKER: None, Your Honor.

7 THE COURT: You're a little bit too closely
8 associated with one of the sides here. Thank you very
9 much. You're free to go. If you would stop by the
10 jury office downstairs with your card and give that to
11 them.

12 (Pause) Is there something I should know
13 about this particular juror? I hear you mention it to
14 counsel.

15 A My uncle is the attorney for Mark Air. I
16 wasn't going to mention (indiscernible - away
17 from mike).

18 THE COURT: Mr. Gorham, please have a seat in
19 the front row there and take the microphone off. Would
20 you answer the first four questions please?

21 MR. GORHAM: My name is Bruce Gorham. I'm a
22 member of the Airlines Pilot Association. I'm a member
23 of the Grace Brethren Church in Eagle River. I can
24 think of no reason why I should not serve on the jury.
25 I do not know the defendant, attorneys, or plaintiffs

1 or witnesses in this case.

2 THE COURT: Sir, do you work for Mark Air?

3 MR. GORHAM: Yes, I do.

4 THE COURT: And do you know a man by the name
5 of Mr. Charlie Coe (ph)?

6 MR. GORHAM: No, sir.

7 THE COURT: Okay. Mr. Cole?

8 VOIR DIRE EXAMINATION OF MR. GORHAM

9 BY MR. COLE:

10 Q Good afternoon, Mr. Gorham. Have you
11 followed the events that have occurred in this
12 case since March 23rd, 24th when the Exxon Valdez
13 was grounded?

14 A Slightly yes.

15 Q And when you say "slightly", can you give me
16 an idea of what type of information -- what you
17 relied upon. Was it newspapers, television,
18 radio?

19 A Occasionally, newspaper. Our television
20 reception at home is so poor that we only get
21 public television, so and my work schedule is
22 kind of weird hours and stuff so I'm not -- I
23 don't have a regular routine where I'm able to
24 listen to these things.

25 Q Which newspaper do you get?

1 A We get the Daily News.

2 Q And have you spoken with people during the
3 last couple of months about the case?

4 A Not really, no.

5 Q Since the spill happened, have you formed any
6 opinions on the respective roles or
7 responsibilities of the parties that are
8 involved? And when I say parties, I mean the
9 members of the crew, Alyeska, Exxon Shipping
10 Company, Department of Environmental
11 Conservation, the Coast Guard. Have you formed
12 any opinions on their respective roles or
13 responsibilities for this grounding?

14 A No, it seems to be too confusing to try to
15 sort all that out.

16 Q Do you feel comfortable that you could set
17 aside any thing you've heard about this case and
18 base your decision on the evidence that's
19 presented here through the witnesses, the
20 evidence that's being admitted through Court and
21 your own common sense and good judgment?

22 A Yes, I believe I could do that.

23 Q You were in the military in 1967?

24 A Yes.

25 Q Can you tell me what rank you achieved in the

1 military?

2 A I achieved the rank of E-3.

3 Q What area did you work in?

4 A I was an aircraft mechanic.

5 Q And did that bring you to Alaska or did you
6 come up after that?

7 A No, I came up after that period of time.

8 Q You're an airline pilot for Mark Air. You've
9 worked there for about four years?

10 A That's correct.

11 Q Did you fly for anyone else before Mark Air?

12 A Yes, I did.

13 Q Can you tell me who those would be?

14 A I flew for Sea Airmotive, an Anchorage
15 commuter airline out in the Bush. I worked for
16 them for approximately ten years.

17 Q What type of airplanes did you fly for them?

18 A I flew ConVair (ph) 580's, deHaviland Twin
19 Otters, small single engine float planes. We had
20 quite a number of different types of aircraft.

21 Q And for Mark Air, what type of aircraft do you
22 fly?

23 A I've flown the Boeing 737 and I'm currently
24 assigned as a captain on the Lockheed Hercules.

25 Q Were you ever -- do you ever fly up to Prudhoe

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Bay with the Lockheed?

A Yes, I have.

Q Can you tell me are there any special restrictions for a person of your position as far as drinking and work?

A We have a company policy that we're -- in our operations manual that prescribed a certain number of hours of the consumption of alcohol prior to duty.

Q If you were to learn that that was different for a tanker captain, would you be able to set aside any of the company policies or the FAA regulations that apply to your job and focus on what the responsibilities of the tanker captain?

A Yes, I could.

Q Your children are at an age -- have you ever come home and found them arguing over something while -- something that happened in your absence and heard conflicting stories?

A Frequently, yes.

Q Would it be fair to say in resolving to your satisfaction the events that occurred in your absence, looked at the stories and see if they make sense and you look at the children that actually tell you the story and your own common

1 sense and good judgment in resolving that?

2 A Well, my children are quite small, so I tend
3 to just try to you know, quell the immediate
4 barrage of them hurting each other and...

5 Q Sure.

6 A ... try to get some peace and quiet back.
7 That's mainly what I'm concerned about is the....

8 Q You've indicated you have served on a criminal
9 trial in the past?

10 A Yes.

11 Q What kind of a trial was that?

12 A It was a robbery trial.

13 Q How long ago was that?

14 A That was in February of '83.

15 Q Do you remember the facts surrounding that
16 case?

17 A Generally, yes.

18 Q Was that of a liquor store or a residence?

19 A No, it was an auto parts store.

20 Q Did you happen to be the foreman in that case?

21 A No, I wasn't.

22 Q You indicated on your questionnaire that you
23 don't drink alcoholic beverages. Is that a
24 personal or a medical reason?

25 A It's just a personal lifestyle and with small

1 children and the time that I do spend with my
2 children and my family, it's -- I don't have the
3 luxury of having the time to engage in that
4 anymore. I have in the past but I don't now.

5 Q Do you hold any strong opinions either
6 favorably or disfavorably toward people that do
7 drink

8 A Not really. It's a personal preference, I
9 guess, for an individual and I choose not to.

10 Q Given the nature and the importance of this
11 case to Captain Hazelwood and the State of
12 Alaska, do you feel comfortable that if asked to
13 sit on this jury, you would be willing to listen
14 to the evidence that's presented here in Court,
15 look at the evidence -- listen to the evidence
16 presented in Court and base a verdict on that and
17 your own common sense and good judgment?

18 A Yes, I do.

19 Q Could you give both sides a fair trial?

20 A Yes, I could.

21 Q Would you be willing to reach a fair and just
22 verdict for both parties?

23 A Yes, I could.

24 MR. COLE: Your Honor, I have no further
25 questions. I pass for cause.

1 Q Thank you, sir.

2 VOIR DIRE EXAMINATION OF MR. GORHAM

3 BY MR. CHALOS:

4 Q Good morning, Mr. Gorham. I see that you
5 served in the Marine Corps.

6 A That's correct.

7 Q From 1967 to 1972.

8 A Yes.

9 Q Was that in Viet Nam?

10 A No, I was never assigned to Viet Nam.

11 Q Can you tell me what publications, newspapers
12 you read?

13 A I receive the Daily News. I receive the
14 Airlines Pilots magazine. It's a periodical,
15 monthly periodical of our union and we receive
16 oh, none of the -- I'd guess what you'd call the
17 national magazines. We receive some things -- we
18 home school our children, we receive publications
19 on that information and family type magazines.
20 That's about it.

21 Q Do you subscribe to the National Geographic?

22 A No, I don't.

23 Q Did you receive the Daily News, the
24 subscription to the Daily News back in March --
25 late March?

1 A Yes, we did.

2 Q And you have since then?

3 A Yes.

4 Q And have you read stories about the spill in
5 the Daily News?

6 A I would say at most, occasionally I have. I
7 skim -- I'm not an avid reader of the newspaper.
8 I take it primarily for the classified section
9 and I would obviously see the headlines and stuff
10 but rarely do I read through the entire thing
11 unless it's something of personal interest to me
12 or in an area that I have interest in.

13 Q Do you ever read the editorials?

14 A Seldom. No.

15 Q Do you believe that newspapers always print
16 the truth?

17 A No, I don't. That's primarily why I skim it
18 and you know, it's entertainment more than it is
19 -- that's what the newspapers serves. It's a
20 time of relaxing and skimming through something
21 as you would any periodical, I guess, but it
22 serves as an entertainment purpose.

23 Q With respect to the magazines that you receive
24 from the pilots association, was there any
25 articles or any analyses made in those

1 publications with respect to this spill?

2 A Not that I can recall, no. Or not that I've
3 read.

4 Q Have you read any articles regarding what's
5 called air chains?

6 A No.

7 Q As they apply to the airline industry.

8 A Are you referring to a periodical that that's
9 the title of it or...

10 Q No. They refer -- rather the periodical has
11 an article or maybe you've seen articles
12 somewhere that speak about this concept of airs
13 and the chain. Do you know what I'm talking
14 about?

15 A I don't follow your question when you say --
16 when you -- maybe you could rephrase it.

17 Q Well, you don't know what I'm referring to
18 then, I'll just drop the question. In your
19 questionnaire in response to the information you
20 remember hearing about the oil spill, you say the
21 disruption to the effected communities and their
22 lifestyles. What specifically do you mean by
23 that?

24 A Well, their normal routines were obviously
25 suddenly disrupted as oh, I'm trying to think of

1 an analogy to my own personal situation as in
2 December when the volcano went off. That
3 disrupted my work, you know, so there was a
4 disruption obviously to the geographical area and
5 the normal daily routines that go on and it just
6 -- you know, obviously there was a change in the
7 normal routine of everybody that was in that
8 area.

9 Q Do you have any opinion or strong feelings
10 about the disruption caused by this spill?

11 A No. It -- the only remote close thing in our
12 personal situation is it changed our vacation
13 plans for last year but that's the only thing
14 that, you know, I can think of.

15 Q Now, in response to Mr. Cole's question about
16 alcohol, I think what you said was that you don't
17 have any opinions regarding drinking. You said
18 not really. What specifically do you mean by
19 that?

20 A Well, I mean that if somebody has a preference
21 to drink and -- for their own personal reasons
22 and personal enjoyment, I don't have a problem
23 with that. I don't -- I don't do it myself
24 currently. I have in the past and like I stated
25 earlier, my current duty hours and working

1 basically prohibit me from drinking because when
2 I do work, I have a very long duty day and then I
3 have a short period of time where I have to
4 return to work so I don't have enough time to,
5 you know, have a few drinks and get the alcohol
6 out of my system prior to showing up for work the
7 next day, so it's not that I don't have a desire
8 to occasionally and I do when I go on vacation or
9 something or am not in a working mode, but I
10 don't -- infrequently do that.

11 Q In other words, you don't disapprove of
12 someone else drinking?

13 A No, I don't.

14 Q Are you in your capacity as a pilot subject to
15 random drug and alcohol testing

16 A Yes, I am.

17 Q Do you have an opinion about that?

18 A I question whether it's constitutionally valid
19 and that's in the courts as you're aware and I
20 believe it's in some form of appeal currently
21 that has yet to be ruled on. I haven't had to
22 personally submit to it yet. In our situation,
23 the plan was just approved in the middle of
24 December and I haven't been -- I haven't
25 participated in it yet.

1 Q What do you understand the penalty to be if
2 you test positive?
3 A In my position?
4 Q Yes.
5 A I'll be terminated from my job.
6 Q Do you believe that creates a situation where
7 you're guilty as charged without the benefit of a
8 trial or a hearing?
9 A Very much so.
10 Q How do you feel about that?
11 A Well, as in any set of circumstances or
12 happenings, different people have different
13 circumstances that may lead up to that and it's
14 not a cut and dried thing. I don't feel what may
15 apply to one person's situation will necessarily
16 apply to the next.
17 Q Let me just change gears for a second. I
18 take it that you fly with a co-pilot?
19 A Yes, I do.
20 Q Do you ever have occasion to turn the controls
21 over to him?
22 A Frequently, yes.
23 Q Do you have occasion in some instances to
24 leave the cockpit?
25 A Yes.

1 Q In those situations, are you relying on the
2 skills of your co-pilot?
3 A That's correct. Otherwise, I wouldn't
4 relinquish that responsibility.
5 Q In other words, if you have faith and trust in
6 that particular man's abilities, you don't have a
7 problem with leaving the cockpit?
8 A No. Not at all.
9 Q Now, there's been a question asked as to
10 whether the airline industry has a rule against
11 drinking and flying. That's an FAA regulation.
12 Am I correct?
13 A That's correct.
14 Q If in the course of this trial, you were to
15 hear evidence that the maritime industry may have
16 different regulations, could you assure us that
17 you would be able to set aside whatever notions
18 or opinions or regulations that you're familiar
19 with and apply the regulations that pertain to
20 the maritime business?
21 A Yes. Yes, I could.
22 Q And you can say that unequivocally?
23 A Yes.
24 Q As an airline pilot, do you take full
25 responsibility for the actions of your crew in a

1 situation where there might be an accident, for
2 instance?

3 A Could you say that again, please?

4 Q Yeah, do you feel as an airline pilot that
5 you're -- I take it as a pilot, you're the
6 captain of the plane, are you not?

7 A (No audible response).

8 Q Do you take responsibility for the actions of
9 your crew in that capacity?

10 A For the most part, they're -- I'm trying to
11 think of situations where, you know, somebody --
12 if I happen to be off the flight deck and one of
13 the other crew members had -- became
14 incapacitated or something, you know, for
15 whatever reason, I, you know, obviously I'm not
16 going to be right there to assume control, so
17 there may be a situation.

18 I can't think of one off the top of my head
19 but I'm just posing this, but I'm in command of
20 the airplane and I'm solely responsible for what
21 happens. There may be errors on the part of the
22 other crew members individually that I would
23 probably have to answer for but whether I would
24 have direct control over an error that they made,
25 I don't know, you know.

1 There are cases of -- you know, in reviewing
2 previous accidents and incidences where one of
3 the two crew members has obviously made an error
4 that was not caught by the other crew member.
5 And of course, when you're talking about the
6 speed of airplanes, things happen a lot quicker
7 obviously and you don't have the time. The
8 forgiveness is not there and things happen
9 sometimes quicker than somebody can get that
10 control back or remedy the emergency.

11 Q Do you understand that in this particular case
12 Captain Hazelwood is charged with a crime in his
13 role as captain of the boat, the Exxon Valdez?

14 A Yes.

15 Q Can you assure us that sitting as a juror, you
16 will be able to listen to the evidence, listen to
17 the judge's instructions as to what Captain
18 Hazelwood's responsibility is criminally as
19 opposed to his responsibility as master of the
20 vessel and render a fair and impartial judgment?

21 A Yes, I can.

22 MR. CHALOS: Your Honor, I don't have any
23 further questions of this juror. I pass for cause.

24 Q Thank you.

25 THE COURT: Mr. Gorham, I'm going to let you

1 go home now or wherever you want to go. I'll have to
2 have you back on Friday at 8:30 a.m. You don't have to
3 come in tomorrow but Friday at 8:30 a.m. to the same
4 place you assembled yesterday and today, the jury
5 assembly room. You may have to wait for a while down
6 there. I'm not too sure how long but we'll give you
7 further instructions at that time. You're presently
8 still on the selection track here. I don't know if you
9 will ultimately be on the jury or not but I would
10 consider that you're still on the track and not to
11 discuss the case and not to be exposed media publicity.

12 I think we'll take a lunch break before we do --I
13 think we've got 11 passed for cause. One more and then
14 it's going to be time for the parties to exercise their
15 preemptory challenges. Now, what I did, I called -- we
16 drew out 90 some odd names. Normally, you wouldn't
17 know who you're going to get next after a preemptory
18 challenge. I have no objection to proceeding like we
19 have since we have jury questionnaires, allowing you to
20 know who the parties are next in order unless there's
21 objection by counsel. Any objections by counsel of
22 doing it this way?

23 MR. MADSON: No.

24 THE COURT: Mr. Cole?

25 MR. COLE: No.

1 THE COURT: Okay. We'll see you back about
2 1:15 for lunchtime.

3 THE CLERK: Please rise. This court stands in
4 recess and recall.

5 MR. MADSON: Your Honor?

6 THE COURT: We'll go back -- we're still on
7 the record. Yes, sir?

8 MR. CHALOS: May we approach the bench, Your
9 Honor, on an issue?

10 THE COURT: All right. Incidentally, when you
11 approach the bench, Captain Hazelwood's entitled to
12 come here. If he doesn't want to, he doesn't have to
13 but he's entitled to be part of any proceeding. It's
14 up to you folks. So, okay, he just nodded his head no
15 and I assume that means he doesn't want to come up,
16 okay. Okay. Thank you.

17 (1241)

18 (Whispered bench conference as follows:)

19 MR. CHALOS: I noticed in today's Daily News,
20 Your Honor, that there was a story about jury selection
21 and they printed the names of two of the jurors.

22 THE COURT: Those who ere rejected?

23 MR. CHALOS: Yeah, released. Well, what I'm
24 concerned about is some potential juror, even though
25 you've instructed them not to (indiscernible -

1 whispering) concerned about being honest in their
2 feeling in having their name printed in the paper. If
3 they express a feeling, for instance, that they think
4 Captain Hazelwood is guilty or innocent and then having
5 to go back to their communities and be confronted by
6 their friends and neighbors. I wouldn't want this to
7 (indiscernible - whispering).

8 THE COURT: I think you can inquire of a
9 juror about whether they think they're going to have to
10 justify their verdict to their friends and neighbors
11 afterwards. I think you can do that. I think that's
12 proper. I brought it up before, but I don't want to
13 create a problem that doesn't exist for them and that
14 is, if you find your picture in the paper, your name in
15 the paper after this trial is over, are you going to
16 feel bad after that you served on this jury. I don't
17 want that because that's creating a problem that does
18 not exist.

19 MR. CHALOS: I was talking more along the
20 lines of the order that you gave yesterday for papers
21 not to print the names of the jurors.

22 THE COURT: That does not apply to jurors who
23 have been discharged, just jurors who are still under
24 the order of the Court. Those two jurors are
25 discharged. I don't have any control over that. I do

1 have control over prospective jurors though. Okay,
2 anything further? Anything further, Mr. Chalos?

3 MR. CHALOS: No.

4 (End of whispered bench conference)

5 (1322)

6 THE COURT: We'll stand in recess.

7 THE CLERK: Please rise. This court stands in
8 recess and subject to call.

9 (Off record - 12:00 noon)

10 (On record - 1:20 p.m.)

11 THE COURT: Ready for the next juror, counsel?

12 MR. COLE: Yes.

13 MR. MADSON: Yes.

14 THE COURT: I have Jeffrey Sage. Is that who
15 you have next on your list? (Pause)

16 Good afternoon, Mr. Sage. Have a seat in the
17 front row there and just grab that microphone off the
18 ledge. And if you'd please answer the first four
19 questions on the blackboard.

20 A My name is Jeffrey L. Sage and I am not a
21 member of any particular organization and there
22 are no reasons why I shouldn't serve on this
23 trial and I do not know any of the defendants,
24 attorneys, plaintiffs, or witnesses.

25 THE COURT: Thank you, sir. Mr. Cole?

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MR. COLE: Thank you, Judge.

VOIR DIRE EXAMINATION OF MR. SAGE

BY MR. COLE:

Q Good afternoon, Mr. Sage. How are you today?

A Good.

Q Since the grounding of the Exxon Valdez on March 23rd and 24th of last year, have you listened to any -- have you read about it?

A Sure. Newspaper, television.

Q And can you tell me what you watch on news station regularly?

A Yes, I watch Channel 2 News.

Q And which paper do you get or do you read a particular...

A The Anchorage Times.

Q During the course since the grounding, have you reached any kind of opinions on the various responsibilities of the parties involved as to who was responsible for the grounding? When I say parties, I mean the crew members on the Exxon Valdez, Exxon Shipping Company, Alyeska, Department of Environmental Conservation, the Coast Guard, any of those people. Have you reached any conclusion?

A No, I have formed no opinion on who is to

1 fault for the accident.

2 Q Do you feel comfortable, given what you know
3 about the case, that if you were asked to sit on
4 this jury you would be able to separate anything
5 you might have learned prior and base your
6 decision on the evidence that's presented through
7 the witnesses, through the evidence that's marked
8 as exhibits and your own common sense and good
9 judgment?

10 A Yes, I think I could.

11 Q I notice that you were with the U. S. Navy.

12 A Yes.

13 Q Can you tell me a little bit about that?
14 What rank did you make?

15 A I was E-3.

16 Q And were you stationed on vessels or...

17 A Never set foot on a ship.

18 Q What did you do in the Navy?

19 A I was in schooling for electronics technician,
20 working in a nuclear power plant.

21 Q Did you decide not to follow up in your
22 electrical training and -- or is there a reason
23 that you didn't...

24 A That's true. I decided to get out of the
25 military and I took that option.

1 Q Did you think about pursuing a career in
2 electronics outside of the Navy?
3 A No, not particularly. No, I was just a whim.
4 You know, it was the highest field in the Navy
5 and that's what I went for.
6 Q It appears that you joined right out of high
7 school.
8 A Right.
9 Q Where did you grow up?
10 A I went to high school and junior high in
11 Boseman, Montana.
12 Q Do you have any interest in electronics now,
13 today?
14 A None whatsoever.
15 Q Have you had a chance to work on radar or
16 anything like that?
17 A No.
18 Q Do you hunt and fish up in Alaska?
19 A No, I do not.
20 Q Did you do that at all in Montana?
21 A Sure haven't.
22 Q What do you do in your spare time up here?
23 A Mainly down hill ski during the winter and
24 during the summer, my wife and I have mountain
25 bikes. We spend a lot of time on the trails

1 around town.

2 Q I'd like to ask you a couple of questions
3 about some of the answers you provided at the end
4 of your questionnaire. They may be a little bit
5 personal. I don't mean barge into your personal
6 activities. It appears that your sister was
7 killed by a drunk driver?

8 A That's true.

9 Q How long ago did that happen?

10 A That was in 1975.

11 Q I assume that had at that time a fairly
12 significant impact on your life?

13 A Of course.

14 Q Does it remain a significant impact on your
15 life to this point today that -- to the point
16 that it would affect your ability to be fair and
17 impartial in this case?

18 A No, it does not.

19 Q And you also noted that you had been the
20 victim of a crime involving theft?

21 A Someone stole my car stereo.

22 Q Did you ever find that?

23 A No.

24 Q Do you have any feelings -- did you report it
25 to the police?

1 A Yes, I did.

2 Q Did you come away from that feeling that the
3 police didn't do their job or anything about that
4 situation that would affect your ability...

5 A No, I realize it's virtually impossible for
6 them to find whoever did it.

7 Q Can you tell me a little bit about working in
8 the commercial fishing industry? What have you
9 done in that area?

10 A For two summers, I worked on processors, type
11 of slave labor, really. All we did was butcher
12 salmon.

13 Q Were you in the bottom of the processor? It's
14 my understanding that ships get transferred onto
15 the processor and then they're taken below where
16 they're sorted and cleaned and you know, the guts
17 go one place and...

18 A Right, yeah. Yeah, we were down below where
19 all the slime is.

20 Q Did you ever hold any other jobs on the
21 processor other than that?

22 A No.

23 Q Did you find that a rewarding experience?

24 A It was interesting. It was interesting to be
25 out into the Bush areas of Alaska, see a little

1 bit of the country up here.

2 Q Did you meet your wife up here?

3 A Yes.

4 Q And you came up to just look for work?

5 A That's right.

6 Q Have you lived anyplace else in Alaska besides
7 Anchorage?

8 A No.

9 Q Can you -- which Carrs location do you work
10 at?

11 A I work at the Jewel Lake/Diamond Carrs.

12 Q And can you tell me what your responsibilities
13 are there?

14 A I'm the grocery manager of that particular
15 store and that particular grocery department does
16 270 to \$290,000 a week in retail sales.

17 Q You have people that you supervise then?

18 A Right. I have a crew of about ten men.

19 Q Are you required to fill out evaluations as to
20 their performance?

21 A Yes, I am.

22 Q Have you been called upon to reprimand them if
23 they're people that aren't working appropriately?

24 A Yes, sir.

25 Q Have you ever had to fire anyone?

1 A Not to date.

2 Q Not to date. How long have you been the
3 manager there?

4 A Just a little over a year.

5 Q Do you understand the importance of this case,
6 both to Captain Hazelwood and the State of
7 Alaska?

8 A Yes, I do.

9 Q Do you feel that, knowing that, that you would
10 be willing to listen to the evidence as it is
11 presented through the witnesses and the evidence
12 that's admitted and return a fair and just
13 verdict on that evidence and your own common
14 sense and good judgment?

15 A Yes, I believe I could.

16 Q Would you be willing to give both sides a fair
17 trial?

18 A Yes, sir.

19 Q Do you feel comfortable with that concept?

20 A Yes.

21 Q Thank you, Mr. Sage.

22 MR. COLE: I have no further questions,
23 Judge. Pass for cause.

24 VOIR DIRE EXAMINATION OF MR. SAGE

25 BY MR. MADSON:

H & M COURT REPORTING • 510 L Street • Suite 350 • Anchorage, Alaska 99501 • (907) 274-5661

1 Q Hi, Mr. Sage. I get to ask you a question or
2 two now. Hopefully, not for very long but with
3 regard to the news coverage, Mr. Cole, you know,
4 talked about that for a minute but your
5 questionnaire said that the information you
6 remembered hearing was the size of the spill,
7 where at, reason for the spill, and the clean-up
8 efforts. Would you focus in on the reason for
9 the spill, if you could for a minute and tell me
10 what you remember about that.

11 A As far as I can remember, Captain Hazelwood
12 had given the ship over to one of his mates and
13 he had problems controlling it, I suppose, where
14 in the area he was at and he ended up running
15 aground.

16 Q Is it from anything you've heard, just from
17 what you've said there and that's the best you
18 can recall right now about the reason?

19 A Pretty much so, yeah.

20 Q With regard to that do you have any kind of
21 preconceived ideas or notions at all that Captain
22 Hazelwood committed some kind of criminal act in
23 doing that?

24 A I don't believe so, no.

25 Q Well, you know, here's -- we don't want to be

1 picky but can you unequivocally assure us, that
2 is 100%, that any ideas, notions or feelings you
3 may have from what you've learned outside the
4 courtroom would not affect you in the slightest
5 in this case?

6 A No, I don't think they would.

7 Q Well, again when you say I think, can you
8 assure us?

9 A Yes, I could assure you. Definitely.

10 Q You could make that promise to us?

11 A Right.

12 Q Okay. Have you discussed being on this jury
13 with anyone at all?

14 A No, sir. I haven't.

15 Q Not your wife or anybody?

16 A I just told her I was being screened. That's
17 all I told her.

18 Q Did you tell her which case it was for?

19 A Yes.

20 Q You feel that you would want to be
21 particularly on this jury as opposed to any other
22 kind of case? Is there any reason why you'd
23 want to pick this one as...

24 A I have never been on any type of a case. I
25 would like to have the experience of sitting on a

1 jury. I think this one in particular would be
2 interesting 'cause it has had a lot of news
3 coverage and the sorts.

4 Q Does the fact that it has a lot of coverage
5 -- is that what you feel could influence you at
6 all because it is a high publicity type case?

7 A No, I don't believe so. I would like to do it
8 if it were just a smaller case too.

9 Q Of course, you realize this one may last two
10 months?

11 A Yes, I realize that.

12 Q And you don't have any financial problems as a
13 result of your work or anything?

14 A I collect a full paycheck, sitting on the
15 jurors [sic].

16 Q You work only days, sir, by the way?

17 A Yes.

18 Q Mr. Cole also asked you a little bit about the
19 experience with your sister and what happened.

20 Where did that occur, sir? Montana?

21 A No, that was in Garden City, Kansas.

22 Q How old was your sister?

23 A She was 16.

24 Q And you were about how old?

25 A I was 12.

1 Q Was there any type of a trial or anything like
2 that? Was the person ever tried for anything?
3 A No, there wasn't.
4 Q Were you questioned by the police or a witness
5 in any way?
6 A No.
7 Q I guess somehow you learned that there was a
8 drunk driver involved. Somehow, somebody must
9 have told you that or something?
10 A Right. Newspapers and you know, my family.
11 Q So even though that somebody may have been the
12 influence -- drunk or something -- as far as you
13 know, there was no trial?
14 A Both parents of the two deceased children
15 decided not to prosecute and they just didn't --
16 they didn't feel it was right and it wouldn't
17 bring back, you know, the two dead people.
18 Q Was she riding in the same car with the
19 driver?
20 A Right. They were on their way home from
21 school, a car load of girls.
22 Q And I think you've already assured us that
23 this wouldn't affect your decision in this case
24 at all?
25 A That's right.

1 Q You indicate you drink -- it says two a month.
2 Does that mean two times a month or two drinks a
3 month or..

4 A Two times a month.

5 Q So that would be like every pay day or
6 something like that or...

7 A No. Just usually when we got out to dinner,
8 you know, a couple of times a month.

9 Q What would you normally drink, if I can ask,
10 just beer or wine?

11 A Usually beer.

12 Q Have you ever been in a situation where you've
13 seen people that have had, you thought, too much
14 to drink, see what their actions and things were
15 like?

16 A Yes, sir.

17 Q Friends that may have done this on occasion?

18 A Sure.

19 Q Now, your -- you said you like to cross
20 country ski. You and your wife both? Or down
21 hill ski?

22 A Down hill ski, yes.

23 Q And not cross country; it's down hill?

24 A Right.

25 Q Do you -- and you also said you were -- you

1 spent that couple of summers in the Bush,
2 cleaning salmon or I think you used the term,
3 butchering salmon. Is there anything about your
4 recreational activities which you like to do
5 outside or the fact that you were involved a
6 little bit in swimming -- in the fishing
7 industry, that you think could affect you at all
8 as far as the environmental concerns in this case
9 go. Do you know what I mean?

10 A No, I don't believe so.

11 Q In other words, you recognize that there was
12 -- from the publicity, there was damage to the
13 environment?

14 A Sure.

15 Q But you're not a person that feels the
16 environment is so fragile or whatever that you
17 feel that someone must be punished for this?

18 A I don't believe so. It hasn't hurt me in any
19 particular way.

20 Q So you can assure us you're neutral on this
21 too?

22 A Yes, sir.

23 Q Now, your Navy experience kind of was somewhat
24 interesting too. Where was this nuclear power
25 plant you said you were -- you worked at?

1 A It was located outside of Sarasota, New York.
2 It was at a -- it's not a military installation.
3 It's -- General Electric has seven nuclear power
4 plants there and the Navy trains there.
5 Q The Navy trains the personnel there...
6 A They train...
7 Q It's a privately owned nuclear station?
8 A Right. And GE lets the Navy train their
9 personnel there.
10 Q And what was your exact duties there?
11 A I was the reactor operator. I sat at the
12 actual panel and you know, gave the power to the
13 nuclear plant.
14 Q For how long a period did you do this?
15 A I was there for about eight months.
16 Q And were you training someone else?
17 A No. I was being trained.
18 Q You were -- pardon me?
19 A I was being trained.
20 Q Oh, you were being trained?
21 A Right.
22 Q I guess where I'm somewhat confused, the Navy
23 actually operates the plant for GE?
24 A Right.
25 Q I get it. And even part of basic training,

1 you never had any kind of shipboard experiences?
2 A I took a tour of a ship once and that was it.
3 Q So your -- I assume now, you're not familiar
4 at all with any Navy or Coast Guard regulations
5 involving how a vessel should be operated or
6 anything?
7 A None whatsoever.
8 Q Anything about your Navy experience at all
9 that you feel could be detrimental in being fair
10 and impartial as a juror?
11 A No, sir.
12 Q Was it a favorable experience?
13 A Yes.
14 Q Well, Mr. Sage, you know, it's been a day or
15 two but do you remember the questions the Court
16 asked you -- the instructions he gave you
17 earlier?
18 A Yes, sir.
19 Q Do you feel that you could -- you promise us
20 that you will follow the instructions such as
21 defendant not having to convince you of his
22 innocence?
23 A Right.
24 Q The burden is on the State and all these
25 things -- he doesn't have to take the stand and

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testify?

A Right.

Q You will promise that you can fully abide by those even though you may disagree with some of them?

A Yes, I could.

Q Thank you, sir.

MR. MADSON: I'll pass for cause.

THE COURT: Thank you. Mr. Sage, I'm going to let you go home now or go about your personal affairs. I'll have to have you back in to the jury assembly room Friday morning at 8:30 a.m. You're still on the jury selection track here. I don't know if you'll end up being on the final jury or not but you're still on track so don't discuss this matter with anybody and avoid the media information about it and do you remember where you met this morning?

A Yes, sir.

THE COURT: The jury room. That's where you should be Friday at 8:30 a.m. Is that going to present any problem?

A No. I am scheduled to work but I can work graveyard and take care of that. No problem.

THE COURT: Good. Thanks very much.

A Thank you.

1 THE COURT: Do you have any personal
2 belongings next door?
3 A (Indiscernible - away from mike)
4 THE COURT: Okay, you can just take it out the
5 double doors. All right, we've passed 12 for cause.
6 The state can exercise its first preemptory challenge.
7 MR. COLE: Your Honor, we would respectfully
8 thank and excuse Mr. Schaueremann.
9 THE COURT: Wilhelm Schaueremann?
10 MR. COLE: Yes.
11 THE COURT: Okay. You can bring the next
12 juror in. We'll notify -- we'll try to call these
13 jurors who are preempted and notify them not to have to
14 come back. If we can't, we'll notify them on Friday.
15 (Indiscernible side conversation)
16 THE COURT: Good afternoon. Have a seat in
17 the front row there next to the microphone. You are
18 Ronald Jordan, sir?
19 A Yes, sir.
20 THE COURT: Have a seat please. Take the
21 microphone off the stand and if you could answer those
22 first four questions. Afterwards the attorneys will
23 have some questions for you too.
24 A My name is Ronald Jordan. I'm not a member
25 of any organization. The only reason I can

1 think of not to be on the jury is that I did use
2 to work for Exxon back in the early '70s up
3 through -- off and on through '85. And on
4 witnesses, I know Dr. Propst.

5 THE COURT: All right, let's take the first
6 thing. Former employment with Exxon. What was your
7 job capacity with Exxon?

8 A I worked as a paramedic and expediter and job
9 site -- camp expediter for Exxon in Prudhoe Bay.

10 THE COURT: Would your former employment with
11 Exxon in any way influence the way you would view
12 testimony in this case?

13 A A really split decision because times with
14 Exxon was pretty good; other times, it wasn't.

15 THE COURT: My question is would it view any
16 way -- would it affect any way you would view the
17 testimony in this case -- would you favor or disfavor
18 testimony because of your former employment?

19 A It's hard to say. I have really fixed
20 emotions about Exxon...

21 THE COURT: What are your emotions about
22 Exxon?

23 A Arrogance.

24 THE COURT: Have you read anything about this
25 case?

1 A Off and on. I was in Fairbanks during most of
2 what was going on.
3 THE COURT: There was publicity in Fairbanks
4 about it too.
5 A Not as complete as Anchorage papers.
6 THE COURT: Did you read anything about the
7 case?
8 A Yes, I did.
9 THE COURT: Did you see anything on television
10 about the case?
11 A Off and on.
12 THE COURT: And have you seen anything
13 recently on television or read anything recently?
14 A Up until November or December.
15 THE COURT: Is that yes or no?
16 A That's yes.
17 THE COURT: Up until November?
18 A Yeah.
19 THE COURT: What do you remember reading or
20 seeing about this case?
21 A Well, to me there was a lot of confusion what
22 was happening. It seemed like they had spec --
23 you know said this had happened, the ship being
24 grounded and made several claims and I really
25 don't know as far as the truth in 'em or

1 anything.

2 THE COURT: Did you read anything about
3 Captain Hazelwood?

4 A Yes, I did.

5 THE COURT: What do you recall reading or
6 seeing about him?

7 A I remember reading about the alcohol and I
8 remember reading about attempts to bring the ship
9 off the reef.

10 THE COURT: And what do you remember reading
11 about the alcohol? What specifically do you recall?

12 A Just that the Coast Guard got there late, as
13 far as I was concerned.

14 THE COURT: What does that have to do with the
15 alcohol?

16 A Working as a medic, I've run across deal where
17 alcohol levels go down.

18 THE COURT: My question, I guess I didn't make
19 it clear. What do you recall reading about the alcohol
20 as it pertains to Captain Hazelwood?

21 A As far as the paper said, that he was
22 intoxicated at the time.

23 THE COURT: Okay. And what do you recall
24 reading or seeing or hearing about efforts to take the
25 ship off the reef?

1 A That -- from what I understand from the papers
2 that he was trying to back off the reef.

3 THE COURT: After you read these things or
4 heard them, did you form any opinion, however slight,
5 about whether Captain Hazelwood was guilty of kind of
6 offense because of what you read?

7 A Well, having run a few smaller vessels myself,
8 I didn't think that was a good idea to try to
9 bring the vessel off the reef when you don't know
10 what's going on.

11 THE COURT: Did you form any opinions
12 concerning what you read about the alcohol?

13 A No, not really.

14 THE COURT: Captain Hazelwood was, from what
15 you read, was operating the vessel. Is that correct?
16 As captain?

17 A Uh...

18 THE COURT: He was on board as captain?

19 A He was on board, yes. That's they way I
20 read it.

21 THE COURT: What did you read about who was
22 operating the vessel?

23 A I understand there was a third mate running
24 the vessel.

25 THE COURT: Now, this was carrying crude oil,

1 was it. Is that what you remember reading?

2 A Yes.

3 THE COURT: Do you know whose crude oil it
4 was or who...

5 A Coming through the grapevine, I heard it was
6 Chevron's oil.

7 THE COURT: Does your feeling that Exxon has
8 some arrogance when you working with them, does that
9 -- do you still feel that today?

10 A Definitely.

11 THE COURT: Do you in any way hold that
12 against Captain Hazelwood in any way, however slight,
13 that Exxon was connected with this oil in any way?

14 A Not in the first part. I don't feel that
15 whatever happened happened. You'd have to
16 separate the two as far as I'm concerned.

17 THE COURT: Okay. Can you unequivocally say
18 that your opinions you formulated earlier based on the
19 pretrial publicity would be set aside and you'd be able
20 to decide the questions in this case based soley on the
21 evidence that you hear here and see here and you'd be
22 able to set aside any information you received
23 beforehand?

24 A Yes, I can.

25 THE COURT: Are you sure of that?

1 A Yes.

2 THE COURT: How about Dr. Propst? In what
3 capacity do you know him?

4 A My wife worked for Physicians Medical Lab and
5 she worked as a medical lab tech under him.

6 THE COURT: Do you have any social
7 acquaintanceship with Dr. Propst?

8 A Just three or four times year. Holidays
9 mainly.

10 THE COURT: If he testifies in this case --
11 what effect would that have on you?

12 A I don't think any really, at the moment.

13 THE COURT: Would you view his testimony any
14 differently than some other person in this same
15 capacity who'd testify just on your knowledge of him?

16 A No, I don't think there'd be any problem
17 there.

18 THE COURT: Okay, I'll let the attorneys ask
19 some questions at this time.

20 VOIR DIRE EXAMINATION OF MR. JORDAN

21 BY MR. COLE:

22 Q How long did you work up at Prudhoe Bay?

23 A From 1974 through 1986.

24 Q And you were a Teamster up there?

25 A No. I worked -- I went to work -- I went to

1 work for Exxon in '74 as a medic and then I kind
2 of graduated to other jobs, aviation advisory,
3 expediter and so forth.

4 Q And which camp did you stay at when you were
5 at Prudhoe Bay?

6 A Wildcat Camps, Point Thompson, (indiscernible
7 - unclear), Kenny River.

8 Q Were those camps dry or was there alcohol...

9 A They were supposed to be dry but there was
10 alcohol.

11 Q As a paramedic, were you ever called upon to
12 aid people that had been in accidents up at
13 Prudhoe Bay?

14 A Yes.

15 Q Were any of them -- did they involve alcohol?

16 A No. The ones I did did not.

17 Q I believe at one point you indicated you have
18 run smaller vessels. Can you give me an idea
19 about that -- what you were talking about?

20 A Anything from a 14-foot skiff up to an 110-
21 foot LCU. It was a landing craft.

22 Q When did you do that?

23 A Well, I've been involved since I was 6. And
24 I've run -- ferried vessels up and down Cook
25 Inlet and so forth. It was more off season work

1 for me.

2 Q You were in the Navy?

3 A Yes.

4 Q What rank did you...

5 A E-4.

6 Q And what was your specialty? What area...

7 A I was a dental tech, and it's E slash

8 corpsman. I was a corpsman for the 3rd Marine

9 Division.

10 Q I assume during your life you've had an

11 opportunity to look through radar?

12 A Yes.

13 Q Do you feel comfortable with charts?

14 A Yes.

15 Q Have you ever been required to take plots or

16 find ranges?

17 A Not as a -- I just did it for the exercise,

18 I'll put it that way.

19 Q You're familiar with the technique?

20 A Yes.

21 Q Are you familiar at all with any of the

22 maritime laws? Have you done any studying of

23 maritime law?

24 A I have had some, but I don't know all of them.

25 Q Where did you receive the maritime law

1 training?

2 A Just sitting down, reading books.

3 Q Is it fair to say that it's been an interest
4 in your life, growing up?

5 A Yes.

6 Q Your wife. She has worked for Dr. Propst?

7 A Yes. And she still does part-time.

8 Q And does she have any special training in the
9 effects of alcohol on the body?

10 A Yes.

11 Q How about you? Do you have any special
12 training on that?

13 A Mostly I was involved in trauma care.

14 Q Have you ever discussed with her the effects
15 of alcohol on the body? I suppose that's not a
16 nightly conversation, but...

17 A In some occasions, we have discussed, you
18 know, seen the effects and everything.

19 Q Does your job, right now, does it permit you
20 to drink while you're at work?

21 A No.

22 Q Are you at all -- does the company you work
23 for, does it have any kind of a drug testing
24 program?

25 A Not a drug testing program. Mostly, just drug

1 identification.

2 Q Have you been trained in that?

3 A Yes.

4 Q Is that through your work as an asbestos or
5 was that in...

6 A Well, since things kind of slumped in the
7 field, I've been getting involved in other
8 industry.

9 Q Have you ever had anything to drink at lunch
10 when you were at work?

11 A No.

12 Q Do you hunt and fish at all?

13 A Yes, I do.

14 Q Can you tell me -- is it fishing or hunting
15 or...

16 A Well, mostly fishing, but you know, from
17 Prudhoe Bay to Southeast Alaska.

18 Q Fly fishing? Spinning rod or....

19 A Spinning rod, mostly.

20 Q Have you done any fishing out in Prince
21 William Sound?

22 A Down around Hinchinbrook, yes.

23 Q Have you been out in the ocean down in that
24 area also?

25 A South of Katawa (ph), if you know where that's

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at.

Q Have you ever done any deer hunting in the area?

A Not in that area.

Q Can you tell me about your work in the commercial fishing industry?

A When I was in high school, I was fishing on Kalligan Island which is in Cook Inlet from '65 through '80.

Q And were you -- did you have a permit or were you working...

A Yes, I did have a permit, uh-huh (affirmative).

Q You had a permit. What type of boat were you running then?

A We were set netting. We ran about five miles of beach with 15 sets.

Q Do you feel comfortable with the fact that this is very important case for Captain Hazelwood and for the State of Alaska?

A Yes, I do.

Q And based upon that, would you be willing to listen to the evidence as it's presented through the witnesses, the evidence that's admitted in Court and your own common sense and good judgment

1 and reach a fair and just decision for both
2 parties?
3 A I believe I can.
4 Q Would you be willing to give both sides a fair
5 shot?
6 A Yes.
7 Q Do you feel comfortable with those notions?
8 A Yes.
9 Q Thank you very much, Mr. Jordan.
10 MR. COLE: I have no further questions and
11 would pass for cause.
12 MR. CHALOS: Your Honor, may we approach the
13 bench?
14 THE COURT: Yes.
15 (3033)
16 (Whispered bench conference as follows:)
17 MR. CHALOS: Your Honor, (indiscernible -
18 whispering). We're concerned (indiscernible -
19 whispering).
20 THE COURT: I'll let you explore that with
21 him and -- but, so far, it's not enough to justify a
22 challenge for cause if that's what you're asking now,
23 but I'll let you explore that within reason.
24 (End of whispered bench conference)
25 (3076)

1 VOIR DIRE EXAMINATION OF MR. JORDAN

2 BY MR. CHALOS:

3 Q Good afternoon, Mr. Jordan. I'd like to ask
4 you a little bit about how your association with
5 Dr. Propst. You mention that you socialize with
6 him about three or four times a year?

7 A Yes.

8 Q What's the nature of those socializations?

9 A Usually just picnics, company picnics that PML
10 has.

11 Q Have you been to Dr. Propst's home?

12 A No.

13 Q Has he come to your home?

14 A No.

15 Q Do you speak with him on those occasions?

16 A Every now and then, yes.

17 Q Do you ever speak to him with respect to the
18 work that he does?

19 A Beyond the fact that he's busy, no.

20 Q You know that Dr. Propst may be a witness in
21 this particular case?

22 A Yes, I do.

23 Q Have you and your wife discussed the fact that
24 Dr. Propst may be a witness here?

25 A No.

1 Q You have discussed with your wife the
2 possibility that you may be a juror?
3 A Yes.
4 Q Do you have an opinion about Dr. Propst? Do
5 you think he's a good doctor, an honest person?
6 A As a professional, yes, I do.
7 Q If a witnesses -- another doctor, if you will,
8 came in and contradicted Dr. Propst in the things
9 that he said, would you tend to give more
10 credence to what Dr. Propst said as opposed to
11 what the other witness might say?
12 A It's hard to say. I've worked with a lot of
13 doctors and you got to kind of shop around for
14 doctors, as far as I'm concerned.
15 Q Let me ask you this. Can you tell us -- and
16 you have to be honest with us on this -- can you
17 tell us that you can unequivocally state today
18 that if there was a discrepancy or a difference
19 between what Dr. Propst testifies to and what
20 another expert might testify, you would not favor
21 Dr. Propst -- and I use the word unequivocally,
22 because it's a strong word.
23 A I'd have no problems with having another
24 doctor testify.
25 Q No, no.

1 A Maybe I don't understand.

2 Q That's not my question. If Dr. Propst says
3 one thing and another doctor says the complete
4 opposite, can you tell us, without hesitation and
5 without equivocation, that you would believe the
6 other doctor just as easily as you would believe
7 Dr. Propst?

8 A Yes, I could.

9 Q And you wouldn't -- you're telling us that you
10 wouldn't, because of your association with Dr.
11 Propst feel inclined to give him the benefit of
12 the doubt?

13 A Right. I would not. Like you said, I
14 wouldn't have any problem with it.

15 Q I'm sorry. We need to be sure and I would ask
16 you to be as honest as you can with that.

17 THE COURT: Mr. Chalos. Mr. Chalos, he
18 answered those questions very directly and I assume
19 they're honest responses. Why don't you go on to
20 another line of inquiry now?

21 MR. CHALOS: Okay.

22 (3400)

23 Q Let me ask you about the -- before I get to
24 that, let me just ask you a few more questions in
25 this regard. Have you discussed with your wife

1 the blood alcohol information or the blood
2 alcohol test that was done on Captain Hazelwood?

3 A No.

4 Q You started to say in response to, I believe,
5 Judge Johnstone, that you had a certain opinion
6 about the test and the validity of the test taken
7 some hours after the event.

8 A Yes, I do.

9 Q Do you have an opinion on that?

10 A Yes, I do.

11 Q Can you tell us what that opinion is?

12 A Alcohol level decreases after a period of
13 time.

14 Q That's the opinion?

15 A That's my opinion.

16 Q Is that the only opinion you've formed with
17 respect to the test that's at issue?

18 A Yes, that's the only opinion I have.

19 Q Would the opinion that you just stated in any
20 way affect your ability to be fair and impartial
21 in this case?

22 A No. There'd be no problem.

23 Q And you also stated that you have an opinion
24 with respect to the reports that you read about
25 Captain Hazelwood attempting to move the vessel

1 from the reef. Can you elaborate on that?

2 A My opinion was that at that time that it was a
3 foolish thing to do when you don't know what's
4 happened to your ship or vessel.

5 Q Do you still hold that opinion today?

6 A Yes.

7 Q Is that opinion in any way or would that
8 opinion in any way affect your ability to give
9 Captain Hazelwood a fair and impartial trial?

10 A No, I don't there'd be any problem. I think
11 there would be more information coming out in the
12 trial.

13 Q Well, in that regard, would you be able to
14 listen and assure us that you would be able to
15 listen to the testimony and view the exhibits
16 that go into evidence and being convinced
17 otherwise if the evidence were so?

18 A Yes. I wouldn't -- I'd be able to sit and
19 listen. I think that -- I wasn't there on the
20 deck of the ship. Maybe this would fill it in.

21 Q Now, in response to Mr. Cole, you mentioned
22 that you had some familiarity with the technique
23 of radar plotting?

24 A A little bit, yes.

25 Q What is the nature of your familiarity?

1 A In playing with -- well, when I lived in
2 Prudhoe Bay, I ran a boat up there for a while
3 and I was using radar to move from island to
4 island in the fog -- in the ice fog and
5 everything during the summer.

6 Q This was on a ship that you were serving on?
7 A No, no. This is -- I was working for a
8 service company at the time and they hired me to
9 transfer crews from one island to another island
10 and I had to do it in the dark and under foggy
11 conditions.

12 Q Were you on board at the time?
13 A Yes, I was running the boat.

14 Q I see. What type of radar did you operate?
15 A I can't even pronounce it. Fuerno (ph), a
16 Japanese type radar.

17 Q Did you actually make plots on the radar or
18 did you take it and put the plots on a separate
19 maneuvering board?
20 A On the radar.

21 Q Have you had any special training in that
22 regard?
23 A Just worked with a more experienced person at
24 that time.

25 Q When you were in the Navy, did you stand the

1 bridge watch at all?

2 A No.

3 Q Never stood a bridge watch?

4 A No.

5 Q Did you stand an engineering watch?

6 A No.

7 Q Did you stand any ship board watches?

8 A Starboard -- port and starboard and medical
9 watches.

10 Q Now, you were a corpsman in the Navy?

11 A I was a dental tech in the beginning. I was
12 a Navy corpsman later on, assigned to the Marine
13 division.

14 Q I see. In the course of being a corpsman, did
15 you ever have to take blood?

16 A Yes.

17 Q Did you ever have occasion to analyze blood as
18 a corpsman?

19 A No.

20 Q Do you have any special training with respect
21 to testing for blood alcohol?

22 A No.

23 Q Have you had any experience in treating
24 someone who's under the influence of alcohol?

25 A Yes.

1 Q What is the nature of that training?

2 A Mostly, getting them ready for shipment back

3 in from the job site into town. We have had on

4 jobs, people with DT's and everything and you

5 know, deal with them, get them ready for shipment

6 back to -- (indiscernible - unclear) aviation to

7 get them back into town for further treatment.

8 Q In the course of doing those duties, have you

9 had a chance to observe an individual who was

10 under the influence of alcohol?

11 A Yes.

12 Q And have you been able to observe the effects

13 of alcohol on an individual?

14 A Yes.

15 Q I see in your questionnaire that you say that

16 you drink two to three times a week?

17 A Right.

18 Q What do you normally...

19 A Mostly beer.

20 Q Do you drink socially or do you drink after

21 work?

22 A Sometimes after work.

23 Q Do you occasionally drink too much?

24 A Not very often.

25 Q Have you ever had a situation where you drank

1 and drove?

2 A No.

3 Q Never?

4 A Never.

5 Q You recall when you were first impanelled,
6 Judge Johnstone gave you certain instructions to
7 the effect that Captain Hazelwood is presumed to
8 be innocent and that he does not have to take the
9 stand and that he doesn't have to produce any
10 evidence. Do you have any problems with those
11 instructions?

12 A No.

13 Q If those things happened, that is, Captain
14 Hazelwood doesn't take the stand or doesn't put
15 in any evidence, would that in any way influence
16 your decision?

17 A No.

18 Q The answer is no?

19 A No, it would not influence my decision, no.

20 MR. CHALOS: Your Honor, I have no further
21 questions of Mr. Jordan. Pass for cause.

22 THE COURT: Thank you, Mr. Jordan. You may
23 leave but I'll have to have you back Friday morning,
24 the day after tomorrow, at 8:30 a.m. in the jury
25 assembly room. Do you remember where that room is?

1 A Yes, I do.

2 THE COURT: And will you be able to be there
3 at 8:30 a.m.?

4 A Sure.

5 THE COURT: Okay. Do you have personal
6 belongings next door?

7 A (No audible response).

8 THE COURT: Just pick them up on your way out
9 and avoid media information about this case and don't
10 discuss the case. Thank you, sir. Defendant has
11 their first -- has his first?

12 MR. CHALOS: Yes, Your Honor. We would ask
13 the Court to please thank and excuse Mr. Gerard. Well,
14 the Court has already ruled on the -- this is the one
15 that...

16 THE COURT: Mr. Gerard? That's the second
17 juror, okay.

18 MR. CHALOS: That's correct. This one we
19 challenged for cause and that was denied by the Court
20 and we want the record to reflect we're exercising the
21 preempt, only because of that reason.

22 THE COURT: Okay. Mr. Gerard will be excused
23 pursuant to a preemptory challenge by the defendant.
24 We are notifying the parties who are being excused and
25 we're thanking them on behalf of both the defendant and

1 the State and the court system and excusing them.
2 We're doing it by telephone so they don't have to come
3 back in. Hopefully, we'll get that word to them
4 before they read their names in the newspaper.

5 Let's get the next -- Beatrice Freeman is who we
6 have next. Hello, Ms. Freeman. Have a seat in the
7 front row please, next to the microphone preferably.
8 You can just take that microphone off the stand and if
9 you'd answer the first four questions please. Just
10 take the whole microphone off. There you go.

11 (4005)

12 A My name is Beatrice Freeman. I'm a member of
13 the Anchorage Board of Realtors and the Alaska
14 Association of Realtors and the National
15 Association of Realtors. I don't know of any
16 reason why I shouldn't serve on the jury and I
17 don't know any of the defendants or attorneys,
18 witnesses.

19 THE COURT: I'm sorry. I couldn't hear your
20 last answer. Do you...

21 A I don't know any of the defendants or the
22 attorneys, the plaintiffs of the witnesses.

23 THE COURT: We'll turn you up here so we can
24 hear you a little better. Mr Cole?

25 MR. COLE: Thank you, Your Honor.

1 (4005)

2 VOIR DIRE EXAMINATION OF MS. FREEMAN

3 BY MR. COLE:

4 Q Good afternoon, Ms. Freeman.

5 A Hi.

6 Q Since the Exxon Valdez grounded on March 24th,
7 1989, have you followed the events that have
8 occurred through the papers and the t.v.?

9 A Not really. I don't really get a chance to
10 read the papers all the time. I do occasionally
11 listen to the news.

12 Q Do you have a radio station that you listen
13 to?

14 A Yeah.

15 Q Which one would that be?

16 A KFQD, most of the time.

17 Q Have you discussed this case at all with any
18 of your friends or coworkers?

19 A On occasion, yes.

20 Q Since the grounding, have you formed any
21 opinion based on what you've read or what you've
22 heard or the conversations you've had?

23 A No.

24 Q Have you formed any opinions about the
25 responsibilities of the various parties that are

1 involved in this case? When I say parties, I
2 mean the crew members, Alyeska, Exxon, the Coast
3 Guard, the Department of Environmental
4 Conservation?

5 A I'd have to say no.

6 Q Well, let me ask you this question. Do you
7 feel comfortable with the notion that your job
8 -- your role in this case will be, if you're
9 chosen on the jury, to reach a decision based on
10 the evidence that's presented here through the
11 witnesses, through the evidence admitted by the
12 judge and your own common sense and good judgment
13 and not on outside information that you might
14 have heard at another time? Do you feel
15 comfortable with that notion?

16 A Yes.

17 Q Would you be willing -- if the judge so
18 instructed you, would you be willing to follow an
19 instruction like that?

20 A Yes.

21 Q Have you always lived in Anchorage?

22 A No.

23 Q In Alaska, did you...

24 A Oh, I've always lived in Anchorage, yes.

25 Q So you came up to Elmendorf?

1 A Right.

2 Q Where did you transfer from?

3 A Virginia.

4 Q And your husband is now retired from the
5 military?

6 A Right.

7 Q Why did you choose to remain up here after he
8 retired?

9 A Basically because he did.

10 Q Was it a unilateral decision?

11 A Yeah.

12 Q How long has your husband been working at
13 Reeve Airlines?

14 A Since about the first of December, I believe.

15 Q Now, correct me if I'm wrong, I can't remember
16 which airlines, but did one of the airlines --
17 did Reeve get shut down for a period of time?

18 A I'm not sure. I don't know that much about
19 the airline.

20 Q Can you tell me -- you served on a jury
21 before. Was that up in Alaska?

22 A Yes.

23 Q Can you tell me about the facts of that case?

24 A As far as I can remember, it was an assault
25 case, I believe and it didn't really go very far.

1 I think it was child abuse that was involved in
2 it and I'm not sure how long it lasted but the
3 judge stopped it.

4 Q Do you remember if he stopped it because it
5 was a mistrial for some reason or...

6 A No.

7 Q ...you don't remember?

8 A It was the person that was on trial...

9 Q Charged?

10 A Yeah. She had to do some other things before
11 they could finish her.

12 Q Did you come away with any feelings about the
13 criminal justice system from that trial that
14 would affect your ability to be fair and
15 impartial here?

16 A No.

17 Q I noted that you, in your questionnaire, that
18 you explained that you might know an attorney?

19 A I have a cousin that is an attorney that I
20 haven't seen for 20 years.

21 Q Nothing about that would affect your ability
22 to be fair and impartial?

23 A No.

24 Q What do you like to do in the summer time for
25 recreation?

1 A Fish, mostly.

2 Q Is that you and your husband?

3 A Yes.

4 Q Do you go anywhere in particular?

5 A Kenai.

6 Q Is that on the Kenai River or further down?

7 A On the Kenai River.

8 Q Have you ever been out -- it doesn't appear
9 that you've been out in Prince William Sound or
10 Valdez?

11 A On the ferry.

12 Q On the ferry. Does your job allow you to
13 work -- to drink while you're at work?

14 A No.

15 Q Have you ever had alcoholic beverages say, at
16 lunch?

17 A No, I don't drink.

18 Q Is that a personal choice or a medical choice?

19 A Personal and medical.

20 Q Do you have any strong feelings either against
21 people that drink or do you favor people -- about
22 drinking?

23 A Not really.

24 Q Mrs. Freeman, given the importance if this
25 case to both Captain Hazelwood and the State of

1 Alaska, do you feel comfortable that you would be
2 willing, if chosen to sit on the jury, to view
3 the evidence as its presented through the
4 witnesses and the exhibits and reach a fair and
5 just verdict in this case?

6 A Yes.

7 Q Would you be willing to give both sides a fair
8 trial?

9 A Yes.

10 Q Does that seem like a fair system to you?

11 A Yes.

12 Q Are you satisfied with that -- those notions
13 that I've just talked about?

14 A Yes.

15 Q Thank you very much.

16 MR. COLE: Judge, I have no further questions.
17 Pass for cause. Thank you.

18 (Tape: C-3587)

19 (0188)

20 VOIR DIRE EXAMINATION OF MS. FREEMAN

21 BY MR. MADSON:

22 Q Mrs. Freeman, I want to follow up on some of
23 the questions that Mr. Cole asked you.

24 A Okay.

25 Q You, I guess, have gone through this procedure

1 before in that trial you mentioned.

2 A Right.

3 Q So you're somewhat familiar with why we have

4 to do this?

5 A Yes.

6 Q What did you do before you became a realtor?

7 A Managed a retail shop.

8 Q What type of shop was that?

9 A Female clothing -- ladies' clothing.

10 Q Was that in somewhere other than Alaska?

11 A No.

12 Q It was here?

13 A It was here.

14 Q When did you decide to go back and change your

15 profession and become a realtor?

16 A In '84. The owners of the place where I

17 worked retired.

18 Q And being a realtor, you obviously -- you're a

19 sales person?

20 A Right.

21 Q You're out there every day, trying to sell?

22 A Right.

23 Q ...condos, houses or something. Right?

24 A Right.

25 Q So you're dealing with the public all the

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time?

A Right.

Q And you have -- are you a member of a large group, I mean, in an office or are you just by yourself?

A No, I'm with an office.

Q Which one is that, ma'am?

A Totem Realty.

Q How many people work there?

A I believe we have about 20 agents now.

Q And do you have kind of monthly or weekly or daily conferences where you all get together and discuss things?

A We have a weekly meeting on Tuesdays and we have training sessions where different people come in and talk to us.

Q What about social events? Do you have sometimes picnics and things like this?

A Usually just around holidays.

Q During any of those times, was the subject of the oil spill discussed with you and your coworkers?

A There have been times in meetings where it was brought up or where other people were talking about it.

1 Q Were there sometimes jokes -- you heard this
2 latest joke or something like that? Did you ever
3 hear any of those?

4 A Probably back at the beginning of '89. Right
5 after it happened.

6 Q Did you ever laugh at any of those jokes?

7 A Probably.

8 Q Is there anything about those, you know, the
9 fact that there was a lot of publicity and
10 correct me if I'm wrong, but did you detect or
11 did you learn that perhaps from the news reports
12 that there was -- that the Captain may have been
13 at fault, may have been wrong about what
14 happened?

15 A Oh...

16 Q (Pause) You didn't get that feeling at all?

17 A Not really. No.

18 Q From what you read, why do you think that?
19 There was supposed to be alcohol involved, ship's
20 on a rock and all the Hazelwood jokes. Why do
21 you think that -- you say that it didn't affect
22 you to think that he did anything wrong.

23 A I probably heard as much the opposite as, you
24 know, I mean it's been both ways, so...

25 Q In other words, you've heard people say that

1 hey, I don't think he did anything wrong type of
2 things, too?

3 A Yeah.

4 Q So that put you kind of in the middle on
5 neutral ground. Is that a fair question?

6 A Yeah.

7 Q And you're no more influenced by people who
8 said he did something wrong as those who said he
9 did not?

10 A No. I usually would -- my job, I have to kind
11 of stay neutral.

12 Q What did you do in Virginia before you came to
13 Alaska?

14 A I worked for a little while and went to
15 school.

16 Q What did you take in school?

17 A Business classes. Retail.

18 Q And is your husband from -- what area is he
19 from?

20 A Mississippi.

21 Q Where did you meet him?

22 A Mississippi.

23 Q Mississippi. What exactly did he do before he
24 retired, I mean when he was in the service, what
25 was his job?

1 A Aircraft maintenance. He was still in the
2 maintenance department.

3 Q So, he's always been in that...

4 A He's always been in maintenance.

5 Q Do you know if he is subject to any kind of
6 mandatory drug or alcohol testing because of his
7 profession or his occupation?

8 A Yes. When he started with Reeve, he had to
9 go through drug tests.

10 Q Is that before he was hired?

11 A Well, they hired him and gave him a test the
12 same day, so I don't know.

13 Q You don't know which came first. Have you
14 discussed that with him? Do you have any strong
15 feelings about this sort of thing, one way or the
16 other?

17 A You mean on whether drug tests should be
18 taken?

19 Q Yeah.

20 A They probably should be. I don't know. It
21 depends on the job, I guess.

22 Q I take it from your answer you don't have any
23 real strong feelings such as would influence you
24 as a juror if that subject were to be brought up
25 during the course of the trial?

1 A No.

2 Q Mr. Cole asked you about drinking and you said
3 you don't for both personal and medical reasons.
4 Has that always been the case or did you change
5 somewhere along the line there?

6 A Well, there have been times when I've had a
7 drink. I just prefer not to.

8 Q Does your husband drink at all?

9 A Yes.

10 Q So, I take it -- do you try to prevent that or
11 do you agree with that or disagree? The reason
12 I said that was you were smiling when you said
13 that, ma'am.

14 A No, he drinks. He likes beer and he drinks
15 beer.

16 Q And he'd drink beer at home sometimes and go
17 to work the next day?

18 A Yeah.

19 Q You know realtors -- friends of yours that
20 drink say at lunch and still sell houses that
21 afternoon?

22 A Yeah.

23 Q Does that -- do you hold that against people
24 that would do that? I mean do you think there's
25 something wrong with that?

1 A No. I don't hold it against them.

2 Q In other words, drinking is okay until it
3 affects -- it goes further and affects something.
4 Right? And there is some reason why alcohol
5 would have to be an issue. Maybe that's a
6 fairer question.

7 A Mostly, I just haven't really formed an
8 opinion for somebody else, I don't know.

9 Q Well, I guess that's what I'm asking about.
10 As far as other people are concerned, do you have
11 any opinions at all, no matter how slight, about
12 the alcohol and consumption of alcohol that
13 causes you to say that maybe this would pose a
14 problem with you being fair and objective in a
15 trial?

16 A No.

17 Q Do you remember, ma'am, the questions that
18 were -- the instructions rather, the Judge gave
19 you yesterday when you first came in here and he
20 read those to you?

21 A Uh-huh (affirmative).

22 Q Do you still remember those pretty well?

23 A Yes.

24 Q And of course, you also had the opportunity to
25 be on a jury before?

1 A Right.

2 Q Let me ask you, you didn't actually get
3 instructions given to you before the trial
4 stopped? The judge didn't read a lot of
5 instructions to you 'til the very end of the
6 case?

7 A Yes. At the end -- I don't remember if she
8 read instruction to us. She did have us come
9 back in and explain what had been going on.

10 Q But anyway, as far as Judge Johnstone's
11 instructions are concerned, you remember hearing
12 those yesterday?

13 A Yes.

14 Q About the defendant not having to convince you
15 of anything, the burden is on the State, proof
16 beyond a reasonable doubt, you can't hold it
17 against him if he doesn't testify, things like
18 this?

19 A Right.

20 Q Refreshing your recollection, ma'am, can you
21 still promise that you will abide by those even
22 though you may personally disagree with one or
23 more?

24 A Yes.

25 MR. CHALOS: Thank you. I don't have any

1 further questions, Your Honor.

2 THE COURT: All right. Pass for cause. Ms.
3 Freeman, that means you're excused for the rest of the
4 day but I will need to have you come back on Friday
5 morning to the same room that you assembled in today
6 and yesterday. That's the jury assembly room,
7 downstairs. Do you remember where that is?

8 A Yes.

9 THE COURT: Okay, will there be any problem
10 with you coming back at 8:30?

11 A No.

12 THE COURT: Okay, it's important you come
13 back. You're still on the track for jury selection. I
14 do not know if you'll be on the final jury or not, but
15 you're one step closer, so please don't discuss this
16 case with anybody and avoid media information about the
17 case. Thank you. You can pick up your personal
18 belongings and we'll see you back in the jury assembly
19 room Friday morning.

20 Defendant has their next?

21 MR. MADSON: Bruce Gorham, Your Honor.

22 (Indiscernible side conversation)

23 THE COURT: We'll take a break after Yvonne
24 Payne. (Pause) Are you Yvonne Payne?

25 A (No audible response.)

1 THE COURT: Please have a seat on the front
2 row, next to the microphone on the ledge. And remove
3 the microphone. Please answer the first four questions
4 on the board, if you would.

5 A Okay. My name is Yvonne Payne. I'm not a
6 member of any organization. There is no reason
7 why I should not serve on the jury and I don't
8 know defendant, attorneys, plaintiffs or
9 witnesses.

10 MR. COLE: May I inquire, Judge?

11 THE COURT: (No audible response.)

12 (0583)

13 VOIR DIRE EXAMINATION OF MS. PAYNE

14 BY MR. COLE:

15 Q Good afternoon, Mrs. Payne. I'm Brent Cole.
16 Have you followed the events that occurred after
17 the Exxon Valdez grounded back in March of last
18 year?

19 A Yes, I did.

20 Q Can you give me an idea of what sources of
21 information you relied upon in learning about it?

22 A I would say the primary one was the paper.

23 Q And which paper would that have been?

24 A Anchorage Daily News.

25 Q And can you -- is this something that you took

1 a personal interest in and did you read the
2 articles, front cover to back? Did you read the
3 editorials? Did it just become another story for
4 you?

5 A Well, it was another story, but of course it
6 was a primary story.

7 Q Now, during the course of your learning about
8 this, have you ever formed any opinions
9 concerning the respective responsibilities of the
10 parties that are involved and when I say parties,
11 I mean the crew members, Alyeska, Exxon Shipping
12 Company, the Department of Environmental
13 Conservation, the Coast Guard. Have you ever
14 formed any opinions on who's responsible for
15 what?

16 A Not really, because I think that you know if
17 you're going to go by just what you read in the
18 paper, you are missing a lot, so I try to avoid
19 that.

20 Q Did you ever form any opinions as to Captain
21 Hazelwood's guilt or innocence while you were
22 reading the paper?

23 A Well, I would have to say the same thing
24 again. That I really don't know.

25 Q Do you feel comfortable that if you were

1 instructed that your role as a juror, if you're
2 chosen on this case, would be to evaluate the
3 testimony presented through the witnesses, the
4 exhibits that are admitted by Judge Johnstone,
5 and reach a verdict based on that and your own
6 common sense and good judgment? Would you feel
7 comfortable with an instruction like that?

8 A Yes.

9 Q And in following an instruction like that, it
10 would necessarily require that you place to the
11 side information that you received about the case
12 outside of the courtroom. Would you feel
13 comfortable that you could do that?

14 A Yes, I would.

15 Q I notice that you indicated that you had your
16 house burglarized one time. Is that correct?

17 A That was many years ago.

18 Q Did you call the police at that time?

19 A Yes.

20 Q When they came, were you at all unhappy with
21 their response or what happened afterward in
22 trying to get your things back?

23 A No.

24 Q Was anybody ever caught?

25 A No.

1 Q Nothing about that would affect your ability
2 to fair and impartial?
3 A Heavens, no.
4 Q I also notice on your questionnaire that you
5 indicated that you drink alcohol only
6 occasionally. Is it a personal choice or is that
7 something -- a level that you're just comfortable
8 with or is there medical reasons behind that?
9 A Oh, it's -- I'm getting to an age where yes,
10 there's some medical reasons.
11 Q Do you feel uncomfortable around other people
12 that are drinking?
13 A No.
14 Q You wouldn't hold it against someone who had
15 been drinking?
16 A No.
17 Q Can you tell me a little bit about your
18 husband's job?
19 A He's a commissary officer at Fort Richardson.
20 Q And is he work-- he's a civil servant?
21 A Civil servant, yes.
22 Q And you were transferred up here?
23 A Yes.
24 Q Where did you transfer from?
25 A We were up at Fairbanks for a while and just

1 very briefly, in Virginia.

2 Q How long were you in Fairbanks?

3 A About a year and a half.

4 Q Did you ever have any legal work done in
5 Fairbanks?

6 A No, we didn't.

7 Q And your children, do they live up in Alaska
8 or do they live elsewhere?

9 A They're all in Wisconsin.

10 Q Did you talk to your husband about being
11 impanelled -- being on this jury?

12 A Now, what do you mean, talk to him?

13 Q Did you mention to him that you were a
14 potential juror in Captain Hazelwood's trial?

15 A Yes. Yes, I did.

16 Q Did you talk about that at all?

17 A No, I said "don't talk to me about it."

18 Q You understand the importance of this case,
19 both to Captain Hazelwood and to the State of
20 Alaska?

21 A I sure do.

22 Q And do you feel comfortable with the notion
23 that the Court will ask you to reach a fair and
24 just verdict in this matter based on the evidence
25 that's presented through the witnesses, the

1 evidence that's admitted and your own common
2 sense and good judgment?
3 A Yes, I do.
4 Q Do you feel comfortable with that notion?
5 A I sure do.
6 Q And would you be willing to give both sides a
7 fair trial in this case?
8 A Yes, I would.
9 Q And does that -- do those notions that I've
10 just talked about, do they seem fair to you?
11 A Yes.
12 Q Thank you, Mrs. Payne.
13 MR. COLE: I have no further questions, Judge.
14 I pass for cause.
15 (0848)
16 VOIR DIRE EXAMINATION OF MS. PAYNE
17 BY MR. CHALOS:
18 Q Good afternoon, Ms. Payne -- Mrs. Payne,
19 sorry. I see here that you have three grown
20 children.
21 A Yes.
22 Q Boys or girls?
23 A Boys.
24 Q What do they do for a living? Let's start
25 with the 30-year-old.

1 A Okay. He works in Madison, Wisconsin and he
2 has a delivery route.
3 Q Newspaper delivery route?
4 A No, it's just products.
5 Q That's the only delivery route...
6 A Products to grocery stores and retail. And
7 the second one works for a plastics industry
8 there.
9 Q What does he do?
10 A To be honest with you, I couldn't tell you.
11 He started that job after we had left the area so
12 I'm really not familiar with it. And the third
13 one is in real estate.
14 Q Also out of the state?
15 A They're all in Wisconsin.
16 Q They're all live in Wisconsin?
17 A All in Madison, yes.
18 Q I also see from your questionnaire that you
19 took -- that you had three years of college.
20 A Yes.
21 Q Where was that?
22 A That was also in Madison, Wisconsin.
23 Q Is that at the University of Wisconsin?
24 A Edgewood College.
25 Q What was your major?

1 A Criminal justice.

2 Q I take it you didn't receive a degree?

3 A No, I'm taking a few classes now to complete
4 that.

5 Q Was there a particular reason why you took
6 criminal justice as a major?

7 A Well, way back when, I was planning to go to
8 law school. There's a good law school there in
9 Wisconsin and then we left the area.

10 Q Have you ever worked in the criminal justice
11 system?

12 A While I was attending Edgewood, I was
13 paralegal for the D.A. (indiscernible - unclear)
14 County there and I also had taken a court
15 reporting course while I was there.

16 Q How long did you work for the district
17 attorney?

18 A I think it just amounted to one semester, you
19 know, it was under part of an LEAA (ph) grant.

20 Q In the course of working for the D.A., were
21 you involved in any criminal trials?

22 A No, I really wasn't. It was a very small
23 rural county.

24 THE COURT: How long ago was this?

25 A This would have been, I think, in 1978.

1 Q Would the fact that you worked for a D.A.,
2 even for a short period of time -- would that
3 fact cause you not to be fair and impartial in
4 this particular case?

5 A No, I don't think so. I was married to an
6 attorney for 16 years also, a defense attorney.

7 Q A criminal defense attorney?

8 A Yes, so...

9 Q Would that fact have any bearing?

10 A No, not at all.

11 Q Would you tend to, because of your background
12 with both the defense lawyer and the D.A., would
13 that tend to cause you to believe one side or the
14 other?

15 A No, not at all. I think, in fact, quite the
16 opposite.

17 THE COURT: What do you mean by that?

18 A Well, I think because I've seen both sides and
19 I think I have a little better understanding in
20 that regard.

21 Q I don't mean to pry into your private life but
22 I have to a little bit. Were you divorced from
23 your first husband?

24 A Yes.

25 Q Would that fact cause you since he was a

1 defense lawyer...

2 A No, not at all.

3 Q ...if I may, cause you to hold it against the
4 defense?

5 Q No, absolutely not.

6 A I also see here that you had two years of
7 court reporting or you took a two-year course?

8 A Yes.

9 Q Have you ever worked as a court reporter?

10 A No, I didn't do my internship. I went
11 straight from that two-year course into the four-
12 year program and I just switched schools.

13 Q I see. You took that before you went into the
14 criminal justice system.

15 A Yes. Before I went -- yes, the four-year
16 degree program.

17 Q So you've never worked as a court reporter?

18 A No, I haven't.

19 Q You mentioned that you read the Daily News.

20 A Yes.

21 Q Is that the only newspaper you read?

22 A More or less, yes.

23 Q Do you ever read the Anchorage Times?

24 A No.

25 Q Did you read the News on a daily basis after

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the spill?

A In the early days, yes.

Q Do you still read about Captain Hazelwood and the spill in the paper?

A No. No, I haven't for some time.

Q When was the last time would you say that you read about this particular matter?

A Oh, jeepers. I don't even recall, because...

Q Would it have been a month ago? Two months ago?

A Oh, at least then, because since things have been, you know, in limbo as they have. I really hadn't paid that much attention, you know, in recent -- in the last many weeks.

Q Have you read about any of the motions that have been made on behalf of Captain Hazelwood, motions to dismiss the indictment?

A Earlier, I remember reading something about it, but to be honest I couldn't tell you what I read at the time.

Q Did you have any opinion about the arguments that at least you read about in the paper?

A No. Not that I -- I just can't recall. I don't think I could give you an honest answer about those because I just don't recall.

1 Q Okay. Do you believe the newspapers always
2 print the truth?
3 A No, I sure don't.
4 Q Okay. Have you ever read the editorial pages
5 of the Daily News?
6 A On occasion.
7 Q Have you read any editorials with respect to
8 Captain Hazelwood?
9 A This would have been earlier last spring if I
10 did.
11 Q Do you recall any of them?
12 A Not off hand. Nothing -- you know, nothing
13 that stuck in my mind as being gospel.
14 Q Was there anything in what you read in the
15 editorials that has caused you to form an opinion
16 in any way...
17 A No.
18 Q ...in this case?
19 A No.
20 Q I see that you're unemployed. Are you
21 searching for a job or are you just...
22 A I just started looking within the last couple
23 of weeks.
24 Q What type of job are you looking for?
25 A Well, something that I enjoy getting up to in

1 the morning and going to really, and something
2 that won't interfere with my continuing going to
3 school since I'm starting to go back.

4 Q I see. Where are you going to go to school?

5 A I'm going to the University here in Anchorage.

6 Q Again taking criminal justice courses?

7 A Well, my transcripts haven't arrived yet so I
8 haven't quite decided if I would just go in and
9 finish, you know, with that or if I will make a
10 switch.

11 Q What type of job are you looking for? I know
12 you said one that you like but is there any...

13 A Well, I assume it would end up being some type
14 of an office job because I've found myself sort
15 of between a rock and a hard place. So many jobs
16 either require a degree or other ones, I've had
17 enough education that, you know, they think I
18 might not stay and so I decided I might as well
19 go ahead and get the degree.

20 Q Okay. Now just going back to a question that
21 Mr. Cole asked you, you said that you don't
22 really have any opinions on this case or I think
23 you the term you used was "not really." Do you
24 have any opinions at all as to the spill or what
25 may have caused the spill or who might be at

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fault?

A No. I really don't. I shouldn't have said not really because I don't, you know, until you really hear the facts. Just reading something in the paper -- I guess that's why it didn't stay with me any better than that because I don't just believe what I read.

Q Can you assure us that you'll be able to listen to the facts, listen to what the witnesses say, consider the evidence that's presented and come to a fair and impartial decision?

A Yes, I do.

Q You can say that without any hesitation?

A Yes, I can.

Q Can you tell me what magazines you read?

A Times, Newsweek and Fortune. U.S. News, did I say that?

Q No.

A U.S. News.

Q Do you recall reading an article in Time magazine about the spill?

A Yes, there was earlier.

Q The one that had Captain Hazelwood on the cover?

A It might have been that one. I just don't

1 recall the article and if I remember correctly, I
2 don't think it said anything that hadn't already
3 been said before. After a while, these articles
4 became rather redundant.

5 Q Yes. In other words, whatever you read in
6 Time then hasn't caused you to have any opinion
7 with respect to the causes of the spill or faults
8 for the spill?

9 A No.

10 Q Now, I see that your husband works for as a
11 commissary officer at Fort Richardson?

12 A Yes.

13 Q Would the fact that he works in the military
14 installation have any effect on your ability to
15 be fair in this case?

16 A No, not at all.

17 Q Do you believe that a police officer or a
18 state investigator could make a mistake in his
19 job just like any other person?

20 A Oh, my, yes.

21 Q Would you tend to give more weight or
22 importance to the testimony of a military person
23 or a police officer merely because they happen to
24 be law enforcement people?

25 A No.

1 Q You would not?
2 A No, I wouldn't.
3 Q Do you disapprove of drinking?
4 A No.
5 Q Have you discussed this spill with any of your
6 friends or your husband?
7 A No. Well, my husband, you know, earlier last
8 spring. Of course, there was conversation but I
9 know very few people up here. I've never gotten
10 really acquainted since I've been here so I
11 haven't had discussions with others.
12 Q Has your husband expressed any opinions to you
13 relating to the spill or fault for the spill?
14 A No. Nothing really no different than any
15 thoughts I might have had at the time. And he's
16 quite open-minded. His thinking is very similar
17 to mine.
18 Q You consider yourself open-minded, I take it?
19 A I believe that I am. And fair.
20 Q Judge Johnstone, when you were first
21 impanelled, gave you some instructions about --
22 along the lines that the State has the burden of
23 proving beyond a reasonable doubt Captain
24 Hazelwood's guilt and that Captain Hazelwood does
25 not have to take the stand or present any

1 evidence. Do you have any problems with those
2 instructions?

3 A No.

4 Q If Captain Hazelwood did not take the stand or
5 present any evidence, would you still be in a
6 position to be fair and give him an impartial
7 verdict?

8 A Yes.

9 Q If there is such a thing as an impartial
10 verdict. I don't have any other questions.
11 Thank you very much.

12 MR. CHALOS: Your Honor, we pass for cause.

13 THE COURT: Ms. Payne, that means you can go
14 for the day, but I'm going to have to have you back
15 Friday morning at 8:30 a.m. in the jury assembly room
16 and do you remember where that room is, where you
17 assembled?

18 A Yes. Yes, I do.

19 THE COURT: Okay and will you be able to be
20 there at 8:30 a.m., Friday? It's important that you're
21 there on time. Okay, in the meantime, continue your
22 same course of conduct in cutting people off if they
23 start talking to you about the case and avoid media
24 information about it as well.

25 A Okay.

1 THE COURT: You may pick up your personal
2 belongings next door if you have any. Otherwise, you
3 can just exit this door here. (Pause) Mr. Cole,
4 the State has its next -- as soon as you exercise it,
5 we'll take a break.

6 MR. COLE: Judge, is there any reason why it
7 can't wait until we get back? We have 15 minutes?

8 THE COURT: Yeah, we want to be able to notify
9 these people and as soon as we break here, we're going
10 to give them a call, so they don't have to come in
11 needlessly and they won't hear about it from outside
12 sources.

13 MR. COLE: Okay. (Pause). Judge, the State
14 would respectfully thank and excuse Ms. Brust.

15 THE COURT: All right. Thank you. We'll
16 take our break now and we'll come back in with Mr. Huff
17 as soon as we're back.

18 THE CLERK: Please rise. This court stands in
19 recess and recall.

20 (Off record - 2:46 p.m.)

21 (On record - 3:00 p.m.)

22 THE COURT: Why don't you go ahead and have...

23 MR. COLE: Who do we have for the next
24 persons?

25 THE COURT: Earl Huff and Shane Grafton.

1 (Pause) Good afternoon, Mr. Huff. Have a seat in
2 the front row next to the microphone. You can use that
3 microphone to respond to the questions on the black
4 board and the attorney's questions. You can take it
5 off the stand, please.

6 A Okay.

7 THE COURT: And you're on. If you'll start
8 with the first four on the blackboard.

9 A Okay. My name is Earl F. Huff and I'm not a
10 member of any organization except my own business
11 and the reasons that I should not serve on this
12 jury, a couple. One would be financial hardship.
13 I run a small instrument repair facility out on
14 Hood Lake and I've got one employee and if I'm
15 not there, the FAA would come down and close my
16 shop down. There's no way I can really do both
17 because I'm under the federal rules, I'm not
18 allowed to operate that shop without a certified
19 repairman in the shop. Being the length of this
20 trial might be what you said it was, eight to ten
21 weeks, it would put me out of business and put my
22 one employee out of work, so that would be one
23 reason.

24 Another reason, a former employee of mine,
25 worked with the Fish and Wildlife people down in

1 the Sound this summer and he and I, when he was
2 working for me, we worked on intervelometers and
3 kittiwake counters and things like that for the
4 Department of Fisheries so I kind of have a soft
5 spot in my heart for the -- for what's happened
6 down there.

7 THE COURT: Okay, as far as your business, you
8 have to be there because you're...

9 A Right, it requires an FAA certified instrument
10 technician to be on staff. Now, the only
11 employee I have, he's not.

12 THE COURT: What happens if you got sick?

13 A Well, there's extenuating circumstances, but
14 eight to ten weeks, I don't think the FAA would
15 like that.

16 THE COURT: Sounds to me like you have some
17 significant hardship and especially if it involves
18 another employee who would be discharged and your
19 association down in Prince William Sound aggravates
20 that situation, so I'm going to excuse you for the
21 hardship you've indicated so far and you can pick up
22 your jury selection card from Mr. Purden and take it
23 downstairs to the jury clerk. Thank you for your
24 patience.

25 A Oh, thank you.

1 THE COURT: With my thanks for your patience.
2 You can just go through the other room to pick up your
3 personal belongings, if you have any. Thank you,
4 sir.

5 Hello Mr. Grafton. Have a seat in the front row
6 next to the microphone. Take the microphone off the
7 stand and please answer the first four questions on the
8 blackboard.

9 (1630)

10 MR. GRAFTON: Okay. My name is Shane Grafton.
11 I'm not sure by what you mean by what organizations am
12 I...

13 THE COURT: Well, social or recreational or
14 professional places of membership where you attend
15 meetings or pay dues, things of that nature.
16 Fraternities.

17 A Churches?

18 THE COURT: Sure, churches.

19 A I'm a member of the Mormon Church. Three,
20 I'm -- this is a financial hardship and I don't
21 know any of the defendants, attorneys,
22 plaintiffs, witnesses, et cetera.

23 THE COURT: There is a financial impact to
24 most jury service. I understand that, Mr. Grafton and
25 when you have a long proposed jury trial like this, the

1 impact is greater. Why don't you explain to me what
2 your financial hardship is?

3 A Well, right now, we're behind three payments
4 on my house or we will be by the end of the week
5 and we have a lot of credit card payments coming
6 up also and we fell behind on those.

7 THE COURT: You're employed with J.C.
8 Penney's?

9 A Yes, I am.

10 THE COURT: Do they reimburse you for jury
11 service?

12 A For the amount of time that the jury service
13 takes up.

14 THE COURT: So for the time you're in jury
15 service, if you got selected in this trial, you would
16 not lose any income from J.C. Penney's. Is that right?

17 A I'm not sure about that.

18 THE COURT: Maybe you could explain to me then
19 how you think it might be a financial hardship if you
20 might get...

21 A I work 40 hours a week. If I work overtime,
22 then it helps me pay off my bills quicker.

23 THE COURT: Okay, I'm not going to allow your
24 financial hardship reason at this time. However, why
25 don't you find out for me if you get any further in

1 this procedure if your company is going to reimburse
2 you for your normal work week? It's my understanding
3 that J.C. Penney's does do that, but...

4 A Yeah, they do.

5 THE COURT: Okay, so I'm -- you won't have to
6 confirm that if you know that so, I'm going to disallow
7 your financial hardship at this time.

8 A All right.

9 THE COURT: Mr. Cole?

10 (1802)

11 VOIR DIRE EXAMINATION OF MR. GRAFTON

12 BY MR. COLE:

13 Q Mr. Grafton, have you followed the events that
14 have occurred in the newspapers and in the t.v.
15 that have occurred since the grounding of the
16 Exxon Valdez back in March of 1989?

17 A Yes, I have.

18 Q Can you give me an idea of what sources of
19 information you've relied upon to inform yourself
20 about those events?

21 A Mostly, the newspaper. Occasionally, they
22 have articles in like Newsweek, Times, U.S. News,
23 et cetera.

24 Q Which newspaper do you -- do you subscribe to
25 a newspaper?

1 A Not right now, but at the time it happened, I
2 think I was subscribing to the Daily News. I
3 read -- I try to read both the papers every day,
4 but for the last week, I'm not supposed to, so, I
5 haven't.

6 Q In looking at all this information that you've
7 come across, have you talked to anybody about the
8 oil spill at all? Did you ever talk to any of
9 your friends or your coworkers about it?

10 A Not really.

11 Q During the last year that this happened, have
12 you at any time formed any kind of opinion as to
13 the various roles or responsibilities of the
14 players for the grounding of the Exxon Valdez?
15 When I say players, parties, I mean any of the
16 crew members, Exxon, Alyeska, Department of
17 Environmental Conservation, the Coast Guard...

18 A As to who is at fault?

19 Q Yes.

20 A No.

21 Q Have you formed any opinion as to whether or
22 not -- have you ever formed any kind of opinion
23 as to whether or not Captain Hazelwood is guilty
24 of a crime?

25 A No.

1 Q One of the things that concerns both the State
2 of Alaska and Captain Hazelwood is the fact that
3 there's been a lot of publicity and the judge is
4 going to be asking -- instructing you that in
5 forming a decision -- in reaching a verdict in
6 this case that rely solely upon the witnesses
7 that you hear from in court, the evidence that's
8 presented and your own common sense and good
9 judgment. Would you be able to follow that type
10 of instruction?

11 A Yes, I think I can.

12 Q And inherent in following that or in order to
13 follow that instruction, that's going to require
14 that any information you heard from outside
15 sources be set aside and not be -- you not allow
16 that to enter the decision making process. Would
17 you be able to follow that instruction?

18 A Yes.

19 Q You've lived up here since about 1986. You
20 came up for employment. Where have you worked
21 since you've been up here?

22 A Well, I worked with the Times first and then I
23 got the job with J.C. Penney's and I've worked
24 with J.C. Penney's since.

25 Q Did you meet your wife up here?

1 A Yes.

2 Q Do you like to hunt and fish at all?

3 A I like to fish. I'm not much of a hunter.

4 Q Where have you been fishing?

5 A Homer. Sowards sometimes.

6 Q Homer. Is that halibut fishing?

7 A Yeah.

8 Q Do you charter or do you have friends that
9 have a boat or how do you do that?

10 A My father has a boat.

11 Q Does your father work up here now?

12 A Yes, he does.

13 Q What does he do?

14 A He works for the Bureau of Land Management
15 with the Equal Employment Opportunity office.

16 Q What type of boat does he have?

17 A I'm not sure. It's a -- it says Trophy on it
18 but I think it's a Bayliner.

19 Q Does it have any kind of radar gear on it?

20 A Yeah.

21 Q Have you looked at that?

22 A Yeah.

23 Q Have you taken the boat out yourself?

24 A No. I'm not qualified to drive a boat unless
25 he's with me, I guess.

1 Q Have you ever looked at charts of the Cook
2 Inlet area? Does he take along charts and pull
3 them out...

4 A Yeah.

5 Q Have you ever read 'em or looked at 'em?

6 A I have seen -- read where places are, certain
7 areas. That and whatnot.

8 Q Do you know anybody that works in the maritime
9 industry? Do you know anything about maritime
10 shipping law or the industry itself?

11 A Not really.

12 Q Do you have any friends that work for the oil
13 companies?

14 A Not that I'm aware of. I met an acquaintance
15 that works for VECO or her husband does, but I've
16 never met her husband.

17 Q I notice that you indicate that a close friend
18 or relative working in a drug or alcohol
19 counseling deal. Could you tell me who that
20 would be?

21 A Well, she doesn't -- I have several family
22 members who are part of a group called AA. And
23 they help other members come in, you know, if
24 somebody that has a drinking problem and they
25 help them get introduced into it. And they

1 don't get paid per se but they do help out at the
2 meetings and stuff.

3 Q Are they just volunteers then?

4 A They're members and they also volunteer.

5 Q I also notice that on your questionnaire that
6 you indicated that your uncle is a state trooper
7 in the state of Washington.

8 A Yes, he is.

9 Q Have you ever talked to him about his job?

10 A No, I haven't talked to my uncle in quite a
11 few years.

12 Q So, there's nothing about the fact that he's a
13 trooper that would keep you from being fair and
14 impartial in this case?

15 A Nothing.

16 Q And if the judge were to instruct you that law
17 enforcement officials' testimony is to be viewed
18 like any other witness' testimony, and that
19 they're not to receive added weight just because
20 they wear a uniform, would you be feel
21 comfortable and be able to follow an instruction
22 like that?

23 A Yes.

24 Q Do you drink?

25 A No.

1 Q Is that a personal choice or medical?
2 A It's personal.
3 Q Do you have any opinions, strong opinions,
4 about people that do drink?
5 A Yes.
6 Q Can you tell me what those are?
7 A Well, when I was -- when my mother joined AA
8 as a member, she had me go into a group called
9 AlaTeen and from there, we were basically forming
10 the opinion that people that drink, it's not
11 something that -- it's a disease and it's not
12 something that they can control entirely
13 themselves.
14 Q It sounds to me like what you learned in this
15 program has had a fairly strong impact on you?
16 A Yes, it has.
17 Q If in this case -- if this case were to
18 involve alcohol, would you be able to set aside
19 your feelings about alcohol use and be fair and
20 objective?
21 A I think I can. I'm not -- yes, I think I
22 could.
23 Q I think you indicated you know someone that
24 works for the Environmental Protection Agency?
25 A Yes, I do.

1 Q Is that a close friend?

2 A He's a friend. He's in the same church I'm
3 in. He also works in the same building my dad
4 does.

5 Q And does he -- have you ever talked to him
6 about the oil spill at all?

7 A No, I haven't.

8 Q Have you ever been called for jury selection
9 before?

10 A No, this is the first time.

11 Q What were your feelings when you received the
12 notice to serve on a jury? I mean was it -- did
13 you look forward to it? Do you think it's a
14 duty; do you think it's an onerous duty?

15 A Well, I think it's an honor to serve on a
16 jury, to help find out, you know, if he needs a
17 jury to find out the truth or innocence of
18 something or someone, then you need somebody to
19 be there to decide. That's basically it. You're
20 there to render an impartial decision and I think
21 I'm capable of doing it. Also, there's a lot of
22 other people as capable.

23 Q Do you understand the -- do you feel
24 comfortable with the notion that this is a very
25 important case for both Captain Hazelwood and the

1 State of Alaska?

2 A Yes, I do.

3 Q And with that in mind, do you feel comfortable
4 with the judge's instructions that would be that
5 he would ask you to reach a fair and just verdict
6 based on the evidence that's presented through
7 the witnesses, the evidence that's admitted and
8 your own common sense and good judgment?

9 A Yes.

10 Q Do you feel comfortable with that notion?

11 A That I can render a fair and just verdict,
12 yes.

13 Q Would you be willing to give both sides a fair
14 trial in this case?

15 A Yes, I would.

16 Q Do those notions that I've talked about today
17 appear fair to you?

18 A Yes.

19 Q Thank you very much, Mr. Grafton.

20 MR. COLE: I have no further questions and
21 pass for cause.

22 (2361)

23 VOIR DIRE EXAMINATION OF MR. GRAFTON

24 BY MR. MADSON:

25 Q Mr. Grafton, I know you've answered the

1 judge's questions about your ability to set aside
2 any preconceived ideas or notions, no matter how
3 slight, and decide the case only on the facts,
4 but in your questionnaire, I have a little
5 trouble reading the last part. Something about
6 "numerous unsubstantiated reports of wrong doing
7 by many people." Am I reading that correctly?
8 Is that what you said?

9 A Yeah.

10 Q In other words, you knew of the oil spill and
11 you agree that anything you read was relatively
12 unsubstantiated. In other words, it wasn't
13 proven to you?

14 A Yeah, well, the papers blame one person; they
15 blame Captain Hazelwood; they blamed the State,
16 they blamed the commander. You know, when you
17 read something like that you really can't believe
18 who's telling the truth and who's not.

19 Q So you can sit here today and say I do not now
20 have nor have I had in the past any preconceived
21 ideas of Captain Hazelwood's guilt or innocence?

22 A Yes.

23 Q I notice you have four years of college at the
24 University of Arizona, is it?

25 A Yes.

1 Q What did you take down there, sir?

2 A My base -- first two years, I started off and
3 I was taking general studies. My major was
4 political science and I was planning towards
5 history.

6 Q Did you graduate from there?

7 A No, I didn't.

8 Q Any reason why you just decided to give it up
9 a little while?

10 A I wasn't into it. It just -- I didn't feel
11 that I was mature enough to finish college. I
12 felt that I needed to get out in to the work
13 field and you know, things were coming to me
14 pretty easily and I felt that I must work for it
15 instead of having somebody do it for me. My
16 parents were paying for it.

17 Q You decided if you were going to go back,
18 you'll do it on your own? Is that what you're
19 saying?

20 A That's it.

21 Q It sounds like from what you said a little
22 earlier though that might be a little difficult
23 right now?

24 A Yes.

25 Q I guess what I'm concerned with and I'm sure

1 everyone is is that from what I understand you
2 said, your employer will reimburse you for the
3 time that you are here, in other words, from loss
4 of your job, right?

5 A Yeah.

6 Q But you normally work overtime in addition?

7 A Occasionally, we do. Where I am right now --
8 I just got transferred this last month to the
9 warehouse and working up front, we usually just
10 get 40 hours a week. Where I was before, I
11 could get anywhere from 40 to 45 hours. I'm not
12 sure how they relate with the job...

13 Q The thing that I'm concerned about and I would
14 certainly -- you've been very candid so far and
15 we respect that -- is that if you were selected
16 on this jury, I take it you're going to get
17 reimbursed for your normal hours but could you be
18 able to sit here and give the case the full
19 attention it deserves by yourself for the next
20 six, eight, weeks, no matter how long it takes
21 without having other factors, such as financial
22 worries interfere with that?

23 A If I'm being what is it -- if I'm being paid
24 by Penney's or reciprocated -- you know, they
25 give me the money that I would normally get, yes

1 I would be able to sit here and not have to worry
2 about anything else.

3 Q Have you ever discussed with your state
4 trooper uncle, the one in Washington, what he
5 does or how he views things? Crime, punishment,
6 judges?

7 A I haven't talked to my state trooper uncle in
8 I think four or five years if it was even then.
9 The last contact I had with any member of the
10 family was five years ago when I talked to his
11 daughter.

12 Q So you're not close at all?

13 A No, no.

14 Q I wanted to also explore a little bit with you
15 two other things. One is your concerns or your
16 feelings about the use of alcohol and in response
17 to one of Mr. Cole's questions about setting
18 aside your feelings about alcohol and its use on
19 the part of others, you said "I think I can set
20 this aside." Does that mean that you have
21 personal doubts and some concerns about your
22 ability to do that?

23 A I have -- if it -- I'm not sure what the
24 question...

25 Q Well, Mr. Cole, you recall, asked you whether

1 you could put aside these feelings about use of
2 alcohol on the part of others...

3 A As in relation to the trial, yes. I can put
4 that aside.

5 Q Yeah, the reason I asked you is that your
6 response was "yeah, I think I can do that." And
7 that, I take it, you really mean you guess you
8 can, I think I can.

9 A Yes.

10 Q Again, you know, some of these questions may
11 be prying a bit, but please my apologies to you
12 sir, if they seem that way, but have you been a
13 member of the Mormon church all your life?

14 A No, I haven't.

15 Q When did you join that church?

16 A I joined in May of 1989.

17 Q Was it your wife's decision too? I mean a
18 family decision?

19 A It was my decision.

20 Q Is your wife a member too?

21 A Yes, she is.

22 Q And as a -- I may be wrong and please -- but
23 as a church policy, Mormons do not drink. Is
24 that correct?

25 A They think that's it not good for the body. I

1 haven't been told outright that I shouldn't
2 drink. I haven't been outright told that I
3 shouldn't smoke but they asked if I could do
4 these things, you know, if I became a member of
5 the church and I said I didn't see any reason why
6 not. I wasn't drinking at the time then and I
7 wasn't smoking at the time either. I do still
8 drink pops and stuff and that's not part of the
9 Mormon thing either.

10 Q What I'm getting at is there's no prohibition
11 against it that causes you to feel that somehow a
12 person that does drink isn't -- say a member of
13 the Mormon church, there's something inherently
14 evil or bad about him or anything like that?

15 A No. I don't think that.

16 Q Have you ever consumed alcohol before?

17 A Yes, I have.

18 Q How would you describe your drinking habits
19 back at that time?

20 A In excess.

21 Q In excess?

22 A Yes.

23 Q Would that mean daily? Too much on rare
24 occasions or just what?

25 A We used to -- I was in a fraternity for

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about...

Q I think that answers the whole question.

A Yeah, that does it. In college, for about half the year and we did quite a lot of partying on the weekends and whatnot, so drinking is not something that's new to me.

Q So, you certainly had opportunity to know the effects of alcohol on yourself?

A Yes.

Q And you certainly had a chance to see how others were affected by alcohol. I mean their motor coordination, speech, things like this?

A Yes.

Q Your friend, I think you said, that works for the EPA. Is that correct?

A Uh-huh (affirmative).

Q Is that federal or state?

A I think it's with the federal. He's the head. His name is Al Ewing.

Q How do you spell his last name?

A E-w-i-n-g.

Q And...

A I think that's the way he spells it.

Q How do you know him? I mean is it because of your family association or just a friend of

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yourself or just what?

A Through association through the church.

Q And do you have frequent contact with him?

A Well, he lives across the street from me, but not really. Mostly after I get off work and that, I pick up my little girl and we go home and I feed her, give her a bath, put her to bed and stay up and watch t.v.

Q Your wife -- does she work nights by the way at Carrs?

A Yes, she does.

Q So you kind of have split shifts?

A Yeah.

Q With regard to Mr. Ewing though, have you discussed the Prince William Sound incident with him and his feelings about it, things like this?

A No. He's never brought it up either, so...

Q I take it you could reach any verdict in this case and go see your friend later and it wouldn't concern you whether or not he might be offended or think you reached -- thought you might reached the wrong verdict in the case. Anything like that?

A No. I don't think he would.

Q And do you recall sir, that the judge gave you

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some instructions yesterday about what the law is? You've never been selected as a juror before, right?

A No.

Q Do you remember yesterday when he told you that basically the charges and then some certain instructions about presumption of innocence and things like this. Do you remember those?

A Yes.

Q Do you have any disagreement with those at all now, today?

A No, I don't.

Q So you agree that the defendant doesn't have to present evidence to show that he's innocent, doesn't have to testify, things like this?

A I agree with that.

Q Have you ever been in the court room situations at all as a witness or just an observer or anything?

A I observed a court case in Arizona about seven years ago as part of a high school business law class, but that's the only time.

Q Was it a trial you to and sat through or just a court proceeding?

A It was a trial. I'm not really sure. This

1 guy was suing the newspaper down there, but
2 that's about my only....

3 Q Have you watched t.v. or something...

4 A Yeah.

5 Q Watched Matlock or one of those programs or...

6 A Yeah.

7 MR. MADSON: I believe that's all the
8 questions I have, Your Honor. One second. Pass for
9 cause.

10 THE COURT: All right. That means you can go
11 home today or go about your personal affairs. We won't
12 need you any more today. But you still are on track
13 for jury selection. You may still be selected on the
14 final jury and so you'll have to come back on Friday
15 morning at 8:30 a.m. You'll have to come to the same
16 place you assembled this morning and yesterday. Do you
17 remember where that place is?

18 A Yes. B-52.

19 THE COURT: And that will be 8:30 Friday. Is
20 there any problem with that?

21 A I don't see any. I'll just tell my boss.

22 THE COURT: Okay. It's important you be here
23 and I'm expecting you to be here at 8:30, so we'll see
24 you then. And if you have any personal belongings next
25 door, just go ahead and pick them up on your way out.

1 Thank you very much.

2 A Thank you.

3 THE COURT: Do you folks have a questionnaire
4 for Joan Hartwick which is the one after the next one?

5 MR. MADSON: No, we don't.

6 MR. COLE: No.

7 THE COURT: She's probably in the room. Have
8 her fill this out and we'll make a copy of it.

9 UNIDENTIFIED SPEAKER: Do you want the next...

10 THE COURT: Not yet. I need to get the
11 defendant's next -- the defendant has his next
12 preemptory challenge.

13 MR. MADSON: One second, Your Honor.

14 THE COURT: Yes, sir.

15 MR. MADSON: Yes, we would thank -- ask the
16 Court to thank and excuse Ms. Perlo, Cheryl Perlo. I
17 believe she was number 3.

18 THE COURT: All right. We'll notify Ms.
19 Perlo. I'm sure her employer will be happy.

20 (3090)

21 THE COURT: Hello Mr. Stewman. Have a seat
22 in that front row there, next to the microphone or at
23 least grab the microphone off the hook there and if you
24 would answer the first four questions please. Take
25 the microphone off the stand. It will just come right

1 off.

2 A My name is Michael D. Stewman. I'm a member
3 of the National Rifle Anociation and the Alaska
4 Peace Officers Association. There are not any
5 reasons why I shouldn't serve on this jury. I
6 don't know the defendant, nor any attorneys,
7 plaintiffs or witnesses.

8 THE COURT: Mr. Stewman indicated he was
9 feeling a little ill and I talked to him in the hall
10 briefly and he said he might be coming down with
11 something and he indicated to me that he wanted to
12 proceed. How are you feeling, okay?

13 A Yes, I feel a lot better.

14 THE COURT: Okay. Mr. Cole?

15 MR. COLE: Thank you.

16 VOIR DIRE EXAMINATION OF MR. STEWMAN

17 BY MR. COLE:

18 Q Mr. Stewman, where did you go to high school?

19 A East Anchorage High.

20 Q When did you move from Fairbanks down to
21 Anchorage?

22 A January of 1970.

23 Q You were not there that long then?

24 A About approximately four or five years.

25 Q And did you go to -- well let me ask you this.

1 Have you followed the incidents that occurred in
2 the newspapers, television -- events that
3 occurred after the grounding of the Exxon Valdez?
4 A Not really that much.
5 Q Do you get a newspaper?
6 A Yes, my parents do. I live with my parents.
7 Q Do you read it very often or have you read
8 about the spill at all?
9 A Just very little. In the newspaper.
10 Q You put that you had received a little bit of
11 information through the ARCO news bulletin.
12 A Yes, that was mainly regarding what efforts
13 were being made for the spill clean-up.
14 Q Have you formed any opinions about the
15 responsibilities or roles of the parties that
16 were involved for the grounding of the Exxon
17 Valdez? When I say parties, I mean it in a broad
18 sense, the crew members, Exxon Shipping Company,
19 the Coast Guard, Alyeska, Department of
20 Environmental Conservation. Have you formed any
21 opinions on any of those?
22 A No, I haven't because I didn't feel I knew
23 enough information in order to form an opinion
24 about it.
25 Q Have you formed any opinion on whether or not

1 Captain Hazelwood is guilty of any crime?

2 A No, I haven't.

3 Q Do you feel comfortable with the notion that
4 as he sits, he is an innocent person and that the
5 State and myself have the burden of proving his
6 guilt beyond reasonable doubt?

7 A Yes.

8 Q And if the judge were to instruct you that if
9 you were chosen to deliberate on this matter, you
10 would be required to base your verdict on the
11 evidence that's presented here in Court, the
12 evidence that's admitted, and your own common
13 sense and good judgment. Would you feel
14 comfortable that you could follow such an
15 instruction?

16 A Yes, I do.

17 Q Do you believe you'd be able to set aside any
18 information you've heard outside the court room
19 and just make your decision based on what you
20 hear in here?

21 A Yes, I would be able to.

22 Q What got you interested in the (indiscernible
23 - unclear)?

24 A I started working at ARCO as a high school
25 intern when I was a senior in high school and it

1 worked into a permanent position when I got out
2 of high school.

3 Q How has the oil spill affected ARCO?

4 A To be honest, I really don't know a whole lot
5 about it because the area that I do work in, I
6 don't do a lot of interfacing with other people,
7 so very rarely would I ever hear anything. Any
8 comments, regarding the oil spill.

9 Q Have you ever talked to any of your coworkers
10 about it?

11 A We never really got into any conversations but
12 things were just mentioned. Real brief things
13 about the clean-up and things of that nature.

14 Q Do you, yourself, feel that the oil companies
15 are being unfairly treated since the oil spill?

16 A Well, regard -- well, based on what happened,
17 not really.

18 Q Do you hunt and fish at all?

19 A I fish. I don't do any hunting.

20 Q I'm interested -- you said you had an interest
21 in guns. You said you were a member of the
22 National Rifle Association?

23 A Yes.

24 Q Do you have an interest in shooting or is that
25 just something that you've been a member of for a

1 long time?

2 A Yes, I am -- I do shoot on occasion.

3 Q You indicated that you fish. Do you -- is
4 that just sport fishing down on the Kenai or
5 other places?

6 A Yes.

7 Q And you've never been out to Prince William
8 Sound?

9 A No, I haven't.

10 Q It appears from your questionnaire that you're
11 not a heavy drinker?

12 A No. Not at all.

13 Q Is that a personal choice?

14 A Yes. Yes, it's personal.

15 Q What do you do in your free time, when you're
16 not at work?

17 A I work as a treasurer of my church and I spend
18 a lot of time doing that. I also am a reserve
19 police officer with the Municipality of anchorage
20 and I'll spend time on the weekends doing that.

21 Q As a reserve officer, are you called upon to
22 help -- what do you do for them?

23 A I mainly ride on patrol on given weekends in a
24 month. It's my preference to keep a certain
25 amount of hours up and the primary function for

1 reserves is serving time in an emergency, but we
2 do go out on patrol to keep our hours up and to
3 keep up with the procedures.

4 Q Do you have any interest in pursuing a career
5 in law enforcement at a later time?

6 A Yes, it's definitely possible.

7 Q During the course of this trial, there are
8 going to be some law enforcement officials that
9 testify and the Judge will read you an
10 instruction that all people when they take the
11 stand start at the same level. Witnesses are not
12 given -- their testimony is not given more
13 weight simply because they wear a uniform. Would
14 you -- do you feel comfortable that you could
15 follow such an instruction?

16 A Yes.

17 Q And after listening to their testimony, you
18 can give their testimony the weight you feel is
19 appropriate. Would you have any problems
20 evaluating police officers in that light?

21 A No, I wouldn't.

22 Q And which church are you a member of?

23 A College Gate Baptist Church.

24 Q How long have you been a member of that?

25 A Approximately 15 to 17 years.

1 Q Do you feel comfortable with the notion that
2 this is a very important case for Captain
3 Hazelwood and for the State of Alaska?

4 A Yes, I do.

5 Q And do you feel comfortable that if called
6 upon to deliberate in this case, you'll be asked
7 to listen to the testimony that's presented
8 through the witnesses, review the exhibits that
9 are admitted and reach a fair and just verdict,
10 based on the evidence -- that evidence and your
11 own common sense and good judgment?

12 A Yes, I do.

13 Q Do you feel comfortable with that notion?

14 A Yes.

15 Q Would you be willing to give both sides a fair
16 trial in this case?

17 A Yes, I would.

18 MR. COLE: Your Honor, I have no further
19 questions for Mr. Stewman and would pass for cause.

20 Q Thank you, sir.

21 (3684)

22 VOIR DIRE EXAMINATION OF MR. STEWMAN

23 BY MR. CHALOS:

24 Q Good afternoon, Mr. Stewman.

25 A Hi.

1 Q I believe you've said that you subscribe to
2 the Alaska Peace Officer. Is that a magazine?
3 A I'm a member -- I'm an associate member of
4 that organization.
5 Q I'm sorry. Can you tell me a little bit more
6 about that?
7 A I've been in it, close to a year. I really
8 don't know a whole lot about it because I haven't
9 gotten really involved but they do have seminars
10 on occasion that you can attend and that was
11 mainly why I was interested in that.
12 Q What is the basis of your interest in this
13 organization? Do you hope to become a police
14 officer at some time?
15 A I'm still trying to make the decision in my
16 mind whether that's the type of career I would
17 like to pursue but mainly to gain a better
18 knowledge and insight on law enforcement and what
19 law enforcement officers do.
20 Q Is this a voluntary organization?
21 A The reserve -- as a reserve police officer,
22 that is a volunteer organization. The peace
23 officer basically is.
24 Q Also voluntary?
25 A Yes, yes.

1 Q Do you accompany policemen in their course of
2 their tours?
3 A Meaning on patrol?
4 Q Yes.
5 A Yes. I will usually ride with another
6 officer except for special detail assignment.
7 Q Have you been involved in any arrests?
8 A Yes, I have.
9 Q Have you assisted the police officer in an
10 arrest?
11 A Yes.
12 Q Have you ever been called to testify in
13 connection with any of those arrests as a
14 witness?
15 A No, I haven't.
16 Q Do you complete a report of your activities
17 for a particular day or evening?
18 A Yes, it's kind of joint effort between me and
19 the first officer that I'll ride with.
20 Q Do you ride with just one certain policeman or
21 do you rotate among...
22 A I ride -- yes, I usually rotate. It's my
23 choice to ride with whoever I want to ride with.
24 Q These policemen are City of Anchorage
25 policemen?

1 A Yes, they are.

2 Q Have you had occasion where in the course of
3 accompanying a patrolman on patrol where you had
4 to arrest someone who had been drinking?

5 A Yes, I have.

6 Q Have you had occasion to observe the person
7 who had been drinking? His movements, his
8 actions?

9 A Yes.

10 Q How many times have you accompanied a
11 policeman where someone who had been drinking was
12 taken into custody?

13 A I know at least two times for sure and there
14 have been other times where people have been
15 taken in for outstanding warrants, but two that I
16 can remember where they were directly related to
17 DWI.

18 Q Have you been on patrol where a driver was
19 taken into custody because of drunk driving?

20 A Yes.

21 Q Have you been in a situation where you've
22 taken that driver to a hospital to have him
23 tested, have his blood, for instance, tested or a
24 breathalyzer test done on him?

25 A Not to a hospital, but to a place where they

1 had a toximeter where we -- I didn't do it
2 personally, but the officer I was with did.

3 Q You observed it being done?

4 A Yes.

5 Q Have you been in a situation where you've had
6 a field test done to test someone's sobriety?

7 A Yes, I have. I've observed the situation
8 before.

9 Q On how many occasions?

10 A On one, I believe.

11 Q Can you tell me a little bit about what that
12 involved, what you observed?

13 A The officer I was with had the person step out
14 of the vehicle and perform this series of tests,
15 such as counting and multi -- both forward and
16 backwards, walking with one foot in front of the
17 other, in a straight line with their arms out.
18 And I believe those were the only two tests that
19 we've ever -- tests that were conducted at the
20 time.

21 Q Was that person also breathalyzed there at
22 the..

23 A Yes, they were.

24 Q Did they pass either test?

25 A No, she didn't.

1 Q She failed both tests or just one?
2 A She failed the toximeter and the field
3 sobriety tests.
4 Q Both tests?
5 A Uh-huh (affirmative).
6 Q Have you been involved in a situation where
7 the subject passed the field test but failed the
8 breathalyzer test?
9 A No, I haven't.
10 Q How about the other way around? That is,
11 passed the breathalyzer test but failed the field
12 tests?
13 A No, I haven't.
14 Q Have you, yourself, ever administered that
15 test to anybody? The field test?
16 A No, I haven't.
17 Q You mentioned in response to Mr. Cole that you
18 read some accounts in the newspaper. Which
19 newspaper do you subscribe to?"
20 A The Anchorage Times.
21 Q And was it in that paper that you read the
22 accounts of the spill?
23 A Yes, it was.
24 Q When was the last time you read the paper with
25 respect to the spill?

1 A It's probably been several months.

2 Q Did you form any opinions as a result of your
3 reading about the spill with respect to who was
4 at fault or whether Captain Hazelwood committed a
5 crime?

6 A No, I didn't. I didn't feel that I knew
7 enough information to form any kind of opinion.

8 Q In other words, what you read in the papers
9 didn't provide you with enough information for
10 you to come to a conclusion, one way or the
11 other?

12 A Yes, that's correct.

13 Q Do you subscribe to any magazines?

14 A Yes, I do. To American Life and the Consumer
15 Report.

16 Q Is that the only magazines you subscribe to?

17 A Yes, that I can remember. I did have a
18 subscription to Time but I cancelled the
19 subscription before I even got the first issue.

20 Q Do you read Time magazine?

21 A No, I don't.

22 Q How often do you get these ARCO news
23 bulletins?

24 A There were approximately two that came out
25 within the first two to three weeks after the oil

1 spill last March and basically they were just a
2 means of information to pass onto ARCO employees
3 as far as what ARCO was doing to help out with
4 the spill and what other efforts were being made.

5 Q Was there any discussion in those news
6 bulletins regarding the grounding or the causes
7 for the grounding?

8 A No, there wasn't.

9 (Tape: C-3588)

10 Q Have you had an opportunity to discuss the oil
11 spill with any of your co-workers or friends?

12 A There probably have been opportunities, but I
13 didn't act upon those. I really didn't have much
14 to say about it, because, like I said, I just
15 didn't feel right, that I knew enough about the
16 whole thing. Because the source of the
17 information are coming from the people, here or
18 there. I just didn't want to get involved in
19 discussing the issue.

20 Q Have you heard your friends or co-workers
21 express opinions about the oil spill?

22 A Probably on occasions I've heard them. Maybe
23 they might have made a comment about what was
24 being done. I wouldn't be surprised if somebody
25 said something about how it would affect the oil

1 company.

2 Q Have you heard any opinions expressed by
3 Captain Hazelwood's role in the spill?

4 A No, I haven't.

5 Q Have your parents -- I believe you said you
6 live with your parents?

7 A Yes.

8 Q Have they expressed any opinions to you
9 regarding the spill or Captain Hazelwood's role?

10 A No, they haven't.

11 Q I see that you worked as some sort of crew
12 member on a cruise liner?

13 A I worked with a crew that provided ground
14 transportation and luggage transportation for
15 Kennard Princess and Royal Princess Cruise Lines.

16 Q In other words, you didn't sail with the
17 liners?

18 A No, I didn't. No. It was strictly ground
19 work.

20 Q On the occasions that the cruise liners came
21 into port, did you go on board?

22 A Yes, I did.

23 Q Did you go up to the bridge of the ship?

24 A No, I never went to the bridge.

25 Q Did you have an opportunity to walk around the

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ship?

A Yes, I did.

Q But you have never been on the bridge of a ship?

A No, I haven't.

Q Do you disapprove of drinking?

A No, I don't disapprove of it.

Q Do you have any feelings, slight or strong, about people who do drink?

A No, only in the instance where alcohol is abused, otherwise I don't have anything against it.

Q What are your feelings with respect to instances where alcohol is abused?

A Based on some of the things that I see that happened, mainly accidents and the family problems, for people that are excessive drinkers. I don't feel that there's a whole lot that I can do to change it, but it affects -- you know, on occasion it will kinda bother me, because of some of the things that I've seen.

Q How, in your mind, do you define the abuse of alcohol?

A Well, I don't think I quite understand that.

Q Well, you say that you have certain feelings

1 if alcohol is abused. And what I'm trying to
2 determine is, what you mean by the term "abuse".

3 A Somebody who is excessive with it to the point
4 where it starts to endanger other people's lives.

5 Q Could that excessiveness be in one instance,
6 or does it have to be over a period of time?

7 A No, it doesn't necessarily have to be in one
8 instance. It can be over a period of time.

9 Q But it could be one instance, in your mind?

10 A I guess it would depend -- I might think about
11 it for a little bit, but I don't dwell a whole
12 lot on it or anything like that. When you see so
13 many -- I guess you mainly think of other people
14 who are involved -- innocent people who are
15 involved, but you just go on.

16 Q Let me pose a hypothetical to you. If
17 evidence were to come in in this case that there
18 was an abuse of alcohol, would that, in any way,
19 affect your ability to render a fair and
20 impartial verdict?

21 THE COURT: Excuse me. That's an improper
22 question, Mr. Chalos. The question should be, would he
23 follow the court's instructions in regard to that abuse
24 of alcohol.

25 MR. CHALOS: I stand corrected, Your Honor.

1 Let me withdraw the question.

2 Q Let me ask you this: if there was evidence of
3 alcohol use in this particular case, would you be
4 able to put aside the feelings that you have
5 about alcohol abuse in making a determination as
6 a juror?

7 A Yes, I most definitely would be able to.

8 Q And you can assure us unequivocally that you
9 would be able to do that?

10 A Yes, I do.

11 Q What does your mother and father do for a
12 living?

13 A My dad is a foreman for the Water Utility for
14 the Municipality of Anchorage. My mother is a
15 volunteer worker at the hospital.

16 Q What exactly does your father do?

17 A He's a foreman for the operations and
18 maintenance section of Anchorage Water Utility.

19 Q Now based on your experience with police
20 officers, do you believe that a police officer or
21 state investigator could make a mistake in his
22 job just like any other person?

23 A Yes, I do.

24 Q Have you seen occasions where a policeman has
25 made a mistake?

1 A Yes, I have. I can't really think of a
2 particular instance now, but it has happened. We
3 were basically told in our academy that police
4 officers will make mistakes, just as other people
5 will.

6 Q Would you tend to give more weight or
7 importance to the testimony of a Coast Guardsman
8 or a police officer just because they happen to
9 be law enforcement officers?

10 A No, I wouldn't.

11 MR. CHALOS: Your Honor, I don't have any more
12 questions. Thank you. I don't have any more questions
13 for this juror, and we pass for cause.

14 THE COURT: Thank you. That will excuse you
15 for the day. You are still on track for jury
16 selection. You may very well be on the final jury, so
17 don't discuss this case or get exposed to media. I
18 would like you to come back Friday at 8:30. Not
19 tomorrow, but Friday at 8:30 a.m., to the same jury
20 assembly room that you came to this morning. Do you
21 remember where that room is?

22 A Yes, I do.

23 THE COURT: Will you have any difficulty
24 coming here at 8:30 a.m. on Friday morning?

25 A No.

1 THE COURT: Okay. I'll see you then. Thanks
2 very much.

3 Collect your personal belongings next door if
4 you have any. Thank you.

5 Defendant has at their fourth.

6 MR. MADSON: Your Honor, we would ask the
7 court to thank and excuse Mr. Ronald Jordan.

8 THE COURT: Okay. We'll do that. We'll
9 notify him and thank him and excuse him at your
10 request. And I think that will complete the day today.
11 We are going to be taking up the defendant's motion for
12 a protective order tomorrow on the motion to quash
13 subpoena at 8:00 a.m. So we will start at 8:00 a.m.
14 tomorrow morning and we will go until 9:00. We'll
15 resume jury selection at 9 o'clock tomorrow morning.

16 MR. MADSON: Your Honor, I believe the next
17 juror is the one we don't have the questionnaire for.

18 THE COURT: Why don't you go get Kelly and see
19 if she had one made up.

20 We'll bring the remaining jurors in here.
21 Bring them in the back room, please.

22 I just had Joan Hartwig fill out one. I could
23 xerox it as soon as we get off here and you can pick up
24 a couple copies in chambers.

25 Thank you for your patience, ladies and

1 gentlemen, prospective jurors. We'll get to you
2 tomorrow. We're starting out with Joan Hartwig
3 tomorrow, and we'll go through the first group that we
4 have selected, I believe it was yesterday. And then we
5 are going to get into the second batch tomorrow as
6 well. This jury selection is moving along more rapidly
7 than probably anybody expected, but I will need all of
8 you back tomorrow. All of the prospective jurors here
9 today will be needed back tomorrow in the jury assembly
10 room. We'll gather you up like we did today. It's
11 important that all of you come tomorrow. And, once
12 again, if you want to bring some personal things to
13 keep you occupied in the other room, you can do so.

14 I appreciate your patience. This is an
15 important matter for everybody, so we are using care in
16 the selection of the jury, so that's why it's taking a
17 little longer.

18 We'll see tomorrow with my instructions and
19 recommendations, that you avoid media information and
20 not discuss the case with anybody. Please be safe.
21 We'll see you tomorrow. It's 8:30 a.m.

22 (Jury panel not present)

23 The way things are going, I would expect that
24 we will be going into opening statements on Monday,
25 unless there are some legal motions that come up or

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something of that nature. So just to let you get oriented, you might figure on Monday.

Is there anything else I can do for counsel before I recess for the day?

MR. MADSON: No, Your Honor. I would just say that Mr. Cole and I probably agree with your assessment. We kinda guessed Monday, too. We'll see.

THE COURT: I'll make a copy of this and you all can get it in chambers. We'll stand in recess.

THE CLERK: Please rise. This court stands in recess.

(560)

(Off record - 4:30 p.m.)

CONTINUED