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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
FEBRUARY 2, 1990
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BEFORE THE HONORABLE KARL JOHNSTONE
Superior Court Judge

Anchorage, Alaska
February 2, 1989
8:21 o'clock a.m.

APPEARANCES:

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Also present:

MR. UNDERHILL, ESQ.

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1 PROCEEDINGS

2 FEBRUARY 2, 1990

3 (On record - 8:21 a.m.)

4 (Tape: C-3592)

5 (1344)

6 (Jury not present)

7 THE COURT: Thanks. You may be seated.

8 We have a couple matters we need to take up
9 this morning. The first is a motion to compel.

10 Anything you want to add to it, Mr. Cole.

11 MR. COLE: No.

12 THE COURT: You wish to address this?

13 MR. MADSON: Yeah, I do, Your Honor. I feel
14 the Coast Guard gentleman did yesterday when he was
15 here arguing his position. I'm taking the identical
16 tack, which is...

17 THE COURT: Sovereign immunity?

18 MR. MADSON: Yeah, well, I'd like to say that,
19 but let's say rule immunity.

20 First of all, Your Honor, I think we should
21 make it very clear. We have no reports at this time.
22 We have nothing in anything that could be construed as
23 a report.

24 We may have, certainly in the course of this
25 trial, something that would come within the rule as a

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so-called report.

We are not saying we will not turn it over to the State. What we're saying is at this point first of all, we don't know what we intend to use at trial, or not, because we haven't seen the State's case. And I think Gibson v State points that out, that until the defendant actually intends to use a report in trial it can't be produced. That's 609 P.2d 1038.

THE COURT: 609 1038? Now, that's a report you intend on using as evidence at trial can not be ordered produced, is that correct?

MR. MADSON: No, Your Honor. What it says there, that was a firearms report, just a ballistics report. The court there said it was non-testimonial, so it should normally come within the discretion of the court that he could order it produced, but where the court erred was saying they had to produce it when the defendant at that time did not know, or intend whether it was going to be used at trial or not.

And, right now, I think that's essentially our position. I think when you say intend to use at trial, well, you might start thinking about that, but until you see the State's case you may not even have to use it.

THE COURT: Let me just quickly breeze through

1 this case you just quoted.

2 MR. MADSON: Sure.

3 (Pause)

4 (1552)

5 THE COURT: Okay. So, your statement is that
6 you have no reports, and you have no statements of
7 experts made in connection with this case, including
8 results of scientific tests, experiments, or
9 comparisons, which are intended by the defendant to be
10 used at trial? You have none of that?

11 MR. MADSON: We have none of that at this
12 time, Your Honor. That is correct.

13 Now, I'm saying that in all likelihood prior
14 to the witness testifying, we will get something. I
15 think it's likely that he will have at least a summary,
16 or something, we think. But, we can't even say that
17 for sure.

18 What we have given, and I think we didn't have
19 to do that, was we disclosed all the names of all our
20 potential experts. Names of experts are something that
21 we normally don't have to disclose under rule 16, but
22 we've done that, and I think -- we're still not taking
23 the position that we have something that could be
24 construed a report and are not gonna give it to the
25 State.

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I think we may be having kind of a tempest in a tea kettle, here.

Now, I think the State's main concern is a computer simulation.

THE COURT: Is there such a computer simulation of the course of the Exxon Valdez?

MR. MADSON: It is my understanding that there is, although we do not have it. I don't even know what it looks like, but there is a study that was made by an expert that did a computer simulation based on a lot of data, which may have included something testimonial in nature, in other words, from Captain Hazelwood, if he even verified certain things, that's testimonial. For that reason it should not be disclosed.

But, I don't even know if that's a report, Your Honor. The other thing is I don't know what you call this. It's to enhance his testimony, to illustrate his testimony, 'cause a person could basically testify as to results without having the actual report, if you want to call it that, or paper in front of him.

THE COURT: Well, could it be called a scientific test, experiment, or comparison?

MR. MADSON: Comparison, perhaps, but I don't know. It was not a test, certainly.

1 THE COURT: And you don't have that...
2 MR. MADSON: We do not...
3 THE COURT: ...available?
4 MR. MADSON: ...have that.
5 THE COURT: Okay.
6 And what about Mr. Cole...
7 MR. MADSON: What I'll say, Your Honor, is
8 that we have been told the results, but we do not have
9 anything physical in nature at all that we could hand
10 deliver to Mr. Cole.
11 THE COURT: Mr. Cole in his affidavit said he
12 had a conversation with you and that you indicated one
13 report had been done.
14 MR. MADSON: We think it's more of a summary,
15 Your Honor. We don't have that either. I think that's
16 from Mr. Hoffmans, right?
17 UNIDENTIFIED SPEAKER: Right.
18 MR. MADSON: Yeah. He's more of a salvage
19 expert, or something, but we don't even have that.
20 He just, in a telephone conversation said he
21 had something written up, which we haven't seen.
22 THE COURT: Well, Mr. Cole, do you want to
23 respond to this? Mr. Madson says he doesn't have
24 anything.
25 MR. COLE: If he doesn't have anything, then I

1 can't get it. But, I assume that this is a continuing
2 order, and that if he does get it, then it gets turned
3 over.

4 MR. MADSON: Well, that's what we're here to
5 find out, I think.

6 THE COURT: Well, the rule's pretty clear. If
7 it's non-testimonial in nature, and it's a report,
8 statement, photograph, including the results of
9 physical or mental examinations and of scientific
10 tests, experiments, or comparisons, which are intended
11 by the defendant to be used at trial, they are to be
12 turned over to the prosecution.

13 MR. MADSON: Well, I think that depends on
14 when we intend to use it, Your Honor. I can't say for
15 sure until we see the State's case.

16 The purpose of the rule, and I don't disagree
17 with this, and it says it right in the rule, "for
18 purposes of cross examination." That's what you use it
19 for and that's why it should be turned over. And
20 that's precisely why Mr. Cole is telling all his
21 experts not to do a report, for the very reason so the
22 other side can't use it to help their case, except for
23 cross examination. And that's what the rule says, and
24 I think that's certainly relevant, and I think it's
25 important. And if somebody did an earlier report it

1 could be used, perhaps, to impeach their testimony.

2 But, it can't be used to give the other side a
3 leg up in the litigation. It's not a civil case.

4 THE COURT: Well, you know, we have to take a
5 leap of faith with counsel in this that they're acting
6 in good faith, that if you tell me you are not
7 intending on using any of this, I'll take that as face
8 value.

9 However, they may be some reports that you
10 think you're going to use, but you don't know 100
11 percent until you hear the State's case. Those are the
12 kind of reports I think that should be disclosed, as
13 well, because the alternative to that is a continuance
14 to allow the State to get themselves up to steam in
15 order to cross examine your witness, whom you know is
16 going to testify, and who you have a pretty good idea
17 is going to use this report somehow.

18 And in order to avoid unnecessary
19 continuances, and unnecessary delay, you're required to
20 produce them before that event takes place.

21 MR. MADSON: Yeah. I understand...

22 THE COURT: I'm taking a leap of faith in you,
23 Mr. Madson. I'm ordering you to produce reports that
24 you have a reasonably good idea that you're going to be
25 using.

1 I'm going to ask you to comply -- I'm going to
2 order you to comply with this rule. And if it turns
3 out that a witness testifies that, "Well, yeah. I knew
4 we were going to use this," or something like that, and
5 you didn't turn it over and we need a continuance as a
6 result of that, I'm going to consider costs at that
7 time be assessed against you, personally.

8 So, I'll leave it up to you and your good
9 judgment on how you're going to handle this.

10 MR. MADSON: That's fine, Your Honor, but I
11 think I disagree with that, and I object to that order,
12 because I think in balance, here, what we're trying to
13 do is accommodate the court and jurors as far as time
14 restraints are concerned. And, on the other side of
15 the coin is the advantage it gives to the prosecution
16 by turning over reports to use in their case, rather
17 than just cross examination.

18 I'm not going to...

19 THE COURT: Well, the rule says they can't use
20 it in their case. They can only use it in cross
21 examination.

22 MR. MADSON: Well, they can't use it in their
23 case in the true sense, Your Honor, but what they do is
24 find out everything your guy is going to say, and then
25 they run around to find out things that they can to

1 either bolster that report, or take something away from
2 it. It's the same thing as why do we get FBI reports,
3 or anything from them. You know, what do we do with
4 it? It isn't just for cross examination. We can use
5 it to find other experts to contradict that. There's
6 any number of things you can do with it.

7 THE COURT: Well, the rule envisions that both
8 counsel will be acting in good faith. And the rule
9 doesn't suggest that the State doesn't get this until
10 after your witness has testified and used the report,
11 because then there's no need for it. He's already got
12 the report into evidence if he's using it for the
13 purposes of trial.

14 The rule envisions that the State has a
15 reasonable opportunity to prepare for cross
16 examination, and that's why they get it in advance.

17 So, if you have such reports, Mr. Madson, I'm
18 requiring you to produce them today, sometime today, or
19 by Monday, at least. If you have such reports that you
20 think there is a reasonable probability you're going to
21 be using in trial that are covered under Section 4, I'm
22 order you to produce them by close of business on
23 Monday.

24 MR. MADSON: That's fine, Your Honor, but
25 there won't be any, because we don't have any. If we

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do, they will be.

But, I'd also ask the court to read Houston v State 602 P.2d 784. That's where our supreme court said, "Disclosures made to the attorney can not be used to furnish proof in the government's case. Disclosures made to the attorney's expert should be equally unavailable, at least until he's placed on the witness stand."

That's where I'm getting my argument from.

THE COURT: All I'm ordering you to do is to comply with criminal 16.4.

MR. MADSON: Uh-huh (affirmative).

THE COURT: That's all. I'm just going to comply with the rule, myself.

MR. COLE: Your Honor, I just want to correct one thing at Mr. Madson said. He said that I have told me experts not to do any reports. That's absolutely wrong and I told him that.

MR. MADSON: Summary. I stand corrected. A summary, which is not a report as I understand it.

THE COURT: Okay.

MR. MADSON: So, we could do the same thing, but we're not necessarily doing that.

THE COURT: Okay. Now let's get into the pre-emptory challenges.

1 I'll hear your argument first.

2 MR. MADSON: Okay. Shifting gears into
3 overdrive, I guess, I'm not going to prolong this, Your
4 Honor, by going into a lot of law on it, because I
5 think the Mallott case is basically what we're talking
6 about, and the court's already indicated you're very
7 familiar with that. Plus the number of trials this
8 court has had, I'm sure that have involved pretrial
9 publicity issues.

10 But, of course, Mallott does say that when you
11 have a case that involves substantial likelihood of
12 pretrial publicity effecting the jurors' decision in
13 the case, the court basically shall issue additional
14 pre-emptory challenges.

15 Our position comes right down to this:
16 because of the number of -- well, in fact, every single
17 juror here has heard about this case and read about it.
18 Granted, most of them said, "Yes. I can put all that
19 aside," but that still gets us in the area discussed in
20 Mallott where there's a likelihood that stuff that's
21 heard that was printed in the papers won't be
22 introduced in trial. A lot of material, for instance,
23 that was printed about Captain Hazelwood, for instance,
24 more than likely would not be introduced in trial, yet,
25 there's a likelihood the jurors have heard this. And,

1 still they have to make this quantum leap and put all
2 that stuff aside and try the case solely on the facts.

3 So, because of the number of jurors we had
4 here that did this, and the number of challenges, pre-
5 emptory challenges that we had to use which we felt
6 were in areas that really came more into areas of
7 cause, and one that comes to mind, Mrs. Gillespie, for
8 instance, who's been down there. She knows some of the
9 witnesses. You know, she discussed the whole issue
10 with the pilots. We had to use an additional pre-empt
11 on her.

12 So, getting down to the bottom line, here, we
13 feel that based on the motion we filed yesterday for
14 the two airplane pilots that we should have two
15 additional pre-empts for them, and five additional pre-
16 empts just to make sure, because we feel that with that
17 amount of pre-emptory challenges in addition to the
18 amount allotted by rule, that we feel very confident we
19 can get a very impartial jury in this case.

20 And, I think, at the same time we're not going
21 to unnecessarily prolong the jury selection process.
22 We think it's gone very fast, much faster than we
23 anticipated. We have cooperated with the court in
24 trying to keep within the guide lines of time, and I
25 think in a case like this with 10 minutes per juror, is

1 doing extremely well.

2 THE COURT: Well, it's not just 10 minutes per
3 juror. It's 10 minutes plus a very extensive jury
4 questionnaire which was prepared for your use.

5 MR. MADSON: Granted, Your Honor, but many
6 things on that questionnaire obviously called for
7 follow up questions.

8 But, still, I think all in all this has moved
9 remarkably fast, maybe because we've had a situation
10 where jurors instead of trying to get off a case in the
11 last two months, they are more than willing to be on
12 this one.

13 But, for whatever reason we feel that we can
14 in a very short time, maybe even by today, unlikely
15 today, but say, Monday, we could have a jury which we
16 feel would be very fair and unbiased if we had some
17 additional challenges.

18 Thank you.

19 With regard to State's opposition, I just got
20 that this morning. I guess I wouldn't call it an
21 opposition. If I understand their position correctly,
22 they don't object to our having two additional ones,
23 but if we get two, they should get one additional.

24 And I'd like to just oppose that, Your Honor,
25 for the very simple reason that the rule is designed to

1 assist the defense in a case such as this where all the
2 pre-trial publicity has been adverse.

3 There has been nothing that I've seen from a
4 number of witnesses that look like they would be
5 opposed to the State's position in this case. If
6 anything, it's just the opposite. I think it would be
7 highly unfair in a case where the prejudice has been
8 geared against the defendant to allow the State to have
9 an additional challenge.

10 THE COURT: You want to argue for your
11 challenges now, against any additional challenges, if
12 there are any?

13 MR. COLE: Judge, I think that we would come
14 real close to having error if you didn't grant
15 additional pre-empts, particularly this new case that
16 just came out in November, Nelson v State, makes it
17 pretty clear that in a case like this they should get
18 some.

19 I think that as far as Mr. Madson's argument
20 about whether or not we should get additional pre-
21 empts, if you look at the cases that we've cited in the
22 federal courts that have addressed this issue, and you
23 ask -- and you look at the facts, all of those cases
24 were very similar where the defendants' claimed adverse
25 pre-trial publicity. The ones that really come to mind

1 are the Watergate defendants, and that case was cited
2 in here, and Haldeman.

3 So, I mean, our feeling is that this is just a
4 case of fundamental fairness, and we would just rest on
5 the merits of the motion.

6 (2152)

7 THE COURT: Okay. My review of the jurors so
8 far is we've gone through approximately 44 jurors. Of
9 the 44 jurors questioned 26 have been passed for cause,
10 or is that 27? 27 have been passed for cause. That
11 consists of 12, plus 10 pre-empts by the defendant and
12 five pre-empts by the State for a total of 27 out of
13 44.

14 Frankly, that's a much higher percentage than
15 I get in a garden variety child sexual abuse case where
16 there's not very much publicity. I'm rather surprised
17 at that.

18 Of the juror's questioned, the majority of
19 them had little or no opinions. They were asked if
20 they had any opinions and most of them said, "Don't
21 have an opinion."

22 That's rather difficult to believe, frankly,
23 with the notoriety this case has been given, that
24 jurors would not have opinions. However, I have to
25 take their statements at face value after they're

1 placed under oath if they have no opinions.

2 And those that did have opinions, who have
3 remained on the jury have indicated that they could
4 unequivocally, in language such as "100 percent" set
5 aside those opinions and be fair.

6 11 of the jurors have been successfully
7 challenged for cause, and because of strong opinions
8 relating to the case. Not always relating to
9 publicity, some relating to alcohol, some relating to
10 the inability to follow the court's instructions. Not
11 all the challenges for cause that were granted relate
12 to pretrial publicity.

13 Three of the 27 jurors passed for cause were
14 challenged unsuccessfully, I believe two by the --
15 could be as many as four, but I think three. Two or
16 three by the defendant and one by the State.
17 Correction, the defendant objected to the State's
18 challenge. So, I think there's been three by the
19 defendant which were challenged unsuccessfully. In one
20 case the State successfully challenged a juror because
21 of strong opinions by a juror favorable to a defendant.

22 I respectfully disagree with Mr. Cole that
23 error would be committed in this case based on the
24 numbers of jurors that we've gone through and their
25 statements.

1 However, because of the pre-trial publicity
2 this case has been given, probably as much pre-trial
3 publicity as any case generated in this state I'm aware
4 of, I think to be on the conservative side and to
5 ensure the defendant a fair trial, since there were two
6 jurors that the defendant -- one of which the defendant
7 challenged, I think juror 2, Robert Gerard, defendant
8 challenged. Juror did not challenge juror 1 to my
9 recollection.

10 But, those two were pilots. I believe one had
11 indicated he'd seen the Exxon Valdez aground on an
12 angle of some sort.

13 I think to be fair in this case I should grant
14 additional pre-emptory challenges. I'm going to grant
15 the defendant two additional challenges.

16 Now, in most states, my research has disclosed
17 that the State has equal number of pre-emptory
18 challenges to the defendant. This is not the unique
19 state, but there are many states where the state has an
20 equal number of pre-emptory challenges. And I think
21 that it's fundamental that the state be entitled to as
22 fair a trial as the defendant.

23 There seems to be an undercurrent of feelings
24 by jurors that perhaps there are others who are
25 responsible for this incident, including the State.

1 And I think that based on my review of the publicity
2 which has been made a part of the record in a motion
3 for change of venue, that there is a feeling that
4 perhaps the State is to some degree responsible for the
5 clean up efforts not going as well as possible.

6 There may be some undercurrent that the Coast
7 Guard and the State are co-equally responsible for not
8 coordinating properly the clean up efforts. I'm
9 getting that feeling from listening to jurors, that
10 they don't know who is responsible. They don't in
11 every case attribute it to Captain Hazelwood. They
12 attribute it somewhat to the State, or somewhat to the
13 Coast Guard, or someone.

14 So, there may be a feeling here that the State
15 is responsible, an opinion shared by some jurors that
16 is not being vocalized. In order to assure the State a
17 fair trial, I'm going to grant the State one additional
18 pre-emptory challenge, as well.

19 So, there will be two additional pre-emptories
20 for the defendant, and one additional for the State.

21 The order of those pre-emptory challenges will
22 result in the State having the last pre-emptory
23 challenge, as they ordinarily would in any other trial.

24 So, what we'll do is we'll have just in the
25 same order, we'll have the State exercise their next

1 pre-emptory challenge, the defendant two, and then, the
2 State the last. That should settle the matter.

3 I'm ready to bring the jury up unless there's
4 something else.

5 MR. COLE: No.

6 THE COURT: Okay.

7 MR. MADSON: Only to make sure that I object
8 to the court's order, Your Honor. I want to make sure
9 that's on the record. I'm sure it is, but...

10 THE COURT: They may have a different way of
11 doing things up in Fairbanks, but you made your
12 argument and I assume when you make your argument and
13 you apply for pre-emptory challenges and I only give
14 you two, that your record's been made. And you don't
15 need to take exceptions. That's -- we've done away
16 with exceptions a long time ago.

17 MR. MADSON: I agree, Your Honor. I'm not
18 arguing with this court. My problem is that I've
19 appealed a number of times and you've got to make
20 absolutely sure the people upstairs know what you're
21 doing and why. And I don't mean to be arguing with
22 this court, I'm just saying it for the microphone,
23 that's all.

24 THE COURT: Okay. In the future exceptions
25 will be unnecessary.

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MR. MADSON: Okay.

THE COURT: We'll take a recess.

THE CLERK: Please rise.

(2474)

(Off record - 8:48 a.m.)

(On record - 9:08 a.m.)

(Jury not present)

THE COURT: We have got 11 passed for cause. We're about to get our 12th one here after the pre-emptory challenges. I see no reason to require them to sit around today. We won't be swearing them in until probably Monday morning. Any objection to letting those folks go home and returning Monday morning?

MR. MADSON: The ones that have already been passed for cause?

THE COURT: Right.

MR. COLE: Certainly not.

MR. MADSON: No.

THE COURT: Okay. Now, we have, excluding probably two or three that haven't shown up for one reason or another have been excused for hardship reasons, we have the balance of the panel, which is around 53 people. I don't think we're going to need all 53 people. I'd like to exclude the last, say, 20 to come back on Monday if we need them. Any objection

1 to that?

2 MR. MADSON: Not as long as there's sufficient
3 people here, Your Honor. I don't see any reason to
4 have them around either.

5 THE COURT: I'd be surprised if we went
6 through 30 jurors today. We haven't done that yet
7 and...

8 MR. COLE: I don't have any problem, judge.

9 THE COURT: So, what I plan to do is bring the
10 11 in. Would counsel have any objection to me just
11 going into the jury room and just telling the 11,
12 excusing them and have them come back on Monday and
13 excusing the last 20 and having them come back on
14 Monday?

15 MR. MADSON: No.

16 THE COURT: Any objection to that, Mr. Cole?

17 MR. COLE: No, I have none.

18 THE COURT: Okay. We'll be in recess just for
19 a couple minutes while I do that.

20 THE CLERK: Please rise. The court stands in
21 recess subject to call.

22 (2565)

23 (Off record - 9:11 a.m.)

24 (On record - 9:21 a.m.)

25 (Juror present)

1 THE COURT: I think we've got it under control
2 now. You can be seated and we'll start with Margaret
3 Glenn next.

4 MARGARET GLENN

5 THE COURT: Good morning, Margaret Glenn.
6 Please have a seat in the front row next to the
7 microphone, and unsnap the microphone off of its
8 holder, and please answer questions 1 through 4 for us.

9 A Margaret R. Glenn. No organization. There's
10 no reason I shouldn't serve. And I do not know
11 any of the listed.

12 THE COURT: Did you go over that list of
13 witnesses we initially gave you?

14 A Yes, I did.

15 THE COURT: Okay.

16 Mr. Cole.

17 VOIR DIRE EXAMINATION OF MS. GLENN

18 BY MR. COLE:

19 Q Thank you, Your Honor.

20 Good morning, Mrs. Glenn, how are you?

21 A Good morning.

22 Q Have you followed the incidents that occurred
23 back in March of 1989?

24 A From newspaper -- yes, newspaper and
25 newscasts.

1 Q Do you read any particular newspaper?
2 A Yes.
3 Q Which one do you read?
4 A The morning paper.
5 Q And, are there particular news stations that
6 you watch?
7 A Yes, Channel 2, NBC.
8 Q How about talking about this case? Have you
9 received any information from, say your husband,
10 or friends, or acquaintances?
11 A No.
12 Q Now, since the grounding happened have you
13 formed any opinions as to the relative roles of
14 the parties as far as the responsibility for the
15 grounding? When I say parties I mean it in a
16 broad sense, any of the crew members, Alyeska,
17 the Department of Environmental Conservation, the
18 Coast Guard, Exxon Shipping Corporation?
19 A Do you mean have I decided, myself, that I
20 think one of them is responsible, or...
21 Q Or partially responsible, or anything like
22 that?
23 A Well, I really haven't made any decisions, no.
24 Q If you were instructed, if called upon to sit
25 on this jury, to base your verdict on the

1 evidence that you heard in court, which would be
2 through the witnesses and any physical evidence,
3 and your own common sense and good judgment,
4 would you feel comfortable that you could follow
5 that instruction?

6 A Yes, I do.

7 Q And, if you were likewise instructed that
8 anything you had heard outside of the courtroom
9 in the past would not be taken into
10 consideration, and should not be taken into
11 consideration in reaching a verdict in this case,
12 could you follow that instruction?

13 A Yes, I could.

14 Q You've lived in Alaska for 30 years?

15 A Yes, sir.

16 Q Where have you lived in Alaska?

17 A Anchorage Area.

18 Q And did your husband come up to work at Fort
19 Richardson, or...

20 A No. My husband came up when he was a child.

21 Q And you came up with your folks?

22 A Yes. Military dependents.

23 Q You've got three kids. Are they all in school
24 now?

25 A Yes.

1 Q What do you do, obviously your kids must take
2 up a fair amount of your time. Do you have any
3 pastimes, or hobbies, or things that you do for
4 yourself?

5 A I'm a homemaker, a quilter.

6 Q Do you read at all?

7 A Yes.

8 Q What type of material do you read? Do you
9 read journals, books?

10 A I read just about everything.

11 Q Nothing in particular?

12 A No. No.

13 Q Do you subscribe to any magazines?

14 A Yes.

15 Q Can you tell me what magazines?

16 A Country Living and Fine Woodworking. Those
17 are the only two.

18 Q I notice that you don't drink. Is that for
19 personal, or medical reasons?

20 A It's personal.

21 Q Do you have any strong feelings against people
22 that do drink?

23 A No, I don't.

24 Q Have you been around people that have had too
25 much to drink?

1 A Oh, yes.

2 Q Is there any reason that you can see that
3 would prevent you from being a fair and impartial
4 juror in this case?

5 A No.

6 Q And if instructed by the court would you be
7 willing to listen to all the evidence and make a
8 decision, or reach a verdict in this case based
9 on the evidence that you hear in court?

10 A Yes.

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

13 A Yes.

14 Q Thank you very much, Mrs. Glenn. I have no
15 further questions. Pass for cause.

16 VOIR DIRE EXAMINATION OF MS. GLENN

17 BY MR. CHALOS:

18 Q Good morning, Mrs. Glenn.

19 A Good morning.

20 Q You said that you've read and seen televisions
21 pictures about this incident. Is that correct?

22 A Yes.

23 Q How often did you read about the incident in
24 the newspapers?

25 A Well, I read the paper every morning from the

1 front to the back.

2 Q Is it fair to say that since the occurrence of
3 the grounding on March 23rd whenever an article
4 appeared about the spill you've read it?

5 A Yes.

6 Q And do you watch television daily as well?

7 A Yes.

8 Q And whenever anything appeared on television
9 about this incident you saw it?

10 A Yes.

11 Q At least on the channels that you watched?

12 A On the news, yes.

13 Q What do you recall reading or seeing about the
14 spill?

15 A Well, that it had happened and that the spill
16 got out of control and reached the beaches and...

17 Q What do you remember reading or seeing about
18 Captain Hazelwood's involvement?

19 A Well, just that he was not piloting the tanker
20 at that time.

21 Q How about the reports that he may have been
22 drinking? Did you see those?

23 A Yes, I did.

24 Q Have you formed any opinion, however slight,
25 about what might have happened that particular

1 night?

2 A No, I haven't.

3 Q Have you formed any opinion with respect to
4 the reports that you heard or read about Captain
5 Hazelwood's possible drinking?

6 A No, I haven't.

7 Q None whatsoever?

8 A No.

9 Q Have you formed any opinion as to who might
10 have been at fault for the spill, however slight?

11 A No, I haven't.

12 Q Have you formed any opinion as to Captain
13 Hazelwood's guilt, again, however slight?

14 A No. I haven't.

15 Q I see from your questionnaire that you have
16 been a juror on a previous criminal case?

17 A Yes.

18 Q Can you tell me without telling me the
19 verdict, what that case involved?

20 A It was a murder trial.

21 Q Is that the only case you ever served as a
22 juror?

23 A Yes.

24 Q Have you ever been excluded as a juror,
25 challenged for cause?

1 A No, I haven't.

2 Q Now you say that you don't drink for personal
3 reasons. Does your husband drink?

4 A Oh, occasionally.

5 Q Have you ever seen him drink too much?

6 A Not for several years, no.

7 Q Have you ever seen him when he got to a point
8 where you would consider him drunk?

9 A Yes.

10 Q Have you seen how he behaved?

11 A Yes.

12 Q Have you, yourself, ever been drunk?

13 A Yes, I have.

14 Q Do you recall how you felt and how you
15 behaved?

16 A Occasionally, yes.

17 Q Okay. You say that you don't have any strong
18 feelings about people drinking. Do you have any
19 feelings at all?

20 A About drinking?

21 Q Yes.

22 A No, I don't.

23 Q Do you have any feelings about other people
24 drinking?

25 A No, I don't.

1 Q None whatsoever?

2 A No.

3 Q You remember when you were in panel back on

4 Tuesday Judge Johnstone gave you certain

5 instructions and one of the things that he said

6 to you was that Captain Hazelwood has a

7 Constitutional right not to take the stand if he

8 chooses not to? You remember that?

9 A Yes.

10 Q Do you have any problem with that instruction?

11 A No, I don't.

12 Q If Captain Hazelwood did not take the stand in

13 this case would you hold that against him?

14 A No, I wouldn't.

15 Q Did you have any problem with the judge's

16 instruction that Captain Hazelwood is presumed

17 innocent until proven guilty?

18 A No.

19 Q Did you have any problem with the judge's

20 instruction that the DA has the burden of proving

21 beyond a reasonable doubt each and every element

22 of the charges against Captain Hazelwood?

23 A No problem.

24 MR. CHALOS: Your Honor, I have no further

25 questions. May I make an application?

1 THE COURT: Would you mind just stepping
2 outside?

3 A Sure.

4 THE COURT: Just for a moment. We'll call you
5 back as soon as we can?

6 (Pause)

7 (Jury not present)

8 All right.

9 MR. CHALOS: Judge, I move to excuse this
10 juror for cause. Mrs. Glenn told us that she read the
11 paper every single day. She watched whatever news
12 programs were on about the incident. I think she's
13 been exposed to too much pre-trial publicity. And,
14 even though she says that she has formed no opinion,
15 frankly, as you stated this morning, I find that hard
16 to believe, given the amount of pre-trial publicity.

17 THE COURT: That application is denied.

18 Bring her back in for a minute, would you
19 please?

20 (Juror present)

21 You're free to go. We'll need you back Monday
22 morning, however, at 8:30 a.m. You'll need to come to
23 the same room you assembled in this morning and a few
24 days ago, and you're still on the jury selection track.
25 You may be on the ultimate jury in this case. Please

1 don't discuss this case with anybody and avoid media
2 information concerning it.

3 Can you make it back Monday morning okay at
4 8:30?

5 A Yes.

6 THE COURT: Thank you. You can go out the set
7 of doors there on the front. Thanks very much.

8 (Juror not present)

9 MR. COLE: Your Honor, the state would accept
10 the panel.

11 THE COURT: All right. The State waives all
12 challenges to those presently seated. The next
13 challenge is with the defendant.

14 MR. MADSON: And according to my calculations,
15 and the court's ruling, this would be our final pre-
16 emptory challenge.

17 THE COURT: No, I gave you two and I think
18 you've exercised 10. Am I mistaken? Do you have...

19 MR. MADSON: Oh, you're right. You're right,
20 Your Honor. We have 10 and that is two more to go.

21 We would ask the court to thank and excuse Mr.
22 Meier. I thought we'd already done that.

23 THE COURT: All right. We'll give him a call
24 and we'll call in the next juror, which is -- what's
25 the name? I can't read my own writing?

1 THE CLERK: It's George Gilcrest (ph).
2 THE COURT: George Gilcrest, okay.
3 (Pause)
4 UNIDENTIFIED SPEAKER: Your Honor, there's
5 some confusion. The one gentleman we called at home,
6 he's sitting in there. George Gilcrest is not here.
7 He thought it was -- his name is very similar, but it
8 (indiscernible - away from mike.)
9 THE COURT: Is Mr. Massey there, then?
10 UNIDENTIFIED SPEAKER: (Indiscernible - away
11 from mike.)
12 THE COURT: Is Gilcrest there, or not?
13 UNIDENTIFIED SPEAKER: No.
14 THE COURT: Okay. So, we'll go to the next
15 one. I have Mr. Massey next. Is that who you have
16 next, counsel?
17 MR. CHALOS: Right.
18 MS. HENRY: I have Clyde Cantor.
19 THE CLERK: That's who I have.
20 THE COURT: Mr. Massey was excused?
21 THE CLERK: He was put on batch 3
22 (indiscernible - away from mike).
23 THE COURT: Oh, he was put on batch 3?
24 THE CLERK: Yes.
25 THE COURT: Okay. So, Clyde Cantor is next?

1 THE CLERK: Correct.

2 THE COURT: Is that who you have next,
3 counsel?

4 MR. CHALOS: Yes.

5 THE COURT: Okay.

6 (Side conversation)

7 THE COURT: Oh, Gilcrest was absent this
8 morning.

9 MR. MADSON: Your Honor, our copy is so bad we
10 can't read it. I don't know about the State's, but I
11 wonder before he comes in, maybe we could...

12 THE COURT: For Cantor?

13 MR. MADSON: ...just take a minute or two to
14 look at it.

15 THE COURT: I'll see if I can get mine out of
16 here and you can have it.

17 (Juror present)

18 CLYDE CANTOR

19 Ms. Cantor, please have a seat in the front
20 row next to the microphone next to the microphone and
21 would you take the microphone off of the stand and
22 answer the first four questions on the blackboard,
23 please?

24 A My name is Clyde Cantor. I don't belong to
25 any organization. There's no reason I should not

1 serve on the jury. And I know none of the
2 defendants, or none of the attorneys.

3 THE COURT: Okay. I'm trying to find your
4 questionnaire.

5 A Okay.

6 THE COURT: It didn't copy very well.

7 (Side conversation)

8 THE COURT: Are both your copies illegible?
9 Can't read anything on them?

10 MR. COLE: I can't read mine.

11 THE COURT: Did you take them out and put them
12 in some other order for me?

13 THE CLERK: (Indiscernible - away from mike.)

14 THE COURT: Okay. Counsel, when you're
15 finished with it give it to...

16 (3720)

17 VOIR DIRE EXAMINATION OF MS. CANTOR

18 BY MR. COLE:

19 Q Good morning, Ms....

20 A Good morning.

21 Q Is it Ms. Cantor?

22 A I'm single.

23 Q Have you followed the events that occurred
24 back in March last year, 1989, when the Exxon
25 Valdez was grounded?

1 A No, sir.

2 Q Have you read anything about it?

3 A In the beginning I have. Very little. I
4 don't take the newspaper.

5 Q Did you watch it at all on TV?

6 A In the beginning I saw, you know, when it
7 first happened.

8 Q How about at work? Did you have any
9 acquaintances, or people that you...

10 A No.

11 Q ...worked with that talked about it?

12 Have you ever formed any opinions since then
13 as to the relative role of the parties that are
14 involved as far as who is responsible for this
15 vessel being grounded? And when I say parties I
16 mean any of the crew members, Exxon Shipping
17 Company, ARCO -- or, excuse me. Not ARCO,
18 Alyeska, the Department of Environmental
19 Conservation?

20 A No, sir. I don't have any opinions. I do
21 think it's bad that it happened, but, I, you
22 know, I don't know enough about it to know who's
23 guilty, or who should be considered guilty.

24 Q Have you formed any opinions about Captain
25 Hazelwood's conduct that evening?

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A No, sir.

Q Do you feel comfortable that if you were instructed by the judge to set aside anything you had heard outside of this courtroom and just base a verdict on what you hear through the witnesses and the evidence that's submitted, and your own common sense and good judgment that you could follow that instruction?

A Yes, sir. I do.

Q Can you tell me what you do at Providence?

A I'm a surgical nurse. I guess you would not call me as much a nurse as much as a very highly trained technician. I work with people in surgery. I work with high tech equipment. I'm a laser specialist. I specialize in equipment, and the handling of the equipment, educating people in the use of that equipment.

Q Is this laser equipment that's used in surgery?

A Yes.

Q How long have you been involved in that?

A I've been involved in this type of nursing for 23 years. I've been at Providence for 11.

Q And are these operations, you don't work in like, an emergency room, or anything?

1 A No, sir.

2 Q These are all scheduled operations?

3 A Correct. I do take calls and do handle
4 emergency stuff.

5 Q Have you received any formal training, or do
6 you have any specialized knowledge about the
7 effects of alcohol on the body?

8 A No, sir. When I attended nursing school that
9 was not in the curriculum, and I've never worked
10 in that type of facility.

11 Q In the course of working on a shift in
12 emergency have you seen people that have come in
13 that were intoxicated?

14 A I'm sure I have, but I don't remember anything
15 specific. Usually I have no dealings with the
16 family, or, you know, I don't even know how the
17 accident, if it's an accident, I don't even how
18 it happened, you know.

19 I deal, basically, with fixing body parts.

20 Q Uh-huh (affirmative).

21 A You know?

22 Q Is it restricted to any one area, this laser
23 surgery that you work with, or...

24 A Well, most of the laser surgery is in GYN or
25 gynecological, female surgery.

1 Q I notice from your questionnaire that you
2 drink very little?
3 A Uh-huh (affirmative).
4 Q Is that for personal or medical reasons?
5 A I just find that I don't tolerate it well. I
6 don't like the way it makes me feel if I drink
7 more than one drink.
8 Q Do you have a drug or alcohol testing program
9 at Providence?
10 A No. We do have an alcohol and drug unit that
11 has just been started within the last year.
12 Q But, as far as anyone testing you during the
13 course of your work...
14 A No.
15 Q ...you have no...
16 A No.
17 Q Do you have any strong feelings about people
18 who do drink?
19 A No, sir.
20 Q Where did you grow up?
21 A In Alabama, north Alabama.
22 (Side conversation)
23 Q (Ms. Cantor by Mr. Cole:) I just couldn't
24 read one of your...
25 A Okay.

1 Q Can you give me an idea of what you do in your
2 free time that you have?

3 A I'm kind of a professional shopper, and I --
4 well, I guess not kind of. And I do lots of arts
5 and crafts. I do bazaars throughout town, arts
6 and crafts bazaars. I have a line of jewelry
7 that I've designed and make. I dance at the
8 singles club every Saturday night, at the singles
9 club here in town. I attend the Senior Center on
10 Friday nights and they have big band music that I
11 like from the 40s and 50s, and I go there on
12 Friday nights and dance.

13 Q Sounds like you've got a pretty busy schedule.

14 A Yeah.

15 Q Can you tell me a little bit about this
16 jewelry that you make? What do you make it out
17 of?

18 A People come to me with jewelry -- pieces of
19 jewelry that their grandmother gave them. And,
20 basically, it's memory pieces, and you make a
21 collage. You add the pieces together and I did
22 that.

23 Q Have you ever been out on an ocean going ship?

24 A I remember one time going deep sea fishing
25 when we lived in Alabama. Threw up a lot.

1 Q I notice that you have two kids. Have you
2 ever come home and had a situation where you went
3 upstairs and there was an argument going on, and
4 you heard two different sides of the story...

5 A Uh-huh (affirmative).

6 Q ...of what had just happened?

7 (Tape: C-3593)

8 (003)

9 Would it be fair to say that in reaching a
10 determination to satisfy you of what had gone on
11 earlier you evaluate their stories, you look at
12 them to see what the evidence is, and you apply
13 your own common sense and good judgment to
14 determine what happened? Would that be a fair
15 and accurate statement?

16 A Daily.

17 Q Do you feel if you were called upon to sit on
18 that jury that you could apply those similar life
19 experiences?

20 A Yes. One thing I've noticed is, you know,
21 they're young adults now. They're 14 and 15 and
22 they need less and less of me deciding what was
23 right or wrong. It's more as a mediator.

24 Q Do you understand the importance of this case
25 both to Captain Hazelwood and the State of

1 Alaska?

2 A Yes, sir.

3 Q Do you feel if you were instructed by the
4 court that you would be willing to listen to the
5 evidence presented by the witnesses and the
6 evidence that's submitted and use your own common
7 sense and good judgment in reaching a fair and
8 just verdict in this matter?

9 A I think I could do that.

10 Q Do you believe that you could give both sides
11 a fair trial?

12 A Correct.

13 Q Does that seem right to you? Do you feel
14 comfortable with those notions?

15 A Yes.

16 Q Thank you, Ms. Cantor. I have no further
17 questions, Your Honor. Pass for cause.

18 VOIR DIRE EXAMINATION OF MS. CANTOR

19 BY MR. CHALOS:

20 Q Good morning, Ms. Cantor.

21 A Good morning.

22 Q I have to ask you where'd you get the name
23 Clyde?

24 A Well, in the south after World War II a lot of
25 men wanted to name children after themselves,

1 and it's a common thing in the south to carry on
2 that name. And they had three girls and I was
3 born, so somebody was going to be named Clyde
4 that year...

5 Q And you were it?

6 A ...and it was me.

7 Q Kind of a boy named Sue?

8 A Yeah.

9 Q Okay. Let me ask you something more along
10 this -- more serious here.

11 A Okay.

12 Q If I understood your answers correctly when
13 Mr. Cole asked you about your exposure to
14 media...

15 A Uh-huh (affirmative).

16 Q ...coverage of this event you indicated that
17 earlier on in the beginning you read about it and
18 saw something about it, but later you just kind
19 of -- you didn't follow it, is that...

20 A It's been a busy year for me. I've given a
21 condo back to the bank. My daughter was having
22 surgery in April, major facial surgery. I had
23 another daughter with a tonsillectomy. You know,
24 I had to move. I had to go home twice to an
25 aging parent that was ill, and I just...

1 Q It sounds like...

2 A I had priorities.

3 Q ...you had other things to worry about.

4 A I had priorities during that year.

5 Q I don't want to necessarily pry in this, but
6 you indicate you were divorced, is that fairly
7 recent?

8 A No, sir. Seven years.

9 Q Seven years?

10 Was alcohol any kind of a factor in that
11 divorce?

12 A No, sir. We didn't like each other.

13 Q Well, that's a good reason.

14 Getting back to the publicity part of it, you
15 indicated in your questionnaire that even though
16 this was say, almost 10 months ago, or so, you
17 still have a fairly good, or accurate memory of
18 what you remembered reading, or hearing about, is
19 that correct?

20 A I remember just seeing it on the -- I don't
21 listen to local news and I just happen to
22 remember seeing that it happened on the national
23 news.

24 Q And otherwise you don't have any opinions, no
25 matter how slight as to, particularly Captain

1 Hazelwood's involvement, whether he's responsible
2 for some crime as a result...

3 A I didn't even know who he was. I thought the
4 man in the back -- back there, was him, in court
5 on Tuesday. Honest.

6 Q If you had to serve on this jury, what are
7 your hours as far as work is concerned?

8 A They're basically my hours. I work 7:00 to
9 3:30.

10 Q You say you're hours. Do you rotate those
11 hours, or change those hours?

12 A No. I work five days a week.

13 Q You would not have any financial hardship if
14 you were to serve on this jury?

15 A My employer pays me. Sisters of Providence
16 have a mission, and their mission is to serve the
17 community. And they consider this part of their
18 mission, is to be available for jury duty.

19 Q Have you ever been called to serve on a jury
20 before at all? I mean, just questioned at all?

21 A I've never been questioned.

22 Q This is your first time anywhere?

23 A Yeah. I've been downstairs.

24 Q You said you were kind of nervous?

25 A Yeah.

1 Q Do you feel any more relaxed now that you know
2 what's going on here and...

3 A I know you're not going to bite me.

4 Q So far.

5 A I feel better. My heart rate's slowed down.

6 Q Good. Ma'am, I guess the bottom line here is,
7 you know, when the judge asked you questions
8 yesterday...

9 A Yeah.

10 Q ...you know -- Tuesday, when you were all here
11 in a group...

12 A Uh-huh (affirmative).

13 Q ...and said this is what your duties are, do
14 you feel you pretty well understand the duties of
15 a juror?

16 A Yes, sir.

17 Q You find the facts. The judge gives you the
18 law.
19 Did you have any trouble with any of those
20 instructions that the judge gave you?

21 A No, sir.

22 Q In other words, the burden of proof being on
23 the State to convince you beyond a reasonable
24 doubt...

25 A You see, I've always lived my life --

1 basically, I've lived my life like that, and the
2 type of work I do is based on fact, you know.

3 Q The type of work you do, you say you generally
4 work around electronic -- is it electronic
5 equipment?

6 A Well, I'm a nurse by education, but I'm a high
7 paid technician. I have a mind for the
8 electronic equipment, and so, I tend to, whenever
9 we get something new in that people don't
10 understand, I tend to specialize in that, no
11 matter what it is. And right now my specialty
12 for the last two years has been laser. You know,
13 we're talking about a \$500,000 instrument, you
14 know. And that's basically what I'm doing right
15 now. And, I'm in the process of educating other
16 people and my other co-workers in doing this.

17 Q Have you received any kind of specialized
18 formal training in...

19 A No, sir.

20 Q ...this equipment?

21 A No, sir.

22 Q You have to more or less learn it from the
23 factory representatives, or...

24 A Yeah. They come once.

25 Q Once? They kind of give you the basics, then

1 you have to pick it up, right?

2 A Yeah. Correct.

3 Q Anyway, getting back to that question, again.
4 Do you remember the judge instructing you, for
5 instance, that the defendant in any criminal
6 case, including this one, does not have to
7 testify and basically tell you his side of the
8 story?

9 A Yes, sir.

10 Q Do you have any trouble at all with that? In
11 other words, do you -- would you require even the
12 slightest, in the back of your mind have some
13 feeling, or requirement that Captain Hazelwood
14 would have to testify in this case, you'd hold it
15 against him if he didn't?

16 A No, sir.

17 Q And there's no reason, you know, the trial
18 goes on and as we ask jurors questions sometimes
19 we go shorter and shorter and overlook something.
20 Is there something we haven't brought up that
21 just you know about yourself and your background
22 that would cause you to think that there's any
23 reason at all why you couldn't be fair to one
24 side, or the other?

25 A I can't think of anything.

1 Q Thank you, ma'am. I'll pass for cause.

2 THE COURT: Thank you. That means you can be
3 excused for the day, however, you're on track for this
4 jury presently. I don't know if you'll be on our final
5 jury, or not, but you very likely will be, so you'll
6 have to come back on Monday morning at 8:30 a.m. to the
7 same jury assembly room that you gathered in today and
8 last Tuesday.

9 Don't discuss this case with anybody, and
10 don't get exposed to media information. Avoid media
11 information.

12 Okay. You can take all your personal
13 belongings out the double doors and I'll see you Monday
14 morning.

15 A Okay.

16 (Pause)

17 THE COURT: Mr. Cole, as to the last juror
18 just seated, you have a challenge if you wish to
19 exercise it.

20 MR. COLE: Judge, we would respectfully thank
21 and excuse her.

22 THE COURT: All right. Bring the next one in,
23 that's Terrance Reimer.

24 I show that the State has one and the defense
25 has one left. The State has one left only to the next

1 juror.

2 (400)

3 TERRANCE REIMER

4 Good morning, sir.

5 A Good morning.

6 THE COURT: Please have a seat behind the
7 microphone. And is it Reimer, or Reimer?

8 A It's Reimer.

9 THE COURT: Thank you, sir. If you'd answer
10 the first four questions.

11 A My name is Terrance...

12 THE COURT: Take that off the microphone.

13 A My name is Terrance Arnold Reimer.

14 Organizations, I'm a member of the American
15 Institute of Certified Public Accountants, the
16 Alaska Society of CPAs, NBA Association, which is
17 a national organization. I'm a member of Christ
18 Church Episcopal. I'm a member of the budget
19 committee for the Episcopal Diocese of Alaska.
20 That's pretty much it.

21 I see no reasons why I shouldn't serve on this
22 jury and I know no witnesses that were on the
23 list that we were given.

24 THE COURT: Thank you, Mr. Reimer.

25 Mr. Cole.

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1 VOIR DIRE EXAMINATION OF MR. REIMER

2 BY MR. COLE:

3 Q Good morning, Mr. Reimer, how are you?

4 A Pretty good.

5 Q Mr. Reimer, did you follow the events that
6 occurred after the grounding of the Exxon Valdez
7 back in last year in March?

8 A I followed them in a general sense. In other
9 words, I traced pretty much what was happening as
10 far as the spill clean up.

11 Q Can you give me an idea of what sources you
12 referred to that you got this information from?

13 A I followed the news on the television. I read
14 both of the Anchorage newspapers. I read the
15 Alaska Journal of Commerce. I listen to public
16 radio. Those are pretty much the sources that I
17 use.

18 Q Since that time have you ever formed an
19 opinion as to the relative responsibilities, or
20 roles of the parties involved in the grounding of
21 the Exxon Valdez? When I say parties I mean it
22 in a general sense, any of the crew members,
23 Exxon Shipping Company, Alyeska, the Coast Guard,
24 DEC?

25 A Well, to be straight forward and truthful

1 assigning blame, or guilt, or anything like that
2 is not something I've done. I've not formed an
3 opinion on that. My prospective has been, and my
4 experience has been that the information supplied
5 through those sources that I indicated has in the
6 past been either incomplete or inaccurate at
7 times. So, not being party to all the
8 information that I think would be necessary to
9 form an opinion, I've really suspended any
10 decision process on it.

11 Q If you were asked to sit on this jury would
12 you be able to follow an instruction to disregard
13 any information you've heard outside of this
14 courtroom and just base your verdict on the
15 evidence that's presented through the witnesses,
16 the evidence that's admitted by the court, and
17 your own common sense and good judgment?

18 A I don't see a problem with doing that.

19 Q Can you tell me about Calista Corporation?

20 A Calista Corporation is a regional corporation
21 formed under the Alaska Native Claims Settlement
22 Act.

23 As a regional corporation it was one of the 13
24 original corporations formed in the early 70s.
25 It is a corporation that has outright title to,

1 or entitlement to about 6-1/2 million acres in
2 western Alaska.

3 It is the corporation that formerly owned
4 Settler's Bay, which is across the bay, across
5 the inlet. It formerly owned the Sheraton
6 Anchorage Hotel. We've had extensive holdings
7 outside of the State of Alaska, also.

8 Q Western Alaska, where is that? The holdings?

9 A The lower Yukon, lower Kuskokwim areas
10 centered around Bethel.

11 Q And can you tell me what you're
12 responsibilities are?

13 A My title is Chief Operating Officer for
14 Calista, which pretty much means that I'm
15 responsible for a number of things, including
16 litigation management, overseeing the operations,
17 the financial end of the corporation.
18 Essentially non-political endeavors of the
19 corporation.

20 Q Have you been involved in litigation for this
21 company?

22 A Again, as manager for litigation, Calista has
23 been in economic crises for the past 2-1/2 years.
24 And that means at the peak that I was responsible
25 for overseeing 30 separate claims, or active law

1 suits. And that means that I have -- we used
2 three or four different law firms and I oversee
3 what was done, and instruct the attorneys as to
4 where we are going on those particular claims or
5 law suits.

6 Q I notice that you have sat on a jury in the
7 past?

8 A Yes.

9 Q Just one, or have you sat on...

10 A Just one.

11 Q What type of case was that?

12 A It was an assault case.

13 Q Do you remember the facts of it?

14 A Yes. It was a physical assault case. The
15 defendant was accused of improper touching of a
16 woman.

17 Q Were you the foreman on that jury?

18 A No.

19 THE COURT: Excuse me a second. Would counsel
20 approach the bench, please?

21 (645)

22 (Whispered bench conference as follows:)

23 There's two things I want to caution, I can
24 hear you whispering all the way up here, and we can
25 only turn off so many microphones for you.

1 (End of whispered bench conference.)

2 (664)

3 Q (Mr. Reimer by Mr. Cole:) How long has your
4 wife been an instructor at the University?

5 A This is her second semester as an instructor.

6 Q By the way, where did you get your MBA?

7 A Washington State University, Pullman,
8 Washington.

9 Q And your BA?

10 A Both BAs were from that school, also.

11 Q And what brought you back up to Alaska?

12 A Both of our -- my wife's and my family are
13 from Alaska. My in-laws live in Fairbanks and my
14 parents live here in Anchorage, so it's home.

15 Q What is your wife's maiden name?

16 A Richmond.

17 Q I notice from your questionnaire that you
18 indicated that you have a close friend, or
19 relative that's worked in a drug or alcohol
20 counseling?

21 A Correct.

22 Q Can you tell me about that?

23 A A close friend through my church relationship
24 has been Dr. Ray Dexter at Cliffrow (ph) Center.

25 Q Have you talked to him about his work?

1 A Not in depth, no.

2 Q Have you talked to him at all about the facts

3 of this...

4 A No.

5 Q He is a friend, an acquaintance through

6 church?

7 A Yes.

8 Q Anything about that relationship that would

9 prevent you from being fair and impartial in this

10 case?

11 A As a business person my discussions have been

12 predominantly around his budget problems with the

13 Municipality.

14 Q From your questionnaire you do drink a little

15 bit?

16 A Correct.

17 Q Do you have any strong feelings about people

18 that drink, or don't drink?

19 A No.

20 Q Have you been around people that have had too

21 much to drink?

22 A Yes.

23 Q Does your job allow you to drink at work?

24 A No.

25 Q Have you ever had drinks while you were at

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1 lunch?

2 A Yes.

3 Q When you did that did you feel that it
4 effected your performance later on?

5 A No.

6 Q I can see that you're fairly busy from what
7 you've told me. Do you do other things in your
8 free time?

9 A I fish in the summer. I cross country ski in
10 the winter.

11 Q Where do you fish?

12 A That varies. As corporate officer for Calista
13 Corporation I have access to some of the fishing
14 areas in the lower Kuskokwim and along the Yukon.
15 I also fish in the Kenai Peninsula area, too.

16 Q Do you feel comfortable with the notion that
17 this is a very important case for Captain
18 Hazelwood and for the State of Alaska?

19 A Yes.

20 Q With that understanding do you feel that you
21 would be able to listen to the evidence that's
22 presented through the witnesses, look at the
23 evidence that's presented here in court and
24 admitted and reach a fair and just verdict in
25 this matter for both parties based on that

1 evidence and your own common sense and good
2 judgment?

3 A Yes, I do.

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

6 A Yes.

7 Q Has Calista been economically, either hurt, or
8 helped by the oil spill?

9 A No. Neither hurt, nor helped.

10 Q Thank you. I have no further questions for
11 Mr. Reimer. Thank you, sir. Pass for cause.

12 VOIR DIRE EXAMINATION OF MR. REIMER

13 BY MR. CHALOS:

14 Q Good morning, Mr. Reimer.

15 A Good morning.

16 Q In your questionnaire you say that you've
17 heard or read about this spill in various
18 sources, the Anchorage Daily News, the Times,
19 Channel 2, and KSKA radio, is that correct?

20 A Yes.

21 Q And I think you added the Journal of
22 Commerce...

23 A Yes.

24 Q ...as well?

25 Have you read about the spill in the Journal

1 of Commerce?

2 A The articles that have been in there both have
3 been editorial type and of businesses that have
4 been involved with the spill clean up.

5 Q Have you read in the Journal of Commerce any
6 articles relating to the facts surrounding the
7 spill?

8 A I've seen articles that deal with the facts.
9 I, again, my experience has been that not
10 everything that's in the media is correct, or
11 accurate. And, so, I have in a sense glossed
12 over those that deal with the specifics of the
13 incident.

14 Q Do you tend to disregard the facts that have
15 been printed in the newspaper regarding the
16 spill?

17 A I have taken note of some of the details, but
18 again, I'm not sure that those are accurate, or
19 complete.

20 Q Can you tell me what details you've taken note
21 of?

22 A Well, again, the things that I have remembered
23 are more in the sense that up to the point of the
24 accident I have disregarded pretty much
25 everything that I've seen.

1 My interest has been more in spill clean up.
2 Again, the potentials for business with spill
3 clean up related work for Calista Corporation.
4 That's been my area of interest. And that's been
5 the area that I've really tried to see what could
6 be done.

7 Again, knowing that there is a relationship
8 between Calista Corporation and the other
9 regional corporations, some of which have had
10 business through VECO, and with Exxon, there's
11 been some attempts on the part of my corporation
12 to do that, and to work further in spill clean
13 up. That's been the area that I've been
14 concentrating on.

15 Q When you say the events leading up to the
16 accident are things that you've disregarded, do
17 you mean the events right on through to the
18 grounding of this vessel?

19 A Up to the point where there was substantial
20 oil flowing out of the vessel. That's, again,
21 not something that I've paid much attention to.

22 Q Do you recall reading anything about the
23 possibility that Captain Hazelwood may have been
24 drinking prior to going on board the vessel?

25 A Yes. I'm aware that that was a point that was

1 brought up in the media. I'm not really
2 conversant with the specifics of those charges.

3 Q I'm not asking about the charges, per se, I'm
4 asking about the news coverage that you recall
5 relating to that issue?

6 A Again, there was mention that Captain
7 Hazelwood might have been intoxicated at the time
8 of the collision. I am aware of that.

9 Q Did you form any opinions with respect to
10 Captain Hazelwood on the basis of those reports?

11 A No. I didn't form any conclusion, or arrive
12 at any decision as to whether he was, or whether
13 he wasn't.

14 Q Do you recall reading anything about Captain
15 Hazelwood's actions subsequent to the grounding?
16 For instance, what I'm referring to is a possible
17 attempt to free the vessel from the strand, if
18 you will?

19 A I do remember having heard and/or read that
20 there was an attempt made to free the vessel from
21 a rock. That is as much as I remember, that in
22 general, not specifically what attempts were
23 made, but that there was an attempt made.

24 Q Have you formed any opinions in that regard?

25 A No. Again, I'm not, as my questionnaire

1 indicated, I'm not a boat person. I don't have a
2 boat and I don't operate a boat. So, I'm not
3 familiar with what could have been done, or what
4 was done.

5 Q Would you say that you read and heard about
6 the spill in more detail say within the first
7 month, or month and a half after it happened than
8 you have in the last two or three months?

9 A That's true.

10 Q How often do you read the paper?

11 A Normally, not taking into account this week,
12 my normal routine is to read both papers.

13 Q Daily?

14 A Right.

15 THE COURT: What do you mean "not taking into
16 account this week"? Have you been avoiding reading the
17 papers?

18 A Yes.

19 THE COURT: Pursuant to the court's
20 instructions?

21 A Right.

22 THE COURT: Thank you.

23 Q (Mr. Reimer by Mr. Chalos:) Mr. Reimer, have
24 you formed any opinion whatsoever, however slight
25 as to what might have caused this spill?

1 A No. I haven't formed any opinion.

2 Q Have you formed any opinion, however slight,
3 with respect to culpability relating to the
4 spill?

5 A No.

6 Q Have you formed any opinion, however slight,
7 as to Captain Hazelwood's guilt, or innocence
8 insofar as the spill's concerned?

9 A I haven't formed any opinions on that.

10 Q I see from your questionnaire that you drink,
11 you say "infrequently, two to three times a
12 week." Is that correct?

13 A Correct.

14 Q Do you drink at home?

15 A Yes.

16 Q I take it you drink sociably as well?

17 A Correct.

18 Q Have you ever gotten to the point where you
19 felt yourself drunk?

20 A Yes.

21 Q Do you recall how that feels?

22 A Yes.

23 Q Do you remember how many drinks you had before
24 you got to that point?

25 A No.

1 Q When was the last time you reached that point
2 of drunkenness?
3 A Four, maybe five years ago.
4 Q Have you had the occasion to observe people
5 who might have had too much to drink?
6 A Yes.
7 Q Have you drank with people that might have had
8 too much to drink?
9 A Yes.
10 Q And you've had the opportunity to observe how
11 many drinks they had before they got to the point
12 of being drunk?
13 A Yes.
14 Q Do you have any feelings about drinking, or
15 people drinking, however slightly?
16 A Yes, I do.
17 Q Can you tell us what those are?
18 A And, again, putting this into the perspective
19 ideal in a cross cultural setting, I work and
20 deal with Alaska Natives, both Athapaskan and
21 Eskimo. And it is apparent from my dealings that
22 certain people shouldn't drink. And that's
23 something that they have to establish for
24 themselves. I guess that puts it all in a
25 nutshell.

1 Q What do you do with the Alaska Natives? What
2 kind of work do you do?

3 A In my position with Calista Corporation, I
4 deal with village corporations, also created
5 under ANCSA. We have business dealings with them
6 on an on going basis. We go out to the village
7 corporations. I and my boss and the people that
8 work for me. And we make anywhere from seven to
9 15 trips during the year. Go out to the village
10 corporations place of business, whether that's
11 the villages, whether that's in Bethel, or in
12 Anchorage.

13 We deal with them on both a social/business
14 basis, and on a purely business basis. So, I go
15 out and I meet with them. I have lunch with
16 them. I have dinner with them, stay for dancing
17 afterwards.

18 Q Do you ever feel any antipathy, or animosity
19 towards an Alaska Native who might have had too
20 much to drink?

21 A No.

22 Q Have you ever had the occasion to reprimand a
23 native for drinking too much?

24 A Yes.

25 Q What form did the reprimand take?

1 A The instances that I'm thinking of pretty much
2 consist of situations where we have shareholders
3 who come to our place of business who are
4 intoxicated to the point where they can't walk
5 straight. Their speech is slurred, and so on.
6 And they wish to discuss business matters.

7 Our form of reprimand, and mine specifically,
8 has been to, "Go, have some coffee, get sober,
9 then come back and we'll talk."

10 Q Have you ever had to fire anyone for being
11 intoxicated?

12 A I have had to fire an individual whose
13 business behavior was influenced by their
14 drinking habits.

15 Q If evidence of drinking were to be introduced
16 at this trial would you be able to set aside
17 whatever feelings you have in that regard and
18 follow the judge's instruction with respect to
19 whatever the law may be on that issue?

20 A (No audible response.)

21 Q Or, would you be so influenced by your life's
22 experience that you can not say...

23 MR. COLE: Judge, that's a confusing question.
24 I just think that it needs to be clarified.

25 THE COURT: Do you understand the question?

1 A I -- let me respond, then if it doesn't meet
2 what he's after then...

3 Q (Mr. Reimer by Mr. Chalos:) Okay.

4 A Understanding, of course, that my training is
5 in the area that it's very much will driven, and
6 understanding, of course, that based on that
7 training my approach to this trial, or any other
8 thing is based on the rules of the game.

9 The rules of this game are apparent that you
10 deal with the information that's provided to you
11 and the instructions given, and that's the form
12 that you deal with, not anything I bring in as
13 far as personal feelings as to how it should go,
14 or anything like that.

15 My approach would be to follow those rules and
16 to obey the instructions given.

17 THE COURT: Mr. Chalos, you've gone way over
18 your 10 minutes. You're going to have to wind it up.

19 MR. CHALOS: All right. Just a few more
20 questions, Your Honor.

21 THE COURT: You're going to have to wind it up
22 in one minute.

23 MR. CHALOS: Okay.

24 Q (Mr. Reimer by Mr. Chalos:) If the judge's
25 instructions conflicted with your own personal

1 feelings, can you assure us, especially in the
2 area of drinking, can you assure us 100 percent
3 that you'd be able to set aside your own personal
4 feelings and follow the judge's instructions?
5 And I say can you assure us unequivocally?

6 MR. COLE: I object. He just answered that
7 question.

8 THE COURT: The question's been answered. He
9 said he would follow the rules. He'll follow the
10 court's instructions. You've asked the question. Go
11 on to another matter, Mr. Chalos.

12 Q (Mr. Reimer by Mr. Chalos:) Mr. Reimer, you
13 heard Judge Johnstone tell you earlier this week
14 that the defendant has a Constitutional right not
15 to take the stand if he so chooses. Do you
16 recall that?

17 A Yes.

18 Q Do you have any problem with that instruction?

19 A No. In fact, I think in most cases the
20 defendants don't serve on providing the
21 information or testimony directly.

22 Q Why is that?

23 A My experience has been, again, as litigation
24 manager for Calista, that it's better to let the
25 professionals present the information and avoid

1 any emotional outbursts by a potential defendant.
2 In particular, from our situation, it's better to
3 have, again, the information presented in a
4 succinct and very short matter if possible.

5 Q If Captain Hazelwood did not take the stand
6 would you hold that against him?

7 A (No audible response.)

8 Q Thank you, Mr. Reimer.

9 MR. CHALOS: Your Honor, I'd like to make an
10 application.

11 THE COURT: Will you just step outside for a
12 minute, please.

13 (Pause)

14 Okay.

15 MR. CHALOS: Yes, Your Honor. I'd move to
16 challenge Mr. Reimer on the basis that he has exposure
17 to a great deal of publicity, especially very early on.
18 And, I think that on the basis of what he's read he has
19 specific recollections of the issues that we're
20 concerned with in this particular case, and on that
21 basis I move to exclude him.

22 THE COURT: All right. He's demonstrated
23 unequivocally an ability to follow the court's
24 instructions. He has no strong opinions concerning the
25 events leading up to the spill. He seems to me to be

1 quite impartial. The request is denied.

2 You have the last challenge if you wish to
3 exercise a challenge as to him now, I'll excuse him.

4 (1482)

5 MR. MADSON: No, Your Honor. We wish to ask
6 the court to thank and excuse Mr. Montgomery.

7 THE COURT: Okay. Would you bring him in and
8 I'll tell him what his role is?

9 I'll excuse you for the day. You'll have to
10 come back in on Monday morning. You're on the jury
11 selection track. You might very well be on the jury.
12 So, don't read the media information. You've done real
13 well on that and I appreciate that. And don't discuss
14 this matter with anybody else.

15 Do you remember where you assembled this
16 morning downstairs?

17 A (No audible response.)

18 THE COURT: Will you be able to do that on
19 8:30 a.m. on Monday?

20 A Yes.

21 THE COURT: Thank you very much, Mr. Reimer.
22 You can go out through the double doors.

23 Call the next one in please. James Lynch, Jr.
24 is who I have next.

25 (Pause)

1 Mr. Cole, the State's challenge will be as to
2 Mr. Reimer's and the next juror seated, passed for
3 cause. And that's the last of the challenges.

4 (Pause)

5 JAMES LYNCH

6 THE COURT: Good morning, Mr. Lynch. Have a
7 seat behind the microphone, and would you answer the
8 first four questions on the blackboard please?

9 Take the microphone off the stand, please.

10 A All right. My name is James J. Lynch, Jr.

11 I am not a member of any organizations.

12 Reasons for not being on this jury service
13 would have to be financial hardship for me is my only
14 problem.

15 I don't know any of the defendants or
16 attorneys, or anybody else as far as that goes.

17 I have seen some of the news and media
18 coverage, but other than that, nothing else.

19 THE COURT: Okay. Did you recognize any of
20 the names on the witness list you were given?

21 A No.

22 THE COURT: Okay. What kind of a financial
23 hardship would you...

24 A Well, I'm a single parent and I have a little
25 baby girl. I still need to pay off doctor's

1 bills. I'm not getting paid by my job at this
2 time for any jury service. So, I'm strictly what
3 you call a flat rate mechanic, which means the
4 only time I get is the time that I am working.
5 So, they won't pay anything as far as that goes.

6 If this case lasted two months, I'd be
7 devastated.

8 THE COURT: How old is your child?

9 A 14 months.

10 THE COURT: And do you have to pay for child
11 care when you're not there?

12 A Yeah.

13 THE COURT: And so you'd have to pay for child
14 care while you're sitting on a jury and not earning a
15 salary?

16 A Right.

17 THE COURT: Okay. You've given me a good
18 enough reason. I'm going to excuse you because of your
19 financial hardship.

20 You can take your jury selection card
21 downstairs to the jury clerk for further instructions
22 from the clerk with my thanks for your patience and
23 your time.

24 A Okay.

25 THE COURT: You can just go out the double

1 door.

2 Alan Maki.

3 (Pause)

4 Good morning, Mr. Maki.

5 A Good morning.

6 THE COURT: Have a seat in the front row
7 behind the microphone. Take the microphone off the
8 stand and answer the first four questions, if you
9 would, please, on the blackboard.

10 A Dr. Al Maki, currently employed by Exxon
11 Company USA here in Anchorage.

12 Probably several as far as reasons to serve on
13 the jury. Certainly working for the company. I've
14 been on site since the morning of the accident and I
15 have full knowledge of all circumstances surrounding
16 the whole...

17 THE COURT: I'm going to excuse you without
18 any further inquiry, Dr. Maki. Thank you very much for
19 your time in waiting around here like you did.

20 You can take the jury service card back
21 downstairs to the clerk for further instructions.

22 A Thank you.

23 THE COURT: You can just go out the double
24 doors in the front.

25 (Pause)

1 MR. COLE: Your Honor -- well, I'll wait 'til
2 Mr. Maki leaves.
3 Yeah. Before he comes in can we take a matter
4 up?
5 THE COURT: Regarding Mr. Simpson?
6 MR. COLE: Yes.
7 THE COURT: Why don't you tell her to hold off
8 Mr. Simpson.
9 (Pause)
10 All right, Mr. Cole.
11 MR. COLE: Mr. Simpson -- this is one of the
12 reasons why I asked you whether or not you filled out
13 the application for anybody. Mr. Simpson, according to
14 our records, and I've confirmed it with his date of
15 birth...
16 THE COURT: Make your application, Mr. Cole.
17 MR. COLE: My application is that he be
18 excused for cause, Your Honor. He has a prior felony
19 for sexual assault, and he also has a state case where
20 he was charged with operating without a valid
21 operator's license in 1989. That was a case that was
22 done by the State of Alaska, signed by James Torgeson
23 (ph), and I think he's excused under criminal rule 24
24 (11) (2).
25 THE COURT: Okay. What are the dates of

1 those?

2 MR. COLE: The conviction is 9/11/89 for the
3 driving without a valid operator's license.

4 THE COURT: And who was the challenging party
5 in that case?

6 MR. COLE: It's the State of Alaska. So,
7 there is a mistake someplace. On a printout it says
8 the Municipality, but I have the information filed by
9 our office. I have the hearing record. The sentence
10 judgement was mistyped and put Municipality v
11 Anchorage, but it is State of Alaska.

12 THE COURT: May I see the documents you have,
13 please?

14 MR. COLE: Yes.

15 THE COURT: All right. The information
16 charging without a valid operator's license, that's
17 dated in 1989. The other is dated in 1986, which takes
18 it outside the scope of that rule, Mr. Cole, because if
19 you'll read it, it says, "If the person within the
20 previous two years..."

21 MR. COLE: Right. But he's a felon right now.
22 I think he's on probation for five years.

23 THE COURT: I understand that. You have that
24 information now and I'll need to verify the misdemeanor
25 charge finding of guilty.

1 Mr. Madson, there is a misdemeanor charge
2 dated 17th day of August, 1989, charging the juror with
3 driving with -- a person whose name is John Simpson,
4 driving without a valid operator's license. The
5 hearing record shows that there was a guilty finding
6 and the case was closed.

7 So, what I propose to do, Mr. Madson, I'll
8 have you look at that, ask the juror, without
9 embarrassing him unnecessarily if his date of birth is
10 9/3/36, and ask him if he was charged with no valid
11 operator's license. If he says yes, then I'm going to
12 excuse him for cause.

13 MR. MADSON: Well, I'll accept what's on the
14 document, Your Honor.

15 THE COURT: You want to come up here and
16 verify it for yourself?

17 (Pause)

18 Mr. Cole, did you get a copy of the juror's
19 qualifications forms?

20 MR. COLE: No.

21 THE COURT: Okay. Did you ask for one?

22 MR. COLE: No.

23 (Side conversation)

24 MR. MADSON: Well, Your Honor, from the
25 documents I've looked at it coincides with the date of

1 birth that's on the jury questionnaire, but I will ask
2 him. I would propose asking him whether or not he
3 simply was convicted of that offense.

4 THE COURT: The misdemeanor offense?

5 MR. MADSON: The misdemeanor offense, not the
6 other one.

7 THE COURT: Just to make sure. I think that's
8 fine. I'll ask him if he's the same John Simpson that
9 was charged with driving without a valid operator's
10 license. And then, if he says yes I'm going to excuse
11 him without further embarrassment.

12 MR. MADSON: I think the rule applies in that
13 situation, Your Honor, even though it is a minor
14 misdemeanor charge, but it certainly comes within the
15 rule.

16 THE COURT: It looks like it is a State of
17 Alaska charge, not a Municipality.

18 Let's bring Mr. Simpson in.

19 (Pause)

20 (2086)

21 JOHN W. SIMPSON

22 Have a seat in the front row, there, Mr.
23 Simpson. If you would take that microphone off the
24 stand, please.

25 Are you John W. Simpson?

1 A Yes, sir.

2 THE COURT: All right, date of birth of April
3 3rd, 1936?

4 A That's correct.

5 THE COURT: Okay. Were you charged with
6 driving without a valid operator's license in 1989?

7 A No.

8 THE COURT: I'm not trying to embarrass you.
9 We have a rule that says that you can't serve as a
10 juror if within the previous two years you've been
11 complained against by the State of Alaska, or you've
12 been a party adverse to the State of Alaska.

13 And we have an information that looks like it
14 names you, the same date of birth -- is your social
15 security number 413-52-9282.

16 A That's correct.

17 THE COURT: Okay.

18 A The charge, again, sir?

19 THE COURT: It would be driving without a
20 valid operator's license. The entry of a guilty was,
21 it looks like 9/11/1989, September 11, 1989 before
22 Judge Andrews, a woman judge.

23 A That did not happen, sir. I've had a license
24 for 28 years in Alaska.

25 THE COURT: And you've never been found guilty

1 of driving without a valid operator's license?

2 A No, sir. This isn't a John S. Simpson,
3 possibly?

4 THE COURT: No. It says John W. and the
5 social security number's the same as yours, and the
6 date of birth.

7 Well, just to be on the safe side, sir, I'm
8 going to excuse you from jury duty on this. And we're
9 not asking these questions to embarrass you.

10 A I understand.

11 THE COURT: Anybody can be caught without a
12 driver's license.

13 A Yeah. I'm...

14 THE COURT: No problem. I'm just going to
15 excuse you from this jury.

16 A Thank you, sir.

17 THE COURT: And thank you for your time and
18 your patience. You can just leave out the by the
19 front.

20 THE COURT: Mr. Cole, you may retrieve this
21 information.

22 (Pause)

23 (2236)

24 CAROL IGTANLOC

25 Good morning. Please have a seat in the front

1 row next to the microphone and take the microphone off
2 the stand. After you've been seated answer the first
3 four questions.

4 I'm having a hard time with your last name.
5 Is it Igtanloc.

6 A No. It's Igtanloc.

7 THE COURT: Igtanloc. Thank you.

8 A Oh. Go over there?

9 THE COURT: No, no. I'm sorry. Would you
10 answer the first four questions on the board.

11 A Okay. Do I state my name again?

12 THE COURT: Go ahead.

13 A Okay. My name is Carol Igtanloc and do I
14 repeat what the questions are on there?

15 THE COURT: No. Just the answers, please.

16 A Okay. I'm not a member of any organization.
17 I guess I could just say I'm a member of the
18 hairdresser's organization.

19 Yes. I do have a reason why I do not want to
20 serve on this jury, but I do not want to discuss
21 this openly.

22 THE COURT: Okay. We can do this. We can
23 take that microphone cord out in the hallway and the
24 attorneys and Captain Hazelwood and I would be the only
25 people there. Would that be okay, then?

1 A Uh-huh (affirmative).
2 THE COURT: Okay. Take the microphone with
3 you.
4 (Side conversation)
5 (Pause)
6 A Do I talk into that?
7 THE COURT: You just talk and I'll hold the
8 microphone. Just tell me what your reasons are?
9 A Well, the reason is right now my husband's
10 under indictment in the federal court and I just
11 can't go through with this.
12 THE COURT: Any objection to releasing this
13 juror.
14 MR. MADSON: No, Your Honor.
15 MR. COLE: No.
16 THE COURT: You don't have to make any more
17 explanation. And, if you want, why don't you just come
18 on through here. We'll give you the card and you can
19 take it back downstairs to the jury clerk and we'll
20 excuse you from jury duty.
21 A Thank you.
22 THE COURT: You're welcome.
23 Do you have the card for Igtanloc?
24 THE CLERK: (Indiscernible - away from mike.)
25 THE COURT: Next juror, please.

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(Pause)

Mr. Cole and Mr. Madson, or Mr. Chalos, would you approach the bench please?

(2382)

(Whispered bench conference as follows:)

THE COURT: Doesn't Mr. Simpson's qualification card, it looks like he has not been convicted of felony. You can take this and do whatever you want with it. We'll make a copy of it later and the district attorney may want to have that information.

(End of whispered bench conference.)

ALBERT W. OAKES

Please have a seat in the front row, sir. And would you take that microphone off the stand?

A Sure.

(2407)

THE COURT: You are Mr. Oakes?

A That's right.

THE COURT: Would you answer the first four questions, please?

A Albert W. Oakes.

Organizations: Society of American Military Engineers, Seventh Day Adventist Church.

Question 3, I read over this witness list,

1 there's a Rick Wade. I met, if it's the same one, a
2 Rick Wade in Valdez in 1976

3 THE COURT: All right. Is there any other
4 reasons you think you should not serve on the jury, or
5 did you answer that already. I don't think I
6 understood what you're...

7 A I'm sorry. I skipped to four.

8 3, I'm thinking back right now. When I filled
9 out the questionnaire I did not indicate a brother in
10 law as a fisherman, but I was thinking Prince William
11 Sound. He fishes the other side of the peninsula, down
12 in Bristol Bay.

13 THE COURT: All right. Anything else you can
14 think of?

15 A No, sir.

16 THE COURT: Okay. Does the fact that your
17 brother in law's a fisherman in Bristol Bay, does that
18 in any way effect your ability to be fair and impartial
19 in this case?

20 A No. I'm not involved closely, don't discuss
21 with him about his activities.

22 THE COURT: What was the extent of your
23 knowledge of Rick Wade in 1976?

24 A During a week's leave I went down there and
25 finished off work on a church and he was a member

1 of the congregation.

2 THE COURT: Have you socialized with him in
3 any way since then?

4 A Not really. I've seen him maybe two or three
5 times.

6 THE COURT: Okay. If he testifies in this
7 case would you give his testimony any greater weight
8 than you would some other witness that you didn't know,
9 just simply because you knew Mr. Wade?

10 A No. Don't believe so.

11 THE COURT: Okay. Mr. Cole.

12 MR. COLE: Thank you, Your Honor.

13 VOIR DIRE EXAMINATION OF MR. OAKES

14 BY MR. COLE:

15 Q Good morning, Mr. Oakes, how are you?

16 A Good morning.

17 Q Tell me, have you followed the events that
18 occurred since the grounding of the Exxon Valdez
19 last year?

20 A Not closely.

21 Q Did you read any of the newspaper accounts of
22 it?

23 A I took newspaper up until October 6th. Then I
24 went on leave. I didn't resubscribe after that.

25 Q Which newspaper was that?

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1 A Well, I -- probably about half and half. Part
2 of the time I had the Times, part of the time the
3 Daily News.

4 Q Do you watch television at all?

5 A Not regularly.

6 Q You didn't watch any regular newscasts?

7 A No. I usually forget it until it's too late.

8 Q Have you formed any opinions about the various
9 roles of any of the parties that were involved as
10 far as who was responsible for the Exxon Valdez
11 being grounded? When I say parties I mean any of
12 the crew members, Alyeska, Exxon, the Coast
13 Guard, the Department of Environmental
14 Conservation?

15 A Well, not really. Not being on the scene I
16 don't know the events first hand, what the
17 requirements were, what the responsibilities
18 were.

19 Q Do you feel that you would be able to follow
20 the court's instructions if chosen to sit on this
21 jury to simply listen to the evidence that's
22 presented through the witnesses, look at the
23 evidence that's submitted here in court and base
24 your verdict only that and your own common sense
25 and good judgment?

1 A Yes, I think so.

2 Q And would you also be able to follow an
3 instruction that you would be required to
4 disregard any information you had heard outside
5 this court room in the past and not consider that
6 in reaching a verdict?

7 A Yes.

8 Q How long have you been in Alaska now?

9 A Since 1961, July.

10 Q You came up with the army?

11 A I came as a civilian employee of the army.

12 Q Civilian employee. Okay.
13 Can you tell me what you do now?

14 A I'm chief of specifications section of the
15 Design Branch, Engineering Division of Alaska
16 District Corps of Engineers.

17 Q What type of projects are you involved in?

18 A The wide range from communications systems to
19 small boat harbors.

20 Q I assume that you must have some kind of a
21 supervisory role over other people that work
22 there?

23 A That's right. I supervise three engineers and
24 three clerical persons.

25 Q Are you required to fill out evaluations of

1 their performance?

2 A Yes, yearly.

3 Q Have you ever had to fire anyone?

4 A Not right out. It was close, but the person

5 resigned before it came to that point.

6 Q I notice from your questionnaire that you have

7 served on a jury trial?

8 A That's right.

9 Q Can you tell me what kind of trial that was?

10 A It was a felon in possession of firearm.

11 Q How long ago was that?

12 A In 1970.

13 Q Did you happen to be the foreman on that?

14 A No.

15 Q Your children, do they still live in Alaska?

16 A No. They all are in the other states.

17 Q I notice that you do not drink?

18 A That's right.

19 Q Is that for personal reasons? Is that part of

20 your religious...

21 A It's a combination. I don't choose to.

22 Q Do you have any strong feelings about people

23 that do that would effect your ability to be fair

24 and impartial in this case?

25 A Well, I see a lot of misery caused by it,

1 social toss.

2 Q Do you have any strong opinions about people
3 that drink?

4 A You mean, personal animosities? No.

5 Q Have you been around people that have had too
6 much to drink?

7 A Not very often.

8 Q I notice that you've been the victim of a
9 crime. Was that here in Anchorage?

10 A Yes.

11 Q Did you call the police?

12 A Yes.

13 Q Did you ever get any of the stuff that was
14 taken?

15 A It wasn't anything taken that I could
16 determine. It was a broken latch on a camper.

17 Q Were you unhappy at all with the response that
18 you received from the police?

19 A No. They did to the extent they could.

20 Q Do you do any reading in your free time?

21 A Some.

22 Q What types of material do you like to read?

23 A Well, generally I categorize it National
24 Geographic, Reader's Digest.

25 Q Do you feel comfortable understanding the

1 importance of this case both to Captain Hazelwood
2 and to the State of Alaska?

3 A Yeah.

4 Q Do you feel that if you were asked to sit on
5 this jury you could follow the court's
6 instructions to listen to the evidence presented
7 through the witnesses, look at the evidence
8 that's admitted by the court and reach a fair and
9 just verdict in this matter based on that
10 evidence and your own common sense and good
11 judgment?

12 A I believe so.

13 Q Do you feel that you would be willing to give
14 both sides a fair trial?

15 A Yes. I see the precautions taken as what I'd
16 wish if I were in that chair.

17 Q And do you feel comfortable with the notions
18 of giving both sides a fair trial?

19 A Yes.

20 Q Thank you, Mr. Oakes.

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

23 VOIR DIRE EXAMINATION OF MR. OAKES

24 BY MR. MADSON:

25 Q Mr. Oakes, let me just ask you first of all,

1 in response to one of the very last questions
2 about some feelings you'd have if you were in
3 that chair. Would you just elaborate on that,
4 how you would feel, I mean, as far as...

5 MR. COLE: Judge, I object to that. I think
6 that was one of the things that...

7 THE COURT: Since he answered that way I'll
8 allow the inquiry.

9 Q (Mr. Oakes by Mr. Madson:) Yeah. I just
10 wondered if you could offer any explanation, sir?
11 I don't, you know, just as brief as you can.

12 A Well, I was thinking the screening and the
13 careful questioning for giving the defendant due
14 process.

15 Q In other words, you agree that the jury should
16 be fair and impartial, first...

17 A Yes.

18 Q ...as best you can, right?

19 A That's the objective.

20 Q You said you knew Mr. Wade from 1986.

21 A Excuse me. '76. If I misspoke I'm sorry.

22 Q I may have misunderstood, sir.

23 THE COURT: You said '76.

24 Q (Mr. Oakes by Mr. Madson:) You said it was in
25 connection with a church building project?

1 A Yes.

2 Q What church do you attend, sir?

3 A Seventh Day Adventist.

4 Q You normally go together to build a new
5 church, and people throughout the state come to
6 build the church?

7 A Not commonly. This was just a finish off when
8 they had run out of people to do it.

9 Q And, of course, Mr. Wade is a member of this
10 same church as far as you know, today?

11 A As far as I know.

12 Q You said in response to a question that if he
13 were to testify you believe that you could treat
14 his testimony the same as anyone else. Do you
15 have any reservation about that, sir?

16 A No, sir.

17 Q In other words, you would not treat him any
18 differently because you may have met him, or that
19 he's a member of the same general church
20 congregation as you?

21 A That's right.

22 Q With regard to articles you've read about
23 this, you mention specifically the National
24 Geographic, is that correct?

25 A (No audible response.)

1 Q I mean, you mentioned reading the National
2 Geographic, but...
3 A Yes, but...
4 Q Did you read the article in there about the
5 oil spill? October, I believe it was?
6 A I'm behind on it so far. I don't remember
7 reading one on that.
8 Q Are you saying that you might have read it,
9 but it doesn't stick in your memory right now?
10 A Not clearly.
11 Q You said you didn't see any papers after
12 October 6th?
13 A Right.
14 Q Why is that?
15 A I did not resubscribe when I came back from
16 vacation. I just have enough activities that I
17 don't always get them read, so I sort of dropped
18 the idea.
19 Q So, maybe you pick up a paper once in a while,
20 but you're not going to have it coming on a
21 regular basis, is that right?
22 A Or, I might see somebody has one at the office
23 now and then, but they don't regularly bring them
24 in.
25 Q Prior to October 6th, though, is it fair to

1 say that you did see articles about the spill and
2 things of this nature?

3 A Yes.

4 Q How about editorials? Did you read any
5 editorials about it?

6 A Oh, now and then, but the topic got rehashed
7 so often that I sort of dropped interest.

8 Q It got to be kind of old news?

9 A Yes.

10 Q Before it got to that point, sir, do you
11 recall, for instance, reading about possible use
12 or abuse of alcohol during this accident?

13 A I saw it was conjectured.

14 Q So, you have no opinions as to whether alcohol
15 was really involved in this, or not?

16 A I wasn't there.

17 Q You've expressed at least some opinion about
18 alcohol, in fact, that you don't use it yourself
19 and it causes a lot of social misery and grief,
20 correct?

21 A What I said.

22 Q And with that in mind, do you feel that if
23 alcohol were an issue in the case, do you feel
24 that you can set aside these personal feelings
25 you have about alcohol and base your decisions

1 solely on the law as the judge gives it to you?

2 A As I've indicated, I'd listen to the evidence.

3 Q I understand that, sir, but can you set aside

4 -- my question is whether you can guarantee 100

5 percent you can set aside personal feelings and

6 go on the law as the judge instructs you?

7 A Yes.

8 Q On your job, have you worked for the Corps of

9 Engineers throughout your professional career,

10 sir?

11 A Yes. That's right.

12 Q How many years is that?

13 A Coming up on 32.

14 Q Are you considering retirement, or are you

15 still going to work in the future?

16 A I'm eligible, but I have not decided yet when

17 to retire.

18 Q You said you worked on -- is it basically

19 small boat harbors? Is that what you do?

20 A That's one small part of a wide range of

21 military building construction projects.

22 Q Any new military construction you're involved

23 in on any of the bases here in Alaska?

24 A The major projects throughout the state, both

25 army and air force.

1 Q Is that in the issuing of contracts and bids
2 and things like this?

3 A Yes, the specifications we prepare become part
4 of the contracts that are tendered for bid.

5 Q If I understand correctly, then, you're more
6 of an overseer of the contractor's involved, as
7 opposed to kind of a hands on design approach?

8 A No. I am in the design end of things.
9 Another division of our organization does the
10 monitoring of the construction contractors.

11 Q Could you explain that a little bit more? I
12 mean, do you oversee the design and -- I guess
13 where I'm confused is, do you do this design
14 yourself and then put it up for bid, is that what
15 you have to do?

16 A I have a part in that. The specifications
17 describe materials and construction methods, go
18 along with the drawings that are put out for bid.
19 Our language complement the drawings for
20 contractors to base their estimates on.

21 Q Regarding the small boat harbor construction,
22 when was the last one you were directly involved
23 in?

24 A It's been several years, because it's a joint
25 state/federal funding, and they have been unable

1 to fund many in the state lately, but I think the
2 last one was probably '86 and that just went to
3 design. It has not gone to build.

4 Q Were you involved in the Valdez small boat
5 harbor at all?

6 A Some little bit back in the reconstruction
7 era, after the '64 earthquake.

8 Q Have you spent any of your time in Valdez
9 since the oil spill?

10 A No. I think about it was about '86 since I
11 was last down there. I was visiting relatives.

12 Q You indicated that as a victim of a crime
13 there was nothing taken, but you did call the
14 police. Could you just tell me just briefly what
15 caused you to call the police?

16 A I didn't call them out when I found it. It
17 had been, obviously some time since it happened,
18 so I went down and reported to their office for
19 insurance purposes.

20 Q Oh, I see. It was more of an insurance claim?

21 A Well, to get the insurance company to consider
22 it they ask whether it had been reported or not.

23 Q Okay. I understand.

24 Do you have any relatives at all, or close
25 friends in Valdez?

1 A No.

2 Q Have you discussed the events of the Exxon
3 Valdez accident with anyone? In your office, or
4 relatives, or friends, or anything else?

5 A A little bit, but not in depth.

6 Q In that little bit that you've described, have
7 you expressed any opinion whatsoever as to what
8 you felt about it, whether it was impact on the
9 environment, whether you thought someone was at
10 fault, or anything at all?

11 A Well, if I said anything conclusive it might
12 have been to the effect that perhaps Seagram's or
13 Shenley should be passed on the tab.

14 Q That what, sir? I didn't understand.

15 A Perhaps Seagram's or Shenley should be passed
16 on the tab by Exxon Corp.

17 Q Why is that? Why do you feel that way?

18 A Well, the alleged cause.

19 Q Could you just explain a little bit more? I'm
20 sorry. I don't quite follow that.

21 A That, perhaps, if the gentleman had been
22 drinking that the purveyors of it are as much at
23 fault as anybody.

24 Q I see. In other words, by that, you mean the
25 manufacturers of alcohol...

1 A Yes.

2 Q ...or liquor, right?

3 So, at least you had some feeling that there

4 was a possibility that Captain Hazelwood had been

5 drinking and had been involved as a factor in the

6 accident, drinking was a factor in the accident

7 in that opinion?

8 A In that opinion.

9 Q Can you assure us 100 percent, sir, that you

10 would set aside that opinion, however slight it

11 might have been and base your decision solely on

12 the facts of this case?

13 A I say I can.

14 Q Lastly, you recall on Tuesday the judge giving

15 you other instructions when you were in here as a

16 group?

17 A The...

18 Q Just basic instructions about the burden of

19 proof and things like this?

20 A Yes. He gave us certain instructions.

21 Q And you heard those before when you were a

22 member of the jury in 1970, I believe you said?

23 A Similar.

24 Q And you don't have any problems within those

25 instructions, including the burden of proof, or

1 the fact that defendant does not have to testify?

2 A No. That's no obstacle.

3 Q That's all the questions I have, Your Honor,
4 but I would make an application.

5 THE COURT: All right. Mr. Oakes, if you'd
6 just step outside the door just for a minute I'll call
7 you back in just a minute.

8 (Pause)

9 Go ahead.

10 MR. MADSON: Your Honor, I would challenge
11 this potential juror, Mr. Oakes, for cause. Obviously
12 he has some contact with at least one potential
13 witness. He knows him. He's a member of the same
14 general congregation at church.

15 He has expressed an opinion regarding the use
16 of alcohol in this case, and, of course, that's one of
17 the major factors involved here. Even though he has
18 said he could set that aside I feel the nature of the
19 publicity in this case, the alcohol related factors and
20 this gentleman's certain preference expressed that he
21 does not believe in alcohol, that there is a sufficient
22 reason to excuse him for cause.

23 THE COURT: Thank you. He's demonstrated to
24 my way of thinking an unequivocal ability to try this
25 case fairly and impartially. Your application is

1 denied.

2 Scott, would you bring him back in.

3 Mr. Oakes, I'm going to excuse you for the
4 rest of the day, however, you are on the jury track
5 selection process. You'll have to be back in here
6 Monday morning at 8:30 a.m. That means you'll have to
7 go to the jury assembly room where you assembled this
8 morning at 8:30 a.m. Monday morning. Will you have any
9 difficulty doing that?

10 A I don't think I would.

11 THE COURT: Okay. I'm instructing you to be
12 there Monday then.

13 A (Indiscernible - away from mike.)

14 THE COURT: Right. And don't discuss this
15 case with anybody and avoid media information
16 concerning it.

17 Thank you, sir. And you can go out the double
18 doors in the front.

19 (Pause)

20 Mr. Cole.

21 MR. COLE: Your Honor, we would accept Mr.
22 Oakes.

23 THE COURT: Okay. That takes care of the
24 first 12.

25 Bring in the next one. That'll be the first

1 alternate.

2 Let's take a break. We've been at this a
3 while. About 10 or 15 minutes.

4 THE CLERK: Please rise. This court stands in
5 recess subject to call.

6 (3727)

7 (Off record - 11:04 a.m.)

8 (On record - 11:20 a.m.)

9 THE COURT: Mr. Madson.

10 You may be seated.

11 MR. MADSON: Your Honor, with regard to the
12 alternates, I guess the first question I have, maybe
13 Mr. Cole wonders, too, is how many we're going to
14 select. Has the court decided on that?

15 THE COURT: I was thinking of three.

16 MR. MADSON: What about the pre-emptory
17 challenges. Do we get one for each seat?

18 THE COURT: No. The rule provides you get two
19 each for this. Once I go past two alternates you're
20 entitled to two pre-emptory challenges.

21 MR. MADSON: Two challenges total.

22 THE COURT: Two per side.

23 MR. MADSON: Two per side.

24 THE COURT: We'll try to get the two
25 alternates seated and break by noon today. Two passed

1 for cause, I think.

2 Marla Sanders has been excused, if you recall.

3 Joseph Anderson, I think, is next.

4 (Juror present)

5 JOSEPH ANDERSON

6 Good morning, Mr. Anderson.

7 A Good morning.

8 THE COURT: Have a seat in the front row

9 there, next to the microphone?

10 A Right here.

11 THE COURT: Anywhere near the microphone is

12 fine. You're going to have to speak into that mike so

13 take it off the stand.

14 A You want me to hold it?

15 THE COURT: Yeah.

16 And would you answer those first four

17 questions on the blackboard for us?

18 A My name is Joseph Anderson.

19 Organizations: really none.

20 Reasons I should maybe not serve on this jury

21 is my wife is pregnant with our first child and is

22 fixing to have it in about three or four weeks. We

23 don't have insurance on the baby and I'm a seasonal

24 worker and I'm now employed.

25 THE COURT: Any objection, counsel, as to

1 letting this man go?

2 MR. MADSON: No.

3 MR. COLE: No.

4 THE COURT: That's good enough. I had another
5 person just like you. No insurance, wife was going to
6 have a baby, not regularly employed, so we let him go
7 and we'll let you go.

8 A We're dealing with it right now.

9 THE COURT: Good luck.

10 A Okay. Thank you.

11 THE COURT: You can take your jury service
12 card downstairs to the clerk for further instructions.

13 A Okay. Thank you.

14 THE COURT: You're welcome.

15 (Pause)

16 PATRICIA BURKETT

17 Hi. Have a seat in the front row next to that
18 microphone.

19 Take the microphone off the stand and would
20 you please answer those first four questions.

21 A My name is Patricia...

22 THE COURT: Would you take the microphone off
23 the stand? Just take it off the stand and hold it.

24 A My name's Patricia M. Burkett.

25 I don't think I'm a member of any

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organization.

I am going to New Orleans on Wednesday, which I think would probably mess this up if you guys are going to start on Monday.

And no. I do not know anybody on the defense.

THE COURT: Okay. Tell me about your trip to New Orleans. Is this business, or pleasure?

A It is pleasure. From Wednesday to Sunday, and we do have plans. They're made, they're not tickets. From March 5th to March 20th, and, again, it's a vacation for the family.

THE COURT: Have you purchased transportation to New Orleans already?

A Yes.

THE COURT: All right. Are these tickets refundable?

A No, they're not.

THE COURT: All right. We have enough prospective jurors. I'm going to let you go because of that.

A Okay. Thank you.

Sorry.

THE COURT: That's okay. I'm sorry, too.

You can take your jury card down to the jury clerk for further instructions and you may just exit

1 right here.

2 A Okay. Thank you.

3 THE COURT: Let's get the next one?

4 THE CLERK: (Indiscernible - away from mike.)

5 THE COURT: No, no. I have Margaret Piper.
6 Is she gone?

7 THE CLERK: (Indiscernible - away from mike.)

8 THE COURT: Veda Bell?

9 (Side conversation)

10 (Pause)

11 MR. COLE: Scott, can you tell me the one
12 after Mrs. Bell?

13 THE CLERK: (Indiscernible - away from mike.)
14 (4140)

15 VEDA BELL

16 THE COURT: Good morning. Please have a seat
17 in the front row behind the microphone.

18 Take the microphone off the stand and answer
19 the first four questions on the blackboard, please.

20 A My name is Veda June Bell, and the only
21 organizations I'm really members of is floor
22 covering organizations and Cub Scouts.

23 Is there any reason I shouldn't be on this
24 jury? It could be a hardship for our business.

25 And I don't know any of the attorneys or

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witnesses.

THE COURT: When you say our business, are you an owner of a business?

A Yes. My husband and I own Giant Don's Carpet and Design and Budget Carpets.

THE COURT: What do you do there?

A I'm in charge of all the office operations.

THE COURT: How many people do you have working now?

A In the office, itself, there's three of us.

THE COURT: Okay. I'm not going to excuse you for that hardship, Mrs. Bell.

But, I want to make sure that you're not going to hold that against the attorneys or Captain Hazelwood if I require you to serve on this jury.

A No.

THE COURT: Can I be assured of that?

A Yes.

(Tape: C-3594)

(003)

THE COURT: And can I be assured that you will be able to give this the proper attention and not be thinking about what's going on at your business when you're listening to evidence?

A I'm not sure of that.

1 THE COURT: I'm not sure of that, you're not
2 sure of that? You might be thinking about something
3 else rather than listening to testimony?

4 A It will be on my mind, but...

5 THE COURT: Well, does that mean that you will
6 not be able to pay attention to the testimony and the
7 proceedings?

8 A No.

9 THE COURT: I want to make sure. If you think
10 it's going to be such a hardship that your mind's going
11 to be on your business and not going to be on the
12 matters at hand, I need to know that. It's important
13 that you pay proper attention to this, because it's an
14 important situation.

15 A I mean, it's only natural that, you know --
16 I'll give it all my attention, but things may pop
17 into my mind that I know that need to be taken
18 care of and done.

19 THE COURT: Okay. Will you give it your best
20 effort?

21 A Yes, I will.

22 THE COURT: Okay. Mr. Cole.

23 VOIR DIRE EXAMINATION OF MS. BELL

24 BY MR. COLE:

25 Q Good morning, Mrs. Bell.

1 A Good morning.

2 Q Have you followed the events that have
3 occurred since the grounding of the Exxon Valdez
4 last March?

5 A I've followed some of them.

6 Q Can you tell me how you've received
7 information about that incident?

8 A Just basically from the newspaper and TV.

9 Q Do you get a certain newspaper?

10 A We get both newspapers.

11 Q And are there any specific television programs
12 that you watch, or newscasts?

13 A We usually watch the national news on Channel
14 2 and the cable.

15 Q Have you formed any opinions since the
16 grounding about the respective roles of the
17 parties and their responsibilities for the
18 grounding? And when I say the parties I mean it
19 in a broad term, any of the members of the crew
20 of the Exxon Valdez, Exxon Shipping Company,
21 Alyeska, the Coast Guard, the Department of
22 Environmental Conservation?

23 A No.

24 Q Would you follow an instruction by the judge
25 that if chosen to serve on this jury you will be

1 asked to evaluate the evidence that's presented
2 through the witnesses, the evidence that's
3 presented in court and reach a verdict based upon
4 that and your own common sense and good judgment?

5 A Yes.

6 Q Would you also be able to follow and
7 instruction that tells you not to consider
8 anything you've heard outside of this court room?

9 A Yes.

10 Q I'm sorry. Something came to mind there.
11 I notice that you said that the oil spill
12 increased your business. Can you tell me a
13 little bit about that?

14 A Well, we've done a lot of business in Valdez,
15 itself. And, also, there's been more money for
16 the people to spend.

17 Q Do you feel that you've received any
18 detriments because of this?

19 A Well, our business decreased on the peninsula
20 area, the fishermen that we usually have in the
21 fall.

22 Q How about things other than your business?

23 A No.

24 Q Have you traveled down to Valdez at all?

25 A No, not since the oil spill.

1 Q You have been down there...

2 A Yes.

3 Q ...before that?

4 Have you ever been out in the Valdez Arm, or

5 out in Prince William Sound?

6 A We did take the barge across from Valdez to

7 Whittier.

8 Q When did you do that?

9 A Probably about '78.

10 Q Does your husband go down to Valdez more often

11 than you do?

12 A No.

13 Q I notice in your questionnaire that you're a

14 fairly light drinker?

15 A Yes.

16 Q Is this for medical reasons, or for personal

17 reasons?

18 A Personal reasons.

19 Q Do you have any strong feelings about people

20 that drink that would effect your ability to be

21 fair and impartial here?

22 A I have never found an excuse for heavy

23 drinkers.

24 Q I also notice that you have a friend who has

25 been beaten up by her husband?

1 A Yes.

2 Q Can you tell me a little about -- is this an
3 ongoing thing, or is this something that happened
4 in the past.

5 A It's something that's happened in the past.

6 Q Can you give me an idea of how long ago this
7 happened, or was happening?

8 A About eight years ago.

9 Q Is there anything about that situation that
10 would effect your ability to be fair and
11 impartial in this case?

12 A There could be.

13 Q Can you tell me why that would be?

14 A Well, also, my husband's former employer had
15 also gone to jail for manslaughter. He had a
16 drinking and drug problem.

17 I just have known several people that it's
18 effected their lives and other lives, drinking
19 and drugs.

20 Q Would you say that your feelings at this point
21 right now, that your feelings about the use or
22 overuse of alcohol are very strong, or not very
23 strong?

24 A I think they're very strong.

25 Q If the court were to instruct you in this case

1 on how you were to view the use of alcohol, would
2 you be willing to follow the court's
3 instructions, or do you think that your personal
4 opinions might interfere with those instructions?
5 A I would do my best.
6 Q Would you do your best on that?
7 A (No audible response.)
8 Q Your business must take up quite a bit of your
9 time?
10 A Yes.
11 Q And you're also a mother of three kids?
12 A Yes.
13 Q Are they involved in extra curricular
14 activities?
15 A Yes.
16 Q Can you give me an idea of what type of things
17 they do?
18 A Football, cross country, track, wrestling...
19 Q So...
20 A Just all year long, usually.
21 Q Do you also second as a taxi service?
22 A Yes.
23 Q And your oldest, is it a boy or a girl?
24 A I have three boys. The oldest one is 18.
25 He's a senior this year.

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1 Q And where does he go to school?
2 A Bartlett High School.
3 THE COURT: Excuse me. Would counsel approach
4 the bench, please.
5 (287)
6 (Whispered bench conference as follows:)
7 THE COURT: She's given me enough indications,
8 based on her alcohol, and other things, do you have any
9 objection if we assume prejudice?
10 MR. COLE: I do not.
11 THE COURT: I don't think she wants to be on
12 this jury. It's pretty clear.
13 (End of whispered bench conference.)
14 (295)
15 There's no sense in this taking any more of
16 your time. We're going to excuse you at this time.
17 You can take your jury card down to the jury clerk for
18 further instructions. Thank you very much for your
19 time and patience in waiting around.
20 (Pause)
21 STEVEN LARIS
22 Good morning, sir. Have a seat in the front
23 row next to the microphone.
24 Take the microphone off the stand and please
25 answer the first four questions on the board.

1 A My name is Steven Laris.
2 I'm not a member of any organizations.
3 I have no reason not to serve on this jury.
4 And, 4, is no.
5 THE COURT: Have you ever been a member of any
6 organization?
7 A No. I haven't.
8 VOIR DIRE EXAMINATION OF MR. LARIS
9 BY MR. COLE:
10 Q Good morning, Mr. Laris.
11 A How ya doing?
12 Q I see from your questionnaire that you have
13 followed a little bit of the incidents that
14 surrounded the grounding of the Exxon Valdez?
15 A Yeah. I have watched on the news.
16 Q Do you watch any particular news programs?
17 A Mainly CNN.
18 Q How about the paper? Have you read it in the
19 paper at all?
20 A Yes, I have.
21 Q Do you get a daily subscription to any paper?
22 A Yes, I do. I don't read the paper that often.
23 Mainly I watch it on TV.
24 Q Have you formed any opinions since the
25 groundings as to the respective roles of the

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1 parties that are involved as far as who is
2 responsible for this grounding? And when I say
3 parties I mean it in a general sense, the crew
4 members, Alyeska, Exxon Shipping Company, the
5 Coast Guard, the Department of Environmental
6 Conservation?

7 A Mainly against, I would say Exxon.

8 Q Against Exxon.

9 A For not wanting to clean it up right away,
10 taking so much time. I believe that they
11 probably could have contained the spill, it
12 wouldn't have been so traumatic if they wouldn't
13 have taken so much time.

14 Q Have you formed any other opinions about Exxon
15 as far as their performance in this case and
16 their responsibility?

17 A No. I haven't. I was out of the state quite
18 a bit last year. Right after the spill happened
19 I went out of the state for five weeks.

20 Q Where did you go?

21 A The Philippines. I'm in the military.

22 Q Have you formed any opinions about Captain
23 Hazelwood's role or responsibility in this
24 matter?

25 A If everything is true -- I haven't really

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formed an opinion against that, no.

Q You started to say something, "If everything is true," let me ask you a question about that.

If you were instructed in this case, if you were asked to sit on this jury and instructed that you were to reach a verdict based solely on the evidence that's presented through the witnesses, the evidence that's admitted by this court, and your own common sense and good judgment, would you be able to follow that instruction?

A Sure.

Q And in addition to that, if you were instructed that anything you had learned outside of this court room about the facts of this case was not to be discussed or used in the decision making process, would you be able to follow that instruction?

A Sure. I mean, people talk about the case a lot, I mean, before I was put on this jury duty and I really don't listen to what they have to say. I've already formed my own opinions about it.

Q You have formed them?

A Well...

1 Q If you have, that's fine. We just need to
2 know about it.

3 A I really haven't formed an opinion. I just
4 pretty much don't listen to what a lot of people
5 have to say, because they all have their own
6 opinions, too.

7 Q Can you tell me, you've been in the Air Force
8 for 11 years?

9 A Yes, I have.

10 Q Did you join -- and you joined out of college?
11 A Out of high school.

12 Q You've got...

13 A I've got my associate's degree since I've been
14 in.

15 Q How did you get that?

16 A Through the military colleges all over.

17 Q From one place to the next?

18 A Arizona and here.

19 Q Are you going to school up here right now?
20 A Yes, I am.

21 Q It's applied science, and I'm not familiar
22 with that major.

23 A It's through Community College of the Air
24 Force. It's an associate's degree program they
25 have.

1 Q What is your position in the Air Force right
2 now?
3 A I am an avionics technician on the F-15s.
4 Q And, I'm not familiar with that. Would that
5 be that you work with the instrumentation on the
6 F-15?
7 A The instrumentation and the radar and
8 navigation aids.
9 Q So, I assume, then, that you're fairly
10 familiar with how radar works and...
11 A Yes, I am.
12 Q ...what it looks like?
13 A It's a little bit different than what you
14 would have on commercial radar. It's all air to
15 air type radar. It's not weather, or anything
16 like that.
17 Q Okay. And how long have you been doing that?
18 A 11 years.
19 Q Can you tell me your rank?
20 A I'm a staff sergeant, which brings a question.
21 I have to go up for promotion on Tuesday, and I'm
22 supposed to be there in the morning.
23 THE COURT: What time in the morning do you
24 have to be there?
25 A 7:45 until noon.

1 THE COURT: And what happens if you miss that?
2 Will they schedule it for some time...

3 A The date can be changed, but the promotion
4 cycle lasts until March 15th.

5 THE COURT: Okay. 7:45 until noon, you'd be
6 there for that whole time.

7 A Unless I finish the test early, which could be
8 as early as 11:00 or 11:30.

9 THE COURT: What happens if you're selected on
10 this jury and you're here and you're not taking that
11 test? What are the consequences to you?

12 A They would either have to let me test
13 sometime, or I'd be ineligible for promotion.

14 THE COURT: Do you think they would penalize
15 you because you're on a jury, by not letting you...

16 A I don't think they can. I think that they
17 would have to come up with some other way of...

18 THE COURT: I think so, too.

19 Q (Mr. Laris by Mr. Cole:) Living up here, how
20 long is your tour up here to last?

21 A I've been here three years and I've got one
22 year left. I leave in January.

23 Q And have you made any plans about where you
24 would like to go from here?

25 A First choice is Holland, and if I don't go

1 there I'd like to go to Florida.

2 Q What do you do in your spare time up here?

3 A Now I'm going to school right now, so I'm kind

4 of busy. I like to ski.

5 Q Is that cross country, or down hill?

6 A Down hill.

7 Q In your profession is there a random drug

8 testing?

9 A Yes, there is.

10 Q And do you have any strong feelings about

11 random drug tests?

12 A No, I don't.

13 Q Are there any requirements that, as far as

14 alcohol consumption, and when you can do that,

15 and when you can't, I guess?

16 A Well, there's ruling or requirement as long as

17 it doesn't get out of control the military

18 doesn't -- they say they don't promote alcohol,

19 but they have squadron functions.

20 Q Sure. How about before you go to work?

21 A That's illegal.

22 Q Do you have any strong feelings about people

23 that drink that would effect your ability to be

24 fair and impartial here?

25 A No. As long as it's not in excess. I do

1 drink on occasions, but very seldom.

2 Q Do you feel comfortable with the fact that
3 this is a very important case for the Captain
4 Hazelwood and the State of Alaska?

5 A Yes, I do.

6 Q And if you were asked to sit on this jury
7 would you be willing to listen to the evidence
8 that's presented through the witnesses, the
9 evidence that's admitted by this court, and reach
10 a fair and just verdict for the parties based
11 upon that evidence and your own common sense and
12 good judgment?

13 A I believe I could.

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

16 A (No audible response.)

17 Q Do you feel comfortable with those two
18 notions?

19 A Yes, I do.

20 Q Does that seem fair to you?

21 A Yes.

22 Q Thank you, Mr. Laris. I have no further
23 questions, judge. Pass for cause.

24 THE COURT: Thank you.

25 (733)

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VOIR DIRE EXAMINATION OF MR. LARIS

BY MR. CHALOS:

Q Good morning, Mr. Laris?

A How you doing?

Q All right.

Can you tell me what papers you normally read, newspapers?

A I'm not sure -- which one's the morning paper?

Q Daily News.

A That's the one we get.

Q Do you subscribe to it?

A Yeah, I do. My wife reads it. I read it every once in a while if there's something interesting to me.

Q Do you remember reading anything in the paper about this incident?

A Yeah, I do. Describe it, or...

Q Well, we'll get to that in a second.

How often did you read the papers when this incident was reported?

A Not too often. Mainly I watched it on the news.

Q On CNN?

A Yes.

Q And the local...

1 A And the local...

2 Q ...news?

3 A Channel 2.

4 Q How often have you seen reports about this
5 incident in the news?

6 A Like I said, I went out of town right after it
7 happened, so I missed the bulk when it was in the
8 paper quite a bit.

9 Q When did you get back?

10 A I got back on May 25th, or 24th.

11 Q When you came back did you see the incident on
12 the news?

13 A Yeah, I did. And occasionally I would hear it
14 on the news when I was overseas.

15 Q What specifically do you remember about the
16 incident that you heard on the news or saw in the
17 newspaper?

18 A Around March 24th the Exxon Valdez was
19 entering Prince William Sound and I heard that it
20 was out of the shipping lanes, when it was
21 supposed to have taken a short cut, more or less.
22 And, the third mate was at the controls. Captain
23 Hazelwood was in his cabin when it hit the Bligh
24 Reef.

25 Captain Hazelwood tried to get it off the reef

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and that was pretty much it.

Q Uh-huh (affirmative). Do you have any feelings about the ship being out of the shipping lanes?

A Yeah, I do. I don't know if this is true, but I heard the U. S. Coast Guard is supposed to control entering and exiting Prince William Sound and they should have contacted and told them that it was out of the shipping lane, regardless who was at the controls.

Q What's your feeling about the third mate possibly being at the controls?

A From what I've read I believe he had been at the controls before, so he shouldn't have made that mistake just to try to save, say a half an hour's time.

Q What's your feeling about Captain Hazelwood being in this cabin at the time this incident took place?

A I kind of believe that that's a pretty critical area and he probably should have been at his controls.

Q What's your feelings about, as you've just expressed them about the Coast Guard, about the mate, about Captain Hazelwood not being at the

1 controls? Are those feelings so strong that you
2 would not be able to sit here and listen to the
3 evidence and come to an impartial and just
4 verdict?

5 A Not really. I feel that it's kind of hard to
6 put the blame on any one person in this incident.
7 I think my feelings are mainly, as far as Exxon
8 goes and trying to clean up the spill, I'm mostly
9 stronger about that.

10 Q Yeah. Let me ask you about that. Are your
11 feelings about Exxon so strong that you would
12 hold that against Captain Hazelwood as a former
13 employee of Exxon?

14 A No.

15 Q Would your feelings about Exxon and their
16 involvement in the spill be so strong that it
17 would effect your ultimate decision in this case?

18 A No.

19 Q Can you say all this with no hesitation?

20 A Right.

21 Q I'd like to turn for a second to your feelings
22 about alcohol. You said that you don't have any
23 strong feelings so long as people don't drink to
24 excess.

25 A Right.

1 Q What are your feelings about people who drink
2 to excess?

3 A I think that they're taking risks, and they
4 could be endangering the lives of other people,
5 mainly drinking and driving.

6 Q Automobiles?

7 A Yes.

8 Q Uh-huh (affirmative). Are your feelings in
9 that regard so strong that they would effect your
10 ability to listen to the evidence in this case
11 and render a fair judgment?

12 MR. COLE: Judge, I object.

13 THE COURT: Mr. Chalos, you're going to have
14 to complete the question as I've directed it to you on
15 several occasions. And that means, he's going to
16 answer a question if he can follow the court's
17 instructions on this.

18 Q (Mr. Laris by Mr. Chalos:) Let me rephrase
19 that.

20 Are your feelings about people who drink to
21 excess so strong that you would be unable to
22 follow an instruction from the judge that might
23 be contrary to your personal beliefs?

24 A I don't think so.

25 Q When you say you don't think so, are you

1 absolutely sure that your feelings would not get
2 in the way of an instruction from Judge
3 Johnstone?

4 A I don't think they would. One thing I really
5 don't understand is why Captain Hazelwood did not
6 have a driver's license because of DWI, but Exxon
7 didn't have him in some kind of program for
8 drinking and driving, and he could still pilot a
9 boat.

10 Q Well, would your feelings in that regard --
11 let me start again.

12 What is your opinion in that regard?

13 A I think that they should have had him entered
14 in some kind of a rehabilitation program. Like,
15 in the military any time somebody has a DWI, or
16 anything like that, they're automatically
17 enrolled into an alcohol rehab program. A pilot
18 of an F-15 would not be able to fly if he had a
19 DWI.

20 Q Would the fact that Exxon did not have Captain
21 Hazelwood in such a program be something that you
22 would hold against Captain Hazelwood?

23 A No, it wouldn't.

24 Q Would the fact, or your feelings on that
25 subject be so strong that you would not be able

1 to follow Judge Johnstone's instructions?
2 A No.
3 Q Let me just ask you a few more questions.
4 You're in the Air Force...
5 A Yes.
6 Q ...you said here.
7 Do you have any friends or relatives that are
8 in the Coast Guard?
9 A No.
10 Q Do you believe that a police officer, or a
11 member of the military, or state trooper could
12 make a mistake in their job just like anybody
13 else?
14 A Yeah.
15 Q You seem to hesitate.
16 A Well, they're human. People do make mistakes.
17 Q Would you tend to give more weight, or
18 importance to the testimony of Coast Guardsmen,
19 or a police officer, merely because they were law
20 enforcement officials, than you would, let's say
21 to a lay person?
22 A No. I would hope that they would be right in
23 their decision because they are representing the
24 law, or the Coast Guard, but I would hope that
25 they were telling the truth.

1 Q Would you be able to judge their credibility
2 the same way you would anybody else?
3 A Sure.
4 Q You wouldn't give them any greater importance?
5 A (No audible response.)
6 Q Lastly, when you were in panel earlier this
7 week...
8 A Yes.
9 Q ...Judge Johnstone gave you several
10 instructions, among them being that Captain
11 Hazelwood is presumed to be innocent until proven
12 guilty. Do you remember that?
13 A Yes, sir.
14 Q Do you have any problem with that?
15 A No. I believe that's the way the judicial
16 system should work.
17 Q Right. And do you remember Judge Johnstone
18 telling you that the State, the District Attorney
19 bears the burden of proving beyond a reasonable
20 doubt each and every element of the charges
21 against Captain Hazelwood?
22 A Yes, sir.
23 Q Any problem with that?
24 A No, sir.
25 Q Do you also recall the judge telling you that

1 Captain, if he chooses doesn't have to present
2 any evidence in his defense, doesn't have to take
3 the stand to testify if he doesn't want to?
4 A Self incrimination rule.
5 Q Well, just not taking the stand, if he chooses
6 not to?
7 A Yeah. I understand that.
8 Q Do you have any problem with that?
9 A No. I don't.
10 Q Would you hold the fact that Captain Hazelwood
11 did not take the stand against him in your
12 decision?
13 A No.
14 Q Would you think he was trying to hide
15 something?
16 A Well, whether he was, or whether he wasn't
17 trying to hide something, that's his right,
18 but...
19 Q Well, would the fact that he didn't take the
20 stand cause you to believe that he was trying to
21 hide something?
22 A No.
23 MR. CHALOS: Your Honor, we pass for cause.
24 Thank you very much.
25 A Thank you.

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THE COURT: All right. Thank you.

MR. CHALOS: Pardon me, Your Honor. I'm
sorry. May I take that back?

THE COURT: Pardon me?

MR. CHALOS: May I take that last statement
that I made back?

THE COURT: If you'll just step outside, just
for a minute.

(Pause)

MR. CHALOS: I'm sorry, Your Honor. I spoke
too soon. I would like to challenge Mr. Laris for
cause on the basis of his answers to the question about
the prior DWIs and Captain Hazelwood not being in a
rehab program.

Even though he said he wouldn't hold that
against Captain Hazelwood that type of evidence is not
going to be introduced, or at least won't go into
evidence here, yet he has that in the back of his mind.
And on that basis, even though he said he could be
fair, I think it's going to be difficult since he's
already relying on facts that are not in evidence and
won't be in evidence.

THE COURT: All right. I'm going to grant
that since you've requested it. I think that he's
expressed a lot of opinions concerning this case. He

1 knows a lot about it and he seems to have some pretty
2 firm ideas of what the facts are. He didn't express to
3 me a feeling that he thought this was just newspaper
4 reporting. I got the feeling he thought these were
5 really facts. And since you've requested it I'm going
6 to excuse him.

7 MR. CHALOS: Thank you.

8 THE COURT: We'll take a lunch break.

9 UNIDENTIFIED SPEAKER: (Indiscernible - away
10 from mike.)

11 THE COURT: Yeah. After lunch.

12 (Pause)

13 You can take your jury card down to the clerk
14 for further instruction. You're excused from further
15 participation in this jury.

16 Thank you very much for your time and good
17 luck on that test. And pick it up from Mr. Purden and
18 you can go right outside the double doors.

19 (Pause)

20 We'll resume jury selection at 1:15 sharp.

21 THE CLERK: Please rise. This court stands in
22 recess subject to call.

23 (1277)

24 (Off record - 12:01 p.m.)

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

1 (Jury not present)

2 THE COURT: Be seated.

3 This office received a letter for Mr. Joseph
4 Hazelwood in care of myself.

5 MR. MADSON: Shall we open it up in court. I
6 don't know about using this as a mail drop, but I guess
7 it works.

8 THE COURT: I want you folks to open it.

9 We have a letter from Terrell Smith. It's a
10 juror who's already been put in the first 12. He just
11 gave this to me and he said that his employer told him
12 it wasn't possible for him to guarantee his wages
13 during the time this case will take. He lists some
14 financial responsibilities here. We'll make a copy of
15 this.

16 I told him he's still on the panel until
17 advised otherwise. He told me that everything he said
18 was the truth. He just wanted to let me know that he
19 was going to suffer some financial hardship. And then
20 he told me that Mr. Jones of Jones' Tool Rental told
21 him he would probably pay him the difference between
22 his jury pay and his regular pay.

23 So, we'll make a copy of this and give it to
24 counsel. As it stands now he's still on the panel.

25 We'll call the next juror.

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THE CLERK: It should be Bobby Lewis, Your Honor.

THE COURT: Bobby Lewis next.

Ask counsel to pay attention to that clock on the podium there. We'll stick with the 10 minutes for these alternates. Or less.

(Juror present)

(1379)

BOBBY LEWIS

THE COURT: Good afternoon.

A Good afternoon.

THE COURT: Have a seat in the front row please and take...

A Here?

THE COURT: Yeah. Right next to the microphone if you would. Take the microphone off the stand, and would you please answer the four questions on the blackboard.

A My name is Bobby J. Lewis. I'm not a member of any organization. I'm not much of a joiner.

No. There's no reason why I shouldn't be on the jury.

And no. I don't know the defendant's attorney, plaintiff, or any of the witnesses on that list.

1 THE COURT: Mr. Cole.

2 VOIR DIRE EXAMINATION OF MR. LEWIS

3 BY MR. COLE:

4 Q Good afternoon, Mr. Lewis.

5 Have you followed any of the publicity that's
6 been generated by the grounding of the Exxon Valdez?

7 A Yes. Newspaper, TV, et cetera. Just general.
8 I wouldn't say -- I didn't study any of it, but
9 just general information, yes.

10 Q Can you tell me do you subscribe to a
11 newspaper?

12 A No. I do not.

13 Q Is there any particular one that you read,
14 or...

15 A No, there isn't. I don't read the newspaper
16 that much.

17 Q How about television? Do you watch any
18 newscasts regularly?

19 A Yes. Generally the 10 o'clock news. I work a
20 noon until 8:00 shift, so I don't catch the
21 afternoon news, but I do watch the 10 o'clock
22 news.

23 Q Have you talked about this case amongst your
24 co-workers at all?

25 A Yes.

1 Q On the basis of your conversations with them
2 and your exposure to the publicity, have you
3 formed any opinion as to the respective roles of
4 the various parties involved concerning the
5 responsibility for the grounding? And when I say
6 parties I mean it in a general sense, any of the
7 crew members, the Exxon Shipping Corporation,
8 Alyeska, the Coast Guard, the Department of
9 Environmental Conservation?

10 A I'd have to say no. I haven't, really.

11 Q If you were instructed in this case that you
12 were to listen to the witnesses that take the
13 stand and evaluate their testimony, look at the
14 evidence that's admitted into court and reach a
15 verdict in this matter on the basis of that, and
16 your own common sense and good judgment, would
17 you feel comfortable that you could follow that
18 instruction?

19 A Yes.

20 Q And if you were also instructed that you were
21 not to consider anything you had heard outside of
22 this court room prior to this, would you be able
23 to follow that instruction?

24 A I think that would be difficult. I'd have to
25 wipe my memory out. So, I don't know if I

1 understood your question properly or not, but...

2 Q If you're asked to sit on this jury, at the
3 conclusion of the trial you'll be asked to
4 deliberate. And we need to know if you will set
5 aside any information you might have heard prior
6 to this case and solely base your decision on the
7 evidence you hear here in court?

8 A Yes. I could do that.

9 Q Feel comfortable with that responsibility?

10 A Yes.

11 Q You've worked for the Municipality for about
12 17 years this says.

13 A That's true.

14 Q Can you tell me what is your present position?

15 A My present position is like telephone
16 installer. I climb poles, repair residential,
17 business service, that type of work.

18 Q And how long have you had that position?

19 A I've had that position now for say 14 years.

20 Q Do you supervise other people?

21 A Presently no.

22 Q You have in the past?

23 A Yes, I have.

24 Q Can you tell me a little bit about your
25 service in the military?

1 A I enlisted in 1948 directly after high school,
2 17 years old. Boot camp San Diego. Went to
3 communications school at Camp Pendleton and
4 shipped out from there. Went to China and the
5 Communists were taking over China at the time,
6 and so, then I got stationed in Japan for
7 approximately two years before the Korean War
8 started. Then I served 13 months in Korea. And
9 back to the States and was honorably discharged
10 and started my working career, should I say.

11 Q Did any of your military career involve being
12 out on the ocean?

13 A Yes. Part of my training, of course,
14 amphibious thing. I drive amtracks, et cetera,
15 and some UDT training.

16 Q Have you been out on the ocean much since
17 then?

18 A Until I moved to Alaska 18 years ago I lived
19 in Los Angeles, Venice, Malibu. And, yes. I
20 love the ocean. I was on it, or in it as much as
21 I could possibly be. It was my main recreation.

22 Q You've indicated on your questionnaire that
23 you drink infrequently?

24 A Yes.

25 Q Is that for personal or health reasons?

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A Personal.

Q Do you have any strong feelings about people that drink?

A No. I don't.

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

A Yes.

Q Does your job allow you to drink while you're at work?

A Absolutely not.

Q Can you give me an idea of what you do in your free time when you're not at work?

A I'm a runner, jogger. I usually run four or five miles a day. I bicycle ride for current recreation. Took that up about five years ago. Do a lot of reading. Right now I happen to be into Louis L'Amour.

Q Do you run any of the races around town?

A I haven't in five years. I've did enough competitive running and I just find I need it for conditioning any more. I just do it for my own self, just pleasure.

Q Sure.

(Pause)

Have you ever been called to a jury panel

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before?

A No. Never have. First time.

Q Do you feel comfortable with the notion that this is a very important case for both Captain Hazelwood and the State of Alaska?

A Yes, I do.

Q And with that in mind, if the judge instructs you, would you be willing to listen to the evidence that's presented through the witnesses, look at the evidence that's presented, admitted into court, and reach a fair and just verdict for both parties based on that and your own common sense and good judgment?

A Yes. I can do that.

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

A Yes.

Q Do you feel comfortable with those two propositions?

A Yes, I do.

Q Thank you very much, Mr. Lewis. I have no further questions, judge. Pass for cause.

VOIR DIRE EXAMINATION OF MR. LEWIS

BY MR. MADSON:

Q All right, Mr. Lewis. A few questions from

1 over here. First of all, what do your children
2 do for a living?

3 A My older son is a general contractor. He just
4 moved from Los Angeles up to San Francisco area.

5 My younger son is a building superintendent at
6 the University of California in Los Angeles.

7 And, my daughter is a homemaker.

8 Q Is she out of the state, too?

9 A Yes.

10 Q So, none of your children are living in
11 Alaska, right?

12 A No. They've all migrated back to southern
13 California.

14 Q Have you discussed with your children at all
15 the events that happened down in Valdez, if, you
16 know, telephone conversations, or (indiscernible
17 - unclear)?

18 A No. I have not.

19 Q You indicated that you -- that there was a lot
20 of talk after this happened, right?

21 A Yes.

22 Q Is it fair to say that it was pretty much on a
23 daily basis for a while?

24 A I have to explain to you the shift that I work
25 I only -- I go on at noon time and there's only

1 two other people that I associate with. And I
2 wouldn't say that our conversation was that
3 frequent about it. I miss most of the 8:00 to
4 4:30, you know, group of people.

5 Q You said you offered no opinion to your co-
6 workers, at least about who was at fault, or who
7 you thought might have been to blame, or anything
8 like that, right?

9 A That's true.

10 Q Did you hear any other opinions expressed in
11 your conversations with other people?

12 A Yes. I'd say, I don't know, three or four
13 months ago.

14 Q Did you openly agree with any of those
15 opinions, even though you didn't express them
16 yourself, did you openly, or just inwardly just
17 agree with what was being said that you can
18 remember.

19 A I'd have to answer no.

20 Q Then, one question you answered a few minutes
21 ago and I want to just go into that just for a
22 minute or two. When Mr. Cole asked you about
23 setting aside everything you've learned about
24 this you indicated it would be hard to do,
25 because you're basically wiping out your memory.

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A That's true.

Q I think what it comes down to is no one is asking you to do that because that's physically impossible. I think the question is, can you 100 percent, without any equivocation at all base your verdict solely on what the judge instructs you on the law, and the facts you hear here in the court room, and not to just have the slightest influence on what you heard, or read about this case?

A Yes. I can.

Q And you're saying that as a promise?

A That's a promise and a...

THE COURT: Excuse me.

A ...commitment. Yes, I can.

THE COURT: You don't have to answer that question. We're not going to extract promises from jurors.

Q (Mr. Lewis by Mr. Madson:) When you are at your job do you have frequent contact with members of the public, or...

A Yes.

Q Do you ever get into discussions with them just on a what's happening in the news basis type thing?

1 A No. I do not.

2 Q You're strictly there for work and get your
3 job done and leave?

4 A General conversations is maybe about what
5 their dog's doing in their back yard, or -- and
6 they're usually kind of upset because their phone
7 doesn't work. So, I don't have much time to
8 socialize with them.

9 Q They want it fixed and that's it?

10 A Yeah. They want it fixed.

11 Q In the time that you were in the Marines, did
12 you consume alcoholic beverages at that time?

13 A Yes.

14 Q It was fairly common for other Marines to
15 drink, maybe overindulge on occasion?

16 A Yes. Myself, I couldn't do that too much. It
17 makes me sick.

18 Q Anyway, I take it as you've gotten older
19 you've just kind of gotten away from that, right?

20 A Yes. Maybe I should explain my infrequent.
21 Sometime when I go for a 10 mile run on a weekend
22 I come back and I'll one or two beers and that's
23 my infrequent alcohol drinking.

24 Q Mainly just because you're dry and you want
25 something to kind of quench your thirst, and you

1 like the taste?

2 A That's true. That's true.

3 Q I take it, though, sir, that in the past you

4 probably have consumed alcohol to excess?

5 A Yes. I've abused alcohol, or should I say

6 it's abused me.

7 Q Even though that may be the case and you drink

8 substantially less now, I assume you're not going

9 to hold it against anybody that maybe drinks more

10 than you do, let's put it that way?

11 A No. I would not.

12 Q You, also talked to some people, according to

13 your questionnaire that had been involved in the

14 clean up down there. Is that correct?

15 A Yes.

16 Q Were they actual workers that were working for

17 VECO, or people like that?

18 A No. As I stated in my questionnaire, my wife

19 is retired from the State Fish and Game employ.

20 And I talked with some of the biologists that I

21 became friendly with during her career at Fish

22 and Game.

23 Q What did she do for them, sir?

24 A She was a clerk/typist.

25 Q So, she wasn't out in the field at all, or

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anything?

A No.

Q She was, also, in the biology section, and not the enforcement division, is that right?

A That's true. But, she's been retired now for five years.

Q When you said you talked to persons, they were former co-workers of hers?

A Yes.

Q Was this at a social function? A party of some kind, or...

A No. In fact, a repair visit by Fish and Game over on Raspberry. Just, you know, knowing the people, just there when the clean up was going on and contact with them at that time.

Q Did they express any opinions to you about what had happened and who was at fault and anything like this?

A No. I can't say they did.

Q So, it was nothing that occurred in any conversations you had with any Fish and Game people that you feel would influence you in the slightest about this accident?

A No.

Q Lastly, sir, you were probably present when

1 Judge Johnstone gave some basic instructions here
2 Tuesday about the presumption of innocence and
3 the burden on the State to prove guilt, and all
4 those sort of things?

5 A Yes.

6 Q Did you have any disagreement with anything he
7 said in those instructions?

8 A No. I do not.

9 Q And that included the right of a defendant not
10 to take the stand and testify? Do you have any
11 problems with that at all?

12 A No. I do not.

13 Q Thank you, sir.

14 THE COURT: I'm going to excuse you for the
15 remainder of the day. I'll need to have you come back,
16 however, on Monday morning because you're on the jury
17 selection track here still. So, don't pay any
18 attention to media sources and don't discuss this
19 matter with anybody. And report back at 8:30 a.m. on
20 Monday morning in the jury assembly room. Do you
21 remember where that is?

22 A Yes, sir.

23 THE COURT: Thank you very much. We'll see
24 you then.

25 (Pause)

1 Herrera next, I believe.
2 MR. COLE: That's what I have next, Your
3 Honor.
4 (Pause)
5 (2200)
6 MICHAEL HERRERA
7 THE COURT: Hello, Mr. Herrera.
8 A Hello.
9 THE COURT: Please have a seat in the front
10 row and take the microphone off the stand.
11 Please answer the questions on the board.
12 A My name is Michael Herrera.
13 I'm not any member of any organizations.
14 And, I can't think of any particular reasons
15 why I wouldn't serve on the jury other than the
16 fact that I was planning a vacation here in a
17 couple of weeks.
18 And, I do not know any of the attorneys or...
19 THE COURT: If you are given the opportunity
20 to serve on this jury can you put your vacation off to
21 another time.
22 A I'm not certain. I actually requested a leave
23 of absence for work, being it was a work slow
24 down, and they're planning on laying some people
25 off anyway. And I requested a leave of absence

1 'cause I have some things I needed to work out.
2 And by the end of the trial I think our business
3 may be picking back up and I may not be able to
4 go, but if it's necessary that I stay then I can
5 make whatever changes are necessary.

6 THE COURT: If I keep you on this jury and
7 you're given that opportunity will you hold it
8 against Captain Hazelwood, or the State of Alaska
9 in any way?

10 A Oh, no.

11 THE COURT: Okay. And have you ever been a
12 member of an organization, and specifically an
13 environmental organization?

14 A No, sir.

15 THE COURT: Have you ever contributed to any
16 environmental causes?

17 A No, sir.

18 THE COURT: Okay.

19 (2294)

20 VOIR DIRE EXAMINATION OF MR. HERRERA

21 BY MR. COLE:

22 Q Good afternoon, Mr. Herrera.

23 A Good afternoon.

24 Q Have you followed any of the publicity that's
25 come about since the grounding of the Exxon

1 Valdez?

2 A Yes, I have.

3 Q Can you give me an idea of what sources of
4 information you're relied upon?

5 A I watch the news quite often, television. I
6 read the newspaper daily and those would be my
7 two main sources.

8 Q Do you subscribe to a particular newspaper?

9 A No. I pick one up in the morning on the way
10 to work.

11 Q That would be the morning paper?

12 A Yes, sir.

13 Q Are there any particular news stations that
14 you watch, television stations?

15 A I usually watch, like Channel 13.

16 Q Have you spoken to other people about this
17 case?

18 A Since I've been on the panel?

19 Q No. After the grounding?

20 A Yes, sir.

21 Q Based on these things, have you formed any
22 opinion as to the relative role of the various
23 parties as to who is responsible for this
24 grounding? And when I say the various parties, I
25 mean it generally, any of the crew members, Exxon

1 Shipping Company, Alyeska, the Coast Guard, the
2 Department of Environmental Conservation?

3 A Well, I suppose I have formed some opinions.
4 And others I kind of just skip over some things,
5 you know...

6 Q Sure.

7 A ...as far as media material goes.

8 I didn't necessarily read everything that came
9 out, but I do have, you know, I do have a few.

10 Q Do you believe everything that you read in the
11 paper, or hear on TV?

12 A Not everything.

13 Q These opinions, have any of them been -- have
14 you reached any opinions about Captain
15 Hazelwood's conduct aboard the Exxon Valdez prior
16 to its grounding?

17 A Well, I believe at first I had. Since the
18 different material that seems to come out through
19 the media does tend to confuse things a little
20 bit sometimes. And, so, some of the things have
21 stayed with me and others have just stayed
22 confused.

23 Q Okay. Well, why don't we talk about the
24 things that have stayed with you. What opinions
25 have stayed with you about Captain Hazelwood?

1 A Well, I think the one thing that concerned me
2 most was what I read about the alcohol substance,
3 sort of situations. I was particularly concerned
4 in that.

5 Q When you say alcohol substance, can you
6 explain what you mean by that?

7 A Well, I had read and seen in the news that he
8 had been drinking. And my personal feeling is
9 that an operator of any sort of vehicle, whether
10 it be land, sea, or air, whatever, would be
11 necessary to be under control in those
12 circumstances. And those sort of things I feel
13 pretty strongly about.

14 Q It sounds like you have some pretty strong
15 opinions about these things?

16 A Well, see I used to work for a wholesale
17 liquor distributor. And we were faced with the
18 laws that govern us, BATF was always coming down
19 saying, "Well, here's what's coming out. Here's
20 what we're going to have to deal with on a day to
21 day basis." And so, we learned that we also had
22 to be responsible as distributors as well as
23 potential consumers.

24 Q I don't know a better way to put it than to
25 say the court, Captain Hazelwood and his

1 attorneys, and myself have a concern that you
2 would allow these personal opinions, which are
3 pretty strong, effect your ability to be fair and
4 impartial in this case. Can you tell us how you
5 think those personal opinions would effect your
6 ability to be fair and impartial in this case?

7 A Well, I feel as though because of my feelings
8 towards alcohol it might just tend to cause me to
9 overlook any other details that might be
10 overlooked in the circumstances.

11 MR. COLE: Judge, I'm going to ask if you want
12 to ask questions. I don't feel it's a necessity for
13 me.

14 MR. CHALOS: May we approach the bench?

15 THE COURT: You want to excuse the juror?

16 MR. CHALOS: Yes, Your Honor.

17 THE COURT: Okay. Any objection?

18 MR. COLE: No.

19 THE COURT: Okay. We're going to excuse you,
20 based on your opinions, sir. Take your jury service
21 card downstairs to the jury clerk and you're excused
22 from any further performance in this case.

23 A Okay. Thank you.

24 (Pause)

25 (Juror not present)

1 THE COURT: It might be of some assistance in
2 speeding this process up if you could form your
3 question a little more artfully in terms of the court's
4 instructions and the facts in this case.

5 If you just want to track the instruction I
6 give in every case you could do so.

7 (Side conversation)

8 (Juror present)

9 (2683)

10 DAVID G. ROYS, II

11 THE COURT: Good afternoon, sir. Have a seat
12 in the front row and take the microphone off of the
13 stand.

14 Please answer the first four questions on the
15 board.

16 A David Roys, David George Roys, II.
17 Organizations? What do you mean by
18 organization, employment, or...

19 THE COURT: A social or fraternal,
20 recreational, environmental.

21 A Nothing of the major ones. Just...

22 THE COURT: Have you ever been a member of an
23 environmental organization or club?

24 A No.

25 THE COURT: Have you ever contributed to an

1 environmental organization?

2 A No.

3 THE COURT: Okay.

4 A I have problems with serving on jury this
5 long. I'm a restaurant owner/operator. It's
6 just not really feasible for me to be away from
7 that for two months. We are in struggling times
8 in the restaurant and I don't believe that it's
9 going to be possible for me to serve two months
10 away from it. I'm having difficulty with one
11 week.

12 THE COURT: Well, the problem is we can't just
13 take jurors who want to serve and are financially able
14 to serve. We have to be able to take jurors even
15 though it may be some financial...

16 A Well, it's not -- that is my -- if there was
17 someone that could take my place, it wouldn't be
18 any problem.

19 THE COURT: Would you be willing to serve on a
20 jury of a shorter duration?

21 A I would love to serve on a jury for a shorter
22 duration.

23 THE COURT: I can't guarantee how short it
24 will be, but if it were a week or less, would that be
25 okay?

1 A That would be -- I can -- I'm struggling with
2 this week, but I can do that with no trouble at
3 all.

4 THE COURT: So...

5 A But, I can foresee some major problems with
6 something that was to be two months.

7 THE COURT: What's the name of your
8 restaurant?

9 A Arby's, Northway Mall. Manager of Alaska,
10 Inc.

11 THE COURT: Do you have employees working for
12 you?

13 A Yes. I have approximately 16 employees
14 working for me.

15 THE COURT: What are your normal hours of work
16 there?

17 A Weekdays, 10 o'clock.

18 THE COURT: Your hours I'm talking about.

19 A My hours. 8:00 to 6:00.

20 THE COURT: All right. I'm going to excuse
21 you for financial hardship. And if you're called again
22 I expect you won't use that for a week or less
23 duration.

24 A I would love to serve on a week or less.

25 THE COURT: Great. Okay. We'll see what we

1 can do for you. We'll call down and have you called
2 back.

3 A Thank you.

4 THE COURT: Thank you very much. Take the
5 jury card downstairs to the jury clerk for further
6 instructions.

7 You can go outside the doors there.

8 A Thank you.

9 THE COURT: You're welcome.

10 (Pause)

11 DONALD W. COX

12 Are you Mr. Cox?

13 A (No audible response.)

14 THE COURT: Good afternoon. Please have a
15 seat in the front row and take the microphone off the
16 stand.

17 Could you answer the first four questions on
18 the blackboard, please?

19 A Donald W. Cox. Member of no organizations.

20 3, it would be a hardship, Your Honor. I'm a
21 construction worker. In 1988 I missed
22 approximately four months of work. In 1989 2-1/2
23 months. At this time if it was a long time my
24 employers would replace me. It also would mean
25 an excellent chance of a foreclosure on my house

1 which I just could not afford.

2 THE COURT: Please tell us the names of the

3 employers that would replace you?

4 A RG & B Construction Company.

5 THE COURT: Have they advised you that if you

6 serve on this jury they would replace you?

7 A No. They haven't, but if it was any longer

8 than this they would have to have somebody on the

9 -- it's a government contract on Elmendorf Air

10 Force Base. They would have to have somebody to

11 replace me.

12 THE COURT: When you say replace you, you

13 wouldn't be there to work, so they'd have to have

14 somebody else working in your place?

15 A Yes.

16 THE COURT: Does that mean they'd fire you

17 when you came back from jury duty?

18 A No. Normally they'd just have another man

19 come in and he would finish the contract on that

20 particular job.

21 THE COURT: Is this a full time job you have

22 with them?

23 A Yeah, as work permits, yes. It's

24 construction. It's bidding and I'm a painter by

25 trade.

1 THE COURT: They call you out of the hall
2 then.

3 A No. I'm a -- just kind of on call with them.
4 I have been employed through the hall, but right
5 now I'm non union. I just could not afford to
6 stay in the local union any longer.

7 THE COURT: And you stated that your house
8 would be foreclosed if you served on this jury?

9 A More than likely. My wife -- I just put her
10 through a real estate course and she has made one
11 sale. It's been a rough winter. The market is
12 starting to pick up now on sales, but she's made
13 once sale since June and that was \$1800 and I've
14 been the sole provider of income.

15 THE COURT: Okay. I'm going to excuse you
16 for your financial hardship.

17 Would you be willing to serve on a jury of
18 shorter duration?

19 A Oh, yes.

20 THE COURT: A week or so? A week or less?

21 A Yes.

22 THE COURT: We'll call down and have you
23 called back for a shorter trial.

24 A Okay. Appreciate it.

25 THE COURT: You can take your jury service

1 card downstairs to the jury clerk for further
2 instructions.

3 Sir? Your card is here and you can exit the
4 doors here in front if you'd like.

5 A All right. Thank you, Your Honor.

6 THE COURT: You're welcome.

7 (Pause)

8 DORINE KUTA

9 THE COURT: Good afternoon.

10 A Hi.

11 THE COURT: Have a seat in the front row and
12 take the microphone off the stand.

13 Are you Dorine Kuta?

14 A Yes, I am.

15 THE COURT: Would you please answer questions
16 2, 3 and 4?

17 A I am not a member of any organization. I have
18 a problem with the six to eight week time for
19 work. And I don't know any of the defendant's,
20 attorney's or witnesses.

21 THE COURT: What is the problem you have with
22 work?

23 A I travel pretty extensively in my job and six
24 to eight weeks. I mean, I just absolutely can't
25 be either out of my office, or unavailable for

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that amount of time.

THE COURT: Where do you work?

A I work for a company by the name of Johnson Lieber, we're a food broker.

THE COURT: Have they indicated to you in any way you'd be penalized for serving on this jury?

A Yes.

THE COURT: What have they said would be the penalty?

A I've never been told a penalty. They've just stressed to me that I can't be unavailable for that amount of time.

THE COURT: Well, if you were on this jury you would be unavailable for that amount of time what would happen? What have they advised you?

A I'd probably lose my job.

THE COURT: Have they told you you'd lose your job for serving on jury?

A In a jokingly manner, but...

THE COURT: Who did that? What was the name of the person who said that?

A My boss.

THE COURT: And his name?

A Keith Sopp (ph).

THE COURT: Okay.

1 A And it wasn't -- I'm sure he wasn't being
2 serious when he said it, but I mean, I am a
3 department head and I have people that answer to
4 me, and that I run a department. And it's just
5 -- I can not be unavailable for that amount of
6 time.

7 THE COURT: Have you ever served on a jury?

8 A No. I was...

9 THE COURT: Have you been called to this
10 point?

11 A Yes, I have. And actually was accepted as a
12 juror, but had to be dismissed for my job.

13 I find the case interesting and I know that
14 it's a privilege to be chosen and I truly wish I
15 could, but I just can't.

16 THE COURT: All right. And if you are
17 permitted to serve on this jury would you hold it
18 against the attorneys or Captain Hazelwood if I
19 required you to stay on this jury?

20 A I wouldn't hold it against them. I would be
21 highly uncomfortable sitting here knowing that I
22 was jeopardizing my job doing it.

23 THE COURT: Has your employers indicated they
24 would not pay you when you were on jury duty?

25 A We have not discussed that.

1 I, you know, I'm sure I wouldn't be paid. It
2 would be on leave without pay.

3 THE COURT: Is that their company policy, to
4 not pay for jury...

5 A Yes.

6 THE COURT: ...duties?

7 Very well. Mr. Cole.

8 (3248)

9 VOIR DIRE EXAMINATION OF MS. KUTA

10 BY MR. COLE:

11 Q Mrs. Kuta, have you followed the publicity
12 that has surrounded the grounding of the Exxon
13 Valdez?

14 A Followed it, or heard it?

15 I've heard it.

16 Q Have you read about it?

17 A I've read some articles. I didn't follow it
18 avidly.

19 Q Do you get a newspaper?

20 A Weekend newspaper at home.

21 Q Which one do you get?

22 A Daily News.

23 Q And do you watch television?

24 A When I'm at home. I catch the evening news
25 when I'm home.

1 Q Do you watch any particular TV station?

2 A No. No loyalty.

3 Q Have you formed any opinions about the roles

4 of any of the parties that were involved in this

5 matter? And when I say the parties I mean it in

6 a general sense, like any of the crew members, or

7 Exxon Shipping Company, or Alyeska Pipeline, or

8 the Coast Guard, or the Department of

9 Environmental conservation?

10 A Yes. I have my opinions on it.

11 Q Okay. Have you formed any opinions about

12 Captain Hazelwood's involvement in this matter?

13 A To a certain extent.

14 Q Can you tell us what those are?

15 A My opinion on the whole thing, and from what

16 I've read, and I'm not claiming to be an expert,

17 is that I don't feel that he should be the only

18 one sitting here in this court room on trial.

19 Q Who else should be sitting in here?

20 A His superiors.

21 Q If the court instructed you that your personal

22 opinions were to be set aside and you were to

23 follow the law as he instructed, how would you be

24 able to handle that instruction?

25 A I can follow that.

1 THE COURT: You will be instructed that you
2 must base your verdict solely on the evidence as
3 presented in this court and in accordance with the
4 court's instructions, that you may not consider any
5 source of information outside of this court. Would you
6 follow that instruction?

7 A Yes, I would.

8 Q (Ms. Kuta by Mr. Cole:) Can you tell me a
9 little bit about the accident your brother in law
10 had?

11 A Oh, on the questionnaire? That was so many
12 years ago. It was about six years ago.

13 He was coming home with some friends one
14 afternoon and a drunk driver was coming around a
15 corner in their lane and ended up hitting them
16 and putting all four of them in the hospital.

17 Q Do you have any strong feelings, or opinions
18 about people that drink and drive?

19 A I don't think people should drink and drive.

20 Q I see that you -- it appears that you're a
21 very slight drinker?

22 A Yeah. I have my times, but not very often.
23 More on a, just a social, like dinner type thing.

24 Q Are you allowed to drink at work?

25 A No.

1 Q Have you ever had a drink at lunch?
2 A No.
3 Q Can you give me an idea what you do in your
4 free time?
5 A Free time. I enjoy skiing and fishing.
6 Q What kind of fishing do you do?
7 A I do fly fishing.
8 Q Have you done it around Anchorage...
9 A Uh-huh (affirmative).
10 Q ...or do you fly out to places?
11 A Yeah. I usually fly out. My dad's a pilot.
12 I've lived here most of my life.
13 Q Who does your dad fly for?
14 A He flies for a private fishing lodge in
15 Iliamna.
16 Q How long has he been a pilot?
17 A About 15 years.
18 Q I'd like to ask you why you think somebody
19 else should be sitting at the table with Captain
20 Hazelwood. What information have you received
21 that has caused you to form that opinion?
22 A Well, I know that in my own job if I was to
23 cause this amount of damage, monetary or
24 whatever, that I would hope that I would not be
25 the only one that had to sit and take the entire

1 brunt of this.

2 Q Has there been any particular information that
3 you've relied upon that you've learned about this
4 case that causes you to believe this?

5 A I would just say, just, you know, general
6 news, and what you've read in the paper, or...

7 Q If people from Exxon are called to testify in
8 this case would you be able to follow the court's
9 instructions that all people who take the witness
10 stand are to be evaluated equally, and you are
11 instructed that just because a person works for
12 some place, or just because a person has a
13 uniform, they don't get any greater or less
14 weight simply because of that fact.

15 Would you be able to follow that instruction
16 if people from Exxon are called to testify?

17 A You know, I'm not sure. I'm really not. I
18 don't know. I would hope I could. Put it that
19 -- I just really, I don't know. I do have a
20 strong opinion that way.

21 THE COURT: Excuse me. If after hearing all
22 the evidence in this case you're convinced the State
23 has proved that Captain Hazelwood is guilty by proof
24 beyond a reasonable doubt, would you hesitate to find
25 him guilty?

1 A Would I hesitate if...

2 THE COURT: If convinced that the State has

3 proved by proof beyond a reasonable doubt his guilt,

4 would you hesitate to find him guilty?

5 A No. I wouldn't.

6 THE COURT: On the other hand, if after

7 hearing all the evidence you were not convinced beyond

8 a reasonable doubt that Captain Hazelwood was guilty by

9 proof beyond reasonable doubt, would you hesitate to

10 find him not guilty?

11 A No. I wouldn't.

12 THE COURT: Okay. Let's go along, Mr. Cole.

13 MR. COLE: I don't have any further questions.

14 THE COURT: Thank you.

15 (3735)

16 VOIR DIRE EXAMINATION OF MS. KUTA

17 BY MR. CHALOS:

18 Q Good afternoon, Ms. Kuta.

19 A Good afternoon.

20 Q I'd like to explore one thing that you said.

21 You seem, because of your job, to be reluctant to

22 serve on the jury that might go six to eight

23 weeks.

24 A Uh-huh (affirmative).

25 Q And you've told us why. Now, would the fact

1 that you might lose your job, that you might be
2 reprimanded in some way, would that weigh on your
3 mind if you were sitting in the jury box?

4 A Yes, it would.

5 Q Would that distract you from listening to the
6 evidence?

7 A I believe so.

8 MR. CHALOS: Your Honor, may we approach the
9 bench?

10 THE COURT: No. You may continue inquiry.
11 I'm not going to excuse this juror for cause at this
12 time, or for hardship.

13 You may continue your inquiry.

14 Q (Ms. Kuta by Mr. Chalos:) I noticed from your
15 questionnaire that your husband works for the
16 Daily News?

17 A Yes, he does.

18 Q Have you discussed the events of the spill
19 with him?

20 A Yes, we have.

21 Q Can you tell me what your husband said to you
22 about the spill?

23 A It's -- gosh, it's -- I hate to say that. My
24 husband and I both travel extensively. And when
25 we're together -- we don't see each other that

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often. So, when we're together it's not the -- this wouldn't have been a focus of what an entire discussion would have been on.

We've discussed the fact that, like last summer I remember discussions that the Daily News bought a boat down there and was, you know, they sent press crews down there and, you know, things like that. It was never what their opinion was of it, or that -- and there has been -- was other discussions towards the fact that Exxon thought that the Daily News was being biased and that it blew it out of proportion -- the whole spill out of proportion.

There's been discussions on that.

Q Have you discussed with your husband as to who might have been at fault for the grounding and the spill?

A No. There was -- it was more discussions on the fact that, you know, Exxon made a big deal about, you know, blaming the Daily News for blowing this completely out of proportion.

Q How did your husband feel about that?

A He felt that they were wrong in their opinion.

Q Did you feel the same way?

A Yes, I did.

1 Q Did your husband express any opinions to you
2 with respect to who was at fault for the spill?
3 A No.
4 Q Did you express any opinions to him as to who
5 was at fault for the spill?
6 A Nothing more than what we had heard on the
7 news, about Mr. Hazelwood.
8 Q What did you hear in the news about Mr.
9 Hazelwood?
10 A That he was the skipper on the Exxon Valdez
11 that ran aground.
12 Q Did you read or hear anything about the
13 possibility of Captain Hazelwood drinking?
14 A Yes, I did.
15 Q What did you...
16 A I heard that on the radio.
17 Q Uh-huh (affirmative). What did you hear in
18 that regard?
19 A That he had tested for blood alcohol after
20 people had arrived on the scene. I'm not sure
21 about the specifics on it, but that he had been
22 drinking.
23 Q Do you have any opinion about that?
24 A Not really. I mean, I've never been, you
25 know, nobody's ever proved to me that the man was

1 drinking. If he was, he definitely didn't belong
2 where he was.

3 Q Is that your opinion?

4 A Uh-huh (affirmative). That's my opinion.
5 Just like drinking and driving. I don't think
6 you belong behind a car.

7 Q If evidence were introduced in this trial of
8 drinking, would you be able to listen to an
9 instruction from Judge Johnstone as to what the
10 law may be in that area, and put aside any
11 personal feelings that you might have about
12 people drinking and operating a vessel?

13 A I feel that I can truly listen to the facts
14 from both sides and weigh them, or, you know, and
15 take them as truth.

16 Q And set aside any preconceived notions you
17 might have?

18 A Sure. That's why I'm here. You're, you know,
19 prove it to me.

20 Q Do you disapprove of people drinking?

21 A No. I don't.

22 Q You said you drink, yourself, occasionally?

23 A I disapprove of people drinking and driving.

24 Q You do?

25 A Yes, I do.

1 Q What's your feeling on that?

2 A They just don't belong behind the wheel of a
3 car, or operating a ship, or a -- any type of
4 vehicle when you're drinking.

5 Q If the judge were to instruct you on the law
6 in that area, which is contrary to the feeling
7 that you just expressed, would you be able to set
8 aside that feeling and listen to the instruction?

9 A Yes, I would.

10 Q You can say that unequivocally?

11 A Yes, I can. Have you ever been drunk,
12 yourself?

13 A Yes, I have.

14 Q Do you remember what that felt like?

15 A Yes, I can.

16 Q Do you remember how you acted when you were
17 drunk?

18 A Yes, I can.

19 Q You mention that your father is a pilot?

20 A Uh-huh (affirmative).

21 Q Have you discussed this case with him?

22 A No. Not -- my dad works remote in the summer
23 time and spends the majority of the winter
24 outside vacationing with my mom. So, no...

25 Q So, I take it you haven't spoken with him

1 about this?

2 (Tape: C-3595)

3 (003)

4 A I've seen my dad for about two weeks in the
5 last year.

6 Q Lastly, do you recall Judge Johnstone
7 instructing you earlier this week as to several
8 items, specifically that Captain Hazelwood is
9 presumed innocent until proven guilty?

10 A Yes.

11 Q And that the District Attorney has to prove
12 beyond a reasonable doubt each and every element
13 of his charges against Captain Hazelwood?

14 A Yes.

15 Q And that Captain Hazelwood does not have to
16 present any evidence in his defense if he chooses
17 not to?

18 A That's correct?

19 Q Any problem with those instructions?

20 A No.

21 Q Now, do you also recall the judge telling you
22 that Captain Hazelwood does not have to take the
23 stand if he chooses not to?

24 A I recall that.

25 Q If Captain Hazelwood chose not to take the

1 stand in this case, would you hold that against
2 him?

3 A No. I wouldn't.

4 Q Would you believe that he had something to
5 hide if he didn't take the stand?

6 A I don't have any beliefs one way or the other
7 on it.

8 Q Thank you.

9 A Uh-huh (affirmative).

10 MR. CHALOS: May we have Ms. Kuta excused,
11 Your Honor. I'd like to make an application.

12 THE COURT: Yes. If you'd just step outside
13 for a couple minutes, please.

14 (Pause)

15 (Juror not present)

16 MR. CHALOS: Judge, I would like to make an
17 application to excuse Ms. Kuta.

18 THE COURT: Under which portion are you
19 referring to?

20 MR. CHALOS: Well, I'm referring to the
21 pretrial publicity that the witness has testified to.
22 I get the feeling that she really doesn't want to serve
23 on this jury.

24 THE COURT: Oh, I have that feeling as well.
25 We share that feeling, but that's not grounds for not

1 serving on a jury.

2 MR. CHALOS: No, but I was concerned when I
3 asked her if she would be distracted by the fact that
4 her employer might lay her off, or fire her, or cause
5 her some grief. And, also, her opinions with respect
6 to alcohol caused me some pause.

7 I know that any one of those things by
8 themselves may not be enough, but I think all together
9 it indicates that we have a juror here who may not give
10 us her full attention and be impartial and unbiased.
11 For those three reasons, I move to have her excused.

12 THE COURT: Okay. That application is denied.

13 MR. COLE: Judge, I just want to go on the
14 record as saying that we agree with that application by
15 the defense.

16 THE COURT: Sounds like neither one of you
17 want that juror, but both applications are denied.

18 (Pause)

19 (Juror present)

20 THE COURT: You may, or may not be on this
21 final jury. That remains to be seen. You will have to
22 attend Monday morning, unless you are called otherwise.
23 Do you have a telephone number where you can be reached
24 if you need to be called?

25 A (Indiscernible - away from mike.)

1 THE COURT: Okay. What is that number so we
2 can call you between now and 5 o'clock.

3 A I have a recording machine.

4 THE COURT: What is that number?

5 A 249-6217.

6 THE COURT: Okay. If you don't hear from us
7 you'll have to be here at 8:30 Monday morning. And I
8 don't know if we'll have a jury selected by then, or
9 not. But, you'll have to be here at 8:30 in the jury
10 assembly room downstairs. Do you remember where that
11 was?

12 A Yes, I do.

13 THE COURT: Okay. We'll see you back then if
14 you don't hear from us.

15 (Side conversation)

16 (Pause)

17 (170)

18 R. Y. KURANEL

19 THE COURT: Good afternoon. Please have a
20 seat in the front row and take the microphone off the
21 stand.

22 (Pause)

23 And would you answer the first four questions
24 on the board?

25 A My name is R. Yumas (ph) Curanel.

1 I'm not a member of any organization.
2 I belong to Civil Engineering Societies. Is
3 that organization?
4 THE COURT: Yes. Those would be the kind we
5 would be interested in.
6 A Yes. I belong to Engineering Societies,
7 Civil/Mechanical, and Professional Engineering
8 Societies in private practice, and also national.
9 That's just about it.
10 THE COURT: Okay. 3 and 4, please.
11 A The reasons why I could not serve, should not,
12 I don't know, on this jury is spelled out in the
13 letters.
14 THE COURT: Which letters?
15 A Which should have been given to you by the
16 clerk.
17 THE COURT: I don't have the letters.
18 A She said...
19 UNIDENTIFIED SPEAKER: (Indiscernible - away
20 from mike.)
21 THE COURT: Oh. Maybe I got them to rule.
22 Why don't you just tell us?
23 A Tell you?
24 THE COURT: Sure.
25 A Certainly. I work for the federal government

1 as the only structural engineer for offshore oil
2 in Alaska and around the U. S. My job is to see
3 the safety of the offshore oil platforms in the
4 five regions of the United States for the
5 Department of Interior, Minerals Management
6 Service.

7 These regions, as you may know, are Atlantic,
8 Gulf, Pacific, Alaska -- the fifth one has been
9 cancelled out. There are now four.

10 And my job demands that I travel extensively
11 among the four regions, specifically in Alaska
12 region and in the Gulf region where we have about
13 3400 platforms.

14 And one of the jobs I have is to get the
15 inspection reports, which annually add up to
16 about 4,000. And go through them, classify them,
17 and see that what has been mentioned in these
18 reports has been taken care of, and go out to the
19 platforms and observe this as a professional
20 engineer.

21 And another part of my job is to go out to
22 North Slope, out into the Beaufort Sea, and
23 Chukchi Sea, and Norton Sound areas where we
24 have, we, Minerals Management Service, have
25 offshore platforms and see that these platforms

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are sound to operate.

And I do this just for Alaska, four times a year. And if we have any stray ice islands, or any platforms operating, drilling, exploratory drillings, out in the Beaufort Sea in winter, my job also involves going up to these platforms and inspecting them for structural integrity and safety, not only from oil spills, for any kind of a structural integrity and safety.

So, this being the case, when I realized that there was a chance I may be selected on the jury I wanted to bring this situation to your attention, judge, Your Honor. And the regional supervisor for Alaska, Minerals Management Service, I informed them of this, naturally, and he said it was not...

THE COURT: He said what?

A What he said is in that letter.

THE COURT: Uh-huh (affirmative).

A It was not...

THE COURT: He's asking that you be excused from jury service?

A Right.

THE COURT: What would happen if you are serving on this jury? Who's going to -- I assume that

1 somebody will go out and check for safety? They won't
2 just leave them alone?

3 A Well, we do have inspector technicians. I am
4 the only professional structural engineer for the
5 Alaska region. There isn't anybody else, as that
6 letter mentions. And they do not -- they are not
7 in a position to hire somebody else, because of
8 the budget freeze and all that.

9 THE COURT: Do you have any immediate plans to
10 go out to check any of these rigs?

11 A Immediate plans, my immediate plans involve
12 traveling in March and in April. I am slated to
13 go to Gulf of Mexico in April for six weeks --
14 four to six weeks. I have been informed that
15 they need me, actually, they informed me that
16 they needed me immediately in January up to April
17 for the inspection situation, because they were
18 having big problems there.

19 And then, the regional supervisor decided that
20 I am needed more here because of situations with
21 the oil companies that there may be some more
22 exploratory work up in the Beaufort Sea preparing
23 for the open water season.

24 THE COURT: My question is, do you have any
25 plans to leave the Anchorage area, here, before March?

1 A Before March?
2 THE COURT: Yes.
3 A No. Not before March.
4 THE COURT: Okay. When in March would you be
5 leaving the Anchorage area for your inspection?
6 A Most probably the first week and the third
7 week.
8 THE COURT: And how long would you be gone
9 during those inspections?
10 A I am away about maximum three days.
11 THE COURT: Okay. Thank you very much for
12 your reasons.
13 A Certainly.
14 THE COURT: We will continue the examination.
15 Mr. Cole.
16 (424)
17 VOIR DIRE EXAMINATION OF MR. KURANEL
18 BY MR. COLE:
19 Q Sir, I have to apologize. I didn't catch your
20 last name when you said it.
21 A Kuranel.
22 Q Kuranel.
23 A Kuranel.
24 Q Okay, Mr. Kuranel. Have you read the
25 newspapers and followed the publicity that has

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1 been generated by the grounding of the Exxon
2 Valdez?

3 A I have been exposed to the live news media
4 coverage of the hearings, both on the east coast
5 and in Alaska after the spill.

6 I watched the tapes on top of it, because of
7 my position and responsibility.

8 Q This is the NTSB hearings?

9 A Yes.

10 Q Have you been asked to...

11 THE COURT: Excuse me. If he's been exposed
12 to the NTSB hearings, I'm going to excuse him for
13 cause.

14 You've been exposed to too much. Thank you
15 very much for your time.

16 A I'm sorry.

17 THE COURT: I wasn't going to release you
18 because of your job, but from what you've told me,
19 you've had too much contact with this case already.
20 You've listened to sworn testimony and that's more than
21 enough.

22 Take your jury selection card back downstairs
23 to the jury clerk for further instructions.

24 A Thank you, Your Honor.

25 THE COURT: You can just pick the card up here

1 from Mr. Purden and take it outside the door here.
2 A Thank you.
3 (Pause)
4 GREGORY R. GILLQUIST
5 THE COURT: Hello, sir. Have a seat in that
6 front row. Take the microphone off of the rack there,
7 unsnap it.
8 You may be seated.
9 And would you answer the first four questions,
10 please?
11 A My name is Greg Gillquist.
12 I'm not part of an organization.
13 And there is a reason I feel I shouldn't serve
14 on jury duty. Should I proceed with that?
15 THE COURT: Sure.
16 A It's because of my employment. There were
17 basically two people in my position and now
18 there's only me. If I have to do this in any
19 length of time it will jeopardize my job. And it
20 also will effect the people I work with.
21 THE COURT: And what is your job?
22 A I'm in sales.
23 THE COURT: For whom?
24 A Alaska Financial Services.
25 THE COURT: And have you been advised by

1 anybody in your company that you would have your job
2 jeopardized in serving on this jury?

3 A I'm very dedicated to my job and my boss
4 basically told me, he says, "If you have to do
5 this, I'll have no choice," because I'm
6 responsible for supplying business.

7 THE COURT: He said he'd have no choice to do
8 what? What'd he say?

9 A To basically get somebody to replace me.

10 THE COURT: What is your boss' name?

11 A Wolf Ansher (ph).

12 THE COURT: The name of your business, again?

13 A Alaska Financial Services.

14 THE COURT: And he told you that he would
15 replace you if you were serving on this jury?

16 A Yeah, but basically, there's no choice. Like
17 I said. There was two people in my position. We
18 condensed down to one. And so, now I'm the only
19 person there. I'm very close to my boss. He
20 said there's no choice, though.

21 Just being here even now is basically really
22 hard on me.

23 THE COURT: Okay. Thank you. Mr. Cole.

24 MR. COLE: Can I borrow it?

25 MR. MADSON: Yes.

1 MR. COLE: I, somehow, have misplaced his
2 questionnaire.
3 VOIR DIRE EXAMINATION OF MR. GILLQUIST
4 BY MR. COLE:
5 Q Mr. Gillquist, is that correct?
6 A Yes.
7 Q Have you followed the publicity that has
8 surrounded the grounding of the Exxon Valdez?
9 A Just in as much as I catch on TV or on the
10 front page.
11 Q Do you read the newspaper?
12 A Not too much, no.
13 Q Do you subscribe to either one?
14 A Pardon me.
15 Q Do you subscribe to either one...
16 A No, I don't.
17 Q ...of the papers?
18 A No. I don't.
19 Q Do you watch any particular news casts?
20 A Just the evening news, whatever's on.
21 Q Since the grounding back in March, 1989, have
22 you formed any opinions as to the respective
23 roles of the parties that were involved and their
24 responsibilities for the grounding? And when I
25 say respective parties I mean Exxon Shipping

1 Company, Alyeska, the Coast Guard, the Department
2 of Environmental Conservation, or any of the crew
3 members?

4 A I don't know. Do you mean have I made my
5 judgement on...

6 Q Have you formed any opinions on whether -- let
7 me ask a for instance, have you formed any
8 opinion on whether Captain Hazelwood has
9 committed any crimes, or have you ever formed
10 (indiscernible - away from mike.)

11 A I guess my opinion would be that I felt that
12 he was at fault from what I've gathered.

13 Q And why do you feel that way?

14 A Basically from what I've heard on the news as
15 far as the drinking and stuff.

16 Q What have you heard about the drinking?

17 A From what I've gathered that he was drinking
18 -- that he was drinking previous to the accident.
19 He was down in his lower chambers neglecting his
20 job.

21 Q If the court were to instruct you that you
22 were to disregard any information you had
23 received prior to this case beginning here in
24 court today and base your decision solely on the
25 evidence that you hear in this courtroom, and

1 that you observe that's admitted by the judge,
2 and your own common sense and good judgment,
3 would you be able to follow that instruction?

4 A That's almost like I'd have to wait until I
5 got there.

6 Q Well, would you follow the court's instruction
7 not to rely on anything you've heard up to this
8 point in reaching a...

9 A I don't think I could do that.

10 THE COURT: All right. If you can't follow
11 the court's instructions we won't let you serve on this
12 jury. You're excused, sir. You can take your jury
13 card down to the clerk for further instructions. Thank
14 you for your time and patience the last few days.

15 You can just exit the doors here.

16 (Pause)

17 RANDY JOHNSRUD

18 THE COURT: Hello, Mr. Smith. Have a seat
19 there in the front row there, next to the microphone.
20 Take the microphone off the stand and please answer the
21 first four questions.

22 A My name is Randy Johnsrud.

23 THE COURT: Okay. I thought, Smith. We must
24 have missed one.

25 Go ahead.

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Do you have Smith next on yours?

THE CLERK: No. I have (indiscernible - away from mike).

THE COURT: Okay. He was absent and has been excused.

A I'm not a member of any organization.

And the only I reason I've got to not serve on this jury is I work graveyard shift and my wife works days and I have two children who are real young, three and four years old and I stay home the days and watch them when she goes to work.

So, if I'm here, she's got to take off from work to watch the kids.

THE COURT: Do you have childcare available?

A Yeah. They're in child care right now.

THE COURT: What are the hours of your work?

A I work graveyard, 11:00 to 7:00.

THE COURT: 11:00 to 7:00?

A Yeah.

THE COURT: And when do you normally get your sleep? What hours do you normally sleep?

A When my wife gets off work.

THE COURT: Which would be what time?

A 4 o'clock, or 4:30.

THE COURT: So, you would normally be awake

1 anyway during the time between 9:00 and 4:00?
2 A Yeah.
3 THE COURT: Okay.
4 Go ahead and proceed.
5 A And no, I don't know the defendant.
6 THE COURT: Thank you. Mr. Cole.
7 Did you go over the list of witnesses we gave
8 you earlier?
9 A Yeah.
10 THE COURT: Did you recognize any names on
11 that list?
12 A I didn't recognize any names.
13 THE COURT: Okay. Mr. Cole.
14 VOIR DIRE EXAMINATION OF MR. JOHNSRUD
15 BY MR. COLE:
16 Q Good afternoon, Mr. Johnsrud. Is that right?
17 A Yeah.
18 Q Have you followed the publicity surrounding
19 the grounding of the Exxon Valdez?
20 A No, I haven't.
21 Q Do you read papers, or have you watched the
22 television?
23 A I read papers, but I only read the classified.
24 That's the only part I read.
25 Q Have you talked about this case with your co-

1 A No, I haven't.

2 Q Can you tell me how strong your feelings are
3 about the responsibility of the State of Alaska
4 and their involvement?

5 A I don't know. I just, you know, figure
6 there's more to it than what I heard at work,
7 so...

8 Q If the judge were to instruct you to, if
9 selected on this jury, to only listen to the
10 evidence that comes through the witnesses and the
11 evidence that's admitted in court and base your
12 decision on that and your own common sense and
13 good judgment, would you be able to follow the
14 court's instructions?

15 A Yeah. I think I would.

16 Q And that would necessarily mean setting aside
17 any information that you have received prior to
18 this trial, and not using that in your
19 deliberations on it. Do you feel comfortable
20 following that instruction?

21 A I think I do. I'm not sure.

22 THE COURT: Let's phrase it the way the court
23 will probably instruct the jury. You'll be instructed
24 that you're to decide this case based solely on the
25 evidence presented in court, and in accordance with the

1 court's instructions. And you may not consider any
2 other source of information outside the court in
3 rendering a verdict.

4 Can you follow that instruction?

5 A Yeah. I think I can.

6 THE COURT: When you say I think I can, what
7 does that mean to you, when you say, "I think I can"?

8 A I'm almost positive I can listen to what's
9 being said in here and just go by that.

10 Q (Mr. Johnsrud by Mr. Cole:) How long have you
11 worked for Carr's?

12 A It will be nine years in April.

13 Q Which Carr's store do you work at?

14 A I work at Carr's on Muldoon.

15 Q And what do you do there?

16 A I put cans on the shelf.

17 Q I see that you do some sport fishing?

18 A Yeah.

19 Q Can you tell me where have you been fishing?

20 A Well, I go maybe once or twice a year and I go
21 on the Little Susitna River.

22 Q Do you have any strong feelings about people
23 that drink?

24 A No.

25 Q At your work are you allowed to drink while

1 you're at work?

2 A No.

3 Q What are the consequences if you drink...

4 A Termination.

5 Q Do you have any strong feelings about people
6 that drink?

7 A It depends, you know, if they do it
8 excessively all the time.

9 Q Would any of your feelings about people that
10 drink effect your ability to be fair and
11 impartial in this case?

12 A No. I don't. No.

13 Q What else do you do in your spare time?

14 A I don't have much spare time. Usually fix up
15 around the house and watch the kids.

16 Q I'm not familiar with where your wife works.
17 Could you tell me about that a little bit?

18 A Our Lady of Compassion, it's a nursing home.

19 Q And is it for older people?

20 A Well, they take all -- old, or young who can't
21 take care of themselves.

22 Q I noticed in your questionnaire that you also
23 indicated that you have been the victim of a
24 crime. Can you tell me about that?

25 A I was getting ready to go moose hunting and I

1 had all my truck loaded up with all my gear and
2 went in the house and took a shower and came back
3 out and it was all gone.

4 Q Did you call the police?

5 A I called the police.

6 Q Did anything ever come of that?

7 A They had five squad cars there, and that was
8 it.

9 Q They never found any of your stuff?

10 A No. I was tracking the tracks down the back
11 alley and they kind of messed them up.

12 Q Anything about that incident that would effect
13 your ability to be fair and impartial here?

14 A No. I don't think so.

15 Q Do you realize that this is an important case
16 for both Captain Hazelwood and the State of
17 Alaska?

18 A Yes. I think it's very important.

19 Q Would you be willing to, if you were asked to
20 serve on this jury, to listen to the evidence
21 that's presented through the witnesses, look at
22 the evidence that is admitted into court to reach
23 a fair and just verdict based on that evidence
24 and your own common sense and good judgment?

25 A Yes, I think I would.

1 Q Would you be willing to give both sides a fair
2 trial in this matter?
3 A Yes.
4 Q Do those concepts seem fair to you?
5 A Yes.
6 Q Do you feel comfortable with those concepts?
7 A Yes, I do.
8 Q Thank you very much, sir.
9 MR. COLE: Judge, I have no further questions.
10 Pass for cause.
11 (1158)
12 VOIR DIRE EXAMINATION OF MR. JOHNSRUD
13 BY MR. MADSON:
14 Q Mr. Johnsrud, I have a few questions about
15 your job situation, if you will. Did you work
16 last night?
17 A No. I had last night off.
18 Q You say you're only working 11 p.m. to 7 a.m.?
19 A Yeah.
20 Q And you take care of the kids during the day?
21 A Yeah.
22 Q I kind of wonder when you normally sleep then,
23 sir?
24 A After my wife gets off work. I pick her up
25 from work at 3:30.

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1 Q Okay. So, you would normally be awake for the
2 normal court hours in any event, right?
3 A Yeah.
4 Q I'm kind of concerned about maybe falling
5 asleep or something during the day, but
6 apparently that isn't a problem?
7 A Oh, yeah. I get pretty tired. I fall asleep
8 occasionally.
9 Q Well, do you feel you'd be able to stay awake
10 during the proceedings here and pay attention to
11 what's going on?
12 A I don't know. I'd have to ask off from work
13 if I had to be a juror.
14 Q Basically, I think you said you were candid
15 with us and said you had some opinions based on
16 talk around, or what you saw, things like that,
17 but you feel you can set those aside and try this
18 case, if you're selected to serve, on the facts?
19 A Yes.
20 Q Did you ever see any of the TV reports about
21 the oil spill?
22 A No. I watch very little TV. It might be a
23 video movie, or something like that.
24 Q Normally when you're watching TV, it's day
25 time TV, I take it?

1 A When I'm home during the day my kids watch
2 Nickelodeon, or whatever that show is.

3 Q Not into cartoons too much, I take it?

4 A Yeah.

5 Q That's all the questions I had. I'll pass,
6 Your Honor.

7 THE COURT: All right. We'll see you back on
8 Monday morning at 8:30 a.m. downstairs in the jury
9 assembly room that you met at today and last Tuesday.

10 I don't know if you're going to be on the
11 ultimate jury, or not. If we find out that you're not
12 going to be on it, we'll give you a call today if we
13 can. But, otherwise, if you don't hear from us you'll
14 have to report down there.

15 In the mean time, avoid media information,
16 television.

17 A I avoid it.

18 THE COURT: And don't discuss this case with
19 anybody.

20 A Okay.

21 THE COURT: You can go take your belongings
22 and exit the doors here.

23 (Pause)

24 (Juror not present)

25 Mr. Cole.

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MR. COLE: Can I have just a minute, judge?

THE COURT: Yes, sir.

MR. COLE: Judge, we would thank and respectfully excuse Mr. Johnsrud.

THE COURT: The last juror seated?

MR. COLE: Yes.

THE COURT: Okay. We'll notify him by telephone today.

Okay. Bring the next one in.

(Pause)

(1342)

SUSITNA S. SHINE

THE COURT: Good afternoon, Ms. Shine, would you please sit in the front row next to the microphone on the ledge?

Take the microphone off of the stand and answer the first four questions for us.

A My name's Susitna Sue Shine.

And organization, I belong to Kiwanis of Anchorage.

There's no reason to serve on this jury.

THE COURT: No reason not to?

A Not to.

THE COURT: Okay.

A I know nobody on the list that you gave to me.

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THE COURT: All right. Thank you.
Mr. Cole.

VOIR DIRE EXAMINATION OF MS. SHINE

BY MR. COLE:

Q Good afternoon, Mrs. Shine, how are you?

A Good afternoon.

Q Have you followed the publicity that has been generated by the grounding of Exxon Valdez?

A No. Is not follow, but I can't miss it, you know, it's always in the headline newspaper.

Q Do you read the newspaper at home?

A Yes.

Q And do you watch the television? Have you watched any television on this?

A Occasionally, yes.

Q Which newspaper do you get?

A Both.

Q Have you formed any opinions as to the respective roles of any of the parties that were involved, and their responsibility for the grounding?

A Not at all.

Q The information that you've received, would you follow the court's instructions to base your decision solely on the evidence that's presented

1 here in court, and not on anything that you've
2 heard outside of the court room?

3 A Correct. I intend to.

4 Q I see that you don't drink. Is that for
5 personal, or health reasons?

6 A For many good reasons.

7 Q Do you have any strong feelings about people
8 who drink that would effect your ability to be
9 fair and impartial here?

10 A No.

11 Q Your son in law is a Fish and Wildlife officer
12 in Cordova?

13 A Yes.

14 Q In this case the judge will instruct you that
15 you are to view everyone who comes up to the
16 stand equally, and that people; just because a
17 person is a law enforcement officer does not mean
18 that he is automatically entitled to more weight
19 for his testimony. Would you be able to follow
20 that instruction?

21 A Would you please repeat?

22 Q That wasn't too clear.

23 A Okay.

24 Q The court will instruct you that everyone who
25 takes the witness stand is to be evaluated by you

1 equally, and that just because they wear a
2 uniform, or are a law enforcement official, you
3 are not to give their testimony more weight
4 simply because they are an officer. You just
5 need to evaluate their testimony like anyone
6 else's. Would you be able to follow that
7 instruction?

8 A Yes.

9 MR. COLE: Judge, I have no further questions.
10 Pass for cause.

11 VOIR DIRE EXAMINATION OF MS. SHINE

12 BY MR. CHALOS:

13 Q Good afternoon, Ms. Shine.

14 A Good afternoon.

15 Q I see here that you have four grown children
16 and one small child?

17 A Yes. I just adopt her. She's my
18 granddaughter.

19 Q Oh, I see.

20 What do your grown children do for a living?

21 A My daughter is a college graduate, married to
22 state trooper, the one live in Cordova.

23 Q Yes. That's the 30 year old one?

24 A Right.

25 Q Uh-huh (affirmative). How about the 28 year

1 old child?

2 A He's work in the Captain Cook as a chef.

3 Q How about the 27 year old?

4 A He's work at the bank as accountant.

5 Q Here in Anchorage?

6 A Yes.

7 Q And the 26 year old?

8 A He work on the Slope.

9 Q The North Slope?

10 A Right.

11 Q For an oil company?

12 A No. He's a contractor. Well, he just work at
13 a contractor company.

14 Q Have you discussed the oil spill with any of
15 your children?

16 A No, is nothing to discuss. Just general thing
17 everybody know about it.

18 Q What do you know about the oil spill?

19 A What do I know? I know that the oil spilled.
20 In fact, I was in Cordova when that happened.

21 Q You were?

22 A Uh-huh (affirmative).

23 Q Did you go out to see the spill?

24 A On the boat, so I went out and looked, but, of
25 course, I never get anywhere near it. And, after

1 the spill I still have the boat and go out at
2 night. I didn't look for anything. I went
3 fishing, but is nothing that I would have to say
4 to it.

5 Q On the day that the spill occurred, did you go
6 out by boat to see where the Exxon Valdez was?

7 A No. I didn't go to -- what actually happened
8 I just be in the Sound area.

9 Q Uh-huh (affirmative). Could you see the ship
10 from where you were?

11 A Not the one's get on the reef.

12 Q Have you seen the ship at all after the
13 grounding?

14 A I've flew over. Yes. I saw that.

15 Q When did that occur?

16 A I think in March.

17 Q The end of March?

18 A No. I think in the 20s.

19 Q 28th?

20 A No. I would say the last part of March. I'm
21 not quite sure what date exact, but I was
22 visiting my daughter, and I was returning that
23 particular trip. The day after it happened I
24 returned to Anchorage, and we flew over. And
25 when I got home and I watching TV, of course.

1 Q I see. Could you look down and see the ship
2 where she was located?

3 A I didn't look down. I can see the distant,
4 you know, we not go over directly.

5 Q Uh-huh (affirmative), but you did see the
6 ship?

7 A I do believe I have seen it, yes.

8 Q You were in Cordova when the spill occurred?

9 A Right.

10 Q There must have been a lot of talk about the
11 spill and what happened at that time?

12 A No. My daughter's house very isolated, and,
13 of course, because my son in law is a State
14 Trooper, so he got the call right away.

15 Q Uh-huh (affirmative). Did he go to the scene?

16 A He must have. I didn't talk about his
17 business and we not even, you know, when we
18 together, we not talk about his job or my job, or
19 anybody's job. We just family.

20 Q Uh-huh (affirmative). Did you speak about the
21 spill with your daughter?

22 A Well, I just ask how -- what do you think?
23 And she didn't have much to say.

24 Q Uh-huh (affirmative). Did she indicate that
25 she got some information from her husband in

1 talking with her husband?

2 A We have -- I say a commitment, or something,
3 in general rule that we no talk about anybody's
4 business far as working, or, you know, I work in
5 the fur store and she once was, what you call it,
6 environmentalist when she was in college. She
7 (indiscernible - unclear) fur. But, now she
8 graduate, so she not very strongly about that,
9 so, my business my business, her business her
10 business. We no talk about anybody business.

11 Q I understand.

12 A Uh-huh (affirmative).

13 Q You said that you went out by boat...

14 A Yeah. I have a fishing boat...

15 Q ...sometime thereafter?

16 A Uh-huh (affirmative). I mean a pleasure boat.

17 Q Uh-huh (affirmative). Did you go out to look
18 for the oil after the spill, let's say within a
19 month, or two months?

20 A I didn't go out to look for the oil spill. I
21 went fishing.

22 Q I see.

23 A And, of course, you look into the water so you
24 may see any oil or anything like that.

25 Q Did you see any oil?

1 A I'm not expert so I didn't see very much oil.
2 If I see I wouldn't know.
3 Q Do you fish for pleasure, or for business?
4 A For pleasure.
5 Q Do you fish in Prince William Sound?
6 A Yes.
7 Q How do you feel about the oil spill?
8 A Well, I will tell you my opinion at the
9 moment.
10 Q Well, you need to tell us your opinion.
11 A I do? Okay.
12 I don't think much of it, tell you the truth.
13 Q In what way?
14 A In general. I believe in the nature take care
15 of it's course. So, that's just how I feel.
16 Q You think all this...
17 A That's the reason I feel that, you know, I
18 believe in God...
19 Q Yes.
20 A ...and I believe in the...
21 Q I'm listening. I'm sorry.
22 A Okay. Well, I believe in God, live in faith,
23 so that is the two things. What happen to happen
24 is happened.
25 Q You have here on your questionnaire with

1 respect to the information you remember hearing,
2 and the only thing you have here is Captain was
3 drunk?

4 A Yes.

5 Q You remember hearing that?

6 A I believe see in newspaper a lot.

7 Q You saw it a lot?

8 A Just about every time the paper appear said
9 the Captain was drunk.

10 Q Uh-huh (affirmative).

11 A Uh-huh (affirmative).

12 Q Do you believe what you read in the newspaper?

13 A Well, I don't believe all of those.

14 Q Do you believe that the captain was drunk on
15 the basis of what you read?

16 A Well, I don't believe the whole thing. I do
17 have a firm idea of my own thinking about and, of
18 course, I am a Christian and it's none of my
19 business to think that much about it at the time,
20 so I don't really searching.

21 Q That's the only thing that you wrote down
22 about what you remember with respect to the
23 spill.

24 A Yes.

25 Q Is that the thing that comes to your mind

1 first when you think about the spill? That the
2 captain was drunk?

3 A No. I wouldn't say that's the first thing
4 that come to my mind. You know, but when you ask
5 in the questionnaire that, what did I see in the
6 paper and that's what I see the most. That's
7 what pointed out the most in the paper.

8 Q Uh-huh (affirmative). All right. Do you have
9 any opinion with respect to Captain Hazelwood's
10 guilt in this matter?

11 A If you ask me now I said I have a question,
12 because I remember one time I was reading the
13 paper closely when the Coast Guard tape, I think
14 the commander was talking there's a
15 (indiscernible - unclear), or something. And I
16 didn't understand all that. So, after I read it
17 I just let it go.

18 Q Do you have an opinion today as to Captain
19 Hazelwood's guilt?

20 A Well, I didn't have any particular infor -- I
21 didn't say he's guilt. In the meantime, I was
22 questioning myself, also, was he, or was he not,
23 but I wouldn't say he's guilt. I wouldn't say
24 that.

25 Q Would you be able to say for sure, 100

1 percent, that whatever opinions you may have
2 formed in the past, however slight, you'll be
3 able to set aside and listen to the judge's
4 instructions on whatever the law is in respect to
5 drinking, and come to a fair and just decision?
6 Will you be able to do that?

7 A Definitely. I have very open mind and I will
8 set aside everything else, even though I will
9 make such a hardship a little bit by not going to
10 work for four days already. But, I really feel
11 like the just (indiscernible - unclear) is
12 honored to be in this case, so I try to put
13 everything aside.

14 Q I'd like to ask you very quickly, and then we
15 can finish up, your husband was a pilot, you
16 say...

17 A Yes.

18 Q ...in Laos?

19 A Uh-huh (affirmative).

20 Q And I'm not sure I understand what you're
21 saying, but after a meal he drank and ended up in
22 a shooting match with a local?

23 A Okay. The question was asked about how
24 alcohol relate.

25 Q Yes.

1 A So, you want me to clear that particular...

2 Q Yes, if you will.

3 A Okay. My husband was pilot way back in
4 Vietnam War and he was sent for TDY for, you
5 know, five days, (indiscernible - unclear) type
6 thing. And, you know, the company put him in the
7 housing with the company quarter and after dinner
8 so they request -- they thought they not gonna be
9 flying, so they could have drink after dinner.

10 And, I believe what I had information then
11 that a group of the Laotian were starting to
12 harassing the American group. My husband's
13 American.

14 Q Uh-huh (affirmative).

15 A And, so, because of they starting to harass
16 them and he feels that he's not in very safe
17 place, so he started to look for his gun for
18 preparing and somehow the gun went off.

19 So, while this particular case I don't really
20 want to tell the whole world about it...

21 Q I understand.

22 A ...because I know my husband wouldn't be very
23 happy, but this...

24 THE COURT: You don't need to go into any more
25 detail.

1 A Okay.

2 Q (Ms. Shine by Mr. Chalos:) Would that
3 incident in any way effect your judgement in this
4 particular case?

5 A No. Will not.

6 Q You said one thing here that you don't drink
7 for many good reasons.

8 A Right.

9 Q Can you tell us what those reasons are?

10 A For one thing, I don't feel good after I
11 drink.

12 Q Have you ever drank?

13 A Oh, I have a glass of wine. And after I have
14 a glass of wine I feel like I start to get
15 headaches, so I see no reason why I should drink.
16 I can have fun, party without drink. So, I just
17 don't drink it.

18 Q Any other reasons that might effect your
19 ability to be fair in this case?

20 A (No audible response.)

21 Q Any other reasons why you don't drink?

22 A Oh, you mean for reason why I don't drink?

23 Q Yes.

24 A Well, I think a woman shouldn't be seen drunk.
25 And I'm afraid if I drink it may cause me to get

1 drunk, or that I don't want to be sick and I
2 don't want to -- I just don't like to drink.
3 That's all.

4 Q I understand.

5 A I like to eat, but I don't drink.

6 Q Okay. One last question and we can finish up.
7 You remember Judge Johnstone told you that if
8 Captain Hazelwood chooses not to take the stand,
9 that's his Constitutional right. In other words,
10 if he doesn't go over there and testify in his
11 own behalf. You remember that?

12 A Yes, I (indiscernible - unclear) but I didn't
13 get the gist of the whole thing so...

14 Q Okay, let me...

15 A Repeat again, please.

16 Q Captain Hazelwood, as a defendant here, has a
17 right not to testify in his own behalf.

18 A Uh-huh (affirmative).

19 Q If Captain Hazelwood did that would you hold
20 it against him? That is, if he didn't testify?

21 A No. I wouldn't have anything against him.

22 Q Would you believe that he had something to
23 hide if he didn't testify?

24 A No. I don't believe that, because, the reason
25 I believe that because sometimes when you speak

1 you may not speak good enough to make the people
2 understand you, and that could cause you to be
3 unclear yourself.

4 Q Okay. Thank you.

5 A You're welcome.

6 Q Thank you.

7 MR. CHALOS: Your Honor, may we excuse the
8 juror?

9 THE COURT: Yes. If you'd just step outside
10 for a minute, please.

11 (Juror not present)

12 Yes, sir.

13 MR. CHALOS: Your Honor, I would like to move
14 to excuse this juror on the grounds that she saw the
15 ship at the time that she overflowed the area. She has
16 some first hand knowledge of the oil spill. She's been
17 fishing down there. Her son in law is a police officer
18 that may have been involved in the investigation
19 although she said she doesn't know that she heard
20 anything from him. Or, at least said she can't tell us
21 she heard anything from him.

22 Also, it seems pretty clear that she's been
23 heavily influenced by pre-trial publicity on the issue
24 of alcohol. And I think the combination of all three,
25 or all four of the things that I just pointed out

1 should cause this juror to be excused for cause.

2 THE COURT: Your reasons are not covered in
3 rule 24 and she's demonstrated unequivocally her
4 ability to follow the court's instructions.

5 Her view of this ship, there's no clear cut
6 time when she saw it and she didn't say what she saw.
7 She saw it from a distance. She wasn't paying much
8 attention. And she didn't talk to her brother in law
9 about anything at all. I'm going to deny your
10 application.

11 Why don't you bring her in now?

12 (Jury present)

13 I'm going to excuse you for the rest of the
14 day, but you'll have to come back Monday morning at
15 8:30 a.m. to the jury assembly room where you met
16 today. Do you remember where that room is?

17 A Yes.

18 THE COURT: Okay. Will you be able to make it
19 at 8:30 a.m. on Monday morning?

20 A Yes.

21 THE COURT: Okay. Don't talk to anybody about
22 this case and don't get exposed to any of the media
23 publicity about it.

24 Okay. You can go out this door if you'd like.

25 Thank you.

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(Juror not present)

Incidentally, is there going to be a dispute about the location of the ship? How it was positioned? Is there a contest that it was positioned other than what it appears to be in these pictures.

MR. CHALOS: No, Your Honor, but...

THE COURT: That was my question. I didn't ask you anything else. Is there a dispute about the positioning of the ship on Bligh Reef?

MR. CHALOS: Not in the position of the vessel, itself, but what the vessel could do in the position that she was in.

THE COURT: That's fine. Thank you.

The defendant has their first of the alternates.

Let me just point out how I'm doing this so you'll know. The first alternate, so far, is Bobby Lewis. The second one is Dorine Kuta and the third one now is Susitna Shine. And that will be the order in which they will be replacing regular jurors, in the order in which they've been seated, passed for cause.

(Pause)

MR. CHALOS: Your Honor, may we have just one minute to confer with our client?

THE COURT: Yes. Take a minute.

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(Pause)

I'm sorry.

MR. COLE: There's a battery right there.

THE COURT: Sure. Go ahead and take it.

(Pause)

MR. MADSON: Your Honor, we would ask the court to thank and excuse Kuta, Dorine Kuta.

THE COURT: Okay. We'll notify her. Why don't you as soon as you get that squared away why don't you call down and have her called. Did you get that telephone number called?

THE CLERK: I did.

THE COURT: Notify her right away.

The State has one more pre-emptory challenge and the defendant has one more pre-emptory challenge to the alternates.

I want to select the next two alternates today and we'll just push right on ahead and do that.

MR. CHALOS: Would it be all right if we took a five minute break.

THE COURT: I thought we could do that right now. I just want to let you know we were going to finish up.

THE CLERK: Please rise. Court stands in recess subject to call.

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(2455)

(Off record - 3:07 p.m.)

(On record - 3:19 p.m.)

(Juror not present)

THE COURT: Mr. Madson, did you say you had to leave early today?

MR. MADSON: Yes, Your Honor. I just wondered if the court would have any objection if Mr. Chalos just fills in for me so I can leave a little early and try to catch a plane home?

THE COURT: Okay. This time it will be fine. I have no problem -- do you have any problem with that.

Now, we're going to -- the Coast Guard is going to be here and we're going to be resolving some other issues. You're aware of that?

MR. MADSON: I'm familiar with that, Your Honor. Mr. Russo's covering that.

THE COURT: Okay. That's fine.

MR. MADSON: Yeah. We're aware of that.

(Side conversation)

(Pause)

(Juror present)

HYUNG YANG

THE COURT: Have a seat, sir, in the first row and take the microphone off of the -- either seat.

1 Take the microphone off the stand.

2 Make yourself comfortable and be seated. And
3 would you answer the first four questions on the board,
4 please?

5 A My name is Hyung, last name Yang.

6 I'm not member of organization.

7 No to...

8 THE COURT: Okay. 4.

9 A 4, no.

10 THE COURT: All right.

11 VOIR DIRE EXAMINATION OF MR. YANG

12 BY MR. COLE:

13 Q Good afternoon, Mr. Yang, how are you?

14 A Fine.

15 Q Have you followed the publicity that has
16 arisen since the grounding of the Exxon Valdez?

17 A I watch TV and newspaper in my residence
18 millions times, or newspaper.

19 Q Were you out in Prince William Sound last
20 summer?

21 A Yes. About one month.

22 Q One month. When was that?

23 A Was about August -- August 'til September.

24 Q And did you get a full season in this year?

25 A No. Just half a season.

1 Q Who do you work for?

2 A Tumuri (ph) Fishery, it's 48 foot salmon fish.

3 Q Seiner?

4 A Yes.

5 THE COURT: You want to approach the bench,
6 counsel?

7 (2619)

8 (Whispered bench conference as follows:)

9 I have no objection to excusing this juror.
10 Sounds like he was effected by the spill directly.

11 MR. COLE: Yeah. I just wanted to get that
12 out.

13 THE COURT: That's fine.

14 (End of whispered bench conference.)

15 (2628)

16 Mr. Yang, I'm going to excuse you because of
17 your contact with the fishery down there. You were
18 effected by this, and so, we're going to excuse you as
19 a result of that.

20 You can put the microphone back on the stand.
21 I want to thank you for all your time and your patience
22 for waiting around here. You can take your jury
23 service card down to the clerk for further
24 instructions.

25 You can just exit the door here. Thanks, Mr.

1 Yang.

2 MR. YANG: Thank you.

3 (Pause)

4 (Juror present)

5 DOROTHY STAPLES

6 THE COURT: Good afternoon. Come on in and
7 have a seat on the front row and take the microphone
8 off the stand. It just snaps off. You just pull it
9 off. It will come off.

10 And would you answer the first four questions
11 on the board?

12 A My name is Dorothy Staples and I belong to
13 Beta Sigma Phi, just different organizations like
14 that. No other...

15 THE COURT: What kind of organizations? Any
16 social organizations besides that one? Any
17 professional organizations, recreational organizations?

18 A NACM, which is the National Credit Manager
19 Association.

20 THE COURT: Any environmental organizations?

21 A No.

22 THE COURT: Have you ever been a member of an
23 environmental organization?

24 A No.

25 THE COURT: Or contributed to a cause?

1 A Okay.

2 I could give you lots of reasons, but none

3 that are really sufficient, I guess, for not

4 serving.

5 THE COURT: Do they have to do with your

6 hardship, or financial reasons, or work, things like

7 that?

8 A My bosses are unhappy, but other than that,

9 nothing, you know.

10 And I don't know any of the attorneys or

11 witnesses or anyone.

12 THE COURT: Did you go over that list of

13 witnesses that we gave you earlier?

14 A Yes, I did.

15 THE COURT: Did you recognize any names?

16 A No, I didn't.

17 THE COURT: Okay. Thank you.

18 Mr. Cole.

19 VOIR DIRE EXAMINATION OF MRS. STAPLES

20 BY MR. COLE:

21 Q Mrs. Staples, have you followed the publicity

22 that's been generated by the grounding of the

23 Exxon Valdez?

24 A Oh, what you read in the newspaper and that's

25 about all.

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Q Which newspaper? Do you subscribe to a newspaper?

A Yes. I get the news on Saturday and Sunday and that's it.

Q Have you watched the events that have surrounded this case on television?

A Not a lot, because I don't have a lot of time to do that, because I go to school and other things.

Q Have you formed any opinions about the various roles of the parties that were involved, and their responsibility for this grounding? And when I say the parties I mean it in a general sense, Alyeska, Exxon Shipping Corporation, the Coast Guard, the Department of Environmental Conservation, or any of the crew members?

A No. I haven't.

Q Have you formed any opinions about Captain Hazelwood's conduct prior to the grounding of the Exxon Valdez?

A It's been discussed somewhat between friends, but that's all.

Q Has your discussion caused you to form any opinions about what happened?

A No.

1 Q If instructed by the court to reach a verdict
2 only on what evidence you hear here in this court
3 room and your own common sense and good judgment,
4 would you be able to follow that instruction?

5 A Yes. I think so. To the best of my knowledge
6 of understanding what they want.

7 THE COURT: Let me phrase it a different way.
8 You will be instructed that you are to decide this case
9 based solely on the evidence presented in this court
10 that consists of sworn testimony and exhibits, and in
11 accordance with the court's instructions on the law.
12 And you are not to consider any other outside sources
13 of information. Would you be able to follow that
14 instruction?

15 A I believe so.

16 THE COURT: Thank you.

17 Q (Ms. Staples by Mr. Cole:) You have sat on
18 civil and criminal cases before?

19 A I've been on jury duty two or three times
20 before, here, but I'm not positive. It's been a
21 long time ago. Four or five years. One was
22 criminal, I know.

23 Q Did you have to actually sit in the jury and
24 take evidence?

25 A Yes.

1 Q Do you remember what kind of case it was?
2 A One of them that I remember was a stabbing
3 between two women.
4 Q And I notice that you have a brother who is a
5 state trooper?
6 A Yes, I do.
7 Q And what is his first name?
8 A Forrest.
9 Q And is he a trooper here, in Anchorage?
10 A Yes, he is.
11 Q The judge will instruct you that people that
12 take the stand are all to be viewed -- their
13 testimony is all to be viewed equally. Just
14 because someone comes in with a uniform on, or is
15 a law enforcement officer they don't receive
16 extra credibility just because of that fact.
17 Would you be able to follow that instruction?
18 A Yes, I would.
19 Q Can you tell me a little bit about your job?
20 A I'm assistant credit manager of K & L
21 distributors. I break out all the checks, bill
22 the different stores in town, take a lot of
23 harassment over the phone. That's what it...
24 Q You drink. You've indicated that on
25 questionnaire.

1 A Yes, I do.

2 Q Do you have any strong feelings about people
3 that don't drink?

4 A No. I think that's their own personal
5 preference, myself.

6 Q Does your business require any kind of random
7 drug testing?

8 A Does it require testing?

9 Q Yeah, at all?

10 A I don't believe so. I haven't been tested.

11 Q Are you allowed to drink at your job?

12 A No. At work? No, I'm not.

13 Q Have you ever had a drink at lunch during a
14 work day?

15 A No. I don't drink when I'm working.

16 Q I noticed in your questionnaire that when you
17 were asked if you ever thought you were treated
18 unfairly by the police, a prosecutor, or a
19 district attorney you answered yes. Can you tell
20 me about that? It says your daughter's divorce
21 action against a husband.

22 A My daughter married a man who -- I'm totally
23 convinced and the lawyers were, too -- that's a
24 psychopath. And he harassed us for a solid year
25 and I could not get any cooperation from the law

1 until he did something. And I had to hide her
2 and a few other things. And that's what it
3 pertained to.

4 Q What did that person do?

5 A Came to our house at night and would scare us,
6 would hide in the woods next to our home,
7 threatened my grandchildren. It goes on an on.

8 Q Did you just talk to the police, or did you
9 actually talk to the district attorney's office
10 about this?

11 A No. We called the police station to have them
12 come out when he threatened the grandchildren.
13 They didn't keep a record of that phone call when
14 we needed it for testimonies later. Actually, it
15 was actually calling the police and trying to get
16 them to come to the house and do something about
17 it.

18 Q You also talked about a time where your
19 husband was stopped?

20 A Yes. He had colitis and takes cortizone and
21 he mixes his medication together when he flies in
22 one jar, instead of keeping it all separate in
23 the labelled bottles that they come in. And they
24 took him in for that and checked him.

25 Q What did your husband do?

1 A He wasn't real cooperative.

2 Q Was he just driving down the street or
3 something?

4 A Right.

5 Q Do either of those incidents, do you feel that
6 there's anything that you've developed strong
7 enough feelings that they would effect your
8 ability to be fair and impartial in this case?

9 A No.

10 Q You indicated that you have close friends with
11 Fish and Game. Who are those people?

12 A Social friends is all they are.

13 Q And have you talked to them about this case at
14 all?

15 A No.

16 Q Given the importance of this case to both
17 Captain Hazelwood and the State of Alaska, would
18 you be willing to follow the court's instructions
19 to listen and reach a fair and just verdict based
20 on the evidence that's presented to the
21 witnesses, the evidence that's admitted in court
22 and your own common sense and good judgment?

23 A I would hope so. I would like to be given the
24 same chance if I happened to be in here. That's
25 how I feel about jury duty.

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

3 A Yes, I would.

4 Q Okay. Thank you very much, Mrs. Staples. I
5 appreciate your answers.

6 MR. COLE: I have no further questions. Pass
7 for cause.

8 (3621)

9 VOIR DIRE EXAMINATION OF MS. STAPLES

10 BY MR. CHALOS:

11 Q Good afternoon, Ms. Staples. I see here you
12 have two children, grown children?

13 A Yes, I do.

14 Q What do they do for a living?

15 A My son works for the Enstar and my daughter
16 works for Compueaze Computer.

17 Q What is Enstar?

18 A Enstar is the utility gas company here in the
19 state, or in Anchorage.

20 Q And you work for K & L Distributors?

21 A Yes.

22 Q What do they do for a living?

23 A That's a liquor distributor.

24 Q Your state trooper brother, was he involved in
25 the investigation of this spill?

1 A I wouldn't know. I haven't talked to him in
2 about five years.

3 Q That's good enough.

4 Tell me, what do you specifically remember
5 reading, or seeing on television about the spill?

6 A What did I specifically see?

7 Q Or read about?

8 A I'm not a big TV watcher, so I didn't see a
9 lot. And the news, maybe a couple times, and
10 whatever has been in the paper, but I really
11 don't read the paper and I don't watch
12 television.

13 Q In the month or so following the spill did you
14 watch television, or read the papers about the
15 spill?

16 A Oh, I'm sure I did, but there's not anything
17 that I can recite to you that I remember reading
18 or anything, no.

19 Q When you filled out this questionnaire, this
20 juror questionnaire, you have a pretty extensive
21 description of what you remember. You say here,
22 "How captain of the Valdez was responsible. The
23 big mess on the shores. The loss of animals.
24 The amount of dollars it was going to take to
25 clean up the water. Not counting the loss of

1 fishing industry would incur. How Captain
2 Hazelwood was drinking."

3 A That's...

4 Q You remember all that from the news accounts
5 that you read?

6 A From reading and hearing it on the news is
7 all.

8 Q Have you discussed it with your fellow
9 employees?

10 A No.

11 Q Have you expressed any opinions to anyone
12 about who might be responsible for the spill?

13 A Recently, or when it happened?

14 Q Well, when it happened. Let's start with
15 that.

16 A Probably did to someone. I don't know.

17 Q Well, what opinion do you recall expressing?

18 A Is that what you want to hear here? My
19 opinion?

20 Q Yes, ma'am. Absolutely.

21 THE COURT: If you have an opinion?

22 A If I have an opinion? Well, I'm not too sure
23 that all of the fault lies on Mr. Hazelwood's
24 shoulders. That's how I kind of feel.

25 Q That's fine. Do you have an opinion if any of

1 the fault lies on Captain Hazelwood's shoulders?

2 A Do I have an opinion if any of it does?

3 Q Yes.

4 A Well, I haven't heard the circumstances of
5 what happened, or why it happened, other than in
6 the paper, you know.

7 Q Do you believe everything you read?

8 A No, I certainly don't.

9 Q Did you ever have an opinion that Captain
10 Hazelwood might be at fault for what happened?

11 A No. I can't say that.

12 Q Has your initial opinion that you expressed to
13 us that not all the fault belongs to Captain
14 Hazelwood, has that changed over time?

15 A You mean, do I still feel that way?

16 Q Yes.

17 A Yes. I certainly do.

18 Q In response to where you believe that you've
19 suffered personal, or economic loss as a result
20 of the spill you say, "Yes. Loss to the beauty
21 of Alaska."

22 A Uh-huh (affirmative).

23 Q Is that right? What's your feelings in that
24 regard?

25 A Well, it's a mess, but it's been done and it

1 needs to be cleaned up and go on. That's how I
2 feel. What we can do with it.

3 Q Do you hold Captain Hazelwood responsible for
4 the loss of beauty for Alaska?

5 A Just him, personally?

6 Q Yes.

7 A No.

8 Q Do you -- in your view do you hold him
9 partially responsible for the loss of beauty?

10 (Pause)

11 A I really don't know how to answer that because
12 I don't have...

13 Q As best as you can.

14 A ...all the evidence as to what was happening
15 the evening that that happened, or was going on.

16 Q All right. Let me ask you this, then. Would
17 you be able to assure us that you would sit here
18 and listen to all the evidence presented, listen
19 to the testimony that's given...

20 THE COURT: Excuse me just a minute.

21 Sir, don't do that. Remove that camera from
22 the court room. We can not be taking pictures in this
23 proceedings.

24 UNIDENTIFIED SPEAKER: I'm sorry.

25 (Indiscernible - away from mike.)

1 THE COURT: All right.

2 Q (Ms. Staples by Mr. Chalos:) I'm sorry, Ms.

3 Staples. Let me start again.

4 Can you assure us that you'll be able to

5 listen to the evidence and the testimony and

6 follow the judge's instructions as to the law and

7 render a fair and impartial verdict?

8 A I believe I could, yes.

9 Q Do you have any doubt that you would be able

10 to do that? Any doubt at all, however slight?

11 A No. I think I could take the evidence once I

12 hear it.

13 Q You say here that you have some friends who

14 are fishermen?

15 A Uh-huh (affirmative).

16 Q Have you discussed the spill with them?

17 A No. I haven't.

18 Q Do they fish in Prince William Sound?

19 A That I can't answer. I just know that they're

20 fishermen. I don't...

21 Q Yes. Do you know whether they've been at all

22 injured by the spill?

23 A I'm sure they feel they have, but not they've

24 ever voiced to me.

25 Q In other words, they haven't expressed any

1 opinion to you?

2 A No.

3 Q You heard Judge Johnstone instruct you earlier

4 this week that the defendant, Captain Hazelwood

5 is presumed to be innocent until proven

6 otherwise. Do you remember that?

7 A Yes, I do.

8 Q Any problem with that?

9 A No.

10 Q All right. You also heard the judge tell you

11 that Captain Hazelwood does not have to present

12 any evidence in his behalf if he chooses not to.

13 Do you remember that?

14 A Yes.

15 Q Any problem with that?

16 A No.

17 Q If Captain Hazelwood chooses not to take the

18 stand and testify, would you have any problem

19 with that?

20 A No.

21 Q Would you think if Captain Hazelwood didn't

22 take the stand that he had something to hide?

23 A Not necessarily, no.

24 Q What would be your opinion if Captain

25 Hazelwood didn't take the stand?

1 A What would be my opinion?
2 Q Or your feelings?
3 A That maybe if he did testify they might turn
4 what he says around, possibly, would be all I
5 would think.
6 Q And if the judge were to instruct you to
7 ignore, or not to take into consideration the
8 fact that Captain Hazelwood did not testify, and
9 that is his Constitutional right not to do so,
10 would you be able to follow that instruction?
11 A Yes. I'd be able...
12 Q And put aside any personal feeling you might
13 have about the subject?
14 A Yes. I could.
15 Q Thank you.
16 MR. CHALOS: Your Honor. I have no further
17 questions of this juror...
18 THE COURT: Pass for cause?
19 MR. CHALOS: Yes. I pass for cause.
20 MR. COLE: Judge, could she step outside for
21 just a second?
22 THE COURT: Yes. Step outside just for a
23 minute, please.
24 A Leave my stuff here?
25 THE COURT: You can leave your stuff there.

1 You're going to come back in just a second.

2 (Juror not present)

3 Sir?

4 MR. COLE: Judge, I would now like to object
5 and ask that she be excused for cause based on the
6 comments that she has made during the course of Mr.
7 Chalos'...

8 THE COURT: Can you be more specific and maybe
9 address yourself to the rule that would cover it?

10 MR. COLE: Yes. I'd be happy to, Your Honor.
11 It's rule 24...

12 THE COURT: Specifically the comments that
13 you're referring to that she made.

14 MR. COLE: The comments that I'm referring to
15 that she made are the one where she indicated that
16 Captain Hazelwood is not the only one that is
17 responsible for this matter. And, also, right at the
18 end she was talking about her conversations about how
19 she view -- it's basically just the conversations that
20 she said, the way she talked about his responsibility
21 and not being the only one (indiscernible - away from
22 mike).

23 THE COURT: Request is denied.

24 Bring the juror back in.

25 (Pause)

1 (Juror present)

2 THE COURT: We're going to excuse you for the

3 rest of the day now. You'll have to come back on

4 Monday morning at 8 a.m. unless you hear from us by

5 telephone.

6 Do you have a place where you can be reached

7 in the next half an hour, or hour by telephone?

8 A (Indiscernible - away from mike.)

9 THE COURT: What is your telephone number?

10 A (Indiscernible - away from mike.)

11 THE COURT: Okay. If you don't hear from us,

12 you'll be expected to come in Monday morning at 8:30

13 a.m.

14 A (Indiscernible - away from mike.)

15 THE COURT: 8:30. And don't discuss this case

16 with anybody and don't be exposed to any media

17 publicity. Avoid that like the plague. Do you know

18 where to come on Monday morning? Do you know where the

19 assembly room is downstairs? The same place that

20 you...

21 A (Indiscernible - away from mike.)

22 THE COURT: Okay. That's where we want you at

23 8:30.

24 A Okay.

25 THE COURT: See you then. Thank you.

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(Pause)

(Juror not present)

I think you're on your next one, Mr. Cole, am I correct about that? And then, the defendant has one.

MR. COLE: The State would respectfully thank and excuse Ms. Staples.

THE COURT: We'll notify her by telephone.

So far we have Bobby Lewis as a first alternate. Susitna Shine as a third alternate and the next person seated will be in the position of second alternate.

Let the record reflect, Mr. Madson, are you leaving now?

MR. MADSON: Yes, I am.

THE COURT: And, Captain Hazelwood, is that agreeable with you that he is excused for the rest of this procedure?

CAPTAIN HAZELWOOD: Yes, Your Honor.

THE COURT: Okay. See you on Monday.

MR. MADSON: Yes. Thank you.

(Pause)

(Juror present)

(4128)

TERRY L. TURNER

THE COURT: Good afternoon. Come on in and

1 have a seat in the very front row. No, no. In the
2 front row here.

3 A Front row here?

4 THE COURT: Yes.

5 Take the microphone off of the holder there,
6 please, and would you answer the first four questions
7 on the blackboard.

8 A My name is Terry Turner.

9 I'm not a member of any organization.

10 I don't know of any reason I shouldn't serve
11 on the trial.

12 And I don't know the defendant, the attorney,
13 the plaintiff, or any of the witnesses.

14 THE COURT: Mr. Cole.

15 VOIR DIRE EXAMINATION OF MS. TURNER

16 BY MR. COLE:

17 Q Ms. Turner, have you followed the events that
18 have occurred since the grounding of the Exxon
19 Valdez?

20 A No, I haven't.

21 Q Have you reached any opinions on the
22 respective roles of any of the individuals
23 involved?

24 A No.

25 Q Do you have any opinions about Captain

1 Hazelwood's performance prior to the Exxon Valdez
2 grounding?

3 A Do I have any opinions on his performance
4 prior to?

5 Q Prior to, or after, or anything like that?

6 A No.

7 Q If you were called upon to serve on this jury
8 to review this evidence solely on the evidence
9 which is presented here and your own common sense
10 and good judgement, could you follow that
11 instruction?

12 A I think so.

13 Q Would you tell me a little bit about your job
14 at Precision Electric?

15 A I'm a bookkeeper.

16 (Tape: C-3596)

17 (003)

18 Q And you've been doing that for about nine
19 months?

20 A Yes.

21 Q Where did you work prior to that?

22 A I was unemployed for a year, or a year and a
23 half, or so, and I was living with my boyfriend.
24 I worked at Artistic Tile before that.

25 Q Which high school did you graduate from?

1 A I graduated from SAVE high school. I went to
2 Dimond most of the time. The last year I went to
3 SAVE.

4 Q Okay. I see that you drink occasionally. Do
5 you have any strong feelings about drinking?

6 A (No audible response.)

7 Q Well, let me put it to you this way, that
8 would effect your ability to be fair and
9 impartial in this case?

10 A I don't quite understand the question.

11 Q Well, do you have any strong -- some people
12 are members of, like Mothers Against Drunk
13 Driving. Are you a member of that?

14 A No. Uh-uh (negative).

15 Q Do you have any strong feelings about people
16 that drink more than you do, say for instance,
17 either favorably, or disfavorably?

18 A Well, I think that if somebody drinks too much
19 and they get drunk and disorderly that I kind of
20 look down on that, but, you know.

21 Q Other than that?

22 A No.

23 Q Okay. I see that you had an incident with a
24 police officer where you were not happy?

25 A Yes.

1 Q And I've reviewed that. Would you agree that
2 even police officers can make mistakes?

3 A Yes. I didn't, you know, I only put that down
4 because it just happened to enter my mind,
5 because it hadn't been that long that I got a
6 speeding ticket. And I really, honestly thought
7 that I wasn't speeding, because I was watching my
8 speedometer. And there was a car in front of me
9 that was going a lot faster than I was. It, you
10 know, I just -- he stopped me and I'm the one
11 that got the ticket. So...

12 Q Anything about that that would effect your
13 ability to be fair and impartial here?

14 A No. I don't think so. It's not like I'm
15 holding any grudges about it, or anything, but...

16 Q Would you be willing to be a fair and
17 impartial juror in this case?

18 A Yes, I would.

19 Q Give both sides a fair trial?

20 A Yes.

21 Q Be willing to listen to the evidence that's
22 presented to the witnesses, and the evidence
23 that's presented here in court and admitted, and
24 reach a fair and just decision if called upon,
25 based on that and your common sense and good

1 judgment?
2 A I believe so. I haven't, you know, I'm
3 probably one of the few that don't -- I don't
4 know that much about this whole incident, because
5 I didn't ever read about it. I saw it a little
6 bit on the news, but that was about it. So, I
7 don't know any of the details.

8 Q You'd give us your best shot?

9 A I would try my best, yes.

10 Q Thank you, Ms. Turner. I have no further
11 questions. Pass for cause.

12 VOIR DIRE EXAMINATION OF MS. TURNER

13 BY MR. CHALOS:

14 Q Good afternoon, Ms. Turner.

15 A Hi.

16 Q I don't have a whole lot of questions. I know
17 you said you didn't see too much of this on
18 television, or in the newspapers, but what do you
19 recall of what you saw?

20 A All I saw was just brief pictures of the ship,
21 it looked like taken from a plane, or something,
22 and it just showed the water around it, showing,
23 I guess, some of the spill.

24 Q And that's the extent of what you saw?

25 A That's pretty much, yes. I didn't read

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1 anything about it in the newspaper. And that's
2 the only thing I remember seeing on the news was
3 just a couple times that's all that sticks out in
4 my mind, what I remember seeing was just the
5 water.

6 Q So I take it you've formed no opinions as to
7 Captain Hazelwood's guilt, or innocence?

8 A No. I haven't, because I don't know what
9 happened, really.

10 Q And you would be willing to listen to the
11 evidence, look at the witnesses who come in here
12 and testify, and judge their credibility on what
13 you here and see...

14 A Yes.

15 Q ...listen to the judge's instructions?

16 A I believe I would be able to.

17 Q You remember when you came in here this week
18 the judge gave you some instructions
19 specifically, he told you that Captain Hazelwood
20 is presumed innocent until proven otherwise?

21 A Yes.

22 Q And that the District Attorney has the burden
23 of proving beyond a reasonable doubt each and
24 every element of the charges against Captain
25 Hazelwood?

1 A Yes.

2 Q Any problem with either one of those
3 instructions?

4 A No.

5 Q And do you also remember the judge telling you
6 that Captain Hazelwood does not have to offer any
7 evidence in his defense?

8 A Yes. That he has...

9 Q Any problems with that?

10 A No.

11 Q How about the instruction that Captain
12 Hazelwood does not have to take the stand if he
13 so chooses? Any problem with that?

14 A No.

15 Q If Captain Hazelwood did not take the stand,
16 would you hold that against him?

17 A No, because I didn't know it before, but the
18 judge explained that he has that right. So, you
19 know, you couldn't really hold it against him, I
20 wouldn't think.

21 Q You wouldn't think that he was trying to hide
22 something by not taking the stand?

23 A No.

24 Q Your Honor, I -- thank you very much. I have
25 no further questions. I pass for cause.

1 THE COURT: All right. Will you just step
2 outside for a minute, please.

3 I'll call you back in just a minute. Just go
4 through that door.

5 (Pause)

6 (Juror not present)

7 Mr. Chalos, as to that last...

8 MR. CHALOS: I'm sorry. If I may just have
9 one second.

10 Your Honor, the defense thanks and
11 respectfully excuses Ms. Shine.

12 THE COURT: All right.

13 Let's get Ms. Turner in and I'll excuse her
14 for the day.

15 (Juror present)

16 I'm going to excuse you for the rest of the
17 day. You'll have to come in here Monday morning and
18 report to the same assembly room you reported to this
19 morning downstairs. Do you remember where that is?

20 A Room 52?

21 THE COURT: I believe that's the number. And
22 you'll have to be there at 8:30 a.m. Monday morning.

23 A 8:30 Monday?

24 THE COURT: It looks like you might be on this
25 jury. So, you're to avoid any media information about

1 this case and not to discuss this with anybody. Can
2 you do that?

3 A Yes.

4 THE COURT: Okay. You can exit through that
5 door there and we'll see you Monday downstairs at 8:30
6 a.m.

7 (Juror not present)

8 Next juror.

9 (Side conversation)

10 THE COURT: This will be the third alternate
11 and the parties have run out of pre-emptory challenges.

12 (Juror present.)

13 (330)

14 JOYCE GAUSE

15 THE COURT: Ms. Gause, if you'd have a seat in
16 the front row please, behind that microphone. And
17 would you take the microphone off of the rack and have
18 a seat and answer the first four questions for us,
19 please.

20 A Okay. My name is Joyce Gause.

21 I am a member of Women's Aglow Fellowship, a
22 religious organization.

23 I can't think of any reasons why I should not
24 serve.

25 And to 4, no.

1 THE COURT: Thank you.

2 VOIR DIRE EXAMINATION OF MRS. GAUSE

3 BY MR. COLE:

4 Q Mrs. Gause, have you followed the publicity
5 that has come up since the grounding of the Exxon
6 Valdez?

7 A It was hard to escape for quite some time, but
8 since I received notice in the mail of jury duty
9 I kind of figured that I should avoid it.

10 Q The information that you received, did you
11 receive it through the newspaper, or friends, or
12 the television?

13 A Mostly TV.

14 Q A particular station, newscast that you watch?

15 A Channel 2.

16 Q Have you formed any opinions about the
17 respective roles of the parties that were
18 involved in the grounding of the Exxon Valdez,
19 and when I say the parties, I mean the crew
20 members on the Exxon Valdez, Exxon Shipping
21 Company, Alyeska, the Coast Guard, or the
22 Department of Environmental Conservation?

23 A No, sir. I know there are no easy answers.

24 Q You worked up in Happy Valley?

25 A Yes.

1 Q What were you doing up in Happy Valley?
2 A I worked in the warehouse for a year.
3 Q Were you a Teamster up there, or laborer?
4 A Yes, I was.
5 Q Was Happy Valley dry, or was there liquor in
6 that camp?
7 A It was supposed to be dry.
8 Q Did you see a lot of liquor coming in and out?
9 A Yes, I did.
10 Q Is there any reason that you can foresee why
11 you couldn't be a fair and impartial juror in
12 this case?
13 A There is a problem with alcohol in my family.
14 Myself, I don't drink. But, I think that I could
15 put that prejudice aside.
16 Q If the judge instructed you to put that aside
17 and base your verdict in this matter, and your
18 deliberation on the evidence that's presented
19 here in court, and the judge's instructions on
20 the law and your own common sense and good
21 judgment, would you be willing to follow that
22 instruction?
23 A Yes.
24 THE COURT: Excuse me. Do you have any doubt
25 in your mind that you would be able to set aside your

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1 feelings about alcohol?

2 A No.

3 THE COURT: Okay.

4 A It wouldn't be that easy, but I don't think
5 that I would have that much problem.

6 THE COURT: When you say, "I don't think", I
7 would have...

8 A Yes.

9 THE COURT: What do you mean by that when you
10 say that?

11 A I think that I would be able to use reason
12 instead of emotion.

13 THE COURT: When you say "I think", how sure
14 are you? I don't mean to badger you. I'm just trying
15 to...

16 A Yeah. I understand.

17 THE COURT: ...what you mean by that.

18 Let me give you an idea, I'll be instructing
19 the jury that they're to decide this case based solely
20 on the evidence that's presented in this court room,
21 and in accordance with the court's instructions, and
22 not to consider any other source of information outside
23 of court.

24 Now, are you certain that you can follow that
25 instruction considering your feelings about alcohol

1 use?

2 A Yes.

3 Q (Ms. Turner by Mr. Cole:) Would you be
4 willing to give both sides a fair trial in this
5 matter?

6 A Yes.

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

9 A Yes.

10 Q Do you feel comfortable with those notions?

11 A Yes.

12 Q Thank you. I have no further questions,
13 judge. Pass for cause.

14 (503)

15 VOIR DIRE EXAMINATION OF MS. GAUSE

16 BY MR. CHALOS:

17 Q Good afternoon, Mrs. Gause. Is that how you
18 pronounce it?

19 A Yes, it is.

20 Q What do you recall about what you read, or saw
21 on television with respect to the spill?

22 A I remember the visuals showing the beaches,
23 some of the dead animals.

24 I remember there were allegations of -- I'm
25 not sure if it would be called dereliction of

1 duty, but then there was substantial disputes to
2 that.

3 And at that point I drew away from paying any
4 attention to the reports.

5 Q Why is that?

6 A Because I got summons for jury duty in the
7 future at that point.

8 Q When did you first receive your summons?

9 A Oh, it must have been the beginning of
10 December.

11 Q So, up until then you were following the news?

12 A Yeah. I wasn't pursuing it, it was presented.

13 It was hard...

14 Q Yes.

15 A ...to escape, like I said.

16 Q What newspaper do you read?

17 A The Daily News.

18 Q Do you...

19 A The Daily News.

20 Q Yes. I heard.

21 Do you read the editorials?

22 A Very rarely.

23 Q Did you read any editorials with respect to
24 the spill, or Captain Hazelwood?

25 A Not to my recollection.

1 Q Do you have any opinion as to Captain
2 Hazelwood's guilt or innocence in this matter?
3 A No, sir.
4 Q Do you have any opinion as to what might have
5 caused the spill in this matter?
6 A No.
7 Q Do you have any opinion as to whether alcohol
8 played a role in this spill?
9 A No.
10 Q I would like to explore your feelings about
11 alcohol. You said that you have a problem with
12 alcohol in the family.
13 A Uh-huh (affirmative).
14 Q May I ask you without intruding too much what
15 that problem is?
16 A Many members of my family battle alcoholism.
17 Q I know that you said you could put those
18 feelings, whatever feelings you have about that,
19 aside and listen to the judge's instruction. Can
20 you say that without hesitation, or equivocation?
21 A Yes.
22 THE COURT: We've dealt with this now very
23 carefully...
24 MR. CHALOS: Yes.
25 THE COURT: Let's go on to another matter.

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1 Q (Ms. Gause by Mr. Chalos:) Let me just ask
2 you a few more questions, if I may. Do you
3 remember when you came in here this week the
4 judge gave you certain instructions, one of them
5 was that Captain Hazelwood is presumed to be
6 innocent until proven guilty?

7 A Yes.

8 Q Do you have any problem with that?

9 A No.

10 Q Do you remember the judge telling you that the
11 District Attorney has the burden of proving
12 beyond a reasonable doubt each and every element
13 of the charges against Captain Hazelwood?

14 A Yes.

15 Q Any problem with that?

16 A No.

17 Q Do you also remember the judge telling you
18 that Captain Hazelwood does not have to present
19 any evidence in his defense?

20 A Yes.

21 Q Do you have any problem with that?

22 A No.

23 Q How about the instruction that Captain
24 Hazelwood has the Constitutional right not to
25 take the witness stand if he so chooses? Do you

1 remember that?

2 A Yes, I do.

3 Q Any problem with that?

4 A No.

5 Q If Captain Hazelwood chose not to take the
6 stand, would you hold that against him?

7 A No.

8 Q Would you think that he had something to hide?

9 A No.

10 MR. CHALOS: Your Honor, we have no further
11 questions of Ms. Gause. Thank you very much. We pass
12 for cause.

13 THE COURT: Thank you. You can be excused for
14 the day. But, it looks like you're going to be on this
15 jury. And, so, I'll need you back on Monday morning at
16 8:30 a.m. downstairs in the jury assembly room. Do you
17 remember that room, where you reported today and last
18 Tuesday?

19 A Room 52?

20 THE COURT: I think that's the number.

21 And we'll need you back at 8:30 a.m. Monday.
22 It's essential that you be there.

23 In the meantime, since it looks like you're
24 going to be on this jury, do not discuss this case with
25 anybody, and avoid media information about it, okay?

1 A Yes.

2 THE COURT: Okay. You can exit this set of
3 double doors at the back of the room.

4 (Juror not present)

5 Bring the jurors in the back way, the
6 remaining jurors.

7 I believe that we've gone through all the pre-
8 emptory challenges. The jury has not been sworn, so it
9 has not been finally selected yet until it's sworn on
10 Monday.

11 And if there's something happens, and one of
12 the jurors who has been picked so far doesn't show up
13 for some reason and we can't locate that juror, we will
14 continue with the jury selection process until we get a
15 replacement for that juror. So, I'm not at this time
16 declaring the jury having been selected.

17 MR. COLE: Judge, real quickly, could you go
18 over the order of the alternates again.

19 THE COURT: Bobby Lewis is 1. Terry Turner 2.
20 Joyce Gause, 3.

21 MR. COLE: Thank you.

22 (Pause)

23 (Jury present)

24 THE COURT: Ladies and gentlemen of the
25 prospective jury, we've finished our day today. I'm

1 going to need all of you back on Monday morning. All,
2 I think there's six of you. Raise your hand if you're
3 a prospective juror, so I can do a head count.

4 Five of you.

5 Are you a juror, too, ma'am? Prospective
6 juror?

7 Okay. Six. So, I'll need the six of you back
8 on Monday morning at 8:30 a.m. in the jury assembly
9 room.

10 You're shaking your head. Okay. You can see
11 me after this.

12 I'll need all six of you unless you're
13 otherwise instructed by the court.

14 Don't discuss this matter with anybody and
15 don't get exposed to media coverage about it.

16 We may have selected this jury already. I'm
17 not sure. If somebody doesn't show up now Monday like
18 they're supposed to, then we're going to have to enlist
19 you folks, and possibly some others. So, I'd like to
20 be able to tell you not to show up, but it's essential
21 that you do show up so we can make sure we do have a
22 final jury in the event somebody doesn't show up.

23 Thank you very much for your time and
24 patience. I know it's been an inconvenience to you.
25 That's why we called you and kept you from coming in

1 until today. You could have to sit in here for four
2 days. Thank you for your time and I'll see you Monday
3 morning downstairs in the jury room at 8:30 a.m.

4 We'll take a break. We'll come back and
5 handle the matter that is pending at 4 o'clock.

6 And, Mr. Underhill and Mr. Linton, have you
7 got together on that?

8 MR. UNDERHILL: Yes, we have, Your Honor.

9 THE COURT: Okay. We'll come back in about 10
10 minutes and resume this proceeding then.

11 Ma'am, if you want to come out here in the
12 hall?

13 THE CLERK: Please rise. This court stands in
14 recess subject to call.

15 (813)

16 (Off record - 4:08 p.m.)

17 (On record - 4:15 p.m.)

18 (Jury not present)

19 THE CLERK: Court resumes it's session.

20 THE COURT: You may be seated.

21 We're back on the Hazelwood matter to
22 determine the motion for protective order.

23 Present is Mr. Underhill. Mr. Underhill, have
24 you and Mr. Linton decided whether or not Mr. Linton
25 received all of the blood alcohol tests administered

1 and all the information concerning them?

2 MR. UNDERHILL: Yes and no. He has received
3 all of the information concerning Captain Hazelwood,
4 all the information concerning any of the Exxon Valdez
5 crew members who were tested. He has not received all
6 of the Department of Transportation information. And
7 my instructions are that we have to stand on the
8 Privacy Right Acts on those fellows and we are not
9 authorized to release them.

10 So, and that also goes to -- and that is the
11 BA tests, Your Honor, are category 8 of the subpoena
12 and category 19, similarly, are copies of DOT personnel
13 records. And for the same reason...

14 THE COURT: Let's stay with the...

15 MR. UNDERHILL: Sure.

16 THE COURT: ...the blood alcohol information,
17 first of all.

18 So, he's received all of the information
19 pertaining to the crew members of the Exxon Valdez?

20 MR. UNDERHILL: Including Captain Hazelwood.

21 THE COURT: Okay. Were there more than one
22 test?

23 MR. UNDERHILL: Not to my knowledge, Your
24 Honor.

25 THE COURT: Okay.

1 MR. UNDERHILL: I mean, all we know is what we
2 got and what we got is one test.

3 THE COURT: Okay.

4 And, Mr. Linton, have you in turn turned all
5 of that information over to the defendant?

6 MR. LINTON: Yes, sir.

7 THE COURT: All right. Mr. Underhill, you can
8 be seated for a minute. Do you wish to be heard
9 further on your motion for protective order?

10 MR. RUSSO: Well, Your Honor, we have finished
11 on this motion to quash, because I think there's still
12 other areas that we should be aware of.

13 THE COURT: No, no. I'm going to make a
14 decision on this protective order as soon as I hear
15 final argument on it, because the protective order
16 deals with the blood alcohol.

17 MR. RUSSO: Okay. All right.

18 Your Honor, yes, I would like to be heard a
19 little further on that.

20 Even though I am assured now from Mr.
21 Underhill that the Coast Guard has, in fact, turned
22 over all of the blood test information in it's
23 possession concerning Captain Hazelwood to the State,
24 and I'm also assured that the State has turned all of
25 that material over to us, I do feel that we need the

1 blood alcohol information relative to Mr. Gordon,
2 rather Mr. Taylor and Mr. Blandford, as well.

3 And, I feel that the protective order should
4 preclude the State from introducing any evidence
5 relative to Mr. Taylor or Mr. Blandford unless that
6 test is produced. I do have reason to believe that at
7 least Mr. Blandford will be called as a witness by the
8 State in this case. And I also have a reason to
9 believe from my knowledge of the NTSB proceedings that
10 Mr. Blandford tested positive blood alcohol
11 approximately 10 hours or so after the grounding. And
12 accordingly, information relative to any blood test,
13 such as this blood test I'm describing, or any other
14 drug tests, are relevant to his being cross examined
15 effectively by the defense, considering he was the
16 watch stander, or the radar control operator at the
17 time of the grounding.

18 THE COURT: Mr. Linton indicated in a court
19 Exhibit 1 that he received from the Coast Guard chain
20 of custody on blood sample/urine samples for Blandford
21 and copied him laboratory blood/urine test reports for
22 Blandford, and he has said he turned them over.

23 MR. RUSSO: Well, Your Honor, I obviously have
24 whatever the State has turned over to us. I'm making
25 this representation based upon the fact that the

1 government, the United States Government, is saying
2 that there is additional information on Blandford and
3 Taylor that it hasn't turned over to Mr. Linton.

4 THE COURT: Well, Mr. Linton, did you turn
5 over some Blandford information to Mr. Linton?

6 MR. UNDERHILL: Yes.

7 MR. LINTON: Correct, Your Honor. I think, to
8 clarify, I'm not sure that when you say we, the Coast
9 Guard, I think it may have even been the NTSB that did
10 it. I don't know. The State has Blandford
11 information. From whom they got it, I don't know. It
12 might well have been the Coast Guard, but I think it
13 was the NTSB.

14 THE COURT: Where'd you get it?

15 MR. UNDERHILL: The Coast Guard.

16 THE COURT: The blood alcohol results of
17 Blandford? Okay.

18 MR. LINTON: Judge, things are coming out a
19 little garbled in communication between these two
20 lawyers, for example.

21 One of the things that when he stands up and
22 says there are other things that he is not going to
23 give us Mr. Underhill is probably including the blood
24 test alcohol results from Mr. Gordon Taylor. He was
25 the watch stander on before.

1 In fact, Mr. Gordon Taylor was a witness at
2 the National Transportation Safety Board hearings. He
3 testified about his blood alcohol test results. A copy
4 of the Compu-Chem laboratory testing of his blood
5 alcohol was admitted as an exhibit in those
6 proceedings.

7 And I have been presuming that they have the
8 National Transportation Safety Board hearing things,
9 so, when they stand up and they say we don't have them,
10 we don't know what we got. We have the government
11 saying we're not going to disclose what's there, but,
12 in fact, part of the public record, which I believe
13 they already have includes Gordon Taylor's test, and
14 the results of that test. And both sides make no
15 mention of that when, in fact, we now have three
16 government...

17 THE COURT: Mr. Russo, what is it you don't
18 have that you need concerning the blood alcohol?
19 You've got all the crew members. You've got Taylor.
20 You've got Blandford. What is it you don't have you
21 say somebody's holding back from you?

22 MR. RUSSO: Your Honor, my representation
23 relative to that is strictly based upon what the Coast
24 Guard has said. I have no idea what they have, but I
25 know what I have. I've gotten it from the State,

1 basically.

2 All right? All I'm saying is that we're
3 entitled to whatever the Coast Guard has in this
4 particular category. And I have to rely on the
5 Department of Justice to represent to the court and to
6 me whether they're holding anything back.

7 Based upon what Mr. Underhill has said, he's
8 indicating that the Coast Guard is holding something
9 back. I don't know what that is. So, as long as I
10 have a suspicion that there is additional material that
11 I don't have out there, I have to assume that I don't
12 have it and ask that it be produced. And that's all
13 I'm doing.

14 THE COURT: Okay. Your motion's denied
15 regarding the blood alcohol testing by the United
16 States Coast Guard on the defendant at trial in the
17 above entitled cause.

18 Your protective order was fairly limited
19 regarding blood alcohol. You want an order prohibiting
20 the State of Alaska from using the results of any blood
21 alcohol testing performed by the U. S. Coast Guard on
22 the defendant at trial in the above entitled case.

23 It's clear that you have all of that
24 information, according to statements by officers of the
25 court here today.

1 Now, you also say, "In addition, any testimony
2 derived from the Coast Guard investigation which is
3 being withheld from defendant by the United States
4 government pursuant to a Freedom of Information Act
5 request should not be permitted at trial."

6 I don't know what that's going to be, so I'm
7 provisionally denying that motion. And if you can be
8 more specific at such time we get into the evidence of
9 this thing, I'll reconsider that. I don't know that I
10 would grant it under any circumstances. It seems to me
11 that the government, the Coast Guard, does have a
12 legitimate right to withhold divulging all information
13 under the statute.

14 I'm not going to hear. I don't need to hear
15 any more argument on that. I've read the cases. It's
16 clear that any kind of a limited disclosure doesn't
17 constitute a general disclosure under the case law I've
18 reviewed. So, the government's under no compulsion to
19 disclose information pursuant to the subpoena. The
20 subpoena is quashed.

21 Now, is there anything else we need to take up
22 at this time?

23 MR. RUSSO: Your Honor, I just want to call
24 your attention to something that was raised yesterday
25 relative to the tapes.

1 THE COURT: Okay.

2 MR. RUSSO: As I indicated to you, the Coast
3 Guard has told us that they will allow us access to the
4 original tapes. There has, however, been a slight
5 snafu relative to the timetable in that we were
6 originally told that the tapes would be available to be
7 transcribed in Juneau. We sent a stenographer to
8 Juneau to transcribe the tapes and then it was
9 determined that the tape recording equipment --
10 playback equipment in Juneau could not play back these
11 particular tapes.

12 So, now we're going to send our stenographer
13 from Juneau to Valdez, where there is such equipment.
14 And the tapes will be played there on Monday for her.
15 And she will have an opportunity to transcribe the
16 tapes.

17 When that is done the Coast Guard will review
18 it and give us clearance for an expert to go and listen
19 to the tapes.

20 The reason I'm mentioning this is that I'm
21 concerned that our expert have the opportunity to do
22 that before the State seeks to introduce any tape
23 recordings at trial so that we will have an opportunity
24 to cross examine the authentication of those tapes, and
25 I'm hopeful that we're going to be able to do this next

1 week, provided that everything works expeditiously.
2 But, I understand the tapes in real time are at least
3 eight hours long. Is that correct?

4 MR. UNDERHILL: It's a voice activated
5 machine, Your Honor. And the problem with Juneau is
6 that it's a 20 channel recorder. And the important
7 thing on these tapes is the time ticker that will give
8 you the time. And apparently the Juneau machine is
9 incompatible with the machine from Valdez, so you don't
10 get the time recording.

11 There is a second machine in Valdez. It
12 doesn't belong to us. It belongs to the manufacturer.
13 We're going to take the risky maneuver of just saying
14 use it anyway, so these fellows can get what they want
15 soon.

16 THE COURT: When's the earliest they can get
17 it? Can they get it over the weekend?

18 MR. UNDERHILL: Well, the problem is getting
19 the tape now to Valdez. And understanding that a lot
20 of parties in the civil litigation are going to want
21 this tape we don't want to send it through the mails.
22 And, so, what we've decided is the court reporter from
23 Juneau talked the reporters Mr. Russo has made the
24 arrangements. She will fly it up there Monday. And
25 apparently she is unable, or unwilling to fly it sooner

1 than that.

2 Our people are prepared to do what they have
3 to do in Valdez as soon as the court reporter gets
4 there.

5 THE COURT: Where is your court reporter?
6 Located in Juneau?

7 MR. RUSSO: She's in Juneau, right.

8 THE COURT: Well, get your court reporter, or
9 somebody to take the tape over there to Valdez quicker
10 than Monday. I'm not going to continue this case while
11 we're transcribing a tape. So, you've got the weekend.
12 Mr. Underhill said that the Coast Guard is ready,
13 willing, and able to get the machinery cranked up and
14 we ought to be able to get it done this weekend.

15 MR. UNDERHILL: I don't know quite what his
16 concern is, too, I've informed him that we do have --
17 it wasn't requested in the subpoena that he wanted
18 originals. There are two cassette tapes that are
19 recordings of Channel 13, which I believe contain all,
20 or by far almost all of the communications between
21 Coast Guard VTS, Captain Hazelwood, and the vessel
22 roughly from the time she left Valdez and undocked,
23 until approximately 9:00, 10:00, or 11:00 o'clock the
24 next morning.

25 I said that...

1 THE COURT: Can you supply counsel with...

2 MR. UNDERHILL: We've got those -- Yes. But
3 they didn't seem to care about that.

4 MR. RUSSO: Your Honor, may I explain why?

5 THE COURT: Let me finish and then you can
6 explain.

7 (1334)

8 Why can't you use that copy of the tape and
9 then when you can get your court reporter to transcribe
10 the original, you can compare. In the meantime, there
11 probably is not going to be any difference. If there
12 is a difference, you can bring it to the court's
13 attention.

14 MR. RUSSO: I have no problem with taking that
15 copy of the tape. The problem I have, Your Honor, is
16 that our expert has told us that in order for him to do
17 the analysis of the tape he has to listen to the
18 original, that he can not do this analysis off copies.
19 He has to have access to the original tape. And that's
20 why it's been important and why we've gone through all
21 this trouble to clear the original tape so that he can
22 physically see it, physically play it, and...

23 THE COURT: You're going to get the original
24 tape. And if you don't get it until Monday it's
25 because of your inability to get it before then. But,

1 if you want to send somebody over starting tonight, it
2 sounds like they're going to work with you on that and
3 get going on it. And we have opening statements
4 starting on Monday, I presume. We won't be getting
5 into that tape for a while.

6 Mr. Linton, do you have any idea when the
7 tape's going to be used?

8 MR. LINTON: No. I'm sorry, judge, I don't.

9 THE COURT: Okay. Well, it sounds to me like
10 you've got access to a copy. You're not going to be
11 using your expert until your case in chief, are you?

12 MR. RUSSO: Well, obviously, judge, we can't
13 call witnesses until...

14 THE COURT: All right. So, you...

15 MR. RUSSO: ...until the appropriate time.
16 But, clearly, what he determines in his analysis may be
17 pertinent to cross examining wherever the State's going
18 to use to authenticate the tape.

19 Maybe we can work it out at trial relative to
20 a recall of a witness, or something of that nature.
21 But, I just wanted you to know what we're doing so that
22 you're not surprised.

23 THE COURT: I'm not going to be surprised at
24 anything. And it sounds to me like there is a spirit
25 of cooperation here, a voluntary spirit of cooperation,

1 and you will have access to the tape and you can get
2 what you want done in time, so there'll be no need for
3 a continuance. And that's the way I'm looking at it at
4 this point.

5 Okay. Is there anything further on this
6 matter?

7 MR. LINTON: Judge, just so that the record's
8 clear, perhaps I could have the documents that will
9 underlay the exhibit I submitted last time admitted,
10 just for the purposes of this evidentiary proceeding,
11 so that the record reflects...

12 THE COURT: I'm sorry. I don't understand
13 what you're saying.

14 MR. LINTON: All right. I submitted a
15 schedule of various documents which I had physically
16 brought into the court room and handed the clerk.

17 THE COURT: Yes. We have that. That's
18 Court's Exhibit 1, the schedule that...

19 MR. LINTON: The schedule. You actually have
20 all the documents which underlay the schedule herein
21 marked. And I'd ask that they be marked as 1-A, so not
22 only just the nature of them, but the substance of them
23 is on the record in case we get into a debate later
24 about what it was that...

25 THE COURT: Any objection to marking as 1-A

1 for this proceeding?

2 MR. RUSSO: No objection.

3 THE COURT: Okay. They'll be marked as 1-A,
4 and then they'll be part of the record for this
5 proceeding.

6 MR. LINTON: I have a complete version of the
7 National Transportation Safety Board hearing testimony
8 and exhibits which include the testimony of Mr. Taylor
9 about his blood alcohol testing and the test result.
10 And I'd ask that that be marked as 1-B, perhaps, so
11 that the record later is clear that my representations
12 about them having Mr. Taylor's blood alcohol results
13 are...

14 THE COURT: Any objection to marking as 1-B
15 and making it part of the record, Mr. Russo?

16 MR. RUSSO: Well, Your Honor, I have no
17 objection to it being marked, but I think we would want
18 to just take a look at it and see what that is...

19 THE COURT: Certainly.

20 MR. LINTON: And if they want to photocopy it,
21 take it home and photocopy it just to make sure...

22 THE COURT: I'll release it for purposes of
23 photocopying it if you want to take it back. But it
24 will be marked and made part of the exhibit -- part of
25 the record.

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MR. LINTON: I have nothing further, Your Honor.

THE COURT: Okay. The jurors are coming in at 8:30, so I think probably we should have counsel in at 8:30 a.m., also, ready to go.

And, do you anticipate at this time any preliminary matters before opening statements?

MR. CHALOS: No, not at this time, Your Honor.

THE COURT: Do you know?

MR. LINTON: I don't really know one way or the other, judge. I don't anticipate any.

THE COURT: Okay. So, then, the plan is if we have all the jurors to swear the jurors. I'll give some preliminary instructions to the jury and then we'll start with opening statements.

We'll stand in recess.

THE CLERK: Please rise. This court stands in recess.

(1534)

(Off record - 4:35 p.m.)

CONTINUED