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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, CONTINUED
FEBRUARY 6, 1990
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H & M Court Reporting
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BEFORE THE HONORABLE KARL JOHNSTONE
Superior Court Judge

Anchorage, Alaska
February 6, 1990
8:42 o'clock a.m.

APPEARANCES:

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1 PROCEEDINGS

2 FEBRUARY 6, 1990

3 (Tape: C-3600)

4 (181)

5 THE CLERK: The Superior Court with the
6 Honorable Karl Johnstone presiding is now in session.

7 THE COURT: You may be seated.

8 I have a -- looks like it's the State's motion
9 for protective order to prevent evidence of Mr.

10 Murphy's grounding of his charter boat off of Homer.

11 Do we need additional argument, Mr. Cole.

12 MR. COLE: Judge, I only have one thing to
13 add. I have a copy of an interview done with Mr.
14 Murphy on March 27th, 1989. This was done by an NTSB
15 reporter. At that time Mr. Murphy indicated that he
16 smelled alcohol on the captain's breath when he arrived
17 on the bridge and when the master, Captain Hazelwood
18 arrived back on the deck that evening.

19 I'm not sure quite what part of Captain Murphy
20 that Mr. Hazelwood's attorneys are going to attempt to
21 discredit, what part of his testimony they're going to
22 attempt to discredit. I assume it's the alcohol.

23 If that's the case, his story has been the
24 same since he was interviewed the first time. I don't
25 happen to have Investigator Fox's interview with me,

1 but Investigator Fox interviewed him well before the
2 incident when this grounding occurred. And it seems to
3 me that the defense should -- the case that they've
4 cited Bill v Pru (ph), that was a case where there had
5 been a change of story is my understanding, but this
6 case there's no change of story between what Mr. Murphy
7 has said from the very beginning and what he testified
8 to yesterday.

9 And so, therefore, in addition to that, Your
10 Honor, I have contacted the Coast Guard and it has been
11 related to me that the grounding incident, itself, has
12 been investigated and the case is closed. And
13 Lieutenant Stock is willing to come down and testify to
14 that.

15 In addition to that I've spoken with Mr.
16 Murphy, and he is under the impression that it is a
17 completely separate incident and he has no way any
18 feelings that his testimony in this matter would effect
19 the outcome of that case, because he assumed that it
20 was taken care of.

21 THE COURT: Let me ask you, is Mr. Murphy
22 under investigation by the State in any way?

23 MR. COLE: No.

24 THE COURT: Was he after the grounding?

25 MR. COLE: Not that I'm aware of.

1 THE COURT: Okay. And list the prior
2 consistent statements by Mr. Murphy to others before
3 this incident?

4 MR. COLE: Well, the incident occurred on May
5 5th...

6 THE COURT: Okay.

7 MR. COLE: ...and the two that I have, one of
8 them is an interview summary done by an NTSB officer
9 that's been provided to the defense.

10 THE COURT: Do you have a copy of that
11 statement, then?

12 MR. COLE: Yes.

13 THE COURT: Okay. And who else besides the
14 NTSB officer? Fox is who you said?

15 MR. COLE: Well...

16 THE COURT: How about Grand Jury?

17 MR. COLE: Grand Jury was...

18 MS. HENRY: Grand Jury was April 28th.

19 MR. COLE: Oh, it was April 28th, so that
20 would have been before May 5th, so that statement was
21 consistent, although I'm not sure in that statement
22 whether he was asked when he smelled alcohol on the
23 Captain's breath, and whether it was in the time when
24 he came up to the bridge. I don't remember that.

25 THE COURT: Well, let's find out. You have

1 the Grand Jury testimony, don't you?
2 MS. HENRY: Yes.
3 MR. COLE: Yes.
4 (Pause)
5 Okay. He was asked...
6 THE COURT: Can you identify the page?
7 MR. COLE: This is Grand Jury page 53.
8 We have a different page cite than they do.
9 This is from mine.
10 THE COURT: Why don't you put it on the podium
11 and they can look over your shoulder on that?
12 MR. COLE: "Now when you were talking to
13 Captain Hazelwood during the time that he was on the
14 bridge did you notice an odor or alcohol about his
15 person?"
16 "Yes, I did."
17 "Did you notice anything else? Anything
18 unusual? Was he having trouble manipulating or
19 speaking?"
20 "No. I noticed nothing, nothing remarkable at
21 all. I noted what I considered to be an odor of
22 alcohol, but he didn't seem to me to be impaired at
23 all. He seemed much as he had been at lunch."
24 And it's difficult to tell from my
25 understanding in the context of whether he was talking

1 about when he was on the bridge the first time when he
2 boarded, or when the Captain came back up to the bridge
3 right before the Narrows. It just wasn't specific.
4 The question wasn't specific at that point.

5 THE COURT: All right, now, how about the NTSB
6 officer? What is the summary of that testimony...

7 MR. COLE: The NT...

8 THE COURT: ...of that statement?

9 MR. COLE: ...officer's summary says, "Shortly
10 after hearing that the master had returned, he arrived
11 on the bridge. The pilot stated that the master acted
12 normal in all respects and appeared the same as when
13 the vessel had arrived the previous day and during
14 lunch that day, but that he smelled alcohol on the
15 Captain's breath." This is on page 2.

16 Further down it goes into, "The master arrived
17 on the bridge about five minutes later," and that's
18 after he was requested and called by Third Mate
19 Cousins. It goes on to say, "The pilot stated that the
20 master appeared to be acting normal in all respects,
21 although, he still smelled alcohol on the master's
22 breath. He noticed no change in the smell of alcohol
23 on the master's breath from the first time he noticed
24 it."

25 THE COURT: And who was that officer?

1 MR. COLE: It doesn't say, Your Honor. It was
2 an interview summary done on March 27th by an official
3 with the National Transportation and Safety Board. It
4 was made an exhibit in the National NTSB.

5 THE COURT: All right. And how about Mr. Fox?

6 MR. COLE: And the two times for Mr. Fox, he
7 asked -- let's see. Actually, is this Blair. It's not
8 Fox.

9 MS. HENRY: It's Investigator Burke.

10 MR. COLE: Burke. Investigator Paul Burke.

11 THE COURT: Date? Obviously was it before the
12 May grounding of Murphy's boat?

13 MR. COLE: It was on April 4th...

14 THE COURT: All right.

15 MR. COLE: ...1989.

16 THE COURT: What did he say about the alcohol?

17 MR. COLE: Paul Burke, "During that time did
18 you have an opportunity to note anything about his
19 physical state, physical characteristics?"

20 "Well, he, I smelled alcohol on his breath, I
21 -- or what smelled to me like alcohol."

22 THE COURT: Is that relating to the time that
23 Murphy was on the bridge and Captain Hazelwood was on
24 the bridge?

25 MR. COLE: It's relating to the time when they

1 first came on the bridge?

2 THE COURT: Any other prior consistent
3 statements consistent with his testimony regarding the
4 alcohol?

5 MR. COLE: And in that same interview it said,
6 and they're talking about the second time, "So it was
7 dark?"

8 "No, he came up -- when he came up and we
9 visited, and then I exchanged the information with him,
10 we were standing pretty close together. I still
11 smelled the alcohol on his breath, but he didn't seem
12 to speak any differently than he had as we were leaving
13 the dock, or earlier that day at lunch."

14 THE COURT: All right. Mr. Chalos, I have
15 been assuming that it's the testimony concerning the
16 alcohol that you would like to impeach somehow with
17 this evidence. Is there other testimony?

18 MR. CHALOS: Yes, Your Honor.

19 THE COURT: And what is the other testimony?

20 MR. CHALOS: We focused on the alcohol here
21 this morning...

22 THE COURT: What other testimony do you wish
23 to impeach?

24 (547)

25 MR. CHALOS: Well, Your Honor, I want to

1 explore what possible shading, or prejudice or bias...

2 THE COURT: Mr. Chalos, just answer my
3 question and we'll get to that. Is there any other
4 testimony other than the alcohol that you are trying to
5 impeach?

6 MR. CHALOS: Yes, Your Honor. I'm trying to
7 impeach possibly the operation of the vessel, the
8 correct operation of the vessel as a master.

9 I'm trying to impeach the testimony regarding
10 pilotage in that particular area.

11 I don't know how much of the discussions had
12 between Captain Murphy and the State has in any way
13 influenced his testimony in that regard.

14 THE COURT: Well, first of all, you disagree
15 that Captain Hazelwood had any alcohol on his breath
16 and you want to impeach that testimony.

17 And you want to impeach the testimony
18 regarding pilotage that he gave? What specifically has
19 he said that you find to be not credible?

20 MR. CHALOS: Well, Your Honor, I don't know
21 -- well, we don't believe that the testimony regarding
22 the operation of a vessel by a master, that is, that
23 the master has to be on the bridge at certain periods
24 of time, that the area around south of Rocky Point is a
25 pilotage area. And we want to know from Captain Murphy

1 what promises he's been made, because he didn't discuss
2 that in his prior statements or testimony that he gave
3 before the Grand Jury.

4 We want to know how much of that testimony ohs
5 been influenced by his grounding and any subsequent
6 promises that...

7 THE COURT: The grounding took place after the
8 Grand Jury, didn't it?

9 MR. CHALOS: Yes, but there was no discussion.
10 It did, Your Honor. He spoke, I think, on May 1st to
11 the Grand Jury, and the grounding took place May 5th.
12 But, as I read the Grand Jury testimony there wasn't
13 the specificity about the pilotage and the operation of
14 a vessel in his discussion before the Grand Jury as
15 there has been on the stand. And that's what I want to
16 explore.

17 THE COURT: Okay. And you wish to now address
18 the shading of the testimony you think has occurred
19 with him?

20 MR. CHALOS: Yes. I want to find out,
21 basically if he's been given any promises, or given any
22 expectations by the State, because basically when he
23 ran the charter boat aground, he had, I think 18 school
24 children on board. The State had just finished
25 charging Captain Hazelwood with reckless endangerment.

1 That was fresh in their mind. Conceivably the
2 same charge could have been levied against Captain
3 Murphy when he ran the ship, his boat aground he had 18
4 lives, small children that were in danger. So, I want
5 to know if the State made any promises to him, gave him
6 any hope or expectation that if his testimony was
7 favorable that he wouldn't -- they wouldn't consider
8 prosecuting him then.

9 I don't think Mr. Cole can answer that
10 question because he wasn't involved at that time. I
11 think he was being kept separated by Mr. Linton and the
12 rest of the tainted prosecutors, if you will.

13 THE COURT: So, you wish to introduce evidence
14 of his grounding his charter boat to impeach his
15 credibility regarding his statements about pilotage,
16 and also, his statements about when a master should be
17 on the bridge?

18 MR. CHALOS: And operating the vessel.

19 THE COURT: And be specific about operating a
20 vessel. What is it about his testimony you wish to
21 impeach? Which portion of the testimony?

22 MR. CHALOS: Well, if you recall, Your Honor,
23 he said something to the effect that when transiting
24 narrow areas, when transiting areas that he considering
25 to be dangerous, his opinion was that the master should

1 be on the bridge, and he should be there conning the
2 vessel.

3 What I'm trying to find out is in his
4 situation, I think he was there when the vessel ran
5 aground. I don't know how much of his testimony in
6 that regard is shaded by the fact that he's trying to
7 distinguish his situation from what happened in this
8 case.

9 THE COURT: Okay. Is there anything further?

10 MR. CHALOS: Well, the only other reason that
11 we wish to introduce evidence of the grounding is to
12 show one of the positions that we've taken in this case
13 is that groundings occur as a matter of course. It's a
14 part of maritime business. If you have a ship and it's
15 running on the water, it's subject to running aground
16 at some point. And it happens even to the best of
17 people. And Captain Murphy is a good pilot, and he's a
18 believable pilot and he runs a ship aground, then we
19 believe that testimony in that regard to show that it
20 happens to even the best of mariners is relevant on the
21 issue of recklessness.

22 THE COURT: Anything further, Mr. Cole?

23 (766)

24 MR. COLE: The only thing I have to add...

25 MR. ADAMS: Your Honor, I just spoke with

1 Commander Nelson regarding Mr. Murphy's case.
2 Lieutenant Commander Stock confirmed with the Captain
3 of the Marine Safety Office here in Anchorage, Mr.
4 Murphy's case is closed. They have no intention of
5 prosecuting him. If something were to come up in the
6 future they can always reopen it. They have no -- they
7 don't know what could come up in the future, but at
8 this point that's how the case, the status of it is.

9 I don't believe that there's any kind of
10 statute of limitations so, if something were to come
11 up, but they have no intention of opening it.

12 THE COURT: Do you have any evidence that the
13 State of Alaska has investigated, or intended to
14 prosecute this against Mr. Murphy, or in any way take
15 any action adverse to Mr. Murphy?

16 MR. CHALOS: Your Honor, I don't have any
17 evidence of that, but that's the purpose of the
18 inquiry.

19 THE COURT: Well, let's take that inquiry up
20 outside the presence of the jury. We'll bring Mr.
21 Murphy in here and we'll find out what he has to say
22 under oath.

23 (Pause)

24 THE COURT: Good morning, Mr. Murphy. You're
25 still under oath, sir.

1 WILLIAM P. MURPHY

2 recalled as a witness in behalf of the State of Alaska,
3 having previously been sworn upon oath, testified as
4 follows:

5 A Good morning, judge.

6 THE COURT: All right, Mr. Chalos, you can
7 make inquiry at this time.

8 Mr. Murphy, we're going to take up a matter
9 outside the presence of the jury to determine its
10 admissibility.

11 (829)

12 VOIR DIRE EXAMINATION OF CAPTAIN MURPHY

13 BY MR. CHALOS:

14 Q Good morning, Captain Murphy.

15 A Good morning, Mr. Chalos.

16 Q I'd like to ask you about the grounding of the
17 Tolchina.

18 A All right.

19 Q That occurred on May 5th, 1989?

20 A I believe so.

21 Q You were the captain of the boat at the time?

22 A I was operating the boat, yes.

23 Q Were you at the helm at the time?

24 A Uh-huh (affirmative).

25 Q The vessel ran aground, I understand,

1 somewhere around Homer?

2 A Yeah. The vessel struck an uncharted rock.

3 Q You had some school children on board at that

4 time?

5 A That's correct.

6 Q How many?

7 A 18, I believe. There were eighteen

8 passengers, most of whom were school children.

9 Q After the grounding, I understand that you ran

10 the boat onto the beach, is that correct?

11 A Yes. I drove it up on the beach, uh-huh

12 (affirmative).

13 Q To keep it from sinking?

14 A I don't know if it would have sunk or not. I

15 doubt it, but that was the only prudent thing to

16 do.

17 Q Captain, were you ever questioned about that

18 incident by the District Attorney?

19 A No. Not that I can recall. There was some

20 discussion about whether or not it would come up,

21 but no particular questioning that I can recall.

22 Q Did the grounding come up in any of your

23 conversations with the District Attorney?

24 A Yes. Day before yesterday Mr. Cole made

25 reference to it, mentioned that it might come up

1 in the trial here. There was some general
2 conversation about it, I believe.

3 Q What specifically was said in that regard?

4 A My recollection of the specifics isn't too
5 clear. He mentioned to me that it was possible
6 that the grounding on my charter boat might come
7 up in the trial and there would be a question
8 about its admissibility. And my impression was
9 that he was going to try to persuade the judge
10 that such information wasn't admissible.

11 Q Did he mention to you anything about the
12 grounding being covered by your immunity
13 agreement?

14 A No.

15 Q Did anyone ever mention the immunity agreement
16 to you in respect to the grounding?

17 A No, absolutely not.

18 Q Has the Coast Guard investigated the incident?

19 A As far as I know they have. I turned in the
20 appropriate accident reports.

21 Q Did you give any interviews to the Coast
22 Guard?

23 A Yes.

24 Q When did you give such interviews?

25 A It would have been in the month of May. The

1 date's unclear. I talked to Lieutenant Wilson,
2 and perhaps one or two others down in Homer.

3 Q Did that interview take place prior to
4 subsequent interviews that you had with the
5 State?

6 A Well, I've been interviewed by the State
7 before that and after.

8 Q The account of the grounding was reported in
9 the local papers, was it not?

10 A Yes, it was.

11 Q In your subsequent interviews with the State
12 did the subject come up?

13 A No. No, it's never come up until the day
14 before yesterday Mr. Cole mentioned that you
15 might bring it up.

16 Q Do you have any expectations or beliefs that
17 the grounding of the vessel, the Tolchina, is
18 covered by your immunity agreement granted here?

19 A No, absolutely not. The immunity agreement as
20 far as I -- I believe it's dated before the
21 grounding of my charter boat.

22 MR. CHALOS: Your Honor, I have no further
23 questions of this witness.

24 THE COURT: Any questions, Mr. Cole?

25 MR. COLE: Judge, I don't have any questions.

1 I just want to have the court take notice of an exhibit
2 that's already been put into evidence, and that's his
3 immunity agreement, and look at the date on that.

4 THE COURT: What is the date?

5 MR. MADSON: April 28th.

6 MR. COLE: April 28th, I believe.

7 THE COURT: So, it would be difficult for the
8 immunity agreement to cover something that occurred
9 after that, I would imagine. That's the inference is
10 (indiscernible - unclear).

11 Okay. Anything further of this witness before
12 we excuse him.

13 MR. CHALOS: Your Honor, I'm satisfied with
14 respect to the first part of our argument dealing with
15 immunity covering this particular incident.

16 However, I would, again, raise...

17 THE COURT: Before you do, is there any
18 questions you have for the witness? I'll excuse him
19 for this argument?

20 MR. CHALOS: May I (indiscernible - unclear)?

21 Yes, Your Honor. I have just a few more
22 questions.

23 Q (Captain Murphy by Mr. Chalos:) Captain
24 Murphy, was this the first time that you
25 grounded?

1 A Yes.

2 Q Would you agree that groundings are ordinary
3 and every day events in the maritime business?

4 A No. No. Absolutely not.

5 Q Would you agree that they occur from time to
6 time?

7 A Certainly.

8 Q And they can occur even to the best of
9 mariners, I take it?

10 A Yeah, obviously.

11 Q Thank you, Captain Murphy.
12 (Witness excused from courtroom.)

13 THE COURT: All right. You can step outside.
14 (Pause)

15 (1078)

16 THE COURT: Okay, any further argument?

17 MR. CHALOS: Only, Your Honor, to raise,
18 again, the second part of our argument, which is that
19 we would like to question Captain Murphy about the
20 grounding to show that these things happen, and they
21 happen even to mariners such as Captain Murphy, who is
22 an experienced and competent mariner.

23 THE COURT: All right. That's another
24 application. The motion for protective order went to
25 the idea that you were going to impeach Captain Murphy

1 with some alleged promises that may have been made, or
2 some feeling he may have had that he wouldn't be
3 prosecuted if he testified favorably.

4 Now you're asking for admission of it for
5 another purpose, is that correct.

6 THE COURT: Okay. The State's motion for
7 protective order is granted. It seems to me that the
8 thrust of Captain Murphy's testimony yesterday went to
9 the testimony that he smelled something associated with
10 alcohol on Captain Hazelwood's breath and that it's
11 clear from what I've heard, and it doesn't seem to be
12 in dispute that Captain Murphy made those statements
13 before the grounding of his charter vessel. Those
14 would all be prior consistent statements. I think it
15 takes away your argument that he's shading his
16 testimony.

17 And, his testimony regarding pilotage and
18 operation of a vessel you wished to impeach is not
19 persuasive. I think that this would be introducing a
20 collateral issue for an improper purpose. It would be
21 potentially confusing to the jury and take unnecessary
22 time. It's probative value is, I think, nil in respect
23 to impeachment of Captain Murphy's testimony. And to
24 the extent it has probative value, it's outweighed by
25 its undue prejudicial effect, confusion of the issues

1 and consumption of time.

2 Mr. Cole, you want to address the use of
3 Captain Murphy's testimony that mariners do, even the
4 best of them do ground vessels. And, he grounded his,
5 which I assume the inference is that if he can anybody
6 can.

7 MR. COLE: Judge, first of all, I believe that
8 that comes in under 404(B). That's exactly what he's
9 trying to use, except rather than prior -- he's trying
10 to use this as a prior bad act to show that other
11 people could act in conforming with that.

12 There's substantial differences between
13 someone who's chartering a boat and a tanker captain
14 who is in charge of a vessel carrying 1.24 million
15 barrels of crude oil.

16 In addition to that there are differences in
17 the fact that there's been not testimony that Captain
18 Murphy was drinking before that, whereas in this case
19 there is going to be testimony that Captain Hazelwood
20 was drinking.

21 There's no testimony that Captain Murphy left
22 the bridge in his case. In fact, it's just the
23 opposite, whereas there will be testimony that Captain
24 Hazelwood left the bridge. There's no testimony that
25 there was on autopilot.

1 And, on top of that, the facts are that this
2 was an uncharted rock. And uncharted rocks, if Captain
3 Hazelwood had hit an uncharted rock, that would be one
4 thing, but he hit Bligh Reef. It's sitting in the
5 middle of Prince William Sound and every mariner knows
6 it.

7 So, there's very different facts, and it's not
8 relevant to this case.

9 THE COURT: Anything else?

10 MR. CHALOS: No.

11 THE COURT: Okay. I'm going to deny that
12 application as well. The fact that other mariners may
13 have not grounded vessels is not probative on the
14 issues in this case. It's not an expert opinion that
15 will assist the finder of fact. It would open up
16 collateral areas of why other mariners have grounded
17 vessels. I think it would open up a Pandora's Box and
18 we're going to shut the lid right now, before we get
19 into that one. That application is denied.

20 Anything else before I bring the jury in?

21 MR. CHALOS: No, Your Honor.

22 THE COURT: Okay. Let's bring the jury in if
23 they're here.

24 Okay. We'll take a break just necessary to
25 get the pads out.

1 THE CLERK: Please rise. This court stands in
2 recess subject to call.
3 (1257)
4 (Off record - 9:08 a.m.)
5 (On record - 9:12 a.m.)
6 (Jury present)
7 THE COURT: Thank you, ladies and gentlemen,
8 you may be seated.
9 Resume Captain Murphy's testimony at this
10 time. We were on cross examination.
11 MR. CHALOS: Thank you, Your Honor.
12 Good morning, ladies and gentlemen.
13 CROSS EXAMINATION OF CAPTAIN MURPHY, CONTINUED
14 BY MR. CHALOS:
15 Q Captain Murphy, you are aware, are you not,
16 that in 1985 the Coast Guard submitted proposed
17 rules which were intended to eliminate the
18 pilotage requirement in Prince William Sound, the
19 Federal pilotage requirement?
20 MR. COLE: Objection, Your Honor. Relevance.
21 THE COURT: What year did you say?
22 MR. CHALOS: 1985, Your Honor.
23 THE COURT: Objection overruled.
24 A I have heard discussion to that effect. I've
25 never read any specific proposal by the Coast

1 Guard, personally. I have heard about it.

2 Q Were you also aware that the Coast Guard in
3 1988 again renewed that proposal, proposed rule
4 making to eliminate pilotage in Prince William
5 Sound south of Rocky Point?

6 A Again, I have heard some discussion about
7 that. I haven't read the Coast Guard's
8 submittal.

9 Q Do you know the reasoning behind the Coast
10 Guard proposals to eliminate the pilotage south
11 of Rocky Point?

12 MR. COLE: Objection, Your Honor.

13 THE COURT: On what grounds, Mr. Cole?

14 MR. COLE: Relevance. Lack of knowledge.
15 Speculation.

16 THE COURT: I think based on his testimony
17 he's indicated he heard something about it. If you
18 want to ask him what he's heard...

19 MR. CHALOS: Yes, I will, Your Honor.

20 Q (Captain Murphy by Mr. Chalos:) Can you tell
21 the jury, sir, what you heard about the
22 elimination of pilotage south of Rocky Point?

23 A Well, I heard that it was being considered.
24 This was something ongoing by the Coast Guard for
25 a number of years. I never read anything

1 specific about it and didn't know whether or not
2 it was true. I presumed if it was true it was
3 because they no longer saw a need to require
4 ships to have the pilotage indorsement south of
5 Rocky Point. That was my presumption.

6 Q Was that because the Coast Guard considered
7 the area to be not dangerous?

8 MR. COLE: Objection. Lack of knowledge.
9 Speculation.

10 THE COURT: He's indicated he presumed that.
11 The objection's sustained.

12 Q (Captain Murphy by Mr. Chalos:) Let me ask it
13 this way, sir. Have you heard from anyone that
14 the reason behind the Coast Guard's proposed rule
15 making to eliminate pilotage was because they
16 considered the area south of Rocky Point to be
17 not dangerous?

18 MR. COLE: Objection. Hearsay. Speculation.

19 THE COURT: The hearsay objection sounds good
20 to me, unless you can come up with some exception,
21 you're offering it for the proof of the words.

22 Objection sustained.

23 Q (Captain Murphy by Mr. Chalos:) Captain
24 Murphy, prior to this accident did you consider
25 the area south of Rocky Point to be a dangerous

1 area for navigation?

2 A No, sir, I did not.

3 Q Now, just very quickly -- may I approach the
4 witness, Your Honor?

5 THE COURT: Yes, sir. And you don't need to
6 ask leave for this witness. You can approach freely.

7 Q (Captain Murphy by Mr. Chalos:) Am I correct
8 that prior to the grounding the -- your pilot
9 station, the state pilot station was here at
10 Rocky Point?

11 A Yes. In the Rocky Point area, uh-huh
12 (affirmative).

13 Q Yesterday you testified that subsequent to the
14 grounding the pilot's station was moved down to
15 the Bligh Reef area, here?

16 A Correct.

17 Q How far to the south of the former pilot's
18 station is the new pilot's station?

19 A I believe it's about 10 miles.

20 Q Can you point...

21 A Correction. 12 miles.
22 It's just there, by my finger now.

23 Q Right here at the turn of the VTS lanes?

24 A About a mile south of the turn.

25 Q Was the change in the pilot station, the

1 location of the pilot station done as a matter of
2 statute, or regulation?
3 A Initially the Coast Guard, after the accident
4 traffic was halted for a number of days. When it
5 began again the Coast Guard required us to board
6 and disembark in the Bligh Reef area.
7 At a meeting of the Alaska Board of Marine
8 Pilots in April the Board of Marine Pilots issued
9 an emergency order which officially changed the
10 pilot's station to the point I've just indicated.
11 Q So, that was by...
12 A By emergency regulation. Since then it's been
13 incorporated into the normal regulatory process.
14 Q Prior to that the official position of the
15 pilot's station as set forth in the Alaska
16 Statutes and Regulations was at Rocky Point?
17 A Yes. It was in the Rocky Point area.
18 Q Now, let me switch gears on you for a second.
19 How many times have you been, or had you been
20 on the Exxon Valdez prior to the accident?
21 A I don't remember. Not -- a cumulative total
22 on the Exxon Valdez and or her sister ship of
23 perhaps six times. Both vessels are relatively
24 new to the trade. I don't have an exact
25 recollection. It's in my record somewhere.

1 Q For all intents and purposes they both handle
2 the same way, do they not?

3 A That's correct.

4 Q On the night of March 23rd were you familiar
5 with the handling characteristics of the Exxon
6 Valdez?

7 A Yes, sir.

8 Q In reading some of your previous statement I
9 note that you use 10 degrees of rudder when
10 you're making course changes. Is that correct?

11 A Not always.

12 Q Am I correct that the maximum you use was
13 about 10 degrees?

14 A I think what I said was turning from a
15 westerly course into Valdez Narrows southbound
16 with a loaded ship, I normally, if I can, limit
17 the rudder angle to 10 degrees to try to avoid
18 getting too much swing on the ship. Of course,
19 that depends on the circumstances and the ship
20 involved.

21 Q Based on your knowledge of the Valdez'
22 handling characteristics, what kind of heading
23 change, that is, a change of the ship's heading
24 would you expect using 10 degrees of rudder over
25 a period of a minute?

1 A What are the wind and weather conditions?
2 What's the draft and trim? Is the ship loaded?
3 Q Let's say she's at 56 feet, light wind and no
4 current, or very little current.
5 A 10 degrees at left rudder for a minute?
6 Q Or right rudder?
7 A Well, pilots don't think in those terms, but
8 -- and this is pretty much a guess because we
9 don't think in those terms. For a minute,
10 probably in the range of 40 degrees. Something
11 like that.
12 Q Are you saying, then, that if one were to be
13 on a course of 180 due south that within two to
14 three minutes, if you use 10 degrees of right
15 rudder on the Valdez with a 56 foot draft she
16 would swing from a heading of 180 to due west 270
17 in a period of two to three minutes?
18 A What speed is she making and what's the
19 ordered engine revolution?
20 Q Let's say she's doing full maneuvering speed,
21 11.7 knots.
22 A And...
23 Q Her revolution is 55.
24 A I think that's fair. I think she'd swing at
25 least that much.

1 (1570)

2 Q Now, Captain Murphy, based on your knowledge
3 of the Exxon Valdez' maneuvering characteristics
4 would an order of 10 degrees right rudder in your
5 opinion be considered a simple maneuver?

6 A An order from the conning officer to the
7 quartermaster?

8 Q Yes.

9 A Certainly. Very simple.

10 Q Now, just bear with me one second.

11 A Sure.

12 (Pause)

13 Q Yesterday you testified that coming out of the
14 Port of Valdez you started on a course, did you
15 say 330?

16 A 300.

17 Q 300. That's this course right here.

18 A I testified that that is my normal practice,
19 given no traffic patterns. And since it's my
20 normal practice, that's probably what I did on
21 the Exxon Valdez. I can't specifically remember,
22 however.

23 Q Well, assume for the moment that you took this
24 course of 300.

25 A Yes.

1 Q Is it fair to say that on this course if you
2 made no course change you would wind up on the
3 land, here?
4 A It certainly is.
5 Q And is that also true on this course of 270 to
6 the west? Is it also fair to say that if you
7 made no course change you'd wind up on this shore
8 here?
9 A Yes, sir. That's fair to say.
10 Q In reading over the information from the ship
11 I note that at some point here you were traveling
12 at full maneuvering speed. Do you recall that?
13 A I can't specifically recall, but I'm sure
14 that's so if you've looked over the records, you
15 bet.
16 Q And just so we clear this up, full maneuvering
17 speed is different than full speed on this
18 vessel, am I correct?
19 A Than full sea speed?
20 Q Yes.
21 A Yes, it is.
22 Q Full maneuvering speed is about 11.7 knots, do
23 you have that recollection?
24 A Yes. I believe it's 55 rpm.
25 Q Right. And full sea speed is something around

1 16 knots?

2 A Something in that range, yes.

3 Q So, at that time that you were in the Port of
4 Valdez during this 270 degree leg, you were
5 traveling at about 11.7 knots at some point. Is
6 that your recollection?

7 A Well, the ordered engine speed and the actual
8 speed the ship is making over the ground are
9 sometimes not the same, but if the engine was on
10 full ahead, we were turning for 11.7 knots.
11 Whether or not the ship had actually accelerated
12 to that speed, I don't know. There's a lot of
13 mass there.

14 Q Captain Murphy, would you agree that the fact
15 that you may be traveling in the area of 11 knots
16 on a course that's taking you towards land is
17 not, in itself, a dangerous maneuver?

18 A Certainly not.

19 Q It only becomes dangerous if you don't make
20 the correct course change at the point that the
21 change should have been made, correct?

22 A That's true.

23 (Pause)

24 Q Captain Murphy, would you agree that the use
25 or non-use of the autopilot in any specific area

1 is in the discretion of the master?
2 A That's correct.
3 Q And it's up to the master to decide whether he
4 should use it or not based on what he knows at
5 that time about his ship, about the automatic
6 pilot, itself, about the conditions surrounding
7 the vessel, the condition that the vessel is in?
8 Would you agree with that?
9 A I think so, yes.
10 Q Now, I'd like to ask you about the vessel
11 traffic system, if I may.
12 You are familiar with the Coast Guard Vessel
13 Traffic System that's used in Prince William
14 Sound?
15 A Yes, I am.
16 Q And you've been involved with it since 1978 or
17 thereabouts?
18 A Since before that.
19 Q When did you first become involved with it?
20 A Prior to the opening of the Trans-Alaska
21 Pipeline System I had discussions with the
22 commanding officer and other officers while the
23 Coast Guard was in the process of setting up the
24 system.
25 Q Now, on that chart that you have in front of

1 you, as well as the other charts of this area,
2 there's what is called an Optimum Track Line, am
3 I correct?

4 A No. That's a line I've pencilled in, which
5 just approximates what the Coast Guard calls the
6 Optimum Track Line.

7 Q You are familiar with the Optimum Track Line
8 designation by the Coast Guard, are you not?

9 A Yes.

10 Q Could you explain to the jury what that is?

11 A Well, it's something in the early days of the
12 Vessel Traffic System, the Coast Guard showed up
13 and said this is the track line we think you
14 should be on in Valdez Narrows. And we pilots
15 disagreed in rather strong terms and we said no,
16 this is the track line that is more appropriate.
17 And we were able to persuade them that we knew
18 what we were talking about. And they, then,
19 designated what the pilots normally use as the
20 Optimum Track Line.

21 That was in the first year or two. I really
22 haven't heard any more discussion about the
23 Optimum Track Line since then.

24 Q The Optimum Track Line that we're discussing
25 is generally in the middle of the traffic lanes,

1 the northbound and southbound lane, am I correct?

2 A No. My understanding of that phrase Optimum
3 Track Line is the track through Valdez Narrows,
4 mid-channel through Valdez Narrows. That's the
5 Optimum Track Line.

6 Q Was there an Optimum Track Line, or the
7 equivalent, as you were coming down past the
8 Narrows?

9 A Not that I'm aware of, no.

10 Q What has been your experience in situations
11 where your vessel was slightly off course away
12 from the Track Line, but still within the lanes,
13 if you will, the VTS lane? What has been your
14 experience with receiving calls from the Coast
15 Guard about the fact that you were slightly off
16 course?

17 A Well, in the early days of the Trans-Alaska
18 Pipeline System the Coast Guard frequently made
19 those kinds of calls. They haven't done that so
20 much in recent years, presumably because the
21 pilots are always where they're supposed to be.

22 Q Prior to the accident did you believe that the
23 Coast Guard was monitoring the movements on their
24 radars down to Bligh Reef?

25 A I absolutely believed it.

1 Q Captain, I'd like now to turn to the subject
2 of maneuvering around ice. Would you agree that
3 whether the vessel proceeds through the ice, or
4 maneuvers around it is in the discretion of the
5 captain?

6 A I would agree.

7 Q Would you also agree that on ships such as the
8 Exxon Valdez that it's more prudent, if you can,
9 to go around the ice than to proceed through it?

10 A I think if the ice can safely be navigated
11 around, that's the best choice. No doubt about
12 it.

13 Q I take it you're familiar with the routine and
14 practice of tankers deviating completely outside
15 the VTS lanes to get around ice?

16 A I'm familiar with them deviating outside of
17 their particular lanes, but not outside the
18 boundaries of the lanes.

19 Q On this particular night, the 23rd, you had
20 heard a report from the ARCO Juneau about ice,
21 did you not?

22 A Yes, sir.

23 Q And do you recall also the ARCO Juneau telling
24 the Coast Guard that they were deviating
25 completely out of the lanes to avoid the ice?

1 A My recollection is I heard them say that they
2 were deviating out of the southbound lane to
3 avoid ice.

4 Q Has anyone ever told you, or have you ever
5 learned...

6 (2110)

7 MR. COLE: Objection. Hearsay.

8 THE COURT: Finish the question...

9 MR. CHALOS: Yes.

10 THE COURT: ...but don't answer it.

11 MR. CHALOS: Let me rephrase that, Your Honor,
12 maybe I can take care of the objection.

13 Q (Captain Murphy by Mr. Chalos:) Has it ever
14 come to your knowledge that the ARCO Juneau and a
15 ship called the Brooklyn on that particular day
16 both deviated out of the lanes completely to
17 avoid ice?

18 A Shall I answer, judge?

19 MR. COLE: I still object. Hearsay.

20 THE COURT: Before you answer what you heard
21 let's get the basis of what he knows.

22 MR. CHALOS: That's what I was trying to
23 explore, Your Honor.

24 THE COURT: Well, let's get the basis of how
25 he got it. If he got it by hearsay...

1 MR. CHALOS: Well, I don't know what his
2 answer is going to be.

3 THE COURT: Okay. Ask your question again.

4 MR. CHALOS: Yes.

5 Q (Captain Murphy by Mr. Chalos:) Captain
6 Murphy, has it come to your knowledge that the
7 ARCO Juneau, and the Brooklyn, the two ships that
8 preceded the Exxon Valdez out of the Port of
9 Valdez on the 23rd both left the shipping lanes
10 completely to avoid ice?

11 THE COURT: Don't answer the question. The
12 answer is going to result in some sort of a statement
13 based on hearsay unless he was personally there.

14 MR. CHALOS: All right, Your Honor, we...

15 THE COURT: Now, it's being offered for the
16 truth of it, isn't it? That the vessels did deviate?

17 MR. CHALOS: No. It's only offered as to the
18 previous answer, Your Honor, that Captain Murphy said
19 he is not familiar with ships deviating completely out
20 of the lanes.

21 THE COURT: Okay. Objection is sustained.

22 Q (Captain Murphy by Mr. Chalos:) Captain
23 Murphy, are you familiar -- strike that.

24 Have you, yourself, deviated with a vessel
25 around ice?

1 A Yes, sir. Many times.

2 Q In those instances, or in some of those

3 instances, did you proceed at speeds in the area

4 of 11 to 11-1/2 knots?

5 A Yes, or faster.

6 Q Or faster.

7 Captain, it's true, is it not, that fully

8 laden tankers, or tankers like the Valdez loaded

9 down to 57 feet generally handle better speeds of

10 10, 11 or 12 knots than they would at slower

11 speeds?

12 A That's generally true.

13 Q And their ability to maneuver and turn is also

14 enhanced by going 10, 11 or 12 knots than it

15 would be at slower speeds?

16 A Well, that's a yes and no answer, Mr. Chalos.

17 If you want me to elaborate I will.

18 Q Well, let me see if I can rephrase it better.

19 Maybe it was poorly worded.

20 Would you agree that a ship laden 57 feet, as

21 was the Valdez on this particular evening,

22 traveling at 11 -- 11-1/2 knots would tend to

23 handle and turn much better than it would if it

24 was going let's say at a slower speed?

25 A Probably, unless the vessel was proceeding at

1 the slower speed and then a greater engine rpm
2 was called for so that the propeller was turning
3 for an ordered speed actually greater than the
4 ship was making.

5 Q But assume that the speed, the rpm speed, and
6 the vessel speed were the same. Would you agree,
7 then, with my statement?

8 A I would agree.

9 Q Captain Murphy, I just want to clear one thing
10 up here. Did I understand you correctly
11 yesterday that you would rely on the lookout in
12 maneuvering around ice the least of any other
13 source that you might have available to you, such
14 as other people on the bridge, or the radar, or
15 other navigational aids?

16 A Yes. That's so. In some cases the lookout
17 can be a lot of help, but I haven't found them to
18 be generally reliable.

19 Q And I believe you said, I just want to confirm
20 it, that when you were on the Exxon Valdez the
21 night of the 23rd you did not encounter any ice?

22 A No, sir. I did not.

23 Q And any information that you had about ice
24 that night had come from a previous report of the
25 ARCO Juneau, is that correct?

1 A Correct.

2 Q Do you know how old that report was?

3 A Approximately. I think I heard that report
4 about an hour before I left my quarters to come
5 to the Exxon Valdez.

6 I arrived on the Exxon Valdez at 2020 hours,
7 so this is pretty much a guess, but I would guess
8 it was between 19 and 1930 hours that I heard
9 this. Somewhere in that range.

10 Q But you don't know how old the report may have
11 been prior to that?

12 A That was a current report. I heard the master
13 of the ARCO Juneau report the ice to the Vessel
14 Traffic System.

15 Q Has it been your experience that the ice
16 conditions in Prince William Sound can change
17 rapidly from an hour to an hour sometimes?

18 A Yes.

19 Q Captain Murphy, I'd like to switch now and ask
20 you about the day in Valdez on the 23rd.

21 A Yes.

22 Q You stated that you received a telephone call
23 from Captain Hazelwood at about noon time to pick
24 him up for lunch. Is that correct?

25 A Yes, sir.

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Q Do you recall what time you arrived at the ALAMAR office?

A No. Sometime during the noon hour is when Captain Hazelwood called. And shortly after he called I left and went to the ALAMAR office, so it was still somewhere in the range of the noon hour, I believe.

Q I believe you previously gave a statement and you said it was somewhere between 12:15 and 12:30. Is that correct?

A I think that's probably accurate.

Q And then, I take it, you picked up Captain Hazelwood and you drove over to the Pizza Palace?

A Yes, sir.

Q And you said that your lunch took somewhere around an hour?

A That's right.

Q Could it have been an hour and 15 -- 20 minutes?

A Certainly.

Q I take it that you don't have a recollection of the exact time that you left the Pizza Palace?

A No. No, I don't.

Q Would you say that it was somewhere between 1:30 and 2:00?

1 MR. COLE: Objection. That's not what the
2 amount that he's added up adds up to.

3 THE COURT: I don't understand the objection,
4 Mr. Cole. It's overruled.

5 (2478)

6 A It could be, Mr. Chalos, my recollection of
7 those times are certainly not precise. Captain
8 Hazelwood called me sometime during the noon
9 hour. I picked him up. We went and had lunch
10 and it took about an hour to an hour and a half,
11 something like that. So, what you say, you know,
12 it could certainly be the case.

13 Q (Captain Murphy by Mr. Chalos:) And I believe
14 you testified that after you finished lunch you
15 had a conversation with Mr. Arts who happened to
16 be in the Pizza Palace at the same time?

17 A As I recall we were -- I don't remember if we
18 were eating our lunch or just finished. We were
19 sitting at the table and Mr. Arts had also dined
20 there and he -- I think he was leaving. He
21 walked over and greeted us and we conversed, the
22 five of us, for a short time.

23 Q And then, I take it, you went out to your car
24 and drove over to the mall that you testified
25 about?

1 A That's correct.

2 Q And, I also take it that at that point you
3 exchanged whatever goodbyes you had to exchange?

4 A Yes. That's right.

5 Q And talked for a couple minutes, I take it?

6 A I don't really recall. Captain Hazelwood and
7 his party got out there and I returned to my
8 quarters. I'm sure we said goodbye, see you
9 tonight, words to that effect.

10 Q Now, Captain Hazelwood had nothing to drink at
11 lunch of an alcoholic nature, is that right?

12 A No, sir. He did not.

13 Q The next time you saw Captain Hazelwood was
14 somewhere around between 8:30 and 9:00 that
15 evening?

16 A Let me look at my personal record again?

17 Q Yes.

18 A Yes. That's right.

19 Q Yesterday in response to Mr. Cole's question
20 you stated that you detected what you perceived
21 to be the smell of alcohol on Captain Hazelwood's
22 breath during that period of time, am I correct?

23 A That's correct.

24 Q How close were you to Captain Hazelwood?

25 A Well, the normal distance I guess people stand

1 when they converse with one another, two or three
2 feet face to face.

3 Q Besides the smell that you perceived to be
4 alcohol, did you see anything that would have
5 indicated to you that Captain Hazelwood was
6 intoxicated?

7 A Absolutely not.

8 Q Did you see anything that would indicate to
9 you that he was impaired?

10 A Not at all?

11 Q Was his speech slurred?

12 A No.

13 Q Were his mannerisms unsteady?

14 A No.

15 Q Was his movements unsteady?

16 A No.

17 Q Were his eyes watery?

18 A Not that I could tell, no.

19 Q Did he have any different mood than he had,
20 let's say at lunch?

21 A No. He seemed the same to me.

22 Q Speaking about that, did Captain Hazelwood
23 seem in all respects the same to you as you had
24 seen him at lunch...

25 A Yes.

1 Q ...that day?

2 A Yes, he did.

3 Q And did he seem in all respects the same as

4 you had seen him the night before?

5 A Yes.

6 Q When you came in on the Exxon Valdez?

7 A Yes, sir.

8 Q Yesterday you testified that you spent some

9 time with the captain discussing the undocking

10 maneuver. Do you recall that?

11 A Yes.

12 Q And you offered some opinions and he offered

13 some opinions back to you?

14 A Well, I think the way it went I believe I told

15 him how I proposed to do the maneuver, which is

16 my custom and he said fine, or indicated that was

17 all right with him, or words to that effect. And

18 so forth.

19 Q And did you have an opportunity to observe

20 Captain Hazelwood giving orders to his crew at

21 that point?

22 A Yes.

23 Q Were his commands clear?

24 A Certainly.

25 Q Were they correct based on your experience of

1 these things?

2 A Absolutely.

3 Q Did he seem in command of this vessel?

4 A Oh, absolutely.

5 Q Did you have any doubt about his ability to

6 -- strike that.

7 Captain Murphy, could you tell from the smell

8 that you perceived to be alcohol when Captain had

9 his last drink?

10 A No.

11 Q For all you know his last drink may have been

12 sometime that afternoon, am I correct?

13 A I have no idea when it was.

14 Q I'd like to ask you now about the trip through

15 the Port of Valdez. How many trips would you say

16 you've made through the Port and through the

17 Narrows in your career?

18 A I've never counted them. More than 1,000.

19 Q How many trips have you made with Captain

20 Hazelwood through the Port of Valdez and the

21 Narrows?

22 A I haven't counted those either. Probably a

23 half dozen to 10. Something in that range.

24 Maybe a dozen.

25 Q During those trips Captain Hazelwood had the

1 opportunity to observe your performance, I take
2 it?

3 A Yes, he did.

4 Q And I take it Captain Hazelwood also took. in
5 those instances took the opportunity to observe
6 your abilities?

7 A I'm sure he did.

8 Q Captain Murphy, did you in any way feel
9 incompetent to navigate this vessel through the
10 Port and the Narrows?

11 A No.

12 Q Captain, your familiar, are you now, with the
13 fact that tanker masters have a lot of paperwork
14 to do in this trade?

15 A Yes. I am familiar with that fact.

16 Q And is that true?

17 A Yes. It is true, to the best of my knowledge.

18 Q Do you know if Captain Hazelwood had any
19 reason to believe that you were incapable of
20 bringing the vessel through the Port and the
21 Narrows?

22 MR. COLE: Objection.

23 THE COURT: Don't answer the question.

24 MR. COLE: Objection. Lack of knowledge.

25 Speculation.

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THE COURT: (Indiscernible - unclear.)

MR. CHALOS: Your Honor, I'm asking not for Captain Hazelwood's state of mind, but his state of mind.

THE COURT: Objection sustained.

(2942)

Q (Captain Murphy by Mr. Chalos:) Captain Murphy, you've stated that Captain Hazelwood was off the bridge about an hour or so coming through the Port and the Narrows, is that right?

A I would, again, my recollection isn't precise. I think somewhere between an hour up to possibly an hour and a half, so something in that range.

Q Now, you don't know, do you, whether Captain Hazelwood may have come up on the bridge and stood in the back of the wheelhouse?

A No. I don't.

Q And, in fact, he might very well have done that?

A That's possible.

MR. COLE: Objection. Lack of knowledge.

THE COURT: It's not going to assist the finder of fact, what he might have done. Objection sustained. Disregard the answer, ladies and gentlemen.

Q (Captain Murphy by Mr. Chalos:) Captain

1 Murphy, when you left the vessel at about 11:25
2 that evening I believe you testified that the
3 visibility was about eight miles?

4 A Well, the reason I remember the eight miles is
5 we had come out of rather limited visibility in
6 the Narrows and I could see Busby Island light,
7 which is about eight miles away from Entrance
8 Island. So, at that time the visibility was at
9 least eight miles.

10 Q Now, when Captain Hazelwood came up on the
11 bridge after you had the third mate call him, you
12 testified that you, again, smelled what you
13 perceived to be alcohol on his breath?

14 A That's correct.

15 Q How close were you to him at that time?

16 A I think we stood in adjacent wheelhouse
17 windows looking forward. So, two or three feet.

18 Q Was the smell that you smelled of alcohol at
19 11:20 or 11:15 that evening any different than
20 the smell that you had smelled at let's say 9
21 o'clock that evening?

22 A I detected no difference.

23 Q When Captain Hazelwood came up on the bridge
24 did he appear to you to be intoxicated?

25 A No, sir.

1 Q Did he appear to you in any way to be
2 impaired?

3 A No, sir.

4 Q Were his movements steady?

5 A Yes.

6 Q Was his speech slurred?

7 A No.

8 Q Was his mood any different than what you had
9 seen him previously?

10 A Not that was perceptible to me, no.

11 Q Did he appear to you at 11:15 that evening,
12 just before you got off, to be in the same state
13 as he had been at 9 o'clock as he had been at
14 lunch as he had been the night before?

15 A Yes, he did.

16 Q Captain Murphy, if you felt that Captain
17 Hazelwood was intoxicated, or impaired, would you
18 have stayed on this vessel?

19 A I don't know what I'd have done. I've never
20 encountered such a situation. I don't know how
21 I'd handle it. It would be a difficult
22 situation.

23 Q But, the fact of the matter is that situation
24 didn't exist on that particular night where you
25 had to make that kind of decision?

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A No. It never entered my mind. It was a routine transit.

Q Now, Captain Murphy, as part of the paperwork that you do as a pilot you sign off on pilot slips, am I correct?

A Yes. We fill out a pilotage slip which is signed by the pilot and the master.

Q Let me show you what we've marked as Defendant's Exhibit A for identification and ask you is this a copy of the pilot's slip that was signed that night?

A Yes, sir. It is.

Q Is this your signature right here?

A It is.

Q Is that Captain Hazelwood's signature right below it?

A It is.

Q Are you familiar with Captain Hazelwood's signature?

A Well, he's signed my pilotage slip on a number of occasions. I'm familiar to that extent.

Q Is the signature on this page similar to the signature that he put on your other pilot slips?

A I can't remember, Mr. Chalos. I'm sure it is, but I can't state that it is.

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MR. CHALOS: Okay. Your Honor, I offer Defendant's Exhibit A into evidence.

MR. COLE: No objection.
(3130)

EXHIBIT A ADMITTED

THE COURT: A's admitted.

MR. CHALOS: Your Honor, may I have permission to show this to the jury?

THE COURT: No. We're not going to do that, Mr. Chalos. They're taking notes. And that's why I'm letting them take notes, so they can mark these things down.

Q (Captain Murphy by Mr. Chalos:) Captain Murphy, thank you. I have no further questions at this time.

THE COURT: Mr. Cole.

REDIRECT EXAMINATION OF CAPTAIN MURPHY

BY MR. COLE:

Q Captain Murphy, you talked a little bit yesterday and today about some of the changes and proposed changes that have gone on in the pilotage area out at Prince William Sound?

A Yes.

Q Since 1980 has there ever been any change in the pilotage? And when I say pilotage what is

1 required of a pilotage vessel?

2 A Not to my knowledge.

3 Q And what does that require a tanker vessel to

4 have on board during that transit?

5 A It requires a deck officer with the

6 appropriate Prince William Sound pilotage

7 indorsement on his license.

8 Q To go to where?

9 A Well, it depends on where you're talking to.

10 Either from Cape Hinchinbrook to Rocky Point,

11 some masters or deck officers have it clear into

12 the Port of Valdez.

13 Q And on March 23rd where did you get off from

14 the Exxon Valdez?

15 A In the area of Rocky Point.

16 Q Why did you do that?

17 A Because that's the pilot station, or that was

18 the pilot station.

19 Q And do you know what type of pilotage

20 indorsement Captain Hazelwood had?

21 MR. CHALOS: Objection, Your Honor. Asked

22 and answered.

23 THE COURT: Go ahead and answer the question.

24 Objection overruled.

25 A Well, I don't recall looking at Captain

1 Hazelwood's license, but I knew that he had the
2 requisite indorsement.

3 Q (Captain Murphy by Mr. Cole:) From Rocky
4 Point to Hinchinbrook?

5 A Well, he may have had that, or perhaps his
6 license reads from the Port of Valdez to
7 Hinchinbrook. I don't know.

8 Q Now, you indicated that the area around Bligh
9 Reef is not dangerous. Is that correct?

10 A No. I wouldn't put it in those terms. I
11 don't know what you mean.

12 Q Okay.

13 A Dangerous relative to what?

14 Q Well, in the course of Mr. Chalos' questions
15 he asked you whether this area south of Rocky
16 Point was an area you considered dangerous?

17 A A dangerous navigation area and I said no.

18 Q Okay. I'd like to have you take a look at a
19 couple of these charts.

20 (Pause)

21 I'm showing you what's been identified as
22 Plaintiff's Exhibit 25. Now, there is some
23 dotted lines that go from Busby Island. Can you
24 tell the jury what those are?

25 A Why don't you point exactly to what you're

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referring to?

Q I'm sorry.

A Busby Island, this chart would be better scaled.

Q That chart doesn't show it. Let's use this one.

I'm showing you what's been identified as Plaintiff's Exhibit 26. Do you recognize that?

A Yes, sir.

Q What's that a chart of?

A That's chart 16708 of Valdez Port and Arm.

Q Accurate representation of that area?

A Yes, sir.

MR. COLE: I'd move for the admission of what's been identified as Plaintiff's Exhibit 26.

MR. CHALOS: Your Honor, I have no objection, but I'm not sure what the plastic overlays are. I have no objection to the chart, itself. My concern is what the overlays represent.

THE COURT: Is there an overlay on it?

MR. COLE: Yes. At some point somebody can draw on it.

THE COURT: It's just a clear overlay at this time?

MR. COLE: Yes. Uh-huh (affirmative).

1 MR. CHALOS: Then I have no objection, Your
2 Honor.

3 EXHIBIT 26 ADMITTED

4 THE COURT: 26 is admitted.

5 Q (Captain Murphy by Mr. Cole:) Okay.
6 Specifically I'm talking about these dotted lines
7 that run right along here...

8 A Yes.

9 Q ...from Busby down?

10 A Okay.

11 Q What's that?

12 A Well, there's a red sector in Busby Island
13 light.

14 Q What's a red sector mean?

15 A Well, a red sector means if you're in the
16 range of visibility of the red sector it marks a
17 danger.

18 Q It's a danger. Okay. And if your ship were
19 to pass over that red line what would you see if
20 you looked out at the lights?

21 A Looked out at what lights? If you were in
22 this sector?

23 Q The lights off Bligh and off Busby?

24 A What's your heading?

25 Q If you're heading south?

1 A I want to be sure if you're asking. If you're
2 in this area with a vessel what lights,
3 navigation lights do you see?

4 Q Yeah. And what color are they?

5 A Well, you look astern at Busby Island and you
6 see a red light. And you see the flashing red
7 light on Bligh Reef as well as Fletcher Island
8 light.

9 Q I'd like you to look at this chart and read
10 Note E on the chart.

11 MR. CHALOS: Objection, Your Honor. The chart
12 speaks for itself.

13 THE COURT: Objection overruled.

14 A It says, "Note E: Caution. During the
15 calving season Columbia Glacier deposits ice
16 which may drift into the northern part of Prince
17 William Sound. Mariners are advised to exercise
18 extreme caution and to report all ice sightings
19 to Valdez Traffic on Channel 13."

20 Q (Captain Murphy by Mr. Cole:) Why would they
21 use the words "extreme caution" on that chart?

22 MR. CHALOS: Objection, Your Honor.

23 THE COURT: Mr. Chalos, grounds?

24 MR. CHALOS: How would this witness know why
25 they use those words. That calls for speculation.

1 THE COURT: I think he's qualified to give his
2 opinion on this based on his experience.

3 (3550)

4 A Well, probably because the information the
5 cartographers have leads them to believe that the
6 calving ice represents some sort of a danger that
7 must be warned against.

8 Q (Captain Murphy by Mr. Cole:) Do you consider
9 ice to be a danger?

10 MR. CHALOS: Objection.

11 Q Depending on the type of ice that you
12 encounter?

13 A It can be. It depends upon the circumstances.

14 Q Now, you talked a little bit about
15 maneuverability and speed. And I guess I'm a
16 little bit confused. If a tanker maneuvers best
17 at 11.7 knots, why don't you run it through the
18 Narrows at 11.7 knots?

19 A Well, there's a speed limit in the Narrows. I
20 believe the rationale for the -- of six knots for
21 loaded vessels. And I believe the rationale is
22 that if the vessel suffers some kind of a
23 mechanical casualty, the steering, engine, what
24 not, one could recover, get the vessel slowed
25 faster, obviously, if it's going six knots than

1 at 12. That's the reason for that.

2 Q Well, let me ask you this: when you're in the
3 Port of Valdez and you're heading up to full
4 speed do you ever load up the program to sea
5 speed?

6 A No, I don't.

7 Q Why not?

8 A Well, because I'm going to have to slow down
9 again shortly thereafter to reach a speed limit
10 of six knots to navigate through the Narrows.

11 Q Now, you talked about the change of heading, a
12 10 degree change of heading and you indicated
13 that that was a simple maneuver?

14 A A 10 degree rudder order, I believe...

15 Q Right. Would you tell the jury how you asked,
16 or how you order a course change? Just give them
17 an example?

18 A Well, I could look at the quartermaster and
19 I'll say, "Steer 225," or if I want to control the
20 rudder that he uses to arrive at that course, I
21 can say, "Left 10," or "Left 10 degrees rudder."

22 He'll acknowledge my order, put the helm over.
23 I'll check the rudder angle indicator to see that
24 the rudder's been placed at left 10 and as the
25 vessel swings I'll tell him to take the rudder

1 off and give him a counter order, and then tell
2 him to steady up. Something like that.

3 Q And in order to do that, you have to be there
4 and watch him, is that correct?

5 A Sure.

6 (Pause)

7 Q Now, Mr. Chalos talked a little bit about the
8 automatic pilot and said that that's up to the
9 discretion of a tanker captain. And you agreed
10 with him on that?

11 A Everything's at the discretion of the master.
12 He's in charge.

13 Q And he could put a tanker on automatic pilot
14 in the Port of Valdez?

15 A Conceivably he could. He'd have to take the
16 con away from me to do that. I wouldn't permit
17 it, myself, in the Port of Valdez.

18 Q He could do it in the Narrows, if he wanted
19 to?

20 A He could make that order, yes.

21 Q But that doesn't make it prudent?

22 A No.

23 Q You talked a little bit about the VTS system
24 and how you believed you were monitored out of
25 the Port of Valdez?

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A Yes.

Q After you go through the Narrows do you rely on the Port of Valdez telling you what your location is, or do you rely on the instruments that you have on the deck?

A On the Vessel Traffic System? I never rely on the Vessel Traffic System.

Q Why is that?

A Because it's my responsibility, and not theirs. I have the expertise and they don't. And I haven't always found them a reliable source of information.

Q I'd like to talk about the encountering ice situations. Would you describe for the jury how, if you didn't want to go around ice and you wanted to go through it, how would you do that?

A Well, I would go through it. It's hard to generalize. It depends on the size of the ice, the extent of the ice, the ship I'm on, the visibility conditions, the sea state and so forth. But, in general terms I'd probably slow the vessel down and, if I wasn't able to maneuver around the ice, slow the vessel down and proceed through it at a slow speed.

Q And in a slow speed can you maneuver the

1 vessel by giving it an increase in engine
2 control, like given a short burst of speed push
3 the ship around at all?
4 A You can do that.
5 Q I didn't hear you.
6 A Yes, you can do that.
7 Q And is that an accepted practice in the
8 maritime industry?
9 A I think so.
10 Q When you were asked about deviating around ice
11 and you indicated that you had done it at fairly
12 high speeds, 11 knots, maybe even more.
13 MR. CHALOS: Objection, Your Honor, to the
14 characterization of 11 knots as being high speed.
15 THE COURT: Objection as to the form of the
16 question is sustained, Mr. Cole.
17 Q (Captain Murphy by Mr. Cole:) Do you remember
18 answering the question that Mr. Chalos asked
19 about deviating around ice at 11 knots?
20 A I remember it.
21 Q And you said that that's common?
22 A Yes.
23 Q Do you remember in those situations were you
24 using the automatic pilot?
25 A No.

1 Q Did you leave the bridge when you were doing
2 those things?

3 A No.

4 Q The times that you gave Mr. Chalos, were you
5 looking at your watch that day when you were
6 driving around and going to lunch and coming
7 back?

8 A Golly, I can't remember. It was a luncheon
9 about a year ago. I don't remember if I looked
10 at my watch.

11 Q Now, you -- if I could just have a minute,
12 Your Honor.

13 (Pause)

14 (4116)

15 Q (Captain Murphy by Mr. Cole:) I have just two
16 more areas.

17 How many second mates, or third mates do you
18 know, personally, that have pilotage indorsement
19 for the Prince William Sound area?

20 A I sure couldn't tell you, Mr. Cole.

21 Q Finally, you indicated that there was nothing
22 different about Captain Hazelwood other than the
23 odor of alcohol between the time you saw him on
24 the 22nd and the 23rd?

25 A That's correct.

1 Q And you're saying that there was no change in
2 his voice that you could recognize?

3 A No. There was not.

4 Q He was the same efficient person on the night
5 of the 23rd that you had known in the past?

6 A Absolutely.

7 Q That evening when he came on board what were
8 the lighting conditions, the bridge on the 23rd?

9 A I didn't see Captain Hazelwood come aboard.

10 Q I'm sorry. When he came up on the bridge, let
11 me be more specific?

12 A The lights in the chartroom and wheelhouse
13 were on.

14 Q And when did they get turned off?

15 A I believe just prior to sailing, the singling
16 up process. Sometime in there.

17 Q And Captain Hazelwood was on the deck for 15
18 to 30 minutes as you testified earlier and the
19 lights were off during that time?

20 (Tape: C-3601)

21 (003)

22 A The lights when the vessel's navigating at
23 night are always off.

24 Q Why is that?

25 A Well, because the white light impairs night

1 vision.

2 Q I think you were asked this, but I'd just like
3 to clear it up. How many times have you refused
4 to relinquish the con to a master you suspected
5 of being intoxicated?

6 A That's not my authority to do. I've never had
7 the occasion to even contemplate such a thing.
8 But, if I had it's not my authority. The master
9 is in charge of the ship. He's the boss in all
10 cases.

11 Q Do you perceive that as being a difficult
12 thing to do if you were ever confronted with it?

13 A I perceive it as being extraordinarily
14 difficult.

15 Q Finally, can you tell the jury how many civil
16 suits you've been named in?

17 A I believe about 103.

18 Q And can you tell the jury why you have been
19 sued? Do you understand why?

20 MR. CHALOS: Your Honor, I object. What's the
21 relevancy of this? Is he trying to impeach Captain
22 Murphy?

23 (53)

24 (Whispered bench conference as follows:)

25 MR. COLE: It goes directly to why

1 (indiscernible - whispering) of intoxication
2 (indiscernible - whispering) because he turned over the
3 con to somebody who was intoxicated (indiscernible -
4 whispering)adequately responsibility.

5 THE COURT: (Indiscernible - whispering.)
6 That opens up a new area, and we'd have to get into it
7 in some depth and I don't think it would go to prove
8 anything. I think it's probative value would be
9 minimal, Mr. Cole. I'm going to sustain the objection.

10 (End of whispered bench conference.)

11 THE COURT: Objection sustained.

12 MR. COLE: Judge, I have nothing further.

13 (97)

14 RECROSS EXAMINATION OF CAPTAIN MURPHY

15 BY MR. CHALOS:

16 Q Just a few questions, Captain Murphy.

17 A Yes, sir.

18 Q You stated in response to Mr. Cole's question
19 that there have been no changes in the pilotage
20 regulations since the beginning. Do you recall
21 that?

22 A I don't think he phrased the question quite
23 like that, but I know what you're talking about,
24 yes.

25 Q Yeah. In fact, and perhaps it was the

1 question that elicited that answer, but the fact
2 of the matter is there have been a lot of changes
3 in the pilotage regulations over the years,
4 haven't there?

5 MR. COLE: Your Honor, I object because Mr.
6 Chalos is using the word pilotage in a way that is
7 confusing. He's taking it in a general term and I'm
8 talking specifically about pilotage as far as when his
9 ship was being piloted in a status as piloted, and I
10 think that's what part of the confusion is.

11 MR. CHALOS: I'm taking it exactly the same
12 way, Your Honor.

13 THE COURT: All right. Do you understand the
14 question then, to be specific?

15 A No, sir. I don't understand the question.

16 THE COURT: Why don't you rephrase your
17 question, then.

18 Q (Captain Murphy by Mr. Cole:) Well, let me
19 approach it specifically then, Captain Murphy.
20 You are aware, are you not, that by a Captain of
21 Port order as early as 1980 vessels were
22 permitted to transit Prince William Sound during
23 daylight hours without having someone on board
24 with a pilotage indorsement?

25 A Yes. Up to Bligh Reef, that's -- I am aware

1 of that.

2 Q And you're also aware that in 1986 there was a

3 letter from ALAMAR...

4 MR. COLE: Objection. Hearsay.

5 MR. CHALOS: Let me rephrase...

6 THE COURT: Would counsel approach the bench,

7 please?

8 (150)

9 (Whispered bench conference as follows:)

10 We might as well nip this in the bud now. Let

11 him finish his question and then make your objection

12 and, before you go, facial expression like grimaces,

13 smiles, shaking of the head, raised eyebrows don't have

14 any place in this. You're both making a very

15 professional presentation, let's keep it that way.

16 (End of whispered bench conference.)

17 (169)

18 You may ask you question. Don't answer it

19 until it's...

20 MR. CHALOS: Let me rephrase that, Your Honor.

21 Q (Captain Murphy by Mr. Chalos:) Captain

22 Murphy, you're also aware, are you not that in

23 1986 the pilotage requirements were further

24 relaxed to permit transit of Prince William Sound

25 at night by vessels without having someone with a

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pilotage indorsement on board...

A Again...

THE COURT: Excuse me.

A I'm sorry.

THE COURT: Mr. Cole, did you wish to make an objection to that question? I want to make sure you get it in if you do?

MR. COLE: No.

A I'm not aware of the specific order. I know that the rules did change and that those vessels were no longer restricted to daylight on them.

Q Captain Murphy, when you say that the regulations regarding non-pilotage vessel was to pick up a pilot at Bligh Reef, can you show us on this chart where exactly we're talking about? Are we talking about abeam of Bligh Reef? This is prior to the accident now.

A Yes.

Q Or somewhere in the vicinity of Bligh Reef?

A Right in this area. Just in this area after the turn somewhere.

Q Okay.

A About abeam of Bligh Reef.

Q The circle that you're making encompasses about an area anywhere from abeam to a mile

1 north, is that correct?

2 A Thereabouts, or perhaps a mile south, but in
3 this general area.

4 Q There wasn't a specific stop let's say at
5 (indiscernible - unclear)?

6 A No. No, there wasn't.

7 Q Captain Murphy, in your experience are third
8 mates, second mates, chief mates on these vessels
9 qualified to give helm orders?

10 A Yes.

11 Q Now, you said that you would never leave the
12 bridge while on board as a pilot. Is that
13 because you have the con at that time?

14 A No. I don't think I said that. I was asked
15 if I'd ever left the bridge navigating through
16 ice and I said no.

17 Q And the reason for that is because you had the
18 con at that particular time?

19 A Correct.

20 Q Is that correct?

21 A Correct.

22 MR. CHALOS: I have no further questions, Your
23 Honor.

24 MR. COLE: Judge, I have one follow up
25 question.

1 THE COURT: Okay. One.

2 REDIRECT EXAMINATION OF CAPTAIN MURPHY

3 BY MR. COLE:

4 Q All these changes in Prince William Sound that
5 you described and that Mr. Chalos referred to
6 dealt with non-pilotage vessels, is that correct?

7 A That is my understanding.

8 Q And what is a non-pilotage vessel?

9 A A non-pilotage vessel was, and perhaps still
10 is, a vessel whose master or deck officers don't
11 possess the pilotage indorsement from Cape
12 Hinchinbrook to Rocky Point.

13 Q Thank you.

14 THE COURT: All right. You're excuse, thank
15 you.

16 (Witness excused.)

17 You can call your next witness.

18 MR. COLE: At this time the State would call
19 Jerzy Glowacki to the stand.

20 (Pause)

21 Judge, Mr. Glowacki was supposed to be here.
22 He's not outside. I'm going to have to locate him real
23 quick.

24 THE COURT: All right. We'll take a break,
25 ladies and gentlemen, about 10 minutes or so. Don't

1 discuss this case among yourselves, or form or express
2 any opinions.

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

5 (303)

6 (Off record - 10:16 a.m.)

7 (On record - 10:18 a.m.)

8 (Jury present)

9 THE COURT: You may be seated.

10 You may call your next witness, Mr. Cole.

11 MR. COLE: Your Honor, at this time the State
12 would call Jerzy Glowacki.

13 THE CLERK: Sir, you'll find a microphone is
14 dangling over the top of the (indiscernible -
15 coughing). Please attach that to your tie or your
16 lapel and remain standing and raise your right hand.

17 (Oath administered.)

18 A I do.

19 JERZY GLOWACKI

20 called as a witness in behalf of State of Alaska, being
21 first duly sworn upon oath, testified as follows:

22 THE CLERK: Please be seated.

23 Sir, would you please state your full name and
24 then spell your last name?

25 A Jerzy Glowacki. G-l-o-w-a-c-k-i.

1 THE CLERK: Spell your last name again,
2 please.

3 A G-l-o-w-a-c-k-i.

4 THE CLERK: And your current business mailing
5 address?

6 A Business mailing address? It's Exxon Shipping
7 Company in care of NESCO, San Diego, California.

8 THE CLERK: And your current occupation, sir?

9 A I'm a chief engineer.

10 (358)

11 DIRECT EXAMINATION OF MR. GLOWACKI

12 BY MR. COLE:

13 Q Mr. Glowacki, what was your position on the
14 Exxon Valdez on the night it grounded?

15 A I was the chief engineer.

16 Q Can you tell jury how long you've worked for
17 Exxon?

18 A About 19-1/2 years.

19 Q What positions have you held with them?

20 A From the very beginning?

21 Q Uh-huh (affirmative).

22 A When I joined Exxon I was a third engineer,
23 and subsequently second, first engineer, and
24 chief engineer, and I've held several shore
25 positions with them.

1 Q Have you worked with Exxon the entire time
2 you've been in the maritime industry?
3 A I've taken two leaves of absence for a
4 duration of about three months each when I was
5 teaching at the Maritime College in New York.
6 Q Have you received any special training over
7 the years?
8 A Maritime? Yes, I've attended many courses,
9 professional type courses.
10 Q How long had you worked on the Exxon Valdez?
11 A I was involved with the latter stages of
12 design prior to construction for several months.
13 Then I was a machinery superintendent during the
14 entire construction at NESCO in San Diego. And
15 when she was delivered in December '86 I was the
16 chief engineer on her.
17 Q And did you retain that position since then?
18 After that?
19 A (No audible response.)
20 Q Did you remain the chief engineer?
21 A Yes, I was. Yes.
22 Q Would you tell the jury what a chief
23 engineer's responsibilities are?
24 A I'm in charge of -- I'm responsible for main
25 propulsion, all mechanical, electrical system on

1 the ship.

2 Q What do you mean by main propulsion?

3 A The main engine. In this case, on a diesel
4 ship the main engine. And the steam ships, the
5 turbines, the boilers.

6 Q What type of engine powers the Exxon Valdez?

7 A It's on a Salzer 8 RTA 84 slow speed directly
8 driven, directly coupled, diesel.

9 Q Can you give the jury an idea of the type of
10 horsepower that this diesel engine generates?

11 A It is rated at MCR, which is maximum
12 continuous rating of 31,400 horsepower, however,
13 at NCR, which is normal continuous rating, which
14 is what the ship normally operates, which is 90
15 percent of MCR, is 28,000 horsepower, and this is
16 what we operate at full sea speed, 28,000.

17 Q How many people worked for you on the Exxon
18 Valdez?

19 A There are three other engineers, one
20 unlicensed MOA and the pumpmen.

21 Q What were their responsibilities aboard that
22 tanker?

23 A The pumpman usually takes care of -- assists
24 the mates in port in loading and discharging
25 cargo. And at sea he works for me in taking care

1 of and maintaining cargo equipment on deck, or
2 pumps associated with cargo.

3 The MOAs, they're unlicensed and they were in
4 the engine room doing repairs and assist in
5 operations.

6 Q How do you organize the shifts of the people
7 that work underneath you when you're at sea, or
8 -- is there a distinction between when you're at
9 sea or when you're at port?

10 A Yes, there is.

11 Q Would you explain the differences to the jury?

12 A The ship has a UMMS rating from the American
13 Bureau of Shipping, which means it's certified to
14 have unattended engine room spaces. So, we
15 generally go unattended...

16 Q What does that mean, for the jury?

17 A That there's no watch stood around the clock
18 when the vessel's at sea, in the engine room.

19 So, at sea, the engineers basically work doing
20 maintenance and repair from 8:00 to 5:00. After
21 5 o'clock the engine room is unattended 5:00 in
22 the afternoon until 8 o'clock in the morning it's
23 unattended.

24 One engineer on that rotating basis is
25 designated duty engineer. Should any alarms

1 occur in the middle of the night they will go off
2 in his room and then he will proceed down to the
3 engine room to rectify whatever caused the alarm
4 should an alarm occur.

5 He also has to make rounds, walk through the
6 engine room, prior to returning, retiring for the
7 evening, usually around 6 o'clock in the morning.

8 Q What about coming into port?

9 A We go up, we stand watches. Four on and eight
10 off. So, the engine room will be manned. And we
11 set watches prior to arrival until past
12 departure.

13 Q Why the added concern in departures and
14 arrivals?

15 A Because the ship is operating in restricted
16 waters, as opposed to open sea.

17 Q Where is the engine room in the Exxon Valdez?

18 A It's after frame 51 and below the main deck.

19 Q I'm showing you what's been marked for
20 identification as Plaintiff's Exhibit 19. Do you
21 recognize that?

22 A Yes.

23 Q What is that a picture of?

24 A It's a photo of the Exxon Valdez?

25 Q Is it an accurate photo of the Exxon Valdez?

1 A Yes. I would say so.

2 MR. COLE: I would move for admission of
3 what's been identified as Plaintiff's Exhibit 19, Your
4 Honor.

5 MR. MADSON: No objection, Your Honor.

6 EXHIBIT 19 ADMITTED

7 THE COURT: 19's admitted.

8 Q (Mr. Glowacki by Mr. Cole:) And could you, if
9 I hold this, could you point out to the jury
10 where the engine room is?

11 A From roughly here down.

12 Q And how far back does it go?

13 A This is frame 51. This is -- the stern is
14 frame 91 and there's 16 foot space in between
15 frames.

16 Q The whole way though?

17 A That's correct.

18 Q Would you tell the jury what type of
19 communications, intra-ship communications you
20 have in the engine room and the rest of the ship?

21 A We have two phone systems. One is regular
22 bell type phone system as you would have at home.

23 Then there's a sound powered phone system.

24 And we also have a radio in the engine room with
25 a space station so we can listen to walkie-

1 talkies, have walkie-talkie communication.

2 Q And where is the engine room located, the
3 engine room, itself, located?

4 A Where I showed you.

5 Q I'm showing you what has been marked for
6 identification as Plaintiff's Exhibit 66 and
7 Plaintiff's Exhibit 68. Do you recognize those
8 two photographs?

9 A Yes, I do.

10 Q What are those photographs of?

11 A Main engine room console, control console in
12 the engine room control room.

13 Q Okay. Do they accurately reflect that area?

14 A Yes.

15 MR. COLE: I would move for admission of those
16 two Exhibits.

17 MR. MADSON: No objection to either one.

18 EXHIBIT 66 & 68 ADMITTED

19 Q (Mr. Glowacki by Mr. Cole:) I'm going to ask
20 you to point out certain...

21 THE COURT: They're admitted.

22 Q (Mr. Glowacki by Mr. Cole:) Now, I'd like to
23 talk a little bit about the method by which the
24 engine in this case is run. Is this tanker the
25 same as, say, an automobile, where you turn on a

1 key and the engine starts?

2 A Not hardly.

3 Q Would you explain to the jury how, for
4 instance, you turn on the engine?

5 A The engine, as I understand, on this ship,
6 which I gather because of the horsepower it
7 generates, is quite large. And the engine has to
8 be warmed up prior to starting to certain
9 temperatures.

10 Q How do you warm it up?

11 A The cooling systems within the engine, one
12 cooling system is for the cylinder drop, is the
13 cylinder liners, themselves, and also, the
14 pistons are water cooled. So, everything has to
15 be at a certain temperature prior to starting the
16 engine. We heat that water. The cooling system
17 prior to starting the engine.

18 Q Then what do you do?

19 A Lubricating oil also has to be brought to a
20 certain temperature. Once the temperatures are
21 within the parameters the manufacturer
22 recommends, then the engine can be started.

23 Q And how is that done?

24 A You mean, physically, how is it done, or from
25 what locations, or...

1 Q Is there a system whereby air is injected into
2 the cylinder heads?

3 A Yes. Once, depending on where the control of
4 the engine is, which could be on the bridge, in
5 the engine room, in the engine control room, or
6 at the engine side, locally, high pressure air is
7 admitted to each cylinder in a starting order
8 which gets the crank shaft moving. And once
9 certain rpm is achieved by injection of air, then
10 fuel is admitted, and that's when the engine
11 actually starts.

12 Q Now, does the propeller turn at that time?

13 A Yes, it does.

14 Q And would the throttle at that time be in a
15 stop, or dead ahead, or what would it be?

16 A No. In order for the engine to start it just
17 depends on which control you're in, which control
18 or engine room control.

19 Q Let's assume that you're in bridge control.

20 A On the bridge the engine throttle, the
21 telegraph, when the handle is moved from start to
22 any position ahead or astern, the engine will
23 start.

24 Q I'm showing you what's been marked for
25 identification as Plaintiff's Exhibit 65. Do you

1 recognize that?

2 A Yes.

3 Q What's that?

4 A That's the engine control, the main engine
5 station.

6 MR. COLE: I would move for admission of
7 what's been marked for identification as Plaintiff's
8 Exhibit 65.

9 MR. MADSON: No objection.

10 EXHIBIT 65 ADMITTED

11 THE COURT: Admitted.

12 Q (Mr. Glowacki by Mr. Cole:) And can you point
13 out on the other two photographs where this
14 throttle is?

15 A Uh-huh (affirmative). It's right here.

16 Q Now, let's assume that this is -- is it proper
17 to use the word throttle for this, or teletype,
18 or what do you call it?

19 A Engine control.

20 Q Engine control? Okay.

21 Let's assume that engine control is in the
22 engine room.

23 A Correct.

24 Q What happens when you move from stop to dead
25 slow ahead?

1 A When the control is in the engine room control
2 position, the left lever is used strictly as a
3 means of communication from the bridge to the
4 engine room, which becomes a telegraph.

5 Q Okay.

6 A And if the bridge desires to go and they say
7 dead slow ahead, then we're told where to dead
8 slow ahead, one of the pointers will move to that
9 position. We will move this lever to that
10 position. Then the arrows would be lined up.
11 This will at the same time indicate to the bridge
12 that we have received their order, and would also
13 reverse the cam shaft on the engine to the ahead
14 running position.

15 So, it does two things. It communicates, plus
16 sets the engine for the direction that you
17 desire.

18 The right lever is a fuel control lever. In
19 order to start the engine, we have to give it
20 fuel.

21 Q Okay. Go ahead.

22 A So, assuming we are going to go dead slow
23 ahead, this lever is already in ahead position.
24 I would move this lever to approximately 3-1/2 or
25 four on the scale and hit the start button.

1 Q Okay.

2 A When I hit the start button the starting air
3 will be admitted to the engine. Once I see the
4 engine starting, firing...

5 Q Uh-huh (affirmative).

6 A ...because the fuel lever is already set for
7 fuel admission, then I can adjust with the fuel
8 lever the speed of the engine to desired rpm.

9 Q Okay. Thank you.

10 That can be controlled either in the engine
11 room, or up on the bridge, then?

12 A The procedure for starting I just described
13 can only be controlled from the engine room.

14 Q Okay. What about...

15 A That type of starting.

16 Q Okay. What about when the tanker is out at
17 sea and the tanker captain wants to go from dead
18 slow ahead to slow ahead?

19 A Are we on bridge control, or...

20 Q Bridge control.

21 A He just moves the telegraph.

22 Q And it's done?

23 A That is the throttle.

24 Q Okay. And then it's done automatically?

25 A Correct.

1 Q What about if he wants to go from stop to dead
2 slow ahead and it's on bridge control?

3 A He does the same thing. He moves the lever
4 dead slow ahead and the engine will start and
5 will go up to 24 rpm, which is dead slow ahead.

6 Q And you don't have to do anything at that
7 time, then?

8 A No. As far as controlling...

9 Q Yes.

10 A ...the fuel and speed from the engine room,
11 no.

12 Q What is the importance of rpm, and gradual and
13 increasing?

14 A Well, each vessel is designed, and each engine
15 for each vessel is designed to attain certain
16 speeds at certain revolutions. And the
17 maneuvering ranges, such as dead slow, slow, half
18 and full, achieved in the design process and to
19 attain certain speed you assign certain rpm to
20 those maneuvering speeds, and that's what it is.

21 And also, at normal continuous power for sea
22 speed to full ahead sea speed, again, certain rpm
23 is assigned to be design of the propeller and the
24 hull machinery.

25 Q Let's talk about that for a minute. How does

1 this tanker, does this vessel get to sea speed
2 from full ahead?

3 A From maneuvering full ahead.

4 Q Maneuvering full ahead.
5 (990)

6 A Which is 55 revolutions.

7 Q Uh-huh (affirmative).

8 A And we're on bridge control?

9 Q We're on bridge control.

10 A Unlike a turbine ship, a diesel ship, diesel
11 engine has to be speeded up to full power rather
12 slowly, because its a thermal animal. It has to
13 thermally stabilize itself.

14 And it is programmed on this ship once you hit
15 a certain button on the bridge which is called
16 load programming up, it will take about 43
17 minutes to go from 55 rpm from maneuvering to
18 full sea speed, which is 79.

19 Q And what happens when you want to stop
20 immediately, when you're in the loading up
21 program?

22 A You just move the telegraph on the bridge to
23 stop.

24 Q Does that have any effect on how long it
25 takes?

1 A Do you mean when the engine will stop, or when
2 the ship will stop?
3 Q No. When the engine will stop?
4 (1068)
5 A The engine will stop, will go to stop almost
6 instantaneously, but the propeller will freewheel
7 for a while, depending on the ships speed and the
8 momentum.
9 Q Okay. Can the load program up be done from
10 the engine room?
11 A No.
12 Q Where is it done?
13 A On the bridge.
14 Q And, generally, who orders that?
15 A The captain, or whoever is in charge of the
16 watch. It depends on the situation.
17 Q As a general rule, just as the common practice
18 on the Exxon Valdez was the throttle controlled
19 from the bridge, or from the engine room?
20 A Always from the bridge unless there's some
21 reason for...
22 Q Can you give the jury an idea of what type of
23 problem you look for when you're on duty during
24 the days? What type of problems arise?
25 A Well, one generally doesn't go look for

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problems all the time. Being an automated vessel, there are hundreds of alarm points, sensors and transducers around the engine room that constantly monitor all the vital systems.

Our normal routine at sea is primarily preventive maintenance, or predictive maintenance, and if something does break, repairing it.

Q Are there any instruments in the engine control room that record the engine commands?

A Yes, there is.

Q What is that?

A It's called Bell Logger.

Q And I'm showing you a picture of what has been identified as Plaintiff's Exhibit 67. Do you recognize that?

A That's the Bell Logger.

MR. COLE: I'd move for admission of what's been identified as Plaintiff's Exhibit 67.

MR. MADSON: No objection.

EXHIBIT 67 ADMITTED

THE COURT: It's admitted.

Q (Mr. Glowacki by Mr. Cole:) And I'm also showing you what has been identified as

1 Plaintiff's Exhibit 3. Do you recognize that?

2 A That's a copy of a hard copy printouts from
3 the logger.

4 Q And do you recognize what's been identified as
5 Plaintiff's Exhibit 11?

6 A It's a chart of rpm v propeller slip.

7 Q And is that an accurate copy of the chart that
8 was on the Exxon Valdez?

9 A I would have to say so, yes.

10 MR. COLE: Your Honor, I'm going to move for
11 the admission of what has been identified as
12 Plaintiff's Exhibit 11.

13 A Although I don't know how this chart was
14 obtained, with empirical data, or what.

15 MR. MADSON: I'd object because of this
16 witness' lack of knowledge of this particular exhibit,
17 Your Honor.

18 THE COURT: Mr. Cole.

19 MR. COLE: I think he satisfied that.

20 EXHIBIT 11 ADMITTED

21 THE COURT: Okay. I'm going to admit 11.

22 Q (Mr. Glowacki by Mr. Cole:) I'm also going to
23 ask you to take a look at what has been
24 identified as Plaintiff's Exhibit 17 and ask you
25 if there is part of this that corresponds with

1 the bell logger in what's been identified as
2 Plaintiff's Exhibit 3?

3 A It is a copy of this, yes.

4 Q Okay. And is it an accurate copy as you see
5 it?

6 A Yes, it is.

7 MR. COLE: I would move for the admission of
8 what has been identified as Plaintiff's Exhibit 17.

9 MR. MADSON: Your Honor, I would have no
10 objection, except for the little comments that are
11 editorialized on there. This witness hasn't identified
12 those, and it's not a copy of what's on there. So, in
13 other words it's a copy of the chart, blown up...

14 THE COURT: But the little stick ons on the
15 side are not on Exhibit 11.

16 MR. MADSON: That's correct.

17 A No.

18 THE COURT: You intend on tying this up at
19 some point with another witness?

20 MR. COLE: Yes, I do. I can wait 'til that
21 time if you...

22 THE COURT: You better do that.

23 Q (Mr. Glowacki by Mr. Cole:) Mr. Glowacki, I'd
24 like to talk a little bit about what the...

25 THE COURT: Excuse me. Do you have any

1 objection to the exhibit being used in this manner?

2 MR. MADSON: Well, I do, Your Honor, because
3 of the information that's on there which we take
4 serious issue with as far as certain times are
5 concerned.

6 MR. COLE: I can refer to this.

7 THE COURT: Okay. Mr. Cole, that has those
8 stick ons, and it's not been admitted, so I think it
9 would be improper to demonstrate it to the jury at this
10 time.

11 Q (Mr. Glowacki by Mr. Cole:) Well, let's look
12 at the Bell Logger then. I see that there are
13 certain little notations on the left hand side.
14 What are those notations? The little arrow?

15 A The chevron and the arrow? Every time the
16 bridge throttle is moved that becomes an engine
17 order. And this little chevron indicates that
18 that's the order.

19 Q Okay. The jury can't see that.

20 Why don't you draw what that looks like up
21 here on this chart? So, when the jury takes a
22 look at this exhibit and they see that, that
23 mark, that means that an engine order was given?

24 A That's correct.

25 Q Okay. And can you tell what order was given

1 at that time?

2 A Yes.

3 Q How can you tell that?

4 A Next to it is an -- I'll show you.

5 Q Yeah. You can write an example up there if

6 you like.

7 A It says BC, which means that the engine is in

8 bridge control...

9 Q Okay.

10 A ...and next to that it says half ahead.

11 Q And what would that mean?

12 A That the engine, or the telegraph was moved to

13 half ahead in the bridge controlled position.

14 Q What would be above that, then?

15 A STB. STB means the engine's on standby. And

16 that's really of no importance. There's just a

17 button they press that's on standby.

18 Q And after that? What else is provided?

19 A There's the time of the order, and also, the

20 rpm that the engine is at when the order is

21 given.

22 Q Now, is the time, is it according to Alaska

23 Time, or Pacific Time, or are you aware of what

24 that time is...

25 A Yes. It's in GMT.

1 Q Which is?
2 A Greenwich Mean Time.
3 Q Now, after an order is given, is there another
4 response that's recorded in the Bell Logger?
5 A Yes. The change in rpm, increase in rpm is
6 recorded every five rpm, every change of five
7 rpm, and the time of that change is recorded.
8 Q In every one of these little sequences that we
9 see has there been an order given?
10 A There was an order given here. There was a
11 progression here.
12 Q Would you show the jury what a progression
13 mark looks like?
14 A It's an @ symbol.
15 Q Okay. Why don't you write it up there?
16 So, whenever they see that, that's a
17 progression mark, and does that mean that the
18 engine is building up?
19 A Well, it means that at this time the engine
20 was doing such and such an rpm, which is higher
21 than the previous one.
22 Q Thank you.
23 (Pause)
24 Can you give the jury an idea of how big the
25 propeller on the Exxon Valdez is?

1 A It's approximately 20 -- it is 20-1/2 feet in
2 diameter.

3 Q And I'm showing you a picture of what's been
4 marked for identification as Plaintiff's Exhibit
5 72, do you recognize that?

6 A That's the propeller.

7 MR. COLE: I would move for admission of
8 what's been identified as Plaintiff's Exhibit 72.

9 MR. MADSON: No objection.

10 EXHIBIT 72 ADMITTED

11 THE COURT: Admitted.

12 Q I'd like to shift gears here a little bit and
13 talk about Wednesday night on March 22nd, 1989.
14 Do you remember being in the engine room that
15 evening?

16 A Yes. That's when we came into Valdez?

17 Q Why were you down in the engine room?

18 A We usually go down in the engine room when
19 we're maneuvering.

20 Q When you say maneuvering, what time, I mean,
21 when did you go down to the engine room that
22 evening?

23 (1490)

24 A I don't remember the exact time, but I would
25 say generally I was in the engine room from the

1 time we took arrival at Cape Hinchinbrook to the
2 time we docked in Valdez?

3 Q And when the tankers would leave Valdez, how
4 long would you remain...

5 A Until we took departure at Cape Hinchinbrook.

6 Q And that is, again, to be available in case
7 things happened?

8 A Correct.

9 Q Do you remember when you went to sleep that
10 evening?

11 A Perhaps 1 o'clock in the morning, midnight,
12 something about 1:00.

13 Q Now, how long had you been out at sea at that
14 point?

15 A How long was I assigned to the ship that time?

16 Q Yeah, prior to your last vacation?

17 A I had approximately 70 some odd days on board.

18 MR. MADSON: I'm sorry. I didn't hear the
19 answer. I wonder if the witness could...

20 A 70 some odd days.

21 Q (Mr. Glowacki by Mr. Cole:) And how long of
22 shifts do you normally work? I didn't mean
23 shifts, but how long a period do you normally
24 work without a vacation?

25 A Well, generally, it's -- I'm two months on and

1 two months off, but since the senior people are
2 assigned to a ship on a regular basis, we can
3 make arrangements with my counterpart as to when
4 we want to get off, within reason.

5 Q And during the 70 days that you had been on
6 the ship, when was the last time that you had
7 been ashore?

8 A I was ashore in San Francisco prior to coming
9 to Valdez.

10 Q And how long does it take to get from San
11 Francisco to Valdez?

12 A It's generally five days.

13 Q Did you leave the Exxon Valdez that morning in
14 Valdez?

15 A Morning of...

16 Q March 23rd, 1989?

17 A Yes, I did.

18 Q Why did you leave the Exxon Valdez?

19 A I went with the Captain to our agent's office.

20 Q Did you go with anyone else?

21 A The radio officer came with us.

22 Q What's his name?

23 A Gerald Roberson.

24 Q What were you wearing that day? Do you
25 remember?

1 A Jacket, sweater and pants.

2 Q Did you have a hat on?

3 A No.

4 Q Did you have a beard at the time?

5 A No.

6 Q How about the captain? Do you remember what
7 he was wearing that day?

8 A I believe he was wearing a winter coat.

9 Q Did he have a hat on?

10 A I believe so, yes.

11 Q What kind of hat did he have on?

12 A I believe it was a beret.

13 Q Do you remember what color?

14 A No. I don't. It was dark.

15 Q And do you remember what color his jacket was?

16 A I believe it was khaki, or green.

17 Q Now, you said you went to the agent's? Would
18 that be the Alaska Maritime Agency?

19 A That's correct.

20 Q What did you do while you were there?

21 A I made a few phone calls to our office in
22 Benicia.

23 Q When you left, what time did you think that
24 the ship was sailing that evening?

25 A When we left the ship? The sailing board was

1 set for I believe 8:00 and 9:00 in the evening.

2 Q 8:00 or 9:00?

3 A 8:00 and 9:00.

4 Q What does that mean?

5 A That means crew to be aboard at 8 o'clock.

6 Ship to sail at 9:00.

7 Q Now, after -- do you remember what time you

8 left the terminal, the Alyeska Terminal that

9 morning?

10 A I believe we left the ship approximately 10:30

11 or so.

12 Q Okay. If I showed you a copy of the checkout,

13 would that refresh your recollection as to when

14 you left that day?

15 A I've never seen a checkout at the terminal,

16 but...

17 (Pause)

18 That's when we left.

19 Q Okay. And what time was that?

20 A 10:59.

21 Q Did you go and eat that day?

22 A Yes, we did.

23 Q Where did you go?

24 A To the Pizza Palace.

25 Q And how did you get there?

1 A Pilot Ed Murphy took us there.

2 Q And who was with you when you had lunch that

3 day?

4 A Ed Murphy, Gerald Roberson, Captain Hazelwood

5 and myself.

6 Q Do you remember what you had to eat?

7 A I had some sort of salad, I believe.

8 Q And how about to drink?

9 A I had a beer.

10 Q What did the other people have to drink?

11 A I believe Mr. Roberson had a beer, also.

12 Captain and Mr. Murphy had iced tea.

13 Q Who paid the bill?

14 A I don't recall, but I believe the agent picked

15 it up.

16 Q The agent would have been eating with you, or

17 you saw him there that day?

18 A No. He was there with his family, I believe,

19 at another table. But, I'm not certain about

20 that.

21 Q Where did you go after lunch?

22 A Ed Murphy drove us back to town.

23 Q And what happened when you got there?

24 A When we got to the center of town we

25 separated.

1 Q Did you make any arrangements to meet back up?
2 A Yes, we did.
3 Q What was that arrangement?
4 A That we would meet at the Pipeline Club some
5 time later.
6 Q Who suggested that?
7 A I really don't know.
8 Q What time did you intend to get together?
9 A I really don't believe we set a specific time.
10 It could have been within half an hour, an hour.
11 Q What did you do then, after that?
12 A A couple of people on the ship asked me to get
13 some papers, newspapers for them. So, I decided
14 to look for newspapers.
15 Q And did you do anything else?
16 A No. I walked about town looking for
17 newspapers. In Valdez the newspapers are in
18 automatic type boxes outside.
19 Q How long did you walk around for?
20 A Perhaps between half an hour to 45 minutes,
21 maybe an hour.
22 Q Do anything else then?
23 A No.
24 Q When did you get to the Pipeline Club?
25 A I think maybe shortly before 4 o'clock or so.

1 Q What did you do when you got there?
2 A I ordered a drink.
3 Q How did you do that? Did you go up to the
4 bar, or did...
5 A I walked up to the bar.
6 (Pause)
7 (1858)
8 Q I'm asking you to take a look at what's been
9 identified as Plaintiff's Exhibit 24.
10 MR. MADSON: No objection.
11 THE COURT: No objection to 24?
12 MR. MADSON: No.
13 EXHIBIT 24 ADMITTED
14 THE COURT: 24's admitted.
15 Q (Mr. Glowacki by Mr. Cole:) If I hold this
16 would you tell the jury where you came in that
17 afternoon? How you came in?
18 A Which way?
19 Q Yeah. Maybe you can point with that stick
20 that you have right in front of you?
21 A I believe through here.
22 Q And where did you order your drink?
23 A Somewhere here.
24 Q And do you remember where you sat, then?
25 A I believe here.

1 Q What kind of drink did you have?
2 A A gin and tonic.
3 Q Who was the next person to show up?
4 A It was the captain.
5 Q And that would be Captain Hazelwood?
6 A That's correct.
7 Q When did he show up?
8 A I believe, perhaps, half an hour after I was
9 there.
10 Q And what did he have to drink?
11 A I believe it was vodka.
12 Q Why do you say that?
13 A Because I didn't order it for him.
14 Q Well, how did you know it was vodka?
15 A Perhaps I saw the bottle. It looked like
16 vodka, like Smirnoff.
17 Q Was it a particular type of vodka, do you
18 remember?
19 A It might have been Smirnoff, yes.
20 Q And was he drinking it mixed, or straight?
21 A I believe it was straight.
22 Q When did Mr. Roberson show up?
23 A Perhaps 15, 20 minutes, or so after Captain
24 Hazelwood showed up.
25 Q When Captain Hazelwood got his drink, did he

1 go up to the bar, also, to get it, or did
2 somebody get it for him?

3 A I believe he went to the bar. I really don't
4 recall.

5 Q Did he buy you a drink when he came back?

6 A I don't believe so.

7 Q What did Mr. Roberson have to drink?

8 A I believe he had a beer.

9 Q And how did he get that drink?

10 A I don't recall exactly.

11 Q Did he order a round for you when you got
12 there?

13 A I don't believe any of us ordered a round,
14 because we arrived at staggered times.

15 Q How many drinks did you have that afternoon?

16 A I believe I had three drinks.

17 Q Were you counting them?

18 A That's what I seem to recall. I had three
19 drinks.

20 Q And did you continue to drink gin and tonics
21 that afternoon?

22 A Yes.

23 Q How about the others? Were they drinking at
24 the same time you were? The whole time?

25 A Do you mean the time that we sat there?

1 Q Yeah.

2 A We had something to drink, yes.

3 Q Did you play any of the video games that were
4 there, or anything like that?

5 A No. I did not.

6 Q Do you remember being visited by anyone from
7 the Alaska Maritime Agency?

8 A Yes. One of the agent's stopped by.

9 Q Who was that?

10 A I don't recall her name. I would know her by
11 sight.

12 Q Would you describe her to the jury?

13 A She was short, perhaps strawberry blonde.

14 Q How long was she there?

15 A She chatted with us for maybe five, 10 minutes
16 at the most?

17 Q Do you remember what time that was?

18 A Not particularly, no.

19 Q Did you speak with anybody else that evening?

20 A At the Pipeline Club?

21 Q Besides the three of you that were there?

22 A At the Pipeline Club?

23 Q Right.

24 A No. We did not. I did not.

25 Q Did Captain Hazelwood, or Mr. Roberson?

1 A I don't believe so.

2 Q Did you do anything besides talk amongst the
3 three of you while you were there?

4 A No.

5 Q And was it pretty much shop talk?

6 A Some of it, yes.

7 Q What else did you -- what did you talk about?

8 A I really don't recall every facet of our
9 conversation.

10 Q Well, I'm not asking every facet, but give the
11 jury an idea of what type of things you talked
12 about?

13 A As I said, we did some shop talk. One of the
14 things that the captain and I brought up was the
15 fact that, perhaps we might leave by morning, as
16 opposed to in the evening, because of the ice.
17 We talked -- chatted about that for a little
18 while.

19 Q So, he was aware of the icing conditions out
20 in the Prince William Sound...

21 A Yes.

22 Q ...at that time?

23 And he was aware of the possibility that he
24 could wait until the next day?

25 A That would be our prerogative, yes.

1 Q It would be up the captain as to whether or
2 not to do that?
3 A That's correct.
4 Q During the time you were there, did you ever
5 buy a round for the other individuals, Captain
6 Hazelwood, or...
7 A As I said before. I really don't recall
8 buying a round, or any of us buying a round.
9 Q How many drinks did you see Captain Hazelwood
10 have that evening...
11 A Perhaps two.
12 Q ...at the Pipeline Club?
13 A Perhaps three. I did not count and I really
14 can't tell you.
15 Q Could it have been more than that?
16 A I doubt it.
17 Q How about Mr. Roberson? How many drinks did
18 he have?
19 A On that same order.
20 Q When did you leave the Pipeline Club that
21 evening?
22 A Approximately 7 p.m.
23 Q So, you were in the Pipeline Club for about
24 three hours?
25 A I was, yes.

1 Q To the best of your recollection that's how
2 long.
3 A That's right.
4 Q And you had how many drinks?
5 A I believe three drinks.
6 Q Would you tell the jury what kind of bar the
7 Pipeline Club is? Is it a lit bar? Is it dark,
8 or...
9 A The lighting is rather subdued. It has a
10 restaurant associated with it.
11 Q When you say subdued, what do you mean? Is it
12 dark or light...
13 A It's fairly dark.
14 Q At that time what time did you think you were
15 sailing?
16 A 10 o'clock.
17 Q Why did you think it was 10 o'clock?
18 A Because while we were at the agent's office
19 the Captain called the ship, or the agent, or the
20 ship called the agent and that's when we were
21 told that this ship will sail -- sailing board
22 was moved to 9:00 and 10:00.
23 Q And that was earlier in the afternoon?
24 A That's correct.
25 Q Did you ever call back?

1 A I did not.

2 Q Find out if that had been changed?

3 A I did not, no.

4 Q Could you have called back and found out if it
5 had been changed?

6 A Yes. I could have.

7 Q Is it uncommon for sailing times to change
8 during the course of the day?

9 A It's not uncommon, but it is uncommon to move
10 it up. Generally, it's very common to move it
11 further, make the sailing later.

12 Q Where did you go after you left the Pipeline
13 Club?

14 A We walked over back to the Pizza Palace.

15 Q Why did you go there?

16 A I don't know why, but I decided to bring a
17 couple of pizzas back to the ship for the
18 engineers.

19 Q You were hungry?

20 A I was not. I wanted to bring some pizzas for
21 the other engineers on board.

22 Q And who ordered those pizzas?

23 A I did.

24 Q What did Mr. Roberson and Captain Hazelwood do
25 when you did that?

1 A When we arrived at Pizza Palace I said I was
2 going to go in to the Pizza Palace to order the
3 pizzas and they went to the -- there's a bar next
4 door. I don't recall the name of it. I don't
5 know the name of it. And I said I would join
6 them there after I order the pizza.

7 Q How long did it take to order the pizza?

8 A Oh, perhaps five minutes.

9 Q Was there seating available there?

10 A Where?

11 Q At the Pizza Palace? Could you have sat down
12 there?

13 A Yes.

14 Q And that's the place you had eaten before?

15 A That's correct.

16 Q And you had had things to drink there that
17 afternoon...

18 A Yes.

19 Q At lunch?

20 A I had two beers. I did.

21 Q What kind of a place was the place next door
22 that Captain Hazelwood and Mr. Roberson were in?

23 A It was a bar.

24 Q Was it a well kept bar? Was it lit? Was it
25 dark? What kind of bar was it?

1 A Well, it's on the dark side.

2 Q Was there a bar, stools set up, or pool
3 tables, or what was...

4 A Yes. I believe there were some pool tables
5 there.

6 Q Did you have anything to drink there?

7 A When I went back to that place from the Pizza
8 Palace, yes. I ordered another gin and tonic.

9 Q What about Captain Hazelwood? Did he have
10 anything to drink there?

11 A He had something in front of him, but I wasn't
12 there when he ordered it?

13 Q Well, what did it look like? Was it a glass?
14 Was it a bottle?

15 A It was a glass.

16 Q Did it have ice in it?

17 A I believe so. I'm not certain.

18 Q What about Mr. Roberson?

19 A I believe he had a beer in front of him.

20 Q How long did you stay there?

21 A After about perhaps 15, 20 minutes I walked
22 back to the Pizza Palace to inquire whether the
23 pizzas were ready. And they were.

24 Q They were?

25 A And at the same time as I was paying for the

1 pizzas and picking the pizzas up I asked whoever
2 was there to call us a cab to go back to the
3 ship.

4 Q What were Captain Hazelwood and Mr. Roberson
5 doing during this time?

6 A They remained next door.

7 (2445)

8 Q And how long did it take for the cab to get
9 there?

10 A My arranging for the cab and paying for the
11 pizzas, almost, and the cab arriving to me seemed
12 to happen almost simultaneously. That means the
13 cab must have been outside, or in the vicinity.

14 Q What did you do then?

15 A I went back to next door and told them that
16 the cab is here. And we left.

17 Q Did they finish their drinks there?

18 A I have no -- we just left.

19 Q What time did you get back to the terminal?

20 Do you remember?

21 A It was shortly after 8 o'clock, I believe.

22 Q If I showed you the security gate register,
23 would that refresh your recollection?

24 A Yes. 2024. 8:24.

25 Q How long did it take to take the cab from the

1 Pizza Palace to the terminal?

2 A It's really a 20 -- 25 minute ride.

3 Q And did you pick anybody up on the way?

4 A I believe there was already a person in the
5 cab when we got into the cab.

6 Q So, you would have left at about 8 o'clock
7 from downtown Valdez? Is that about right?

8 A Something on that order, yes.

9 Q How long were you waiting for the pizzas?

10 A As I said, about 20 minutes, I believe.

11 Q And how long did it take you to walk from the
12 Pipeline Club to the Pizza Palace?

13 A 20 -- 25 minutes.

14 Q 20 -- 25 minutes to go from the Pipeline Club
15 to the Pizza Palace?

16 A That's what it seems like to me. That's what
17 I recall.

18 Q What did you do when you got back on board the
19 tanker?

20 A I left -- went to the galley, left the pizzas
21 in the galley. I don't recall whether I put one
22 in the freezer. I might have. And I went back
23 up to my room and decided to change.

24 Q How long were you in your room?

25 A I don't recall, but the first thing I did I

1 called the first engineer who was in the engine
2 room on watch that I was back on board.

3 At that time, when I came back on board we
4 found out that the sailing board has been moved
5 up one hour. So, I asked him whether the engine
6 was ready to go. And I told him I would be down
7 in the engine room when we were ready to go.

8 Q When you found out that the time had been
9 moved up an hour were you late, or on time at
10 that point?

11 A We would have been late, yes.

12 Q Could the -- would the vessel have left
13 without you?

14 A No.

15 Q Did you go down to the engine room that
16 evening?

17 A Yes, I did.

18 Q About what time would that have been?

19 A I didn't go down to the engine room until I
20 saw the vessel move away from the dock.

21 Q What did you do? Did you ever eat the pizzas,
22 or did you ever take it down to...

23 A Yes, I did. On the way down to the engine
24 room I picked up the pizza and brought it down
25 with me.

1 Q You saw Captain Hazelwood when he -- you
2 walked onto the deck with him, and did you follow
3 him up to the -- his quarters?

4 A Well, our quarters are adjoining. Next to
5 each other.

6 Q On the -- and that would be on the deck right
7 below the bridge?

8 A That's correct.

9 Q And when did you see him last?

10 A When we went up -- I don't recall whether we
11 went up to the main deck, to D deck, where our
12 quarters are, together, because I stopped in the
13 galley with the pizzas. And I don't recall
14 whether captain went through the galley with me
15 and then whether we went up together, or whether
16 I stayed in the galley and captain went up. I
17 really don't recall.

18 Q When was the next time you saw Captain
19 Hazelwood?

20 A Shortly before we dropped the pilot off.

21 Q When you went down to the engine room that
22 evening were you made aware of any problems?

23 A No.

24 Q If there had been any would you have been told
25 of them?

1 A Oh, yes.

2 Q Who was on watch when you got down to the
3 engine room?

4 A The first engineer.

5 Q And were there any complications that evening
6 with the docking or undocking process...

7 A No.

8 Q ...from your standpoint?

9 A No.

10 Q I'd like to talk about the next time you saw
11 Captain Hazelwood, and that was right prior to
12 the pilot being dropped off?

13 A I wouldn't say right prior. It was maybe half
14 an hour to 20 minutes, 15 minutes, I really
15 wasn't keeping track of time, but it was before
16 the pilot was dropped off, yes.

17 Q Where did you see him?

18 A On the bridge.

19 Q And that's when you went up to the bridge?

20 A That's correct.

21 Q Did you see him at any other time?

22 A No.

23 (2800)

24 Q Did you have any drinks with Captain Hazelwood
25 on board that evening?

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A No.

Q When did you become alert of the grounding problems?

A When was I notified, or when did I feel that there was something wrong?

Q When did you feel that there was something wrong? Do you remember that?

A Shortly after midnight. I'd say five after midnight, 10 after midnight. Something of that order. I heard a noise in the engine room. I was in the control room. The first engineer and the third engineer were on the lowest level of the engine room. So, I was in the control room by myself.

I heard an unusual noise. I thought it was the turbo chargers on the main engine surging. So, I left the control room, went over to the turbo chargers and listened for perhaps a minute, or so, walked around them and checked certain things. Then I walked back in the control room and I noticed that the load on the main engine was higher than it should have been for the rpm. That's...

Q When you say the load on the main engine would you describe what you mean to the jury?

1 A At certain rpm the engine should develop some
2 horsepower. And in order to develop that
3 horsepower a certain amount of fuel should be
4 admitted to it. And there's an indicator on a
5 console which is called a load indicator. And
6 that relates to the rpm and the load. So, for
7 the particular rpm that we were turning at the
8 time the load indicator was higher than it should
9 have been.

10 Q Do you remember what that rpm was?

11 A I believe it was 64.

12 Q And what would that have indicated to you as
13 far as what, whether this was, or was not in a
14 load up program?

15 A Oh, I knew. We knew that we were load
16 programming up at the time, because the bridge
17 had called us and we started load program up
18 maybe 20 minutes prior to that.

19 Q Who called you and told you that?

20 A I don't -- it was probably third mate.

21 Q You then received a call telling you what had
22 happened, is that correct, at this point?

23 A Well, you asked me when did I know there was
24 something wrong.

25 Q Right.

1 A The first indication as I said was that the
2 engine load did not correspond with the rpms. I
3 knew there was something wrong. Something wasn't
4 as it should be at that time.

5 I also, when I walked back into the control
6 room I noticed that the depth in the control room
7 didn't feel as it did, as it should have. I
8 looked at the inclinometer and we had a two
9 degree starboard list.

10 Q What's an inclinometer? Would you tell the
11 jury what that is?

12 A It's an arced glass tube that's filled with
13 liquid and with a bubble in it so if you move it
14 the bubble, naturally seek the position and it
15 tells you how many degrees...

16 Q It seeks the highest position?

17 A That's correct.

18 Q Kind of like a level?

19 A Correct.

20 And I noticed we had a two degree starboard
21 list and I knew that we didn't leave the dock
22 with a list.

23 Q Did you receive a phone call that...

24 A Very shortly after that the third mate called
25 down, yes.

1 Q Were you given any instructions at that time?
2 A The third mate said that we're going to start
3 the engine.
4 Q Did you notice that the engine had been shut
5 down prior to that?
6 A No, no.
7 Q You hadn't noticed it being shut off then?
8 A No. It wasn't.
9 Q Why did the third mate say we're going to --
10 did you say -- maybe I misunderstood you. You
11 said...
12 A No. I received a call from the third mate
13 perhaps 15 after midnight, 20 after midnight, or
14 something of that order that we're going to stop
15 the engine.
16 Q I'm sorry. I misunderstood you. Excuse me.
17 I understood you to say "start", you said "stop".
18 A Yeah.
19 Q Okay. Were you given any instructions other
20 than that?
21 A After the engine was stopped the captain
22 called, perhaps five minutes later -- 10 minutes
23 later and said we were aground.
24 Q Did that concern you at all?
25 A Of course it did.

1 Q Why?

2 A Ships aren't meant to run aground. I mean...

3 Q What happens when an engine room gets

4 punctured? Do you know what happens then?

5 A It floods.

6 Q And what happens to a tanker?

7 A I don't know what circumstances you might be

8 talking about. I mean, it could be many

9 different circumstances to which I could answer

10 differently.

11 Q What did you do after you learned this

12 information from the tanker captain?

13 A Well, when the captain called me that we were

14 aground, he asked me whether he can still use the

15 engine. I said yes, because from the control

16 room and the console and everything that

17 transpired prior to that, even though the engine

18 was loaded higher than it should have been for

19 the rpm, before we stopped the engine there was

20 no indication that anything was wrong with the

21 engine.

22 But, as soon as I learned that we were

23 aground, by that time the third engineer,

24 Catherine Haven was in the engine room. So, it

25 was the first engineer, her and myself. As soon

1 as I learned that we were aground I asked her to
2 go down to the lower engine room and sound all
3 the engine room double bottoms and voids...

4 Q Now, tell the jury what that means?

5 A Underneath the engine room is a double bottom.
6 Inside that double bottom are certain engine room
7 tanks, and also around the main engine
8 lubricating oil sump, there's a coffer dam.

9 Q What's a coffer dam?

10 A It's a void. It's a space. So, I asked her
11 to sound all these tanks to make sure there's no
12 ingress of water into them.

13 Then I asked the first engineer to go down to
14 the engine room and make a thorough round of all
15 the spaces and machinery in the engine room.

16 Q What was his purpose? What was he looking
17 for?

18 A Whether there was any water leaking in.

19 Q Okay. What else did you have people do?

20 A At that time I called one of the MOAs on the
21 engine room, and then, when he came down to the
22 engine room I asked him to assist with the third
23 engineer in the sounding of tanks.

24 When she came up -- when they both -- by that
25 time, I believe they both came back up, the MOA

1 and the engineer. And they told me that all the
2 tanks in the engine room were in tact.

3 Then I asked her to go down in the pump room
4 and sound the double bottom underneath the pump
5 room.

6 Q Where's the pump room located?

7 A It's forward of the engine room.

8 I asked her to sound the double bottom in the
9 pump room, and also the voids underneath the
10 forward and starboard slop tanks.

11 Q And the slop tanks sit -- if I could ask you
12 to refer, again, to this diagram, where do the
13 slop tanks sit?

14 A They're right here.

15 Q And what do they hold?

16 A They're cargo tanks.

17 Q Okay. What happened then?

18 A We found out the double bottom in the pump
19 room was intact. When they went to open up the
20 sounding tube on the starboard slop tank the cap
21 blew out and we had a gusher of oil.

22 Q And you were told of that?

23 A When she came back, yes.

24 Q When were you made aware that the engine was
25 going to be started again?

1 A The captain called.

2 Q What did he tell you he wanted to do?

3 A That he wanted to start the engine?

4 Q Why?

5 A I didn't ask why.

6 Q He didn't tell you?

7 A Under circumstances like this one does not ask
8 questions. People do things for a reason.

9 Q How long did that continue, running the engine
10 ahead?

11 A Approximately an hour.

12 Q And can you look at that Bell Logger and tell
13 the jury exactly when that started and when it
14 stopped?

15 A I'd have to -- it would take me a little time
16 because with the GMT and all that.

17 Q If it helps you might want to refer to that
18 diagram, if it will help you to pick out the
19 spots in front of you?

20 A It was at 9:35 GMT.

21 Q Okay. Can you refer to the Bell Logger and
22 find that on the Bell Logger, itself?

23 A There's a stamp over it.

24 Q Oh, so you can't see it?

25 A Yeah.

1 Q Okay. Did you see Captain Hazelwood again
2 that morning at any time?
3 A I've been up to the bridge several times
4 during the night.
5 Q Did you see him off the bridge at all?
6 A During the night after the grounding?
7 Q The morning after the grounding?
8 A Yes. He was back and forth, I believe. When
9 I was up there once he was making a phone call on
10 the Mari-Sat.
11 Q Did you see him in his room at all?
12 A I don't recall.
13 Q Do you remember seeing him drink any alcoholic
14 beverages after the grounding?
15 A No. I did not.
16 Q At some point later on did you test the
17 steering gear of the Exxon Valdez?
18 A We didn't test the steering gear until we
19 refloated the vessel.
20 Q And how many days later would that have been?
21 A I have to say about -- I lost track of time...
22 Q Sure. Give the jury an estimate.
23 A I think it was perhaps 10 days to refloat the
24 vessel. I don't recall the exact date.
25 Q Was it some time after you refloated it

1 though, you tested the steering gear?

2 A We tested prior to refloating it and the
3 steering gear was used during the tow from Bligh
4 Reef to Naked Island.

5 Q Was there any problems...

6 A No.

7 Q ...with the steering gear?

8 Would you tell the jury what the Exxon policy
9 was for alcohol as far as drinking and possessing
10 alcohol on the tanker?

11 (3583)

12 MR. MADSON: I'd object, Your Honor. It's not
13 relevant.

14 THE COURT: Objection overruled.

15 A The company had a policy that there was not to
16 be any alcohol on board.

17 Q (Mr. Glowacki by Mr. Cole:) And how about use
18 of alcohol on board?

19 A That goes along with it.

20 Q And what were explained to you to be the
21 consequences if a person was found drinking, or
22 using alcohol, possessing alcohol on board the
23 tanker?

24 MR. MADSON: I'd object again on the grounds
25 of relevancy, Your Honor.

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THE COURT: Objection overruled.

A Possible discharge.

Q (Mr. Glowacki by Mr. Cole:) Does that mean termination?

A Possibly, yes.

Q I'm showing you what's been identified as Plaintiff's Exhibit 13. If you would just take some time to look through that whole document and see if you recognize that.

THE COURT: Which number is that?

MR. COLE: 13, Your Honor.

A I have never seen this before, no.

Q (Mr. Glowacki by Mr. Cole:) Okay.

(Pause)

How many drinks in total that evening did you have?

A I had two beers and perhaps 3-1/2 gin and tonics.

Q Now, how many times did you see Captain Hazelwood drinking that afternoon/evening?

A There was the time we were in the Pipeline Club. And whatever he had at the bar next to the Pizza Palace.

Q Was it your understanding, who was to be responsible for the navigation of the Exxon

1 Valdez out of Prince William Sound that evening?

2 MR. MADSON: I object. I think the question
3 is vague and it calls for speculation.

4 THE COURT: Maybe you can narrow it down,
5 what portion of Prince William Sound are you referring
6 to?

7 Q (Mr. Glowacki by Mr. Cole:) Who was going to
8 be the captain of the Exxon Valdez that evening?

9 A The captain of the Exxon Valdez.

10 Q Which was who?

11 A Captain Hazelwood.

12 Q And you understood that you were leaving that
13 evening?

14 A Yes.

15 Q Now, how long have you known Captain
16 Hazelwood?

17 A Perhaps 22 -- 23 years. Something in that
18 order.

19 Q Did he go to the same school that you did?

20 A Yes, he did.

21 Q And how often have you worked with him in the
22 past?

23 A That was the first time we sailed together.

24 Q Mr. Glowacki, are you familiar with the crew
25 that was aboard the Exxon Valdez on March 23rd,

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1989?

A Yes.

Q I'm showing you what's been marked for identification as Plaintiff's Exhibit 1. Are those the crew members that were aboard that evening?

A Correct.

Q And you said that when you first realized there was something wrong on the bridge, you noticed that the load on the main engine was higher than it should have been. Is that consistent with engines that are running ahead, but the tanker not moving?

A Yes. It's as if you drove a car up against the wall and then proceeded to see 50 miles an hour on the speedometer with car not moving.

Q Thank you. I have no further questions, Your Honor.

THE COURT: Mr. Madson.

CROSS EXAMINATION OF MR. GLOWACKI

BY MR. MADSON:

Q Good morning, Mr. Glowacki.

A Good morning.

Q I'll try to be as brief as possible to cover a few points here.

1 Mr. Cole asked you a number of questions
2 about, first of all, your duties.

3 As I understood it, you don't stand watch as
4 they call it in seamen's terms, is that correct?

5 A That's correct.

6 Q Would you explain to the jury what that means?

7 A watch?

8 A A watch in nautical terms is a period of duty
9 for four hours and eight hours on and four hours
10 on.

11 Q Is this just kind of tradition in
12 navigation...

13 A Yes. I believe it was tradition.

14 Q ...in maritime use?

15 A That developed traditionally, yes.

16 Q Now, you indicated you don't stand a watch,
17 which means your hours are pretty much your own.
18 Or, you do what you have to do. Let's put it
19 that way.

20 A My hours of work are flexible, yes. And I do
21 work.

22 Q In other words, as a person in charge of the
23 engines and propulsion system and all that, you
24 feel the responsibility to do whatever is
25 necessary to make sure that job is done

1 correctly?

2 A That's correct.

3 Q Would you say that your duties, then, are

4 somewhat compatible, then, with Captain

5 Hazelwood's on the same vessel?

6 A Yes. Very much so.

7 Q Only he's in charge of above deck, you're in

8 charge below deck. Is that fair to say?

9 A That's correct.

10 Q At the same time, he has overall command of

11 the ship?

12 A That's correct.

13 Q Now, another thing you mentioned was the size

14 of the --, or at least the horsepower of the

15 engine. I think you said at normal operation

16 condition it was 28,000, something like

17 horsepower?

18 A Correct.

19 Q Now, this is one single engine, is it not?

20 A That's correct.

21 Q Give the jury a better idea of the size of the

22 engine can you describe it in some kind of

23 dimensions how high it is, how long it is, things

24 like that?

25 A Well, the engine -- the height of the engine

1 is approximately 45 feet. The length of the
2 engine is perhaps 70 or 80 feet. The bore of the
3 cylinder is 84 centimeters.

4 Q Could you translate that into inches for us?
5 2.54...

6 A A little less than three feet.

7 Q Little less than what?

8 A Little less than three feet.

9 Q That's the diameter...

10 A That's the diameter of a piston.

11 Q How many cylinders are there on this?

12 A There are eight cylinders. The stroke of the
13 engine is 2-1/2 meters, which would be
14 approximately 8-1/2 feet.

15 Q In addition to the main propulsion engine, you
16 have other pumps and other sort of equipment, do
17 you not? That...

18 A Yes.

19 Q You are in charge of all of this other
20 equipment?

21 A Yes.

22 Q For instance, for off loading oil, or pumps,
23 and moving it around from tank to tank and things
24 like this?

25 A That's correct.

1 Q Plus, there are generators for generating
2 power on the ship?
3 A That's correct.
4 Q You said after 5 o'clock there's no person on
5 duty in the engine room. It's automated, right?
6 A That's correct.
7 Q At the same time, if something goes wrong,
8 there are numerous alarm systems that will go off
9 and alert you, or others?
10 A That's correct.
11 Q Now, on the night of the 23rd of March the
12 first officer was the one so-called on duty first
13 engineer?
14 A First engineer, yes.
15 Q What does that mean, exactly? She's the one
16 that was -- I think you said it was a she.
17 A No. The third engineer was a she.
18 Q Okay. This particular night, the 23rd, let's
19 say before midnight, who was the person on watch
20 -- not on watch, but on call, if you will?
21 A No. They were on watch. As I said we usually
22 started standing watches prior to arrival and
23 prior to arrival at Cape Hinchinbrook the
24 engineers were on four on eight off duty.
25 Q You're correct, sir. I forgot. So, because

1 you started getting into more restricted waters
2 and near port, it changed to watches.

3 A That's right.

4 Q But, you, specifically do not go on a
5 particular watch?

6 A That's correct.

7 Q Now, as far as the engine room, itself, is
8 located, when you're down there on the floor, if
9 you will, on the deck containing the engine, how
10 far below the bridge are you?

11 (Tape: C-3602)

12 (001)

13 If you can express it in, like a building, for
14 instance, how many stories, how many feet, things
15 like this.

16 A Well, the main deck is 89 feet above base
17 line, on the bottom of the ship. And the bridge
18 is 4 decks, five decks above that, and each deck
19 is 7-1/2 feet.

20 Q So, how do you get back and forth. Say you
21 want to go the bridge from the engine room?

22 A Stairs, or there'd be an elevator to the D
23 deck. The elevator goes to D deck. It doesn't
24 go to the bridge.

25 Q Where is D deck with respect to the bridge?

1 A D deck is the immediate deck below the bridge.
2 Q So, you could take an elevator directly up
3 there and then go climb one flight of stairs?
4 A One flight of stairs. Right.
5 Q Is D deck the same as where your quarter are?
6 Same deck?
7 A That's correct.
8 Q And the same as the captain's?
9 A That's correct.
10 Q From that location, and you said yours are
11 adjoining the captain's?
12 A That's correct.
13 Q From your location how long would it take you
14 to get to the bridge?
15 A From my room?
16 Q Using the stairs.
17 A Depends on how fast you go. 10 or 15 seconds
18 maybe.
19 Q It's just a very short distance, isn't it?
20 A Right.
21 Q Now, Mr. Cole also asked you some questions
22 about rpm versus speed. And maybe I didn't
23 understand it entirely, so I'd like to ask you
24 again about that. For instance, if you start
25 from dead stop, let's say. And I think you said

1 that on the Exxon Valdez the commands are always
2 given from the bridge, not the engine room, as
3 far as engine control is concerned.

4 A Yeah. That was our practice. And that's the
5 practice on any (indiscernible - unclear) ships.

6 Q In other words, you don't have to do it that
7 way, but your practice was to have it on bridge
8 control rather than engine control, engine room
9 control?

10 A Well, the purpose of having control on the
11 bridge is to control the engine from the bridge.
12 That's the way the ship was built and that's they
13 way we used it.

14 Q Somebody up there can see what he wants to do
15 and he just has to move a lever, and he doesn't
16 have to call down to someone down there to follow
17 those orders or commands...

18 A That's correct.

19 Q ...instantly.

20 If you started from dead stop, okay? We put
21 it ahead. Let's say you want to go into program,
22 from stop all the way up to full sea speed, which
23 is, I think you said, 79 rpms.

24 How long would it take that ship, loaded, as
25 it was let's say on this particular night? How

1 long would it take to get to full sea speed?

2 A Well, first you would have to go to full
3 maneuvering, which is 55 revolutions.

4 Q Why would you have to do that?

5 A Because load programming up will not start
6 unless you're at full ahead maneuvering.

7 Q Okay. Let's go from stop, then, up to full
8 maneuvering speed. How long would that take? 55
9 rpms?

10 A That could be done in a matter of less than a
11 minute.

12 Q And then, how long would it take to arrive at
13 that speed, I mean, the actual speed?

14 A At 55 revolutions?

15 Q Yeah. 55 rpms?

16 A That's very quick.

17 Q Then, I think you said, though, to go from 55
18 rpms to full sea speed would take 43 minutes?

19 A That's correct.

20 Q Why is the length of time so much longer?

21 A Because you want to stabilize the engine
22 thermally. You want to make a transient,
23 somewhat transient as far as the engine is
24 concerned to be as close to steady state as
25 possible.

1 Q Well, let me ask you this, sir: how many
2 times have you made the voyage, or the transit
3 through Prince William Sound on any tanker?

4 A I have made many, many times.

5 Q How about, you weren't stationed primarily
6 just on the Exxon Valdez, or were you?

7 A I was assigned to Exxon Valdez on a regular
8 basis since delivery in '86.

9 Q Okay. And how many transits on the Exxon
10 Valdez would you say you made since that
11 occurred?

12 A Maybe 30.

13 Q Okay. In those -- on any of those transits,
14 and I assume all but one were under the command
15 of a different captain, other than Captain
16 Hazelwood?

17 A That's correct.

18 Q What would you normally -- what speed would
19 you normally travel Prince William Sound, through
20 the area south of Rocky Point?

21 A I believe that after we dropped the pilot up
22 we would start speeding up to sea speed.

23 Q As soon as the pilot was dropped off at Rocky
24 Point you would start maneuvering up to full sea
25 speed, correct?

1 A Start load programming up. That's correct.

2 Q Now, one last question about this engine,
3 which, perhaps the jury doesn't understand. Is
4 there a basic difference between this type of
5 engine and what normally we'd call the steam
6 engine, something like that?

7 A Yes. It's substantial.

8 Q What, just essentially, is the difference?

9 A This is a motor vessel. It's a reciprocating
10 engine. Steam turbine is a rotating type
11 machinery. And the steam turbine driven vessel
12 is not restricted in speeding up as a motor ship
13 is. One can speed up a steam ship from full head
14 to full sea speed in a matter of less than a
15 minute.

16 Q Now, Mr. Cole asked you about the Bell Logger,
17 which you have the chart in front of you, which I
18 think you said was a copy of part of it, right?

19 A Correct.

20 Q Do you have that in front of you? I think
21 it's Exhibit 3.

22 A Correct.

23 Q How many pages does that contain? Just
24 roughly, sir. Is there a number of pages there?

25 A No. Maybe 10 plus.

1 Q Okay. What time did this start?

2 A It starts on March 18th at 1824 GMT.

3 Q And what time does it finish? What's the last

4 entry time it lists?

5 A March 25th, midnight.

6 Q Okay. Now, let's go just to the part where,

7 on the chart, there, and you can use either one,

8 but see where it says, I think, grounding, on

9 there?

10 A Correct.

11 Q And then it goes to restart engine?

12 MR. COLE: Your Honor, I'm going to object. I

13 don't understand this. Mr. Madson won't let me use it

14 and then he...

15 MR. MADSON: Your Honor, I'm not saying that

16 those times are correct. I only want this witness to

17 identify certain things on there without any regard to

18 whether the time is correct, or not. I'm just using

19 that as a reference point.

20 THE COURT: Mr. Madson, if you're going to use

21 that exhibit and you're going to have the witness

22 testify to it, you're waiving your objection to it.

23 MR. MADSON: Well, then I'll withdraw the

24 question, Your Honor...

25 THE COURT: Okay.

1 MR. MADSON: ...cause I'm not...

2 Q (Mr. Glowacki by Mr. Madson:) Then, sir, let
3 me just ask you this: regardless of the time
4 this vessel went aground, first of all, you
5 didn't know it went aground until somebody
6 actually told you, right?

7 A That's correct.

8 Q Now, that may be hard to understand, how you
9 could be on a ship that is going at a certain
10 speed and suddenly it stops and you don't know
11 it. Can you explain that at all? How does that
12 happen?

13 A The only thing I heard was what I testified to
14 before. Sort of a muffled rumbling noise, not
15 very pronounced at all. But, I did not feel any
16 sensation of stopping, or motion. Not at all.

17 Q You just noticed, like you said, that the
18 engines were working harder than they should be.
19 Something was amiss?

20 A That's correct.

21 Q Now, from the time the Captain said -- well,
22 first of all, he said, as I recall, the third
23 mate radioed down, or called down...

24 A Called down.

25 Q And said you were aground. Or, at least he

1 told you something about the engines. I forget
2 what you said.

3 A No. The third mate did not inform me that we
4 were aground. The captain later informed me that
5 we were aground when he called later. The third
6 mate called down and said we're going to stop the
7 engines.

8 Q What time, and I think you said Captain
9 Hazelwood talked to you and asked you if it was
10 okay to use the engines?

11 A That was in the same phone call when he
12 informed me that we were aground.

13 Q Okay. Did that seem to be an appropriate
14 question to you, under the circumstances? You
15 were aground and he asked you can we use the
16 engines?

17 A Yes.

18 Q I mean, that would seem logical, to say, hey!
19 You know, is there any damage to the engines...

20 MR. COLE: Your Honor, I object to Mr.
21 Madson's commentary in the course of his question.

22 MR. MADSON: Your Honor, I phrased it as a
23 question. I'll withdraw it if it leads to...

24 THE COURT: Yeah. I think you can do better.

25 Q (Mr. Glowacki by Mr. Madson:) Anyway, sir, it

1 was an appropriate question under the
2 circumstances?
3 A That's correct.
4 Q Now, the engines were shut down for
5 approximately how long?
6 A I'd have to look at the logger.
7 Q Whatever you need to refresh your
8 recollection.
9 A It appears it was about 15 minutes or so.
10 Q And then the request, or the order, was made
11 to restart the engines, right?
12 A That's correct.
13 Q From the time the engine was restarted during
14 this period of time there were certain commands
15 were made from the bridge, right, which were
16 recorded on this Bell Logger?
17 A That's correct.
18 Q And you've described those, I think, up on the
19 board, what they mean, correct?
20 A Right.
21 Q Will this engine run in reverse, sir?
22 A It will.
23 Q How does one get it to go into reverse?
24 A From the bridge control, move the telegraph
25 position to the stern.

1 Q What does it make the engine do?
2 A It will make the engine start in the stern
3 direction.
4 Q And sir, you have had a chance to look at the
5 recording of the Bell Logger, have you not?
6 A Yes.
7 Q And you also remember the events independently
8 that occurred on this night?
9 A (No audible response.)
10 Q To your knowledge, sir, or from looking at the
11 Bell Logger recording, were the engines ever
12 placed in reverse after the grounding?
13 A No, never.
14 THE COURT: Mr. Madson, this might be a good
15 time for us to take our lunch break.
16 MR. MADSON: I agree, Your Honor.
17 THE COURT: Okay. We'll take a break until
18 1:15, ladies and gentlemen. Don't discuss this case in
19 any fashion with any person, including among
20 yourselves, and don't form or express any opinions.
21 Have a nice lunch. We'll see you back at 1:15.
22 THE CLERK: Please rise. This court stands at
23 recess subject to call.
24 (441)
25 (Off record - 11:55 a.m.)

1 (On record - 1:17 p.m.)
2 THE CLERK: We're on record.
3 THE COURT: Mr. Glowacki, if you'd come back
4 up to the witness stand, and you're still under oath.
5 Mr. Madson.
6 MR. MADSON: Thank you, Your Honor.
7 Q (Mr. Glowacki by Mr. Madson:) Mr. Glowacki, I
8 think where we took the break for lunch I was
9 asking you about the Bell Logger and engine
10 commands?
11 A Correct.
12 Q And, I think, the last question, I believe you
13 answered -- correct me if I'm wrong, sir, but
14 there were no reverse orders given?
15 A That's correct.
16 Q You've indicated, sir, that you've had some
17 close to 20 years maritime experience?
18 A Approximate, yes.
19 Q Have you ever been aground, sir, on a vessel?
20 A Yes, on several occasions.
21 Q When you were aground, how did the vessel get
22 off of the bar, strand, reef, or whatever it was
23 on?
24 A The initial and immediate orders from the
25 bridge were full ahead, full astern, full ahead,

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full astern. Back and forth like that.

Q Kind of like rocking a car stuck in a snow bank?

A Correct.

Q You also indicated, I believe, that your quarters are some distance from the engine room?

A That's correct.

Q And you were not down in the engine room 24 hours a day?

A That's correct.

Q Is it fair to say, sir, that you rely upon your first officer, or second officer much of the time?

A Yes. I rely on the assistant engineers, that's correct.

Q Now, another thing we talked about this morning a great deal was speed in terms of knots. It occurs that perhaps the jury may not understand what a knot is. Can you translate that into miles per hour, if you will?

A A knot is a nautical mile. One knot is one nautical mile per hours. A nautical mile differs from the statute mile because it's 6,080 feet as opposed to 5,000 whatever statute miles.

Q So, if you say you're going X knots per hour,

1 you're actually going a little faster in terms of
2 statute miles per hour?

3 A That's correct.

4 Q Can you tell us then, sir, if you were going
5 say 11.75 knots per hour, what would that
6 translate into miles, approximately?

7 A I'd say somewhere around 13 miles per hour.

8 Q 13.

9 Now, you also indicated that you believe that
10 the initial grounding, at least when you thought
11 something was wrong, it occurred somewhere around
12 10 minutes after 12.

13 A Approximately, yes.

14 Q Now you said the LPU was put on the ship,
15 right, after the pilot was let off?

16 A That's correct.

17 Q Okay. And that's the Load Program Up?

18 A Correct.

19 Q In the number of transits you've made on the
20 Exxon Valdez without Captain Hazelwood would you
21 say that was the normal routine, as soon as the
22 pilot was let off the ship to put it in Load
23 Program Up?

24 A Generally, as soon as the pilot left the
25 vessel we started speeding up to sea speed, yes.

1 Q Then, assuming, sir, the LPU was put on at say
2 11:53, some 20 minutes you felt something was
3 wrong, that would be consistent with when you
4 believed the grounding occurred?

5 A Yes.

6 Q I'd like to call your attention then to the
7 events that occurred on shore that you testified
8 to here today.

9 First of all, if I understand correctly, when
10 you left the vessel, what time was it you
11 believed you were going to sail that night?

12 A The sailing board was set for 8:00 and 9
13 o'clock.

14 Q When you say sailing board, would you explain
15 that so we understand what that means?

16 A It's a physical board that's placed by the
17 gangway where there's a time and it says
18 something to the effect the vessel will sail on
19 such and such a date and the crew to be aboard
20 such and such a time, and the vessel to sail at
21 such and such a time.

22 Q Then, say you're leaving the ship, so it's
23 prominently displayed, so when you walk down the
24 gangplank, or gangway, you can see the board
25 there and know what time you should be back,

1 right?

2 A That's correct.

3 Q It apparently came to pass that this changed.

4 You said that the Captain found out from someone

5 to call the ship, or call the agent, and said it

6 was 10 o'clock, instead of 9 o'clock?

7 A That's correct.

8 Q Now, with regard to your lunch that you had

9 with Captain Hazelwood and Mr. Murphy, and I

10 think Mr. Roberson, correct?

11 A Correct.

12 Q From your previous statements that you made,

13 sir, it would look like and appear that you were

14 there somewhere around the time 12:30 to 1:30 to

15 maybe even 2 o'clock. Would that be correct?

16 A I thought it was past 2:00.

17 Q Past 2:00? When you finished lunch?

18 A When we left, yes.

19 Q Do you recall what anybody had to eat at that

20 lunch?

21 A I am not certain, but I believe the Captain

22 had some sort of sandwich.

23 Q You're not sure what kind? I think it was a

24 pizza type place that you were in?

25 MR. COLE: Your Honor...

1 THE COURT: There's no objection. You may
2 answer.

3 A I believe it was a sandwich on either French
4 bread, or Italian bread, or something, of a hero
5 type.

6 Q Do you recall what you had to eat, sir?

7 A It was salad. I believe it was a Greek salad.

8 Q Then, when you left there, you all kind of
9 just tentatively agreed to meet later at the
10 pipeline club?

11 A That's correct.

12 Q And I think you said you probably walked
13 around for perhaps an hour looking for a paper?

14 A Perhaps that long, yes.

15 Q When you arrived at the Pipeline Club that
16 would be approximately around 3 o'clock then, or
17 thereafter?

18 A It was I would say before 4:00.

19 Q Okay. Did you recognize any person in there
20 when you arrived?

21 A No. I did not.

22 Q About how much time passed before Captain
23 Hazelwood appeared?

24 A I would say a good 20 minutes to a half an
25 hour.

1 Q So, this would be approximately 3:30, 4
2 o'clock?

3 A I would say way past 4:00. Maybe 4:20, or
4 4:30.

5 Q Past 4:00. Okay.

6 And you had a couple gin and tonics while you
7 were there, right?

8 A That's correct.

9 Q Roberson arrived half an hour after the
10 captain, or so?

11 A Something on that order, yes.

12 Q One of the things you said you were discussing
13 in response to Mr. Cole's question was that you
14 said you were talking about perhaps waiting until
15 morning, because of the ice conditions, waiting
16 to leave?

17 A It was a discussion we had, yes.

18 Q Do you know, Mr. Glowacki, whether or not the
19 berths were all tied up? In other words, if an
20 incoming vessel is coming in and the berths are
21 all tied up, you'd have to leave so the other
22 incoming vessel can...

23 A That's generally the procedure, yes.

24 Q Do you know if the -- any incoming vessels
25 were coming in that would cause this condition to

1 occur?

2 A I'm not certain, but there were vessels at
3 other berths. I do know that.

4 Q Assuming you had to leave the berth, what
5 could you do? Where could you go? I mean, could
6 you anchor just out there in Port Valdez
7 somewhere?

8 A No.

9 Q Where is the anchoring location, where they
10 allow the anchoring?

11 A In Prince William Sound.

12 Q Let me ask you this, sir. If it had been
13 decided that the vessel had to leave and anchor,
14 wouldn't it be true that you would have to still
15 go through the ice conditions before you could
16 even reach the place where they could anchor?

17 A That's correct.

18 Q You left the Pipeline Club, as I understand
19 it, around 7 o'clock, correct?

20 A As far as I recall, yes.

21 Q And at this time you still though the sailing
22 time was around 10:00?

23 A Correct.

24 Q Did you walk over to the Pizza Palace, sir?

25 A That's correct.

1 Q About how far is it from the Pipeline Club to
2 the Pizza Palace?
3 A Perhaps three quarters of a mile.
4 Q Okay. How long to walk there? 10 minutes, 15
5 minutes?
6 A I thought it was longer.
7 Q Let me ask you this before it gets further.
8 After you left the Pipeline Club, were you
9 impaired, or under the influence of alcohol, do
10 you feel?
11 A I didn't feel so, no.
12 Q Did you notice Captain Hazelwood to be under
13 the influence, or intoxicated when you left the
14 Pipeline Club?
15 A No, sir.
16 Q Did he appear to talk with a clear speech, not
17 slurred?
18 A Yes.
19 Q He walked all right when he walked down to the
20 Pizza Palace?
21 A I did not notice him behaving in any impaired
22 way, no.
23 Q And you were there for perhaps half an hour at
24 the most...
25 A At the most.

1 Q ...while you ordered the pizzas?
2 A At the most.
3 Q And the captain may, or may not have had an
4 alcoholic beverage while you were there? You're
5 not sure of that?
6 A There was something in front of him, yes.
7 Q But you don't know what it was?
8 A No. I wasn't there when it was ordered.
9 Q After leaving and heading back to the ship in
10 the cab do you recall eating any of the pizza,
11 any of the group that you were with eating some
12 of the pizza?
13 A We might have, but I don't recall
14 specifically.
15 Q When you got back on the ship, let me ask you
16 this. Before you get there you go through what's
17 called "security", right?
18 A That's correct.
19 Q Can you explain what that involves?
20 A The gate -- the cab is stopped at the gate.
21 The cab driver collects our ID cards, hands them
22 to the guard. People have to get out of the cab
23 go into security building and go through a metal
24 detector. All the whatever it is that someone
25 might be carrying is given to the guards and they

1 check it, or wish not to check it. And they hand
2 it back to you once you pass the metal detector.

3 Q Would they confiscate -- to your knowledge,
4 would they confiscate alcoholic beverages if you
5 were carrying them on the ship?

6 A That is the procedure, yes.

7 Q What about if a person is intoxicated? Do you
8 know what occurs?

9 A I don't know what the procedure has been up to
10 23rd of March, but as I note, there's been
11 drastically changed since then.

12 MR. COLE: Objection, Your Honor. Non-
13 responsive.

14 A I didn't finish. I'm sorry.

15 THE COURT: Is there any other objection you
16 have other than that.

17 MR. COLE: Just that it's outside the scope
18 and it goes into our protective order.

19 THE COURT: I'm not sure I understand...

20 MR. COLE: Well, the application that was
21 made.

22 THE COURT: Ask the question again. I didn't
23 catch it that way.

24 Q (Mr. Glowacki by Mr. Madson:) Well, Mr.
25 Glowacki, you know what they're looking for, in

1 other words, at the Alyeska security, besides,
2 let's say weapons, or alcoholic beverages or
3 anything. Are they looking for signs of
4 intoxication to your knowledge?

5 A From all the times that I've passed the
6 security and passed, and that goes back to when
7 the Alyeska Terminal was opened, the security
8 there has been rather strict and they do
9 confiscate alcohol. You can't bring alcohol in.
10 And I assume the guards -- it's an assumption,
11 but, yes, the guards are quite strict there.

12 Q After you were on the vessel, I think you
13 already described basically what you did, you
14 were conducting some official business while you
15 were on the ship, even though you were not really
16 on watch, or on duty, is that fair to say?

17 A It's fair to say, yes.

18 Q You have a natural interest in making sure
19 that everything was all right, the engines are
20 okay?

21 A Within the realm of my responsibility, yes.

22 Q I think you said you next saw the Captain
23 around 9:30 or 10 o'clock that evening?

24 A No. It was around 11:30.

25 Q 11:30. I may have written that down wrong.

1 Q Where did you go after you left the bridge
2 then, sir?

3 A I went to my room for several minutes. The
4 information that I gave the captain for the
5 departure must be entered to the records that I
6 have to keep. And then I went back down to the
7 engine room.

8 Q And is it safe to say nothing unusual occurred
9 until you observed the engines running at a
10 higher load than normal and later discovered you
11 were aground?

12 A Yes. Some time passed between.

13 Q Everything up until that point, then, was,
14 would you say routine as far as you knew.

15 A Yes.

16 Q Did you give the captain any information to
17 send to the Exxon office at all when you were up
18 there on the bridge?

19 A Yes.

20 Q What was that, sir?

21 A Fuel oil on board, diesel on board, water on
22 board.

23 Q Was this normally done in the course of your
24 business?

25 A That's a routine, yes.

1 Q After you received the message that the ship
2 was aground, you said the captain called and told
3 you that, right?

4 A Right.

5 Q Did his voice sound calm when he said this?

6 A Yes.

7 Q Did he seem to be in command and control?

8 A Yes.

9 Q And he asked you about the engines, did he
10 seem to be concerned and in control at that time?

11 A Yes, he did. Yes. He was.

12 Q When the engines were shut down, and then they
13 were requested to restart them again, you
14 indicated in response to Mr. Cole's questions
15 that you didn't question that order?

16 A No, I did not.

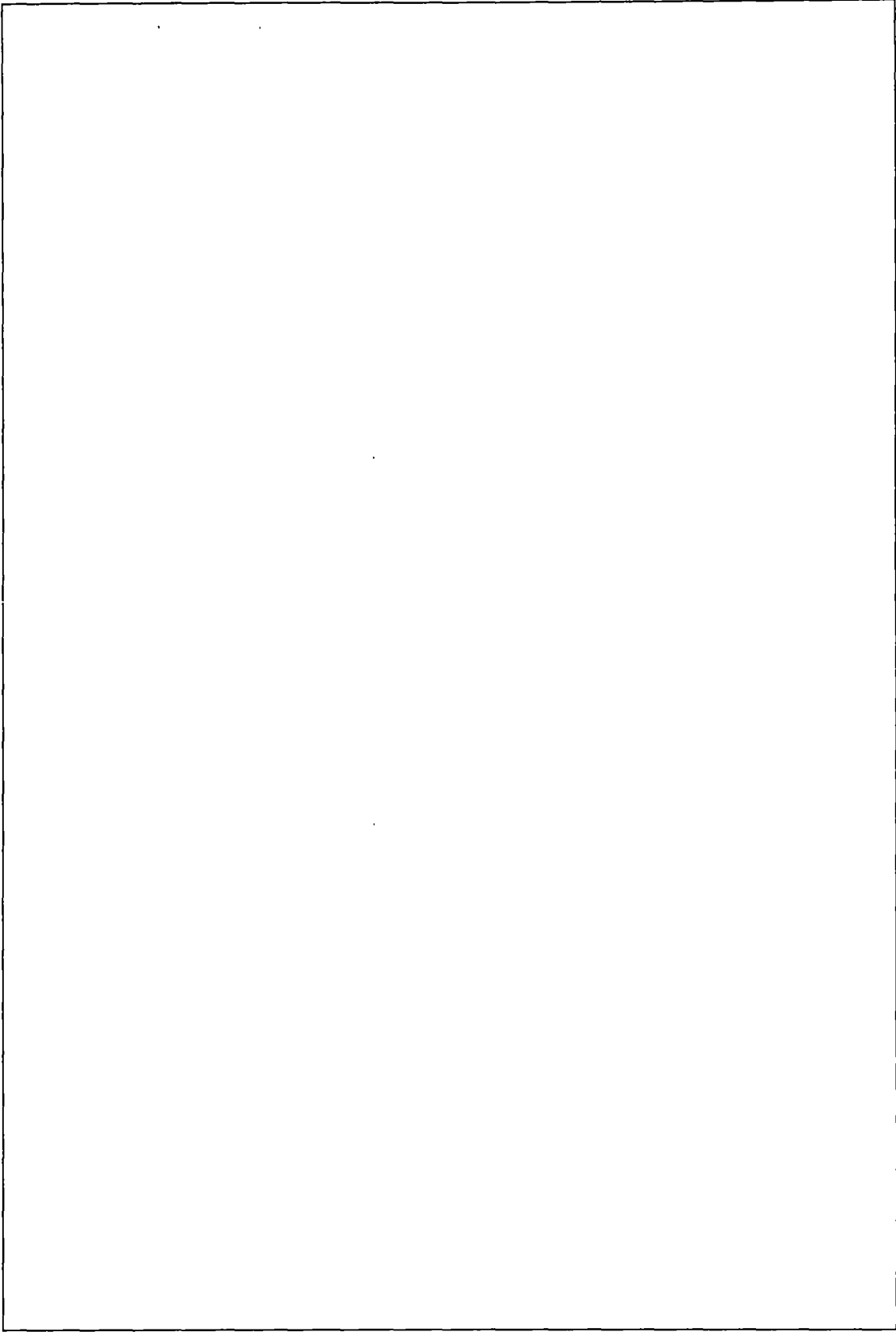
17 Q Why didn't you question that order, sir?

18 A From all the indications that we had in the
19 engine room, and by that time the first engineer
20 did go down below and make a round of the
21 machinery, there was no indication that there was
22 anything wrong with the engine.

23 I had no indication that would have prevented
24 me from telling the captain that no, you may not
25 use the engine.

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1 Q That's pretty much it. I need to see -- can I
2 approach the witness at the bench, Your Honor --
3 Exhibit 11, I believe, should be up here some
4 place.

5 Yes. Let me hand you, sir, what's been marked
6 as 11. Would you describe what that appears to
7 be, or what...

8 A It's a propeller slip versus revolutions
9 chart.

10 Q You indicated you did not prepare that, nor do
11 you know where it comes from?

12 A I don't believe I prepared it, no. I don't
13 know where it comes from. And I don't know
14 whether these figures, as I said before, are
15 based on peripheral data or on calculations.

16 Q So, you don't know if these figures are even
17 correct?

18 A That's correct.

19 Q You do not know whether they relate to the
20 Exxon Valdez, or not?

21 A No. I have no way of knowing.

22 Q Thank you, sir. I have no other questions.

23 THE COURT: Counsel approach the bench,
24 please.

25 (1140)

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(Whispered bench conference as follows:)

THE COURT: I must not have heard correctly. I thought he testified that Exhibit 11 was from the Exxon Valdez.

MR. COLE: That's what I thought I heard him say, too.

MR. MADSON: (Indiscernible - whispering)

THE COURT: Well, okay. That's fine. It's my mistake.

Now, you can have somebody else lay a foundation for that. Okay. I'm going to withdraw it from the evidence at this time. It's not going to be shown to the jury in any event.

(End of whispered bench conference.)

(1168)

THE COURT: Mr. Cole, redirect.

MR. COLE: Yes, sir.

REDIRECT EXAMINATION OF MR. GLOWACKI

BY MR. COLE:

Q Mr. Glowacki, you hold a license of some sort that's issued by the Coast Guard, is that correct?

A That's correct.

Q What does that license say on it? What license have you achieved?

1 A It says Chief Engineer's License steam and
2 motor vessels of any horsepower.

3 Q Are there any Coast Guard requirements that
4 require you to be in the engine room during these
5 travels through Prince William Sound?

6 A No.

7 Q Now, you talked a little bit about situations
8 where you've been aground and you had received
9 full ahead and full astern signals, commands from
10 the bridge, is that correct?

11 A That's correct.

12 Q What type of ground were you in when you did
13 that?

14 A The occasions that I recall was in Houston
15 Ship Channel and Mississippi River.

16 Q What's at the bottom of the Mississippi River?
17 Are there rocks down there, or what's the bottom
18 like?

19 A I really don't know.

20 Q Okay. What about -- what was the other area?
21 the Houston channel?

22 A Houston Ship Channel.

23 Q And what's at the bottom of the Houston Ship
24 Channel? Is it silt, or is it rocks?

25 A I really can't tell you.

1 Q Are those the only two situations where you've
2 been aground is in the Mississippi River...
3 A As far as I recall, yes.
4 Q ...and Houston Ship Channel? Okay.
5 The people that work under you, are there
6 times when you work on the engine and don't allow
7 other people to help you, or just have them help
8 you if something goes wrong? Like, say, for
9 instance, the turbines? Did you do most of the
10 work -- have you done work on the turbines?
11 A Are you talking about the turbo chargers?
12 Q Yeah. Turbo charges?
13 A In San Francisco...
14 Q Uh-huh (affirmative).
15 A ...is this what you're referring to?
16 No. We had an outside contractor and the
17 manufacturer's representative provide that.
18 Q Okay. Well, are there situations that you've
19 encountered while on the Exxon Valdez where you,
20 personally, did the work?
21 A I do a lot of work myself, yes.
22 Q And you don't rely on the help of your
23 engineers, but you do it specifically?
24 A I wouldn't say that that's the reason that I
25 do it myself.

1 Q But you have done the work yourself?

2 A I have done work myself, yes.

3 Q Now, you also talked about the -- how many

4 times have you been in and out of Prince William

5 Sound?

6 A I don't recall who asked me that question. I

7 said perhaps 30, but you know, it could be plus

8 or minus many.

9 Q From the engine room can you see what's out in

10 front of the ship?

11 A No. No, sir.

12 Q So, you don't know, then, what the conditions

13 are when the orders as far as the throttle...

14 A No.

15 Q ...maneuvering?

16 Okay. And you indicated that it is the

17 general procedure to go up to sea speed coming

18 out of after Rocky Point?

19 A That's correct.

20 Q Does that happen all the time?

21 A Generally.

22 Q Does it happen all the time? Every time that

23 you've gone out?

24 A No. I can't say it happened every time, no.

25 Q Would it make a difference on what conditions

1 lay ahead?

2 A It certainly would.

3 Q I'm showing you what's been marked for
4 identification as Plaintiff's Exhibit 36. Do you
5 recognize that?

6 A That's the sailing board.

7 Q And do you recognize the writing on that?

8 A As to whose writing it was?

9 Q No. Just what it say, the numbers?

10 A Yes.

11 Q Is that an accurate picture of the sailing
12 board?

13 A Yes, it is.

14 MR. COLE: I would move for admission of
15 that...

16 MR. MADSON: Could I just voir dire a second,
17 Your Honor?

18 VOIR DIRE EXAMINATION OF MR. GLOWACKI

19 BY MR. MADSON:

20 Q Mr. Glowacki, is this an accurate reproduction
21 of the sailing board as it was on March the 23rd?

22 A No. This sailing board is hanging on the
23 NESCO's stairs at NESCO.

24 Q And do you know where this photograph was
25 taken?

1 A I'm sorry.

2 Q Do you know where this photograph was taken?

3 What city, for instance?

4 A San Diego.

5 Q San Diego.

6 MR. COLE: Still move for the admission of

7 that photograph.

8 MR. MADSON: Well, I guess for illustrative

9 purposes, could I just ask another question?

10 Q (Mr. Glowacki by Mr. Madson:) Does it appear

11 to be the same board as near as you can tell?

12 A It physically is the same board. It's the

13 ship's board, but whether the writing is the

14 same, the chalk writing is the same as it was on

15 March 23rd, no. I don't know.

16 MR. MADSON: Then I would object, Your Honor.

17 It's not an accurate reproduction.

18 THE COURT: The witness hasn't laid a

19 foundation for that being the same one, Mr. Cole.

20 What are you offering it for?

21 MR. COLE: Okay.

22 REDIRECT EXAMINATION OF MR. GLOWACKI, CONTINUED

23 BY MR. COLE:

24 Q I'll ask him what the date is on that date?

25 What is written on the date?

1 A 3/23.

2 Q And what does the writing below say?

3 A "Happy Easter, gang."

4 Q When was Easter?

5 A I really don't recall. I was on a ship.

6 Holidays on a ship don't mean much.

7 MR. COLE: Judge, I'm offering it, because

8 that's the -- I mean, I -- do you want me to explain.

9 THE COURT: No. You'd have to lay a

10 foundation. This witness said he doesn't know if

11 that's the -- he can't authenticate this is what he

12 said. And so, the objection is sustained.

13 Q (Mr. Glowacki by Mr. Cole:) You talked about

14 what happens when a tanker is at berth, and what

15 procedures it has to go through if it doesn't

16 want to leave. Remember talking with Mr. Madson

17 about that?

18 A (No audible response.)

19 Q Let me rephrase that. Mr. Madson asked you

20 what the procedure is if a tanker does not want

21 to proceed out of the Port of Valdez.

22 A I don't believe that was the question.

23 Q What happens when a tanker does not want to

24 proceed out of the Narrows? Can it stay in the

25 Port of Valdez?

1 A I would suppose that the Captain would have to
2 either talk to the Terminal, or the Coast Guard,
3 or the agent and make some arrangements and
4 clarify the reason why he doesn't wish to leave,
5 but I don't know. I'm not certain what the
6 procedures were.

7 Q Why did you say that the tanker has to proceed
8 out to Anchor Point?

9 (1553)

10 MR. MADSON: Excuse me. I object, Your Honor.
11 I don't believe it was Anchor Point. I don't think I
12 ever mentioned about Anchor Point.

13 THE COURT: I haven't heard anything about
14 Anchor Point. That assumes a statement by this witness
15 he hasn't made. Why don't you rephrase your question?

16 Q (Mr. Glowacki by Mr. Cole:) You indicated
17 that the tanker would have to go out of the
18 Narrows, out of the Port of Valdez?

19 A In order to get to suitable anchorage area,
20 yes.

21 Q And where would that be?

22 A That's in Prince William Sound.

23 Q Where in Prince William Sound?

24 A I'd have to look at a chart. I really don't
25 know.

1 Q When was the last time that you confronted a
2 tanker captain and told him that you felt that he
3 was impaired and not fit to run a ship?
4 A Never, I don't believe.
5 Q What was the lighting like when you left the
6 Pipeline Club? Was it dark, or was it light?
7 A Outside? It was dark.
8 Q And the lighting in the bar that you were at,
9 next to the Pizza Palace, what was the lighting
10 like in there?
11 A It was on the dark side.
12 Q And the trip from the bar to the terminal?
13 Was it light or dark there?
14 A It was already dark.
15 Q Now, you indicated that you went through the
16 security at Alyeska security, is that correct?
17 A That's correct.
18 Q Do the guards always check everything that you
19 have?
20 A That has been my experience, yes.
21 Q Have you seen them stop a person in your party
22 and refuse them admittance?
23 A No. I have never seen that, no.
24 Q And, you spoke with the Captain on the bridge
25 that evening, prior to the pilot getting off,

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about what time?

A It had to be before 11 o'clock.

Q Where was the captain when you spoke to him, specifically on the bridge?

A I believe he was on the port side of the bridge.

Q And was he in the front?

A Yes.

Q Up against the window?

A I believe so, yes.

Q And you spoke with him?

A That's correct.

Q And is it your testimony, then, that there were no differences between how he was speaking that evening and when you had seen him, say, the night before?

A I did not feel so, no.

Q I have nothing further.

RECROSS EXAMINATION OF MR. GLOWACKI

BY MR. MADSON:

Q Mr. Glowacki, as far as being aground was concerned, from your testimony that you gave just a minute ago in response to Mr. Cole's questions, isn't it true, sir, that if you're in a situation where you go from deep water to shallow water, so

1 shallow that the vessel runs aground going
2 forward, that it's logical to go back into the
3 deeper water from whence you came?

4 MR. COLE: Objection, Your Honor. Lack of
5 foundation.

6 THE COURT: I think that's argumentative, Mr.
7 Madson, so I'll sustain the objection.

8 Q (Mr. Glowacki by Mr. Madson:) Well, what
9 would your experience be in that situation, sir,
10 if you go from deeper water to shallow water and
11 run aground, as far as how you remove yourself
12 from that situation?

13 MR. COLE: My same objection stands.

14 THE COURT: This is a chief engineer. I don't
15 know if this is the right person to ask that question,
16 Mr. Madson.

17 MR. MADSON: Your Honor, he's already answered
18 a number of similar questions. I just want to get into
19 one other area, very short time here.

20 THE COURT: Objection's sustained.

21 Q (Mr. Glowacki by Mr. Madson:) I take it,
22 then, Mr. Glowacki, from your experience you
23 could not say what would happen to the engines,
24 the propeller, the shaft, or anything like that
25 had Captain Hazelwood attempted to get off the

1 reef by running it forward and getting himself
2 into a worse situation, so to speak?

3 MR. COLE: Objection. Lack of foundation.

4 MR. MADSON: I asked if he knows, or not, Your
5 Honor.

6 THE COURT: I sustained the objection.

7 The worst situation type think you're talking
8 about is very argumentative, so rephrase your question.

9 MR. MADSON: While you were down in the engine
10 room after the grounding you had conversations via the
11 telephone with Captain Hazelwood. Did he also issue
12 you any orders regarding the engine room personnel?
13 What to do?

14 MR. COLE: Objection. Outside the scope of
15 recross.

16 MR. MADSON: Well, Your Honor, we asked
17 permission to recall this witness. I can either wait
18 until then, or technically, it may or may not be
19 outside the scope. I would submit that we covered that
20 situation and Mr. Cole just didn't make it in his
21 redirect. And I think that it's not outside the scope,
22 but the question will eventually be asked.

23 THE COURT: Okay, Mr. Madson, I'll let you do
24 it this time, but the argument that you'll recall the
25 witness, next time I'll say, "Okay. You can recall the

1 witness." That won't be a good reason next time.
2 I'll let you reopen this one time only.
3 MR. MADSON: That's fine. Thank you, Your
4 Honor.
5 Q (Mr. Glowacki by Mr. Madson:) Do you remember
6 the question, sir?
7 A Yes. Captain Hazelwood asked me whether all
8 the people in the engine compartment are up and
9 whether they know what is going on.
10 Q Did you determine that to be a concern for
11 their safety?
12 A Yes, I would.
13 Q Did that seem an appropriate question under
14 the circumstances?
15 A It showed concern for the crew, yes. It's the
16 normal, professional thing to do I feel.
17 Q Thank you, sir. I don't have any other
18 questions.
19 REDIRECT EXAMINATION OF MR. GLOWACKI
20 BY THE COURT:
21 Q What time did he say that?
22 A I believe it was already after we restarted
23 the engines.
24 Q Did he ever make other comments about that
25 later on?

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1 A Later on, how long?
2 Q Within the next three or four hours?
3 A Yeah. He did ask me how is everybody doing.
4 Q Did you get your mustang suits on? Did you
5 have those on?
6 A We did not have mustang suits on board. We
7 had survival suits.
8 Q Did you have your survival suit on?
9 A It's impossible to put those suits on and be
10 on the inside. They're only for abandoning ship.
11 But, what we did do is once we -- as soon as I
12 found that we were aground, and once the first
13 MOA got down to the engine room, and after he
14 helped to sound all the double bottoms with the
15 third engineer, I did have him go up to all the
16 engineers rooms and the other MOA's room and
17 bring the survival suits to the top of the engine
18 room, and our life preservers, in case we had to
19 abandon ship. Yes.
20 Q Was that done pursuant to your order?
21 A That's correct.
22 Q Thank you. I have nothing further.
23 THE COURT: What's an MOA?
24 A It's a maintenance operations assistant.
25 THE COURT: All right. Thank you.

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Finished with the witness?

MR. MADSON: Yes, Your Honor.

THE COURT: You're excused.

When I say a witness is excused, that means that they're excused unless you have reason to call them...

MR. MADSON: I do want to reserve the right to recall this witness as our witness later on.

THE COURT: Okay. Is he under subpoena?

MR. MADSON: He is.

THE COURT: Okay. Maybe you can contact Mr. Glowacki and give him an idea of when he should appear without having him just sit around for the next three or four weeks.

MR. MADSON: Oh, that's correct, Your Honor. Yes.

THE COURT: You're excused for the day.

(1919)

(Witness excused for the day.)

You may call your next witness.

MR. COLE: Yes. The State would call Mr. Roberson. (Indiscernible - away from mike.)

(Pause)

THE CLERK: Sir, this is the witness chair, right over there. There's a microphone dangling right

1 there. If you'd attach that to your tie, please, and
2 remain standing and raise your right hand.

3 (Oath administered.)

4 A I do.

5 JOEL A. ROBERSON

6 called as a witness in behalf of State of Alaska, being
7 first duly sworn upon oath, testified as follows:

8 THE CLERK: Sir, would you please state your
9 full name and spell your last name?

10 A Joel Arthur Roberson. R-o-b-e-r-s-o-n.

11 THE CLERK: Current mailing address?

12 A 109 Stanley Court, Forney, Texas, 75126.

13 THE CLERK: Would you spell the town?

14 A F-o-r-n-e-y.

15 THE CLERK: And your current occupation?

16 A I'm self employed. I do silk screen printing.

17 THE COURT: Mr. Cole.

18 MR. COLE: Thank you, Your Honor.

19 (2010)

20 DIRECT EXAMINATION OF MR. ROBERSON

21 BY MR. COLE:

22 Q Mr. Roberson, can you tell me how long you've
23 worked in the maritime industry?

24 A Approximately 11 years.

25 Q And what positions have you held?

1 A The only positions I've held are radio officer
2 and radio electronics officer.

3 Q Have you received any special training in
4 those?

5 A Yes, I have.

6 Q Can you give the jury an idea of what that
7 training is?

8 A I had training, related training in the U. S.
9 Navy. I was a radioman third class. Following
10 the Navy I went to school for two years studying
11 electronics and received an associate's degree.

12 In addition to that I've attended a number of
13 seminars and courses in electronics put on by
14 various manufacturers.

15 Q Prior to March of 1989 how long had you worked
16 for Exxon Shipping Corporation?

17 A That would have been just about four years at
18 that time.

19 Q And where had you worked, primarily, before
20 being transferred to the Exxon Valdez?

21 A Primarily I was assigned to the Exxon
22 Baltimore.

23 Q When did you get assigned to serve on the
24 Exxon Valdez?

25 A I don't remember the exact date. It was late

1 in February of '89.

2 Q And had you worked with Captain Hazelwood
3 before?

4 A No. I had not.

5 Q I'd like to talk about your responsibilities
6 as a radio man on board the Exxon Valdez. Would
7 you explain to the jury what your
8 responsibilities were?

9 A Yes. As a radio officer one of my duties was
10 to maintain a listening watch on 500 kilohertz,
11 which is the international calling and distress
12 frequency. It's a radiotelegraph circuit. I
13 would stand that watch a minimum of eight hours a
14 day while the ship was at sea.

15 I would also transmit and receive radio-
16 telegrams, both communications relating to
17 shipping business, and since the shipboard radio
18 station was open to public correspondence I would
19 also send and receive telegrams for the crew.

20 In addition to that I copied weather reports,
21 notices to mariners, and I also functioned as
22 electronic technician, maintaining and repairing
23 electronics aboard the vessel.

24 Q You talked about telegrams and weather
25 reports. How did you receive that information

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and send it off?

A There are a number of different ways. Either on Morse Code. There were some radiotelegraph broadcast, radioteletype. Also over satellite communications, telex, over that circuit.

Q Would you give the jury an idea of what type of intra ship communication was available on the Exxon Valdez, if you would?

A There was a dial telephone system aboard the vessel. In addition to that, although I believe there were other sound powered telephones connecting key areas of the vessel.

Q How about in the rooms? Was the dial telephone system connected to each of the rooms on the vessel?

A The majority of the rooms. There was one in my room and I assumed there were phones in other rooms.

Q Where was your room located?

A My room was adjacent to the radio room, which was on D deck, I believe.

Q Would that be right below the bridge?

A Yes.

Q And where in relationship to the captain's quarters and the chief engineers quarters would

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you be located?

A Directly across the passageway.

Q That would be across the hallway?

A Right.

Q And you had radio room, itself, and then your own quarters, is that correct?

A That's correct.

Q And what was next to you? What room was next to you?

A There were two passageways on either side of the radio room and my stateroom. There was a pilot's stateroom to the port side. On the starboard side was the ship's office and another stateroom as well as the slop chest closet.

Q I'm showing you what's been marked for identification as Plaintiff's Exhibit 63 and 64. Do you recognize those two photographs?

A Yes, I do. It appears to be the console of the radio room on the Valdez.

Q Let's start with 63, is that an accurate representation as much as it shows of that console?

A Yes.

MR. COLE: I would move for admission of what's been identified as Plaintiff's Exhibit 63.

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MR. CHALOS: No objection, Your Honor.

EXHIBIT 63 ADMITTED

Q (Mr. Roberson by Mr. Cole:) And 64, is that also an accurate representation as far as it shows of the console?

A Yes.

Q Could you briefly just take a moment and explain to the jury what type of radio equipment is contained in, let's say this picture?

A Okay. In this console is a radiotelegraph and radiotelephone equipment, generally referred to as HF for high frequency communications equipment, both teletype voice or Morse code.

In this column here I have the main medium frequency transmitter, the auto alarm keyer, the auto alarm receiver.

Q What's the auto alarm keyer?

A The auto alarm keyer is a device that when switched on keys the transmitter, the medium frequency transmitter, generally on 500 kilohertz so that the signal would activate auto alarms on other ships in the event of an emergency.

Q It's kind of a distress signal?

A Yes. Exactly.

Q Okay. Anything else? Let's see, let's go to

1 this one, and if you could identify what this
2 panel is right here?

3 A Okay. At the top is a remote console for the
4 radiotelephone apparatus that's mounted in the
5 gyro room, I believe. Below that is the
6 satellite communications system, Mari-Sat.

7 Q Would you tell the jury what the Mari-Sat
8 communication system is?

9 A It's a satellite communications system that is
10 connected to a network that provides the ship
11 access to international telex networks, and also,
12 into telephone circuitry.

13 Q Now, you, in addition to being responsible, it
14 appears, to the communications equipment were
15 also considered an electronics technician?

16 A Yes.

17 Q With that position would you learn of problems
18 with any of the electronic equipment on board
19 pursuant to your responsibilities?

20 A Generally, yes.

21 Q Let's go to Thursday morning, March 23rd of
22 this year. Approximately how long had you been
23 on the vessel at that time?

24 A I'd estimate 30 days or so.

25 Q Had you been off the vessel at all during that

1 time?

2 A Yes. I had.

3 Q When was the last time you had gotten off?

4 A I believe that was in San Francisco, just a
5 day or so prior to sailing.

6 Q Sailing to Valdez?

7 A Yes.

8 Q Do you remember getting up that morning?

9 A Not particularly, no.

10 Q What did you do that morning?

11 A As I recall I was in the radio room doing some
12 paperwork. Specifically I don't recall what that
13 was.

14 Q And what happened after that?

15 A At one point in the morning Captain Hazelwood
16 came into my room, or into the radio room and
17 asked me if I would like to join him for lunch
18 ashore. And I said yes, that I had some things I
19 was doing. Could we go in 10 minutes or so would
20 be about as soon as I could get ready.

21 After that, I believe we agreed to meet down
22 on the dock. I went down to the dock. The
23 captain and Mr. Glowacki weren't there. I made a
24 phone call home to my wife and talked to her for
25 a few minutes.

1 Q Were you concerned at that time about what
2 time you'd be coming back?
3 A No.
4 Q Why not?
5 A Maybe, if you could explain your question.
6 Q Well, did you know what time the ship sailed
7 that evening?
8 A No. I didn't pay particular attention to the
9 sailing time.
10 Q Was there a particular reason why you didn't
11 pay attention?
12 A Just as I recall that going ashore with the
13 captain I had felt safe that the ship wouldn't
14 leave before the captain returned.
15 Q Why did you go into town that morning? Did
16 you have any other purposes besides having lunch?
17 A I wanted to do some shopping and pick up some
18 magazines.
19 Q Where did you go first?
20 A We first went to the offices of the Alaska
21 Maritime Agency in Valdez.
22 Q What did you do there?
23 A I pretty much sat on the couch in the office
24 and waited. The captain and Mr. Glowacki, I
25 believe had some telephone business to conduct.

1 Q Where did you go to eat?
2 A We went to lunch at the Pizza Palace, I
3 believe is the name of the place.
4 Q And who's we?
5 A Myself, Captain Hazelwood, Chief Glowacki, and
6 I believe Mr. Murphy, the pilot.
7 Q Do you remember what you had to eat that day?
8 A Yes, I do. I had a hero sandwich.
9 Q What did you have to drink?
10 A I had a Michelob beer.
11 Q What did the others have to drink?
12 A Captain Hazelwood and Mr. Murphy both had iced
13 tea, and I believe Mr. Glowacki had a beer.
14 Q How many beers did you have there?
15 A I believe I had two.
16 Q And Mr. Glowacki?
17 A I think he had the same.
18 Q How long did lunch take?
19 A I would only be guessing. It was a fairly
20 lengthy lunch.
21 Q What time did you get down with lunch?
22 A I have no idea.
23 Q Can you tell the jury who paid the bill?
24 A Yes. I believe it was paid by one of the
25 agents. I don't recall his name. He was in the

1 restaurant at the time.

2 Q Did you go any place after you were finished
3 with lunch, then?

4 A Yes. Mr. Murphy drove us back into Valdez a
5 few blocks away to a supermarket area. We parted
6 company there and I went into a gift shop.

7 Q Do you know where he dropped you off in
8 relation to where the Pipeline Club was?

9 A Yes. It was directly across the street.

10 Q Were there any arrangements for the three of
11 you to meet back up together?

12 A Yes. I recall that we were to meet back at
13 the Pipeline Club.

14 Q Who suggested this?

15 A I can't be sure.

16 Q Did you suggest the Pipeline Club?

17 A No. I don't think so.

18 Q Had you been into Valdez before?

19 A Yes.

20 Q How many times?

21 A Over the years probably a dozen times.

22 Q What did you do after leaving the two
23 individuals then?

24 A Actually I walked into the gift shop, and
25 Captain Hazelwood also walked in the gift shop.

1 I looked around the store for a period of time.
2 I didn't make any purchases there.

3 I went next door into the supermarket and I
4 went to their magazine selection and purchased
5 two or three.

6 After that I walked over to the post office
7 and mailed some postcards.

8 After leaving the post office I walked around
9 for a bit and I went into the Pipeline Club.

10 Q Do you remember what time you got to the
11 Pipeline Club?

12 A No. I don't.

13 Q What did you do when you got to the Pipeline
14 Club?

15 A I walked in and Captain Hazelwood and Chief
16 Engineer Glowacki were at a table. I walked over
17 to the table and had a seat.

18 Q I'd ask you to refer what's previously been
19 admitted as Plaintiff's Exhibit 24. Can you
20 point out where you sat, where Captain Hazelwood
21 and Mr. Glowacki were? Where you sat?

22 A I'm not sure about the accuracy of the
23 drawing. It would have been at this table,
24 although I thought it was more -- if not the
25 center, near it.

1 Q Okay. How many glasses were in front of
2 Captain Hazelwood and Mr. Glowacki?
3 A I believe there was one glass in front of each
4 of them.
5 Q Did you have anything to drink at the Pipeline
6 Club?
7 A Yes, I did.
8 Q How did you get that? Did you order it, or
9 did someone wait on you?
10 A Mr. Glowacki asked me what I would like to
11 drink and I told him I would like a beer.
12 Q And what happened then? Did you go up and get
13 the beer, or did he?
14 A I don't really recall.
15 Q What were Mr. Glowacki and Captain Hazelwood
16 drinking?
17 A I don't know other than it appeared to be a
18 clear liquid in a clear glass with ice.
19 Q Can you hold your hand up off the table and
20 give the jury an idea of how large the glass was?
21 A Oh, I'd say maybe four inches tall? Four to
22 five inches, something like that.
23 Q Did they appear to be -- let me rephrase that.
24 How many drinks did you have at the Pipeline
25 Club that day?

1 A I'm not sure. I believe at least two beers.
2 Q Could it have been more?
3 A Yes.
4 Q Were you keeping track of the number of drinks
5 you were having?
6 A No, I was not.
7 Q How about Captain Hazelwood? How many drinks
8 did he have?
9 A Other than two, I couldn't say.
10 Q Could it have been more than that?
11 A Possibly.
12 Q And Mr. Glowacki?
13 A I would say the same. Other than two, I don't
14 know.
15 Q Who was paying for the drinks?
16 (3045)
17 A I'm not sure. I paid for one round of drinks,
18 myself. Other than that I'm not sure who paid
19 for them.
20 Q When Mr. Glowacki asked you what you were
21 drinking did he pay for your first beer?
22 A I can't say for sure.
23 Q Did Captain Hazelwood buy a round?
24 A I can't say. I don't recall.
25 Q Did you see anybody that you knew at the

1 Pipeline Club that evening?

2 A Yes. As a matter of fact, I think there were
3 two ladies that I recognized. One, I believe
4 worked at the shipping agency, although I don't
5 recall her name.

6 Then there was one other that I recognized and
7 didn't speak to.

8 Q The woman from the shipping agency, can you
9 give the jury an idea how long you had been there
10 before she came in?

11 A No. I'd just be guessing. I have no idea.

12 Q Who did she speak to?

13 A I believe she spoke briefly with Captain
14 Hazelwood.

15 Q You were there with Captain Hazelwood for
16 about 2-1/2 hours, three hours? Is that about
17 right?

18 A I have no idea.

19 Q Well, at the time that you were in the
20 Pipeline Club, that period of time, you never
21 learned what Captain Hazelwood was drinking that
22 whole time?

23 A No.

24 Q And you never learned what Mr. Glowacki was
25 drinking that whole time?

1 A No.

2 Q What were you discussing?

3 A As I recall we were mainly talking about
4 shipboard routine. Just shop in general.

5 Q Did you mingle with any of the people that
6 were at any of the surrounding tables?

7 A No.

8 Q Did you play any of the video games that were
9 around you?

10 A No.

11 Q Pretty much the whole time was just spent
12 amongst yourselves?

13 A Yes.

14 Q Do you remember what time you left the bar
15 that evening...

16 A I don't.

17 Q ...the Pipeline Club?
18 Where did you go after that?

19 A We walked from the Pipeline Club over to the
20 Pizza Palace.

21 Q And how long did that take?

22 A Again, I don't have any idea. I'd just be
23 guessing.

24 Q How far is it?

25 A A quarter mile, I suppose. That's just a

1 guess.

2 Q What was the weather like that night?

3 A It was snowing, very large wet snowflakes.

4 Q I want to go back. I want to ask you one more

5 question. The Pipeline Club, would you describe

6 for the jury what kind of establishment that is?

7 A The Pipeline Club? Well, it's a restaurant

8 and bar. Other than that...

9 Q Is it light, or dark inside?

10 A It's fairly dark inside.

11 Q A place where you could have your privacy?

12 A I suppose you could say that, yes.

13 Q What happened when you arrived at the Pizza

14 Palace?

15 A We stepped inside the door. Mr. Glowacki

16 ordered some pizzas. The place was crowded, so

17 after he had placed the order we stepped outside.

18 Q Where'd you go after that?

19 A We went into the bar that was adjacent to the

20 Pizza Palace.

21 Q Why'd you go into that bar?

22 A Just to get out of the weather.

23 Q Did you drink when you were at the bar next

24 door?

25 A Yes, I did.

1 Q What did you have there?
2 A I believe I had a bourbon and water.
3 Q And Captain Hazelwood, did he have a drink
4 there?
5 A Yes, he did.
6 Q What kind of a drink did he have?
7 A I don't know for sure.
8 Q Because you don't remember, or you just don't
9 know what he was drinking?
10 A He asked the bartender what I took for a brand
11 name. The bartender indicated that he didn't
12 have that.
13 Q A brand name of what kind? Are we talking
14 scotch, or vodka, or...
15 A I assumed it was vodka. The brand that he
16 called for had a Russian sounding name. I made
17 the association that it was Russian Vodka.
18 Q Was he able to get another brand?
19 A (No audible response.)
20 Q Well, let me ask you this. Was he served
21 another drink?
22 A I believe he was.
23 Q Did he have it in his hand? Did you see him
24 carrying it around?
25 A I don't have the specific memory now.

1 Q Would you describe for the jury what kind of
2 establishment that was that you went into? Was
3 it a bar?

4 A Yes. It was a bar. It had a large window
5 behind the bar. It was fairly well lit. Dart
6 board, I believe pool table and some video
7 machines.

8 Q Is there a long bar running down the side of
9 the room?

10 A Not down the side. The bar would have been
11 parallel to the street outside.

12 Q What did you do when you were inside?

13 A We sat and talked, waited for the pizzas to be
14 cooked.

15 Q How about Mr. Glowacki? Did he join you?

16 A Yes.

17 Q And was he drinking?

18 A I believe he was. I don't recall exactly
19 what.

20 Q How long would you estimate you were at that
21 bar?

22 A Not long. Probably 20 minutes, half an hour,
23 something like that.

24 Q How many drinks did you have there?

25 A I believe I had one drink.

1 Q Were you counting then?

2 A Well, I was never counting, but as I recall I

3 had one drink, yes.

4 Q Could it have been more?

5 A I'm not sure. It could have. I'm not sure.

6 Q How about Captain Hazelwood? How many drinks

7 did he have?

8 A I don't know.

9 Q Could he have had more than one?

10 A I suppose it was possible.

11 Q And Mr. Glowacki, did he -- do you remember

12 how many he had?

13 A No, I don't.

14 Q How did you get back to the tanker that

15 evening?

16 A By taxicab.

17 Q Do you remember how long it would have taken

18 you to get back to the Terminal?

19 A I would imagine at least half an hour.

20 Q And did you go through security?

21 A Yes.

22 Q Did anyone in security mention the fact that

23 you had been drinking?

24 A No.

25 Q Or ask you any questions about it?

1 A No.

2 Q And how long had it been, again, since you had
3 left the last bar when you arrived at the
4 security place?

5 A I would estimate probably half an hour. We
6 made a stop along the way. Possibly, it could
7 have been longer than that.

8 Q At some point, then, you got on the Exxon
9 Valdez that evening?

10 A Yes.

11 Q Where did you go after you arrived on deck?

12 A We went into the galley area, the officer's
13 mess. I believe I grabbed a soda from the
14 refrigerator and then went up to the radio room.

15 Q What did you do in the radio room after that?

16 A I made some equipment tests. I went outside
17 briefly to see what stage of undocking we were
18 in, what progress we were making, and then went
19 back down below to the galley.

20 Q And why did you go to the galley?

21 A The chief engineer brought some pizza back. I
22 went down to get a slice of pizza.

23 Q After that what did you do?

24 A I went back up to the radio room. And then,
25 again made another trip or two outside to check

1 the undocking.

2 Q And that would be outside your room...

3 A The landing, yes.

4 Q During the trip out of the Port of Valdez,
5 were you ever asked to send any messages by
6 Captain Hazelwood?

7 A No.

8 Q Do you remember the grounding?

9 A Yes.

10 Q Did you see Captain Hazelwood after the
11 undocking, but before the grounding at all?

12 A No.

13 Q When did you become aware that the tanker had
14 grounded?

15 A I didn't know for sure until I overheard him
16 in a Mari-Sat conversation.

17 Q Did you -- were you asleep at the time?

18 A At the time of the grounding, yes.

19 Q What did you do after you woke up?

20 A I got up. I immediately got dressed. I
21 sensed that it was something very serious. I
22 went to the radio room, looked around. I then
23 went over, looked in the captain's office and
24 called out, "Captain", there was no response. I
25 went to the chief's room and did the same. And

1 there was no one there.

2 Essentially I was just pacing around trying to
3 figure out what was going on.

4 Q Did you see any of the crew members going by
5 in the hallway?

6 A No.

7 Q What did you do after that?

8 A I, again, made trips out to the landing to see
9 if I could see anything. I noticed that the
10 house was starting to fill with vapors enough to
11 make my eyes water. I noticed the ship was
12 listing. I went back into the chief engineer's
13 office and looked out his forward facing porthole
14 and saw lights on deck. There was a stream of
15 oil shooting up into the air from the deck.

16 Q How high was that shooting?

17 A About to the level where I was standing.

18 Q Can you give the jury an idea of how high that
19 would have been?

20 A 40 to 50 feet.

21 Q How about the smell? Were there any odors in
22 the air?

23 A Yes.

24 Q What were those odors?

25 A It was difficult for me to tell. I once

1 suspected that it was inert gas.

2 Q Did you smell petroleum fumes at all?

3 A It would be difficult for me to distinguish

4 between the two.

5 Q Did you receive a phone call at some point

6 that morning...

7 A Yes.

8 Q ...on the Mari-Sat?

9 A Yes.

10 Q Do you remember what time that would have

11 been?

12 A No. I don't. I didn't record the time. I

13 don't recall.

14 Q What did you do after receiving that phone

15 call?

16 A As I recall there was a telephone call from

17 Mr. Paul Myers. He wanted to speak to the

18 captain, and I went up to the bridge and told him

19 he had a phone call.

20 The captain then came down and spoke on the

21 Mari-Sat.

22 Q Do you remember how long that would have been?

23 A I'd estimate two -- three minutes.

24 Q What happened after that?

25 A Captain Hazelwood asked me to stand by on the

1 circuit to keep it open.

2 Q Which means you did what?

3 A I stood there holding the handset.

4 Q Waiting for somebody to talk on the other end?

5 A Yes.

6 Q Do you remember how long you did that for?

7 A No. It was several minutes.

8 (4100)

9 Q Did you see the captain below, or on your deck

10 at all over the next several hours, on D deck?

11 A Yes.

12 Q Did you ever see him drinking during that

13 time?

14 A No. I did not.

15 Q Do you remember a time when the Coast Guard

16 came aboard?

17 A Yes, I do. If we could backtrack just once.

18 You asked me if I had seen him drinking. I did

19 observe him once with a coffee cup.

20 Q Did you see him with anything that you

21 recognized as an alcoholic beverage?

22 A No.

23 Q Would you describe for the jury what happened

24 when the Coast Guard came on board?

25 A I was in the radio room. I heard the elevator

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doors open and a commotion of people coming down the passageway.

(Tape: C-3603)
(003)

The captain was in the passageway and they met outside the radio room.

Q What happened then?

A They, I believe one gentleman asked what the nature of the problem was.

I believe Captain Hazelwood said that, "You're looking at it."

After that they went down the passageway in the direction of the ladder to the bridge.

Q Did you continue to work in the radio room off and on throughout that next morning?

A Yes.

Q And would you just briefly describe for the jury what you were doing during those times?

A Pretty much what I was doing was assisting people in establishing a telephone connection over the Mari-Sat. Whether it was Coast Guard -- I believe there was another gentleman, a Mr. Long, that I placed calls for. That was pretty much the extent of what I was doing.

Also, I believe that during that time there

1 were several incoming calls.

2 Q At some time did you become aware that the
3 Coast Guard was trying to get someone to come out
4 and take blood, do some blood tests?

5 A Not specifically blood testing, no. I had
6 overheard I believe it was Commander Falkenstein
7 had ordered a technician to come out.

8 Q What type of technician?

9 A I believe he just referred to him as a
10 technician.

11 Q Did you find out at some point that they were
12 interested in determining whether someone on the
13 ship had been drinking alcohol?

14 A Yes. They indicated from what I had overheard
15 that they had smelled alcohol on Captain
16 Hazelwood's breath.

17 Q And when would that have been? Can you give
18 the jury an idea of when that would have been?

19 A It would only be a guess. It wasn't
20 immediately. In the first few minutes after they
21 came aboard.

22 Q Did you notice when the trooper came aboard?

23 A Not when he came aboard, no.

24 Q Okay. Do you remember seeing him on board
25 that day, that morning?

1 A Yes, sir.

2 Q Early that morning?

3 A It was that morning. I don't recall the time.

4 Q Do you know why he was there?

5 A No. I didn't.

6 Q Do you remember what you were wearing when you
7 went to town that day?

8 A Yes, I do.

9 Q Could you tell the jury what that was?

10 A Yes. I was wearing a red pinstriped shirt, a
11 woollen sweater, maroon jacket, jeans.

12 Q And do you remember what Captain Hazelwood was
13 wearing that day?

14 A Partially. He was wearing a dark coat that
15 was about knee length or slightly shorter,
16 wearing a green cap.

17 Q Was it a cap like this?

18 A Yes.

19 Q Is that the cap he was wearing that day?

20 A Well, it's difficult to tell from this
21 photograph, but it was similar, yes.

22 Q In color, or just in nature?

23 A Well, the color was green. The shape appears
24 to be the same though.

25 Q Okay. What was the Exxon policy as far as

1 alcohol use and possession on board the tanker?

2 A At that time there was to be no alcohol aboard
3 the ship. Also no alcohol consumption.

4 Q What were the consequences if you violated
5 that?

6 A Termination.

7 MR. COLE: I have nothing further, Your Honor.

8 THE COURT: Let's take a little break. It
9 will be about 10 or 15 minutes. Remember my former
10 instructions not to discuss the matter, not to form or
11 express any opinions.

12 THE CLERK: Please rise. This court stands in
13 recess subject to call.

14 (192)

15 (Off record - 2:33 p.m.)

16 (On record - 2:52 p.m.)

17 (Jury not present)

18 THE COURT: You need to take something up, Mr.
19 Cole?

20 MR. COLE: Yes, Your Honor.

21 Your Honor, we're getting into the stage now
22 where the people are all out of town. We've made
23 arrangements for -- the people that we have available
24 right now, Mr. Roberson is going to be done today. Mr.
25 Arts out of Valdez is here. Jamie Delozier is also

1 here.

2 Mr. Arts has only a three person office in
3 Valdez. He agreed to come in today, but he says he
4 can't have all of his office members gone for his
5 business in Valdez, the shipping they do.

6 So, we've arranged for Ms. Caples, who also
7 works with him to be here tomorrow. She'll be here at
8 10:30. But, we really don't have any other witnesses.

9 Mr. Claar is getting off a ship down in Los
10 Angeles tomorrow. He'll be up here Wednesday night.

11 Mr. Radtke has been on vacation. We haven't
12 been able to get in contact with him. Exxon made
13 arrangements for him to come up tomorrow night.

14 Mr. Taylor, he's another one. He is out on a
15 ship right now and he will be off tomorrow. He will be
16 in town tomorrow night.

17 Mr. Blandford, the next one, he is with the
18 Coast Guard and we had to make arrangements for them to
19 replace him at his job. He'll be available on
20 Thursday.

21 Mr. Kagan comes in Thursday night.

22 Mr. Cousins should be coming in shortly
23 thereafter.

24 I just let the court know this because it's
25 been a very difficult time getting all these witnesses

1 that are in Valdez and around the country here and I
2 wanted to see how the court wants to handle that
3 tomorrow.

4 THE COURT: I would like you to find some
5 witness to testify tomorrow so we can use the day
6 productively.

7 If you run out of those witnesses -- you gave
8 us a list of witnesses and I think I read someplace
9 where you expected over a hundred witnesses and you
10 said this is going to take three weeks. I imagine you
11 can find some witness to come in and fill in. So, I
12 don't know what to tell you, Mr. Cole.

13 When you exhaust that effort then you can let
14 me know, but it sounds to me like you still haven't
15 exhausted all your efforts.

16 MR. COLE: I can just tell you, judge, that
17 the next 10 to 12 witnesses are all out of state
18 witnesses and to put anybody else in in between, first
19 of all, I don't have anybody that can go in between.
20 Almost every one of my witnesses I could bring in Dr.
21 Propst, but we don't have the blood. And to bring in
22 the blood people, we have Lieutenant Stock who was in
23 the chain of custody. He's in town, but then that
24 would not make sense in the middle of this trial in
25 where we are. Lieutenant Stogsdill's testimony doesn't

1 come in until the very end. There's nothing relevant
2 to this part of the case.

3 I mean, those are the only people we have here
4 in town. The rest of the people are out of town.

5 THE COURT: Of all those witnesses you gave me
6 on the list...

7 MR. COLE: The people that...

8 THE COURT: There must be two pages of
9 witnesses.

10 MR. COLE: I have the witnesses that I'm going
11 to call and none of them are in town.

12 THE COURT: Well, so how long do you think
13 we'll be able to tomorrow with the witness you do have
14 available?

15 MR. COLE: It depends how you would like to
16 go. If you would like to end with Mr. Roberson we can
17 have Mr. Arts, Ms. Delozier, and Ms. Caples, three
18 witnesses that I think will go until about noon. I
19 don't foresee us going much longer than that.

20 THE COURT: And then, after that you need a
21 continuance to get your witnesses?

22 MR. COLE: Yes.

23 THE COURT: Okay. Gonna be any problem with
24 that, counsel?

25 MR. MADSON: No, Your Honor. I think that

1 would be the appropriate thing to do.

2 THE COURT: Okay. We'll do that.

3 And it seems to me that maybe we're going a
4 little faster than you expected. I think you estimated
5 two weeks for jury selection and we did complete that a
6 little earlier than we anticipated. I can understand
7 how you might have a difficulty now.

8 Do you anticipate any more difficulties after
9 tomorrow?

10 MR. COLE: No. This is the last one. I've
11 worked with the people at Exxon that are here. Their
12 people are going to be here, and after that I don't
13 anticipate any problems for the next two weeks.

14 THE COURT: Okay. That's fine. We'll go
15 ahead and take a break tomorrow when you need it.
16 We'll get all the witnesses under our belt we can
17 tomorrow and if necessary we'll recess early tomorrow.

18 MR. COLE: Thank you, Your Honor.

19 THE COURT: Are you ready to proceed now?

20 MR. COLE: Yes.

21 THE COURT: Okay. We'll bring the jury in.

22 (Pause)

23 (Jury present)

24 THE COURT: Thank you. Have a seat.

25 Want to resume the stand, please?

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Mr. Chalos.

(430)

CROSS EXAMINATION OF MR. ROBERSON

BY MR. CHALOS:

Q Good afternoon, Mr. Roberson.

I just want to cover the sequence of events after lunch on the 23rd. You say that you were dropped off by Pilot Murphy at some supermarket mall, is that correct?

A I don't know that I would call it a mall, but it was a supermarket with a gift shop adjacent just across the street from the Pipeline.

Q When you separated Captain Hazelwood went into the shop and you went somewhere else?

A We were both in the shop at the same time.

Q Did you walk in together?

A I believe so, yes.

Q Do you recall about what time that was?

A No. I don't.

Q What was Captain Hazelwood doing in there, do you recall?

A He was looking around at the items and as I was leaving I believe he was ordering some flowers.

Q Did you hear him ordering some flowers?

1 A He was inquiring about the possibility of
2 sending flowers, yes.

3 Q He was talking to the shop keeper?

4 A Yes.

5 Q Was it a lady...

6 A Yes.

7 Q ...shopkeeper?

8 Thereafter you left and Captain Hazelwood
9 remained in the shop, is that correct?

10 A That's right.

11 Q And the next time you saw him was at the
12 Pipeline Club?

13 A Yes.

14 Q Now Mr. Cole asked you about how many drinks
15 Captain Hazelwood had. And you initially said
16 two drinks. And then you said you couldn't say
17 for sure whether it was more than two drinks, is
18 that correct?

19 A I believe that's correct.

20 Q And that is your testimony, that you can not
21 say for sure whether Captain Hazelwood had more
22 than two drinks that day?

23 A At the Pipeline Club...

24 Q At the Pipeline Club, that is?

25 A Yes. That's correct.

1 Q You stated that when you returned to the Pizza
2 Palace, you walked to the Pizza Palace, you said,
3 from the Pipeline Club, is that correct?
4 A Yes.
5 Q And the reason that you went into the bar next
6 door was because the pizza place was crowded?
7 A That's correct.
8 Q Is that your testimony?
9 A Yes.
10 Q And also to get out of the weather?
11 A Right.
12 Q While you were waiting for the captain?
13 A Yes.
14 Q Now, you recall having one drink, yourself,
15 you said, is that correct?
16 A Yes.
17 Q And you recall Captain Hazelwood ordering some
18 drink, it sounded like some brand name, is that
19 correct?
20 A Yes.
21 Q And the bartender told him that he didn't have
22 that particular brand name?
23 A Yes.
24 Q Now, you don't know what Captain Hazelwood
25 drank, do you? You don't know if it was

1 alcoholic or nonalcoholic at that point in time?

2 A No. I do not know.

3 Q At some point in time Mr. Glowacki came into
4 the bar as well, am I correct?

5 A Yes.

6 Q Did he leave thereafter to go next door to
7 order a taxi?

8 A No. I don't believe he did.

9 Q Do you recall going next door to pick up the
10 pizza and then getting into a taxi?

11 A I didn't pick up the pizza myself, no. Other
12 than that, I recall getting into the taxi, yes.

13 Q Do you remember who picked up the pizza?

14 A As we went to the taxi Chief Glowacki had it.

15 Q Do you remember Chief Glowacki coming into the
16 place that you were at, the place next door to
17 the pizza place and telling you that the taxi was
18 there and it was time to leave?

19 A No. I don't.

20 Q When you got up to leave to get into the taxi,
21 do you recall whether you had finished the drink
22 that you started?

23 A I recall I did not finish it.

24 Q Do you recall whether Captain Hazelwood had
25 finished his drink?

1 A No. I don't.

2 Q And I take it that you can not say for sure
3 whether the captain had more than this one drink
4 at the place next to the pizza place?

5 A No. I can not.

6 Q Now you said on the way back to the terminal
7 you made one stop. Do you recall where that was?

8 A It was to pick up another passenger. I
9 believe it was back at the Pipeline Club.

10 Q Do you recall how long you stayed there in
11 picking up this passenger?

12 A Just a few minutes.

13 Q Did you get out of the taxi?

14 A No.

15 Q Did Captain Hazelwood get out of the taxi?

16 A No.

17 Q On the way back to the Alyeska gate do you
18 recall eating some pizza in the cab?

19 A No.

20 Q Now, at the Alyeska gate can you describe the
21 process that you went through?

22 A Yes. We went just inside the gate. We
23 stepped out of the taxi. I believe all the doors
24 were opened. We went around behind the cab into
25 the office area where we went through what

1 appeared to be a metal detector. There was a
2 guard behind the counter. He looked inside our
3 bags. Then we went outside and got back in the
4 taxi.

5 Q Did the guard speak to any of you?

6 A Just other than a greeting, "good evening," or
7 "Hello, how are you," that sort of thing, no.

8 Q Now, you got back and the cab drove you to the
9 head of the terminal where the vessel was, or the
10 berth where the vessel was?

11 A No. There was a -- he made a stop along the
12 way to let off the passenger that he'd picked up
13 there in town.

14 Q He was going to another ship?

15 A Yes.

16 Q And then he drove you down to the area where
17 your ship was?

18 A That's correct.

19 Q When you got out of the taxi did you have to
20 walk a certain distance to get to the gangway?

21 A Oh, yes.

22 Q Could you tell the jury what a gangway is?

23 A Well, a gangway is the ladder that goes up
24 from the dock onto the ship.

25 Q Was it snowing at this particular time?

1 A I can't be certain.
2 Q Do you recall it being windy?
3 A No. I don't.
4 Q What was the distance from the taxi where you
5 were dropped off by the taxi to the gangway?
6 A Oh, a couple hundred yards I would estimate.
7 Q Do you have to walk on on a sort of catwalk to
8 get out to the ship?
9 A That's correct. It's a roadway that's over a
10 bridge that's wide enough for one vehicle.
11 Q Now, how many steps did you have to negotiate
12 to get onto the ship that day?
13 A Quite a few. The gangway went several steps
14 up and you had to go higher than the level of the
15 main deck and then back down to the main deck.
16 Q So, you had to climb up a certain number of
17 steps and then back down a certain number of
18 steps?
19 A As far as the number I'd estimate two dozen or
20 so.
21 Q You recall anybody stumbling, or falling down
22 the stairs?
23 A No.
24 Q I'm talking about the group that you were in,
25 the captain and...

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A No.

Q ...the chief engineer?

(Pause)

After the grounding you stated that you were on D-deck in the radio room, am I correct?

A Yes.

Q And Mr. Cole asked you if you saw any crew members on D-deck at that particular time immediately after the grounding and you said that you did not?

A That's correct.

Q It's true, is it not, that one can get to the bridge, to other decks and into the engine room without having to come up on D-deck at all?

A Without passing in front of my office...

Q Yes.

A Yes. That's correct. There's an enclosed stairway.

Q So, you don't know what activity was going on in the passageway. You don't know who was going up to the bridge and who was going down from the bridge and so on and so forth?

A Inside that enclosed stairway, no.

Q And the only three rooms on D-deck that were occupied were -- on this particular voyage was

1 the captain's room, the chief's room and your
2 room, am I correct?

3 A As far as staterooms being occupied, yes,
4 that's correct.

5 Q Now, what time do you recall the first
6 indication that you had of the grounding?

7 A The first part of the question I'm not -- what
8 time was it?

9 Q Yeah. Let me rephrase that. That was badly
10 stated.

11 Do you have any recollection of what time you
12 first became aware of the grounding?

13 A Yes. Well, I was immediately aware that an
14 event was taking place. Now, I hadn't at that
15 point made the connection that it was, indeed, a
16 grounding.

17 Q What time did you first become aware of this
18 event, as you say?

19 A It awakened me.

20 Q What time was that, do you recall?

21 A Shortly after midnight. When I got out of bed
22 I looked at my clock -- digital clock. It said
23 12:23, although it was running slightly fast.

24 Q How fast?

25 A Five to 10 minutes.

1 Q Now, you stated that at some point you got a
2 telephone call from a Mr. Myers?
3 A That's correct.
4 Q Who is Mr. Myers?
5 A I'm not sure of his title. He's attached to
6 the west coast branch office of Exxon Shipping
7 Company.
8 Q And did the captain, did Mr. Myers ask you to
9 go up and get Captain Hazelwood?
10 A As I recall, he did, yes.
11 Q And did you, in fact, go up to the bridge?
12 A Yes.
13 Q Did you speak to Captain Hazelwood at that
14 time?
15 A Yes.
16 Q What was Captain Hazelwood doing when you came
17 up to the bridge?
18 A He was at the windows looking forward at the
19 activities on deck.
20 Q Was he issuing orders at that time?
21 A Not at that time that I recall, no.
22 Q When he -- did you accompany him back down to
23 the radio room?
24 A I delivered the message to him that he had a
25 phone call, and immediately turned around went

1 down below. He followed thereafter.

2 Q Did you have an opportunity to observe Captain
3 hazelwood in the radio room?

4 A Yes.

5 Q Were the lights on?

6 A Yes.

7 Q How close were you standing to him?

8 A Perhaps as close as two feet.

9 Q Did Captain Hazelwood appear to you to be
10 intoxicated?

11 A No. he did not.

12 Q Did he appear to you to be impaired?

13 A No.

14 Q Did he appear to you to be in command of this
15 vessel?

16 A Yes.

17 Q Was he anxious, panicked, calm? How would you
18 describe his mood?

19 A I would describe him as serious, calm.

20 (959)

21 Q Now, you said the conversation with Mr. Myers
22 that Captain Hazelwood had took about two
23 minutes, is that correct?

24 A Just a few minutes. Two or three minutes,
25 perhaps.

1 Q Did you overhear any of the conversation from
2 Captain Hazelwood, then?

3 A Yes.

4 Q Obviously you couldn't hear what Mr. Myers was
5 saying to him?

6 A That's correct.

7 Q What did you hear Captain Hazelwood say to Mr.
8 Myers?

9 MR. COLE: Objection. Hearsay.

10 THE COURT: Sounds like it's going to be
11 hearsay. I don't know what it is...

12 MR. CHALOS: I'll withdraw the question, Your
13 Honor.

14 Q (Mr. Roberson by Mr. Chalos:) Now you stated
15 at some point you saw the captain in the
16 passageway with the Coast Guard. Do you recall
17 that?

18 A Yes.

19 Q At what time was that? Do you have a
20 recollection?

21 A No. I don't.

22 Q Was it at 3:30 in the morning? Was it after
23 that period of time?

24 A I would estimate that it would have been
25 before that.

1 Q Before 3:30?

2 A Or around that time. Certainly no later.

3 Q And you stated that in response to a question

4 by the Coast Guard as to "What's the problem

5 here?" Captain Hazelwood said, "You're looking

6 at it." Is that correct?

7 A Yes.

8 Q Did he say to the Coast Guard, "I'm the

9 problem"?

10 A No.

11 Q Or, did he say in a general way to the Coast

12 Guard when they asked him, "What's the problem

13 here," "You're looking at it."

14 A I don't recall that he made any gestures.

15 Just that he said that, "I think you're looking

16 at it."

17 Q Is it fair to say that in light of the fact

18 that the vessel was aground, and I believe you

19 said that you saw oil spewing, that you took what

20 Captain Hazelwood to mean was that, "You're

21 looking at the situation"?

22 MR. COLE: Your Honor, I object. It's

23 argumentative and it's speculation.

24 THE COURT: Do you wish to be heard?

25 MR. CHALOS: I'll withdraw the question and

1 rephrase it, Your Honor.

2 THE COURT: Okay.

3 Q (Mr. Roberson by Mr. Chalos:) Mr. Roberson,
4 when you heard Captain Hazelwood say, "You're
5 looking at the problem," what did you understand
6 it to mean?

7 A I took it to mean that he meant himself.

8 Q Now, you had heard from the Coast Guard that
9 they had wanted to do some sort of testing, they
10 wanted a technician to do some testing, is that
11 correct?

12 A I overheard the commander saying that he
13 smelled alcohol on his breath. I want a
14 technician out here.

15 Q He said that on the radio?

16 A Yes.

17 Q Did you tell Captain Hazelwood, or anyone
18 else, that the Coast Guard was looking to have a
19 technician come on to do some testing?

20 A No. I did not.

21 Q Now, you indicated that at some point in time
22 you saw Captain Hazelwood with a cup of coffee,
23 or with a coffee cup, am I correct?

24 A Yes.

25 Q You don't know what was in that coffee cup, do

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you?

A No. I don't.

Q Did you have an opportunity to talk to the Coast Guard when they were on board?

A I certainly had the opportunity, yes.

Q Did you speak to the commander in the radio room at some point?

A Just in assisting them in making telephone calls.

Q But, you did have conversations with them, am I correct?

A Yes.

Q Did anyone from the Coast Guard say to you, Mr. Roberson, we smell alcohol on your breath as well?

A No.

Q Did they indicate to you that they wanted to do any test of you?

A No.

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

(1178)

REDIRECT EXAMINATION OF MR. ROBERSON

BY MR. COLE:

Q Why didn't you stay at the Pizza Palace when

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you went there the second time?

A As we walked in, we walked inside the place was crowded.

Q Were there other stores in the area?

A In that general vicinity, no. Well, stores of what type?

Q That you could have gone into?

A I don't believe so, no.

Q But, when you went into the one next door you got a drink as soon as you got in there?

A Yes.

Q When you were boarding the tanker do you remember who went first, who went second and who went third?

A No. I don't remember the order.

Q Do you remember even going on? Do you have a recollection of anybody being in front of you on the way onto the tanker?

A No.

Q So, you wouldn't know whether anybody stumbled behind you?

MR. CHALOS: Objection. The witness said he didn't remember if he was ahead, or behind.

THE COURT: I think it's proper redirect. You raised it in cross.

1 Q (Mr. Roberson by Mr. Cole:) You wouldn't know
2 if somebody stumbled behind you if you don't
3 remember?
4 A That's possible, I suppose, yeah.
5 Q Well, do you remember anybody being in front
6 or behind you on the way to the deck?
7 A No. I don't.
8 Q So, when Mr. Chalos asked you if anybody
9 stumbled, or fell, if you don't remember it, you
10 wouldn't know whether they did or not?
11 A I don't remember anybody stumbling...
12 Q Now, how many times have you told a captain
13 that you thought he was impaired, or intoxicated
14 and not fit to do his duties on board a ship?
15 MR. CHALOS: Objection, Your Honor. It's a
16 leading question and it implies that he's done it in
17 the past, or he should have done it. There's no proper
18 foundation.
19 THE COURT: Why don't you rephrase your
20 question, Mr. Cole.
21 Q (Mr. Roberson by Mr. Cole:) Have you ever
22 told a tanker captain that you were serving under
23 that you thought he was impaired?
24 MR. CHALOS: Same objection, Your Honor.
25 THE COURT: Objection overruled.

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Q (Mr. Roberson by Mr. Cole:) I didn't hear you.

A No. Not that I recall.

Q What do you think would happen if you did that and it was later found out you were wrong? What would happen to your career?

MR. CHALOS: Objection, Your Honor. Calls for speculation. I might add that this witness was called by Mr. Cole. I think this is in the nature of impeachment.

THE COURT: Our rules allow this type of question. The objection's overruled.

MR. CHALOS: Again, I renew my objection on the speculation aspect, Your Honor.

MR. COLE: I'm just asking as to his feelings.

THE COURT: He can give his opinion as a lay person to this.

Q (Mr. Roberson by Mr. Cole:) Would that place you in a difficult position?

A It certainly would, I would think.

Q Is that something you've thought about in the past?

A It may have crossed my mind. I haven't dwelt on it, no.

(Pause)

1 Q And, Mr. Chalos asked you did Captain
2 Hazelwood seem intoxicated, what's your
3 definition of intoxicated? How do you understand
4 that to mean?

5 A A person is having difficulty standing erect,
6 difficulty walking, stumbling, or if his speech
7 is slurred.

8 Q How about whether his judgment is impaired?
9 Is that something that you would take into
10 consideration?

11 A I think it would be, yes.

12 MR. COLE: I don't have anything else, Your
13 Honor.

14 (1418)

15 RECROSS EXAMINATION OF MR. ROBERSON

16 BY MR. CHALOS:

17 Q Just one or two questions.

18 When you saw Captain Hazelwood after the
19 grounding, in your opinion was his judgment
20 impaired?

21 MR. COLE: Objection. Lack of foundation.

22 THE COURT: Let's get the timing of this.

23 Q (Mr. Roberson by Mr. Chalos:) When he came
24 down to take the phone call from Mr. Myers. You
25 had an opportunity to observe him, did you not?

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A Yes.

Q In your opinion was his judgment impaired at that point in time?

MR. COLE: Same objection. What judgment? What did he have to base that...

MR. CHALOS: Your Honor, I'm following up on Mr. Cole's question about what the definition of intoxication is.

THE COURT: The witness can answer the question. Objection overruled.

A Would you repeat the question, please.
(1475)

Q (Mr. Roberson by Mr. Chalos:) Now, did you have any reason to believe when Captain Hazelwood came down to the radio room that his judgment was impaired?

A No. I did not.

Q Following up on Mr. Cole's question about having told a tanker captain that he was impaired, or intoxicated, you didn't have any reason whatsoever on this particular night to tell Captain Hazelwood that he was impaired, or intoxicated, did you?

A No. I did not.

Q I have no further questions. Thank you.

1 THE COURT: Counsel approach the bench please?
2 (1485)
3 (Whispered bench conference as follows:)
4 I didn't ask these questions of the last
5 witness. I was thinking of asking the question of this
6 witness, these are two people who have been board the
7 ship coming up and leaving and I'm thinking of asking a
8 question such as did they have alcohol in their room
9 and did they observe alcohol on board that ship on the
10 way out at any time, or the way in from the last port
11 to Valdez, because it seems to me that's going to be an
12 issue, whether or not alcohol was available to Captain
13 Hazelwood and at the time.
14 I think those questions are important. Is
15 that going to come up in the future, Mr. Cole?
16 MR. CHALOS: Not from us, Your Honor, and I
17 would object to your questions about the alcohol on
18 board because I think it's important for what
19 (indiscernible - whispering)
20 THE COURT: Is this witness under subpoena?
21 MR. COLE: Yes.
22 THE COURT: Okay. So, he'll be around here
23 tomorrow?
24 MR. COLE: Yes.
25 THE COURT: Let's take this matter up outside

1 the presence of the jury. Do you have any other
2 witness you were going to call today?

3 MR. COLE: No.

4 THE COURT: Okay. So this would be a good
5 time to recess and we can take this matter outside the
6 presence of the jury and the witness.

7 (End of whispered bench conference.)

8 (1535)

9 THE COURT: That completes your testimony for
10 today. However, you may be recalled tomorrow morning,
11 so make yourself available tomorrow morning at 9
12 o'clock unless you hear otherwise from us. Just come
13 to court like you did today and make yourself
14 available. You're excused at this time.

15 We're going to recess a little early today,
16 ladies and gentlemen. No further witness is available.
17 And we may recess early tomorrow, also, one of the
18 disadvantages of moving the trial along swiftly is it
19 catches witnesses unprepared, and so, we only have, I
20 think, three witnesses we can call on tomorrow and we
21 may finish with them a little early.

22 I've been assured by counsel that we'll have
23 enough witnesses to fill in the trial days thereafter,
24 but we might recess a little early tomorrow, say around
25 noon, or something like that. I'm sure there won't be

1 any complaints from the jury.

2 In the meantime, don't discuss this case among
3 yourselves, or with anybody else and don't form or
4 express any opinions concerning the case. And when I
5 say don't discuss the case, you're entitled to tell
6 your friends or family you're on a jury. And I think
7 that would be about the extent of it. If you say what
8 jury you're on you might be inviting comment and I
9 don't think that would be appropriate.

10 If you have any questions concerning your jury
11 service, you can direct them to me in a little note.
12 Somebody said they wanted an electronic oven. I'll
13 talk to the powers that be about that and see what they
14 say. I don't have any problem what that, frankly.
15 You're going to be on this jury for a while and I like
16 to make it as convenient as possible for you.

17 Avoid media information about this case. I
18 think I've given you enough instruction on that I don't
19 need to repeat that every day, other than just to avoid
20 media coverage.

21 Be safe and we'll see you back tomorrow
22 morning at 8:30.

23 (Pause)

24 (Jury not present)

25 THE COURT: All right. At a side bench

1 conference I indicated it seemed like it might be
2 probative to determine whether or not there was alcohol
3 on board the Exxon Valdez, and that the present witness
4 and the last witness were in a position to indicate
5 whether they had any in their room, or they observed
6 any in the rooms of Captain Hazelwood, or Glowacki, or
7 Roberson, because it seemed to me that these witnesses
8 were going to be released, and maybe this would be
9 something that would be important.

10 It seemed to me that it was going to be an
11 issue, and I could be mistaken, that if the blood
12 alcohol does come into evidence, there might be -- if
13 there was no alcohol available to Captain Hazelwood on
14 the ship that would tend to show a higher blood alcohol
15 at the time of the grounding than if there was alcohol
16 and he had ingested some alcohol after the grounding,
17 which would tend to show the reason for it.

18 If neither counsel is interested in that line
19 of inquiry I am not going to -- I'm not going to ask
20 the question, but I wanted to make sure that these
21 witnesses are available to answer those questions if
22 that was going to come up.

23 MR. COLE: Judge, I can tell you what our
24 position on this is. Mr. Roberson, if called to
25 testify back here would say that about a month prior to

1 this Captain Hazelwood instructed him to come into
2 what's called the TV room, or video room and he said he
3 had confiscated a bottle and wanted to have these two
4 people watch him destroy it.

5 He, then, has told us, was instructed to go
6 down into this room. They sat there and watched
7 apparently a Jimmy Buffett video. Captain Hazelwood
8 -- there was a bottle produced. It was a clear bottle.
9 He had some orange juice, or something like that.
10 There was some poured into his glass. He doesn't
11 remember tasting alcohol in it.

12 The reason I didn't bring it up is because I
13 think it's 404(B) and...

14 THE COURT: I'm not referring to something
15 that happened a month before. I'm talking about the
16 day of the incident if he observed any alcohol on board
17 the ship the day of the incident.

18 MR. COLE: And that leads me to why I've been
19 cautious. I don't know the answers to those and I'm
20 afraid somebody will say something that's 404(B).

21 THE COURT: I'm not going to raise the issue.
22 That's something I thought was probative. The State
23 doesn't think it's probative and the defendant would
24 object and there's no reason to deal with it at this
25 point.

1 MR. CHALOS: Your Honor, if I may be heard.

2 We, on reflection, we don't have a...

3 THE COURT: You might want to think about all
4 this before we come back...

5 MR. MADSON: Yeah. We will, Your Honor.

6 THE COURT: Yeah. We can deal with that
7 tomorrow morning, then.

8 Okay. We'll see you tomorrow morning at 8:30,
9 counsel, and I appreciate you marking exhibits like you
10 have. By the way, you didn't offer 64. I don't know
11 if that was an oversight. If you do intend on offering
12 exhibits offer them at the time you lay the foundation
13 so we don't have to come back in a few days later.

14 MR. COLE: A couple things have come up that I
15 wasn't expecting, but, yes, Your Honor. I will.

16 THE COURT: Okay. We'll stand in recess.

17 THE CLERK: Please rise. This court stands in
18 recess.

19 (1804)

20 (Off record - 3:30 p.m.)

21 ***CONTINUED***
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