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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.

FILED  
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Appeals Division  
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No. 3AN 89-7217; 3AN 89-7218

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H & M Court Reporting  
510 "L" Street, Suite 350  
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**ARLIS**  
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Anchorage Alaska

BEFORE THE HONORABLE KARL JOHNSTONE  
Superior Court Judge

Anchorage, Alaska  
February 7, 1989  
9:00 o'clock a.m.

APPEARANCES:

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TABLE OF CONTENTS

WITNESS INDEX

DIRECT   CROSS   REDIRECT   RECROSS   VOIR DIRE

FOR PLAINTIFF:

ROBERTSON, GERALD (CONT.)

Mr. Cole 3020

ARTS, ROBERT J.

Mr. Cole 3022 3038/3043

Mr. Madson 3027 3041

DELOZIER, JANICE L.

Mr. Cole 3044 3119

Mr. Chalos 3060

DUNKIN, GRETCHEN

Mr. Cole 3123

Mr. Madson 3127

---

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EXHIBIT INDEX

<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
B	Pilotage Regulation Change	3037
C	Credit Card Slip	3031
D	Phone Slips	3029
E	Diagram Pipeline Club	3119
64	Photograph	3020
73	Photograph	

---

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1 PROCEEDINGS

2 FEBRUARY 7, 1989

3 (Tape: C-3603)

4 (1846)

5 (Jury present)

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

8 THE COURT: You may be seated. Thank you.

9 Mr. Roberson, you're still under oath.

10 GERALD ROBERSON

11 recalled as a witness in behalf of the plaintiff,  
12 having previously been sworn upon oath, testified as  
13 follows:

14 MR. CHALOS: Your Honor, may we approach the  
15 bench?

16 THE COURT: Yes.

17 (1866)

18 (Whispered bench conference as follows:)

19 MR. CHALOS: I was given the impression that  
20 (indiscernible - bad recording).

21 THE COURT: Yeah. I'll let him do that. And  
22 of course you may (indiscernible - bad recording)  
23 reopen with this witness at this time if you wish to  
24 (Indiscernible - bad recording)

25 MR. CHALOS: (Indiscernible - bad recording)

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objection for the record.

THE COURT: Okay. Your objection I think is on the record now, but when we take a break we'll let you make it more fully if you think you need to.

(End of whispered bench conference.)

(1900)

THE COURT: Okay. Mr. Cole, you may reopen with Mr. Roberson.

REDIRECT EXAMINATION OF MR. ROBERSON, CONTINUED,  
BY MR. COLE:

Q Mr. Roberson, you have in front of you what's been identified as Plaintiff's Exhibit 64. Do you recognize that photograph?

A Yes. I do.

Q Is it a fair and accurate representation of the radio room?

A It is at the time that I saw it. The only exception would be some of the notes that appear on the console.

MR. COLE: I would move for admission of what's been identified as Plaintiff's Exhibit 64.

MR. CHALOS: No objection.

EXHIBIT 64 ADMITTED

THE COURT: It's admitted.

Q (Mr. Roberson by Mr. Cole:) Mr. Roberson, did

1           you have any alcohol on board the ship on March  
2           23rd, 1989?

3           A           I'm sorry.

4           Q           Did you have any alcohol on board the ship on  
5           March 23rd, 1989?

6           MR. CHALOS: Objection, Your Honor. Is the  
7           question did Mr. Roberson, personally, in his own  
8           possession have alcohol, or is it generally on the  
9           ship?

10          THE COURT: I don't know.

11          Q           (Mr. Roberson by Mr. Cole:) No. Did you know  
12          of any alcohol on board the Exxon Valdez on that  
13          day?

14          A           No. I did not.

15          Q           I have nothing further, Your Honor.

16          MR. CHALOS: No questions, Your Honor.

17          THE COURT: All right. You're excused now.

18          (1960)

19          (Witness excused.)

20          MR. COLE: Your Honor, at this time the State  
21          would call Mr. Bob Arts.

22          MR. MADSON: Your Honor, while he's coming in  
23          I wonder if I could have the clerk mark these exhibits.  
24          I thought he was going to be called later so...

25          (Pause)

1 THE CLERK: Sir, you'll find a microphone  
2 dangling. If you'll attach that to your tie, or to  
3 your lapel, remain standing and raise your right hand  
4 please.

5 (Oath administered)

6 A I do.

7 THE CLERK: Please be seated.

8 ROBERT J. ARTS

9 called as a witness in behalf of plaintiff, being first  
10 duly sworn upon oath, testified as follows:

11 THE CLERK: Sir, would you please state your  
12 full name and then spell your last name?

13 A Robert James Arts. A-r-t-s.

14 THE CLERK: And your current mailing address?

15 A P. O. Box 1409, Valdez, Alaska, 99686.

16 THE CLERK: And your current occupation?

17 A I'm the port manager for Alaska Maritime  
18 Agencies in Valdez.

19 THE COURT: All right, Mr. Cole.

20 DIRECT EXAMINATION OF MR. ARTS

21 BY MR. COLE:

22 Q Mr. Arts, can you tell the jury what a port  
23 manager is?

24 A We -- I manage a shipping agency of six to  
25 seven people. We're an independent agency. We



1 contract our services out to different companies,  
2 cruise ship companies, oil companies, you know,  
3 various shipping companies with various and  
4 sundry cargoes all over the world. And we,  
5 essentially, are husbanding agents. And I manage  
6 the office.

7 Q Can you give the jury an idea of what type of  
8 services you provide for these companies?

9 A It depends on the contract that we have with  
10 the company. But, primarily, for oil tankers we  
11 have a boarding agent that boards these vessels  
12 on arrival. We deliver mail. We handle crew  
13 medical problems, crew changes. We keep them  
14 advised of changes in port conditions and  
15 operational status that the various terminals,  
16 Alyeska, the city facilities there, that sort of  
17 thing.

18 Q How long have you been in Valdez?

19 A I've lived in Valdez since 1977 -- or, excuse  
20 me. Since '75.

21 Q And how long have you been with Alaska  
22 Maritime Agencies?

23 A Since December of '77.

24 Q Do you know Captain Hazelwood?

25 A Yes, I do.

1 Q How do you know him?  
2 A Through our association, work wise.  
3 Q How long have you known him?  
4 A Oh, gosh. Ten years. I don't know the exact  
5 day and year that we met, but...  
6 Q And is that through his work with Exxon?  
7 A Yes.  
8 Q And that would be through the tanker trade?  
9 A Yes.  
10 Q Do you know Captain Ed Murphy?  
11 A Yes.  
12 Q In your association, he's been in a pilot?  
13 A Yes.  
14 Q Do you know Jerzy Glowacki?  
15 A Yes, I do.  
16 Q And how do you know?  
17 A He's the chief engineer for Exxon.  
18 Q Did you see Captain Hazelwood on March 23rd,  
19 1989?  
20 A Yes. I did.  
21 Q Where did you see him that day?  
22 A The first time I saw him he came in to our  
23 office sometime after 11:30 in the morning. He  
24 came in to make some phone calls. I believe he  
25 came in with the radio officer, and also Chief

1 Engineer Glowacki, and made some phone calls,  
2 business related, I believe, and he was in the  
3 office for maybe 10 or 20 minutes.

4 Q I didn't hear that again?

5 A He was in the office 10 to 20 minutes.

6 Q I have a photograph here. I'd like you to  
7 take your time, but could you point out to the  
8 jury on this photograph where your office would  
9 be located in...

10 A Well, this is approximately it right here.

11 Q Right about where the AMA is?

12 A Yes. It's in the two story building called  
13 the Tatitlek Business Center, a log building.

14 Q What time did you see Captain Hazelwood again,  
15 after he left?

16 A I saw him, oh, approximately a half an hour  
17 later, I believe, in the Pizza Palace Restaurant.

18 Q What were you doing there?

19 A I took my family out to lunch and he was there  
20 with the radio officer, Pilot Ed Murphy and Chief  
21 Engineer Glowacki.

22 Q Did you see them leave that day?

23 A I think I left before they did. They were  
24 sitting at a separate table. Before my family  
25 and I left I went over and introduced my little

1 girls -- I have a little girl a year and a half  
2 and two and a half years old, and we went over  
3 and introduced them and my wife to Captain  
4 Hazelwood and exchanged pleasantries. He was  
5 very interested in my little girls. And we maybe  
6 chatted for five minutes, or so, and then left.

7 There was a little barb thing, you know, a  
8 good agent would pick up the tab here, or  
9 something like that, and I ended up buying them  
10 lunch when I left.

11 Q What time did you leave?

12 A Oh, gosh. 1:30, possibly.

13 Q Do you know the exact time that you left?

14 A No.

15 Q Could it have been earlier than that?

16 A Possibly.

17 Q What is the procedure if a tanker wants to  
18 stay in the Port of Valdez because of what it  
19 considers may be dangerous conditions out in  
20 Prince William Sound?

21 A There isn't any -- to my knowledge there isn't  
22 any hard and fast rules. Things like that are  
23 handled on a case by case basis, depending on the  
24 condition, depending on the need. There's a lot  
25 of factors that are involved. But, generally, if

1           there was a condition that a captain felt unsafe,  
2           I would imagine that he would approach the  
3           captain of the port, who at that time last year  
4           was McCall. Possibly, he would involve -- or,  
5           I'm sure he would involve the personnel at the  
6           Alyeska Terminal, probably the supervisor, and  
7           make a request that he felt it would be unsafe to  
8           sail for whatever reason and he would like to  
9           remain alongside the dock for X number of hours,  
10          and then the request would be handled that way.

11           And I'm sure the marine supervisor would ask  
12          his superiors. And the Coast Guard I'm sure  
13          would -- it just depends on request.

14          Q           It's possible, though?

15          A           It's possible.

16          Q           Thank you, Mr. Arts.

17           MR. COLE: I have nothing further, Your Honor.

18          (2391)

19                           CROSS EXAMINATION OF MR. ARTS

20          BY MR. MADSON:

21          Q           Mr. Arts, good morning.

22          A           Good morning.

23          Q           You indicated that you saw Captain Hazelwood,  
24                       oh, approximately 11:30, or so, on the morning of  
25                       the 23rd, correct?

1 A Yeah. That's correct.

2 Q He came in the office to do some ship's  
3 business, is that right?

4 A (No audible response.)

5 Q Is it true, sir, that ship captains, such as  
6 Captain Hazelwood, have a lot of administrative  
7 paperwork to do as part of their job?

8 A Absolutely.

9 Q You said that he made some telephone calls,  
10 but you're unsure of the time that he was there?

11 A Yeah. I believe it was roughly between 11:30  
12 and noon, but I'm not sure of the exact time that  
13 he made the calls.

14 Q Mr. Arts, let me hand you what's been marked  
15 as Defendant's Exhibit D as in David, and ask you  
16 if you can recognize that copy, sir?

17 A Uh-huh (affirmative).

18 Q What does that appear to be?

19 A These appear to be photocopies of phone slips  
20 that -- of telephone calls. When ship personnel  
21 are in our office, to keep track of our phone  
22 expenses, and to bill out accordingly, we have  
23 them fill out phone slips so we can track those  
24 calls. And it appears that these are three phone  
25 slips, three phone calls that were made by

1 Captain Hazelwood.

2 Q Is there a time reflected on those slips, sir?

3 A One, it looks like 11:30. One is 11:58. And  
4 the other one is 11:00 a.m.

5 Q So, that would indicate three calls made in  
6 approximately one hour?

7 A That's correct.

8 MR. MADSON: I would ask for the admission of  
9 Exhibit D, Your Honor?

10 MR. COLE: I have no objection.

11 EXHIBIT D ADMITTED

12 THE COURT: Admitted.

13 Q (Mr. Arts by Mr. Madson:) Now, sir, you  
14 indicated then that you -- that they left the  
15 office, and if I understand you correctly, there  
16 was no plan that you were going to meet up with  
17 Captain Hazelwood for lunch. It was just  
18 coincidence?

19 A That's correct. That's correct.

20 Q You picked up your family, and you went there  
21 for lunch, and you're not sure of the time.

22 A (No audible response.)

23 Q If the last phone call were made at 11:58, it  
24 would presumably be some time after 12 o'clock  
25 before you went to lunch, right?

1 A Uh-huh (affirmative).

2 Q Do you recall if Captain Hazelwood and the  
3 others left before you did?

4 A I don't recall.

5 Q In any event, while you were at the Pizza  
6 Palace, did you sit at, you know, adjoining  
7 tables, or across the room, or something?

8 A No. We were in a different part of the  
9 restaurant, kind of around the corner.

10 Q Did you have any conversation about the time  
11 you were leaving, or was it earlier than that?

12 A Could you repeat the question?

13 Q I think you said you left before they did?

14 A Uh-huh (affirmative).

15 Q Was it when you were just going up to pay the  
16 bill, or something like that, where you happened  
17 to see them and...

18 A I don't remember how they caught my eye, but  
19 it was some time after we had finished our meal,  
20 I believe that we went up and said hello, and it  
21 was prior to paying the bill.

22 Q You said that you have a little girl that was  
23 about two years old at the time?

24 A Yeah.

25 Q And Captain Hazelwood kind of took a liking to



1 her, and you introduced everybody. It was a  
2 pleasant conversation?

3 A Yeah.

4 Q And, I think you said, sir, that there was  
5 some, maybe joking around about paying the bill  
6 and you ended up paying it. Is that right?

7 A Yeah.

8 Q Let me show you what's been marked Exhibit C,  
9 Defendant's Exhibit C and ask you if you  
10 recognize that, sir?

11 A Yeah. It looks like a credit card slip.

12 Q For what?

13 A For lunch for Captain Hazelwood and the pilot  
14 and the chief engineer for the amount of \$53.20.

15 Q And that's the bill that you, in fact, paid  
16 for the lunch, right?

17 A That's correct.

18 MR. MADSON: I'd ask that that be admitted,  
19 Your Honor.

20 MR. COLE: No objection.

21 EXHIBIT C ADMITTED

22 THE COURT: It's admitted.

23 Q (Mr. Arts by Mr. Madson:) Mr. Arts, if you  
24 left prior to the three gentlemen that were  
25 there, or four gentlemen, I guess it was, you'd

1           have no idea how much longer they would have  
2           stayed, right?

3           A           No.

4           Q           And you're not, in fact, sure of the time that  
5           you left, even? I mean...

6           A           I'm guessing that it was about 1:30, but I'm  
7           not sure.

8           Q           I take it that -- and it's kind of maybe a  
9           silly question, but there was no particular  
10          reason to observe the time on this day?

11          A           That's correct.

12          Q           With regard to what you described as the  
13          procedure for tankers in leaving the berth, or  
14          not leaving the berth if a captain decides that  
15          something cause him to remain, how many berths  
16          are there at the terminal there, sir?

17          A           At the Alyeska Terminal there's four berths.

18          Q           There's not -- there isn't a number 2, is that  
19          right?

20          A           That's correct.

21          Q           And, if the berths are full, that is, they're  
22          all being occupied by tankers being loaded, would  
23          you agree, sir, there's a certain amount of  
24          pressure to get them loaded and get them away if  
25          there's incoming traffic to take their place?

1 A Well, certainly. There's always that sort of  
2 -- that's the name of the game. So, there's  
3 always that kind of pressure.

4 Q And there's only one anchorage allotted for  
5 tankers in Prince William Sound, is there not?

6 A There is one anchorage area, and that's Null's  
7 Head.

8 Q Now, can you describe just briefly where  
9 Null's Head is?

10 A It's on a nautical chart, and as far as miles,  
11 I don't know.

12 Q We may be able to help that, sir, if he  
13 could...

14 THE COURT: Mr. Madson, this exhibit here  
15 might be blocking some of the view of the jurors.

16 MR. MADSON: You're probably right, Your  
17 Honor. I think that chart isn't going to show it  
18 either.

19 Q (Mr. Arts by Mr. Madson:) Is it on that  
20 chart, sir?

21 A Well, it's this area here.

22 Q Okay. It is on there. All right.  
23 When you say this area, can you describe what  
24 you're pointing to?

25 A There are boundaries, I believe, it says here

1 on the chart "Anchorage area". This is Null's  
2 Head. And I believe this is Null's Head Light,  
3 here, red head light. And this is the designated  
4 anchorage area according to the coast pilot that  
5 the Coast Guard designates as the anchorage area  
6 for TAPS tankers.

7 Q And that area, then, sir, is well south of  
8 Rocky Point, or Bligh Reef, is that correct?

9 A Uh-huh (affirmative). That's correct.

10 Q You also know, your own knowledge, since  
11 you're the shipping agent for Exxon Shipping  
12 Company, right?

13 A Yes.

14 Q Do you know what their policy is, or if they  
15 have one regarding any delays in loading and  
16 unloading, how they feel about it, what pressure  
17 they may exert on captains to make sure they  
18 leave when they're supposed to?

19 A I really don't know.

20 Q Lastly, Mr. Arts, in 1986 did you have a  
21 conversation with the captain of the port at that  
22 time, I think it was Commander McCall?

23 I'd ask that you answer out loud, sir. We're  
24 being recorded.

25 A A conversation regarding?

1 Q Regarding pilotage requirements, or changes?

2 MR. COLE: Your Honor...

3 A Yes. I did.

4 MR. COLE: I'd like to object at this point  
5 and approach the bench.

6 THE COURT: All right.

7 (2837)

8 (Whispered bench conference as follows:)

9 MR. COLE: Mr. Madson is attempting to put  
10 this in and it only deals with non-pilotage. And that  
11 doesn't apply to this case. This was a pilotage  
12 vessel. This does not apply to pilotage vessels. And,  
13 so, I object on the basis that it's not relevant.

14 MR. MADSON: It's very relevant, Your Honor,  
15 it goes to the issue (indiscernible - bad recording)

16 THE COURT: Not quite so loud. That's why we  
17 come here.

18 MR. MADSON: I'm sorry. I'd hate to speak too  
19 loudly.

20 THE COURT: Whisper. That's all you have to  
21 do here.

22 MR. MADSON: It goes to the state of mind he  
23 was in, whether he was reckless (Indiscernible - bad  
24 recording) information they gave that it was safe to  
25 use a different procedure (indiscernible - bad

1 recording). Certainly that's very relevant.

2 THE COURT: Objection overruled.

3 (End of whispered bench conference.

4 (2861)

5 Q (Mr. Arts by Mr. Madson:) Mr. Arts, while I'm  
6 here, let me hand you what's been marked  
7 Defendant's Exhibit B as in boy.

8 That conversation you indicated you had with  
9 Commander McCall, that concerned some changes, or  
10 modifications in Coast Guard policy regarding  
11 pilotage, did it not, in Prince William Sound?

12 A Yes, it did.

13 Q As a result of that conversation, did you  
14 write what's been -- the document there?

15 A Yes. I did.

16 Q And what was the purpose of doing that, sir?

17 A The purpose in writing it was to make people  
18 aware of the change in port policy concerning  
19 daylight restrictions.

20 Q And what did you do with that after it was  
21 written?

22 A Frankly, I don't know. At that time I wasn't  
23 the manager of the office and I was merely acting  
24 under orders of the present manager. And how  
25 much of this has been -- since September of '86

1 that I wrote this -- how much of this came from  
2 the conversation from McCall, and how much was  
3 added by the manager there I don't remember.

4 Q What is the normal routine of your business,  
5 what would be done with a document such as this?

6 A It would be handed out to the various vessels  
7 we represent, and copies passed on to the  
8 principals.

9 Q Including captains of tanker vessels of Exxon?

10 A Uh-huh (affirmative).

11 Q Thank you, sir. I don't have any other  
12 questions.

13 MR. MADSON: I'd ask that this document be  
14 admitted, Your Honor, Exhibit B, perhaps subject to  
15 some later connection, but at least -- from his point,  
16 at least, I think it's admissible, and if not, we can  
17 connect it up later.

18 THE COURT: Any other objection other than  
19 what you raised earlier at the sidebar?

20 MR. COLE: No.

21 EXHIBIT B ADMITTED

22 THE COURT: It's admitted.

23 (3040)

24 \*

25 \*

1 REDIRECT EXAMINATION OF MR. ARTS

2 BY MR. COLE:

3 Q Mr. Arts, I'd like you to take a look at this  
4 exhibit. What does this exhibit, what does this  
5 memo address? Tankers that had pilotage, in  
6 other words, a person, a first mate, or chief  
7 mate with a federal pilotage endorsement, or did  
8 it address tankers that had no one on board that  
9 had a federal pilotage license?

10 MR. MADSON: Your Honor, I object. There's  
11 about three questions. They're all leading. And,  
12 secondly, it isn't -- I think the document speaks for  
13 itself and he's asking for an interpretation by this  
14 witness as to what it means. He is not a tanker  
15 captain.

16 THE COURT: Okay. The objection as to leading  
17 is overruled. Form of the question, though, I'll  
18 sustain the objection as to form of the question.  
19 Rephrase your question.

20 Q (Mr. Arts by Mr. Cole:) Does this address  
21 pilotage, or non-pilotage vessels?

22 A The memo addresses the changing of a daylight  
23 restriction. It addresses all vessels that call  
24 at Alyeska. The point is not to address non-  
25 pilotage, or pilotage. It's to talk about a



1           lifting of a daylight restriction and making it  
2           more of a visibility question.

3           Q           Would you read the first sentence there?  
4           What's the first sentence say?

5           A           It says, "Effective September 1st, 1986 the  
6           U.S. Coast Guard requirement for daylight passage  
7           in Prince William Sound for vessels without  
8           pilotage has been waived."

9           Q           What's that sentence, "For vessels without  
10          pilotage has been waived."

11          MR. MADSON: I'd object, Your Honor, unless  
12          this witness knows the answer and has the experience  
13          and the background, otherwise the document speaks for  
14          itself.

15          THE COURT: Objection overruled.

16          Q           (Mr. Arts by Mr. Cole:) What does that phrase  
17          mean?

18          A           Let me read it again.

19          MR. MADSON: Your Honor, I'm also going to  
20          object, the question is argumentative.

21          THE COURT: That objection is overruled also.

22          A           Well, I mean, it means what it says, that  
23          there was a Coast Guard requirement for vessels  
24          that did not have pilotage, and that that  
25          requirement has been waived. There is a change

1 in that requirement.

2 Q So, it only applies to vessels that do not  
3 have pilotage, is that right?

4 A Essentially.

5 Q And the next sentence? What does the next  
6 sentence say?

7 A The next sentence says "All non-pilotage  
8 vessels will be able to transit from Cape  
9 Hinchinbrook to the pilot's station at all hours  
10 as long as visibility remains at two miles, or  
11 greater."

12 Q Okay. What does the reference, "All non-  
13 pilotage vessels" mean?

14 A It means those vessels that do not have  
15 pilotage, somebody on board with pilotage.

16 Q And when does it say that this report is to be  
17 made? And I'm referring to 1 on this exhibit.

18 A It says that in the context of that paragraph  
19 "All other requirements for vessels in the TAPS  
20 trade remain the same. 1 is notify the U.S.  
21 Coast Guard three hours prior to arriving Cape  
22 Hinchinbrook."

23 Q And what does 3 require of non-pilotage  
24 vessels?

25 A "A bridge navigation team consisting of an

1 extra watch stander under the direction of a deck  
2 officer other than the one on watch must report  
3 the vessel's position every 10 minutes while  
4 navigating from Cape Hinchinbrook to Montague  
5 Point.

6 Q This memo did not effect pilotage vessels, did  
7 it?

8 A Pilotage -- vessels that had pilotage?

9 Q Pilotage.

10 A Essentially, no.

11 MR. MADSON: You through?

12 MR. COLE: Yes.

13 (3280)

14 RECROSS EXAMINATION OF MR. ARTS

15 BY MR. MADSON:

16 Q Mr. Arts, it's a little technical, perhaps,  
17 explaining all this...

18 MR. COLE: Objection. It's argumentative.

19 THE COURT: Excuse me, Mr. Madson, that's not  
20 a proper question.

21 MR. MADSON: I was getting to the question,  
22 Your Honor.

23 THE COURT: I know, but you started out with a  
24 speech, so just ask questions.

25 Q (Mr. Arts by Mr. Madson:) When you speak of

1 pilotage and non-pilotage, sir, this document in  
2 effect says, does it not, that vessels without  
3 the pilotage endorsement may -- a vessel may  
4 transit Prince William Sound up to the pilot's  
5 station without having this endorsed pilot on  
6 board?

7 A I don't believe that the intent of this letter  
8 dealt with that. And I don't think I'm really  
9 qualified to -- I'm not an expert as far as  
10 pilotage issues.

11 Q Very good, sir. In fact, it kind of depends  
12 on the interpretation of your letter as to what a  
13 person thinks they can, or can not do, right?

14 A Possibly.

15 Q Have you ever been a captain, sir?

16 A No.

17 Q Do you hold any kind of mariner license at  
18 all?

19 A No. I don't.

20 Q Is it fact, sir, what you were doing was  
21 merely passing on information from the captain of  
22 the port to the Exxon Shipping Company for their  
23 use?

24 A All companies, not just Exxon.

25 Q I'm sorry. What other companies do you...

1 A We represent Mobil, and some shipping  
2 companies, Maritime Overseas, Amerada Hess.

3 Q Thank you. I don't have any questions.

4 REDIRECT EXAMINATION OF MR. ARTS

5 BY MR. COLE:

6 Q Mr. Arts, what authority do you have to change  
7 the Coast Guard regulations?

8 A None.

9 Q Thank you.

10 THE COURT: You may step down. You're  
11 excused.

12 (3379)

13 (Witness excused.)

14 THE COURT: You may call your next witness.

15 MR. COLE: Your Honor, at this time the State  
16 would call Janice Delozier.

17 THE COURT: Ms. Henry, could you retrieve  
18 those exhibits unless they're going to be necessary.  
19 And you've got some on counsel table, too, that the  
20 picture, there, I think it's Exhibit 64, perhaps.  
21 Let's keep all the exhibits on the exhibit table so we  
22 don't start getting them shuffled around.

23 (Pause)

24 THE CLERK: Ma'am, you'll find a microphone  
25 dangling on the countertop there. Go ahead and attach

1 that to your sweater and remain standing and raise your  
2 right hand.

3 (Oath administered)

4 A I do.

5 JANICE LYNN DELOZIER

6 called as a witness in behalf of the plaintiff, being  
7 first duly sworn upon oath, testified as follows:

8 THE CLERK: Ma'am, would you please state your  
9 full name, and then spell your last name?

10 A Janice Lynn Delozier, D-e-l-o-z-i-e-r.

11 THE CLERK: Current mailing address?

12 A P. O. Box 1934, Valdez, Alaska.

13 THE CLERK: Current occupation?

14 A Daycare.

15 DIRECT EXAMINATION OF MS. DELOZIER

16 BY MR. COLE:

17 Q Mrs. Delozier, where do you live?

18 A 155 Gulkana, Valdez, Alaska.

19 Q How long have you lived in Valdez?

20 A Three years this summer.

21 Q And what did your husband do back in 1989?

22 A He has been in the Coast Guard 29 years.

23 Q Yourself, what were you doing last year?

24 A Dental assisting. I've done dental and --

25 excuse me, I've done medical and daycare off and

1 on for the last 12 years.

2 Q Could you tell me which dentist you worked for  
3 last year?

4 A We only had the one in Valdez, it's Dr. Allen  
5 Stewart.

6 Q And does Dr. -- is it Dr. Steward?

7 A Uh-huh (affirmative).

8 Q Did he keep records of the patients that  
9 visited him during the day?

10 A Oh, yes. Uh-huh (affirmative). Definitely.

11 Q And does it include things like when you go to  
12 lunch, and...

13 A Holidays, when he decides to go hunting, long  
14 extended breaks, extra lunch, no lunch. Yes, he  
15 does.

16 Q And are the records kept in the regular course  
17 of his business?

18 A Uh-huh (affirmative).

19 Q Are they done by someone who has knowledge of  
20 them fairly close to the time that they occur;  
21 the writing?

22 A Yes. It could be his wife, who would be  
23 qualified, himself, me or the receptionist.  
24 Usually he gives the orders as to any marking off  
25 of closing dates or holidays, things of this

1 nature.

2 Q Were you working on March 23, 1989?

3 A Uh-huh (affirmative).

4 Q Where -- would you tell the jury what kind of  
5 morning it was?

6 A Busy. We had been looking at the book, as you  
7 do, trying to see how busy you were going to be.  
8 We had known for three or four days on that  
9 particular day we were going to have an extended  
10 two hour lunch due to something him and his wife,  
11 I presume, had planned.

12 Q And what time did you take off for lunch that  
13 day?

14 A We marked the book from 1:15 until 3:00,  
15 because you have to turn the recorder on, get  
16 your next file ready. So instead of getting out  
17 the door at 1:00, five after, we walked out at 20  
18 after. The book shows the marking off at 15  
19 after until 3:00 p.m.

20 Q I'm showing you what's been marked for  
21 identification as Plaintiff's Exhibit 74. Do you  
22 recognize that?

23 A Uh-huh (affirmative).

24 Q What is that?

25 A It's a day's work -- it's your day's work,



1 approximately how long each patient will take,  
2 hopefully; what they requested that their needs  
3 were, if they can tell you. Like I said, the  
4 extended lunch; showing where it's going to  
5 commence; arrow pointing down to when the doctor  
6 would like us to be back to have the doors open  
7 for business again.

8 Q And is that a document regularly kept in the  
9 course of the business.

10 A Yes.

11 Q And what was the date that of the days that  
12 were recorded that day?

13 A March 23 and March 24, and to copy this page  
14 -- the book is laying like this (indicating). So  
15 to put it under the copy machine is why you see  
16 the day's handwriting like this. They're  
17 generally not this close, attached. This is the  
18 day's business right up until closing.

19 Q And is that an accurate copy of the business  
20 records that was kept at the dentist's office?

21 A Right. The book is, in fact, still in his  
22 office filed away.

23 MR. COLE: I would move for the admission of  
24 what's been identified as Plaintiff's Exhibit 74.

25 MR. CHALOS: No objection.

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THE COURT: 74 is admitted.

Q And what time did that indicate that you went to lunch that day?

A We started locking his door and putting the tape together at 1:00. We got out of there about 1:15. Probably walked out putting on gloves and snow boots 1:15 and 1:20.

Q And where did you go from there?

A I was having car trouble, transmission problems. It's not infrequent to see me with my dental white uniforms on at the Pipeline. There's a set of coffee drinkers that drink there every day; same location every day. A lot of cribbage games goes on there. So I had a ride let me out...

Q Where did you go?

A Pipeline.

Q The Pipeline Club.

A Uh-huh (affirmative). She let me out in the parking lot.

Q Who did that?

A The receptionist.

Q I'm showing you what's previously been admitted as Plaintiff's Exhibit 24. Do you recognize that?

1 A Uh-huh (affirmative). That is the Pipeline  
2 Club.  
3 Q Let's set it right here. If you wouldn't mind  
4 just taking that pointer there. Why did you go  
5 to the Pipeline Club that day?  
6 A Actually, to kill two hours; drink coffee. My  
7 best friend is unemployed so it's not unusual and  
8 I to get together, whether I take a full lunch or  
9 whether I get 10 minutes.  
10 Q Where did you and sit in the Pipeline Club?  
11 A The parking lot being out here (indicating),  
12 you go in a hallway. As you come right here  
13 there is an opening -- a doorway that goes into  
14 the restrooms, into the kitchen -- into the  
15 restaurant into the kitchen, or you can go  
16 straight passing a little table here, a little  
17 table here. The coffee pot would be back up in  
18 here. I was sitting right here or right here  
19 (indicating). That bar stool or this bar stool  
20 -- high bar stool.  
21 Q And what were you drinking?  
22 A Coffee.  
23 Q Did you have any alcohol that day?  
24 A No, I did not.  
25 Q Why didn't you?

1 A Well, I've been in the medical field for a few  
2 number of years; you don't drink and work. Or, I  
3 don't drink and work. I can only speak for  
4 myself.

5 Q Now, after you did that for a while did you  
6 notice a gentleman walk up and order a drink?

7 A Yes, I did.

8 Q And would you tell the jury about how long  
9 after you had been there did he show up?

10 A I probably got there, locking the office, like  
11 I say, 15, 20 after. I got there about 1:30. I  
12 would say the person came in 15 to 2:00. I'd  
13 been there about 15 minutes when this person  
14 entered.

15 (3932)

16 Q And would you describe for the jury what he  
17 looked like?

18 A The bar area that's open right here is called  
19 a waitress station. They do not have any kind of  
20 help during the day because it's, like I say, a  
21 lot of coffee drinkers. The person came in,  
22 walked in and stood right in the bar station. I  
23 nodded. I made eye contact with him. He just  
24 tipped his head, like, in friendship or hello.  
25 He had a hat on.

1 Q What kind of hat did he have on?  
2 A With the little bill in the front. Some  
3 people call it a golfer's hat. I have one like  
4 it.  
5 Q A beret?  
6 A Uh-huh (affirmative).  
7 MR. CHALOS: Objection, Your Honor.  
8 A It's the same hat that was in the paper.  
9 Small hat, pressed down...  
10 THE COURT: Just a minute.  
11 A ...it wasn't a cowboy hat.  
12 THE COURT: Just a minute.  
13 Mr. Chalos?  
14 MR. CHALOS: Your Honor, there was a question  
15 pending. Mr. Cole asked the witness what kind of hat.  
16 The witness is answering, a golf cap. And Mr. Cole  
17 whispered, "A beret?" I object to that kind of  
18 questioning.  
19 THE COURT: I don't think he whispered, but I  
20 think it's pretty leading, Mr. Cole, after the witness  
21 has said a golf hat, for you to say, "A beret". So,  
22 avoid that, please.  
23 Q Showing you what has been marked for  
24 identification as Plaintiff's Exhibit 73. Is  
25 that the type of hat that Captain Hazelwood had

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on?

A Exactly.

MR. CHALOS: Objection, Your Honor.

THE COURT: Rather than just an objection, if you would give me a little hint about what it is, I might be able to make a ruling.

MR. CHALOS: The question was leading, Your Honor.

MR. COLE: It's foundation.

THE COURT: Well, when you suggest it's Captain Hazelwood without the witness telling you that's what it is, it's very leading. Objection sustained.

Q (Ms. Delozier by Mr. Cole:) Describe what that gentleman was wearing?

A A coat that was not buttoned hanging loose beyond the waist; had a small type hat on, golfer hat, whatever you want to call it; beard -- not a full beard, just kind -- not hear, scruffy-like; kinda baggy under the eyes, or shadowing, not puffy looking. Like I say, the coat hung down, it wasn't a waist high coat. It came down probably past the man's pocket, hanging open.

Q Do you see that man in the courtroom here today?

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A Yes, sir, I do.

Q Would you identify what he is wearing, for the record?

A Pink or red pin-striped shirt under a navy blue coat, three gold buttons, ink pen in hand.

MR. COLE: I would ask the record to reflect that she has identified Captain Hazelwood.

THE COURT: It does.

Q And the photograph that you have in front of you, is that an accurate representation of how Captain Hazelwood looked that day?

A Yes, sir, it is.

MR. COLE: I would move for the admission of what's been identified as the plaintiff's exhibit.

MR. CHALOS: Your Honor, I would like to make an objection at this point.

Mr. Cole placed in front of the witness, a picture of Captain Hazelwood, described him as Captain Hazelwood, and then asked her to identify Captain Hazelwood. I think the putting of the picture in front of her is what's suggestive of the answer she gave with respect to identifying Captain Hazelwood here.

THE COURT: The objection is overruled. The exhibit is admitted.

EXHIBIT 73 ADMITTED

1 Q (Ms. Delozier by Mr. Cole:) What happened  
2 when this gentleman came up to the bar?  
3 A After he looked in my direction and nodded he  
4 asked the girl to fix him a vodka on the rocks.  
5 He specified a call brand. She went ahead and  
6 mixed the drink and set it in front of him. He  
7 said to her, that it is that, or, "That is not  
8 what I asked for."  
9 She apologized; said he was right, it was not  
10 a well -- it was not a call brand, it was what  
11 bartenders call well pours, which is, if you  
12 don't specify a brand they pour what they have on  
13 hand.  
14 She apologized for not pouring what he had  
15 asked for, which was a call brand. She said she  
16 would either not charge him or redo the drink.  
17 He said it would be fine, he would take it  
18 anyway, and he did, and he went and sat down at a  
19 table.  
20 (Tape: C-3604)  
21 (000)  
22 Q Can you show the jury where he went and sat?  
23 A Yes, sir. This being the jukebox. This is a  
24 high top. He was sitting right here.  
25 Q Now, was he with anybody at that time?



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A No, sir.

Q Did he later get joined by someone?

A Yes, he did.

Q Would you tell the jury what happened then?

A After he went and took his table, I did not turn around and look -- stare. He was just a person. Someone came in a few minutes later; stood in the same bar area; ordered his drink and turned around and said, "And get this gentleman one."

Captain Hazelwood announced that he had one -- had just got one. The gentleman said, "Okay, then I'll pay for the one he's got."

Captain Hazelwood jokingly said, "Well, I've got one, but if you want to charge the man twice, that's okay." Kind of jokingly. The man took his drink and went and joined Captain Hazelwood.

Q Who were they talking to, these two gentlemen? Were they talking at someone?

A The man getting the drink was turned around talking to Hazelwood. Hazelwood was gesturing back to this gentleman ordering the drink.

Q Would you describe what this other gentleman looked like?

A I think in my original tape I specified that I

1 thought he had a beard. I still think he had a  
2 beard. The beard being, to me, fuller -- which  
3 means, out more than Captain Hazelwood. I wanted  
4 to say taller than, but that was, you know,  
5 almost a year ago.

6 Q Do you remember the demeanor of these two  
7 gentlemen? Were they quiet? Were they loud?

8 A They were both quiet. Mr. Hazelwood got the  
9 drink; went and sat down. The second gentleman,  
10 the same nature, except for wanting to get the  
11 drink for his friend, and then the guy saying,  
12 "Well, if I can't get him one, I'll pay for one,"  
13 and they kind of laughed and said, "Well, let him  
14 pay for it, but I have a fresh drink."

15 Q What did you do while you were there for the  
16 rest of the time?

17 A We were planning a dart tournament and a  
18 cribbage tournament. Just general -- a lot of  
19 people catch you in there and talk about dental.  
20 So, it's just general talk. Just dental stuff.  
21 Just regular Valdez talk. Nothing in particular.  
22 Nothing out of the ordinary.

23 Q Did you see either of those two gentlemen  
24 buying any more drinks?

25 A Captain Hazelwood came back up to the bar

1 station.

2 Q And what happened then?

3 A I want to say he got a round, meaning him and  
4 his friend. I can't say that. I know he did get  
5 another vodka for himself. I can't remember if  
6 he got his friend one or not. It seems like he  
7 did.

8 Q You remember a vodka though?

9 A Uh-huh (affirmative). And the girl did pour  
10 the right one the second time.

11 Q Do you remember whether there were any more  
12 drinks ordered while you were there?

13 A I don't know. We -- I was talking with my  
14 friends. I did not watch their table. I did not  
15 have any particular reason to stay or pay  
16 attention. If saw the two. It could have been  
17 more. I can't say that I saw any more.

18 Q When did you end up leaving?

19 A About 15 'til three.

20 Q And how come you had to leave?

21 A I had to be back and unlock and turn the  
22 recorder off and get all the messages. We tend  
23 to get emergency phone calls wanting immediate  
24 service as soon as we could get it. So we turn  
25 that on and copy the message, so we had to be

1 back.

2 Q How did you leave the Pipeline Club that  
3 evening?

4 A My ride picked me back up.

5 Q Would you show the jury the route you took to  
6 leave?

7 A You don't pay for coffee there, you never  
8 have, but you always tip. So I left the lady a  
9 tip. And me and my friend walked right past the  
10 same hallway which we came in, straight out.

11 Q And was Captain Hazelwood still there when you  
12 left?

13 A Yes, he was. I want to say there was a third  
14 person that had joined them by then. I didn't  
15 see the third person come in, according to my  
16 memory and what I did say back then. I'm almost  
17 certain there was a third person sitting there.

18 Q Had you ever seen Captain Hazelwood before  
19 then?

20 A Never.

21 Q And when did you realize the significance of  
22 what you had seen?

23 (202)

24 A It was a Thursday the incident happened, Good  
25 Friday. Tuesday or Wednesday of the following

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week.

Q What were you looking at?

A An Anchorage paper.

Q Was there anybody else there with you when you looked at it?

A Uh-huh (affirmative). A lady that owns the flower shop.

Q What did you say when you looked at the picture?

A I'm not even sure if I said anything out loud. She was complaining that the oil spill had really given her a bad Easter Sunday, due to the fathers and the husbands and the boyfriends all being out doing the job. A lot of her plants had wilted and gone to waste. And the paper was just there. And I said to her, "Who is this?"

She said, "That's the gentleman of the tanker."

And my immediate reaction was, "Wow, I saw him." Whether I said it out loud or not, I can't remember. But I knew that I had seen this man. I knew exactly where I seen him at.

Q Did you tell anybody what you had seen?

A I was kind of anxious for my husband to get home from the office. They were doing 12 hour

1 days. And I told my husband that evening. I  
2 didn't think it would be too great of importance.  
3 Q I have nothing further.  
4 MR. COLE: Thank you, Your Honor.  
5 (261)  
6 CROSS EXAMINATION OF MS. DELOZIER  
7 BY MR. CHALOS:  
8 Q Good morning, Ms. Delozier.  
9 A Good morning.  
10 Q Your husband is who, please?  
11 A Mark Delozier.  
12 Q Mark Delozier is the investigating officer for  
13 the Coast Guard on this grounding, was he not?  
14 A He was the second person to board the tanker,  
15 yes, sir.  
16 Q He was one of the first to board the tanker,  
17 isn't that right?  
18 A He was the second one, uh-huh (affirmative).  
19 Q When did your husband come home after first  
20 boarding the tanker?  
21 A Late Easter night.  
22 Q Was that Sunday night?  
23 A Yes, it was.  
24 Q And did he tell you, "I was just out on the  
25 Exxon Valdez that had run aground."

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1 A Uh-huh (affirmative).

2 Q And did he tell you, "I suspect the captain of  
3 having drinks?"

4 A He mentioned it -- Mark doesn't generally talk  
5 serious stuff with me or the teenage children  
6 that we have.

7 Q But he did mention that he suspected the  
8 captain may have been drinking?

9 A Right.

10 Q And did he mention to you the captain's name?

11 A No, sir, I had already heard that on the TV  
12 set.

13 Q And I take it that you saw pictures in the  
14 newspapers of the incident?

15 A Not until that day. I do not take any paper  
16 in that town.

17 Q But you did see it on television?

18 A Uh-huh (affirmative).

19 Q And they spoke about the captain's name?

20 A Right.

21 Q When was the next time you discussed the  
22 incident with your husband?

23 A As soon as I seen it in the paper, the man's  
24 picture on the Anchorage paper.

25 Q Now, when did you see the picture in the

1 Anchorage paper?

2 A Tuesday or Wednesday following Easter Sunday.

3 Q The day after -- two days after you had the  
4 conversation?

5 A Right.

6 Q Did you speak about the grounding with your  
7 husband on Monday?

8 A (No audible response.)

9 THE COURT: You'll have to answer out loud.

10 A Oh! No, sir. I had a regular full day at the  
11 dental office; got home at 6:00; Mark got home  
12 after 6:00.

13 Q Did your husband, when he told you that he  
14 suspected the captain drinking, tell you that the  
15 Coast Guard intended to prosecute the case?

16 A I don't believe he talked it over with me; he  
17 generally does not.

18 Q Did you understand that drinking was not  
19 allowed on vessels?

20 A Uh-huh (affirmative). Sure did.

21 Q And did you understand that if the captain had  
22 been drinking it would be in violation of some  
23 regulations?

24 A Uh-huh (affirmative).

25 Q And did you also understand that it was your



1 husband's job to investigate that and prosecute  
2 that violation?

3 A It was part of my husband's job; there was  
4 several personnel involved.

5 (360)

6 Q Now, you gave a statement to the state  
7 troopers on March 4, 1989?

8 A Uh-huh (affirmative).

9 Q Do you remember that?

10 A Yes, sir, I do.

11 Q Was your -- this was, what, about seven, eight  
12 days after you saw Captain Hazelwood, would you  
13 say?

14 A Yes, sir.

15 Q And was your memory clear about the events of  
16 what you saw on the 23rd when you gave the  
17 statement?

18 A Yes, sir.

19 Q You would agree that your memory was much  
20 clearer then than it might be now, would you not?

21 A Yes, sir.

22 Q And since you gave a statement you've seen a  
23 lot of television programs, you've read a lot in  
24 the paper about Captain Hazelwood, is that  
25 correct?

1 A Right.

2 Q Now, when you gave this statement you were  
3 being questioned by a state trooper and an FBI  
4 agent, am I correct?

5 A Right.

6 Q And your husband was present when you were  
7 being questioned, was he not?

8 A Uh-huh (affirmative).

9 Q And as a matter of fact, he interjected  
10 several times into your interview, didn't he?

11 A What do you mean by "interjected"?

12 Q Well, he said a few things while -- you were  
13 asked a question; you hesitated on an answer and  
14 your husband jumped in with an answer.

15 A I'm not good at feet or distance. I did look  
16 at my husband when they were asking me, "How far  
17 was Mr. Hazelwood from you? How far was the bar  
18 stool from you?" I'm not good at that, so, yes,  
19 he did help me with that.

20 Q And your husband suggested how far he might  
21 have been, is that correct?

22 A Gussed -- he did help me guess.

23 Q In your interview you state that you were  
24 reluctant to give an interview to the state  
25 troopers, is that correct?

1 A Yes, it is.

2 Q And that you spoke to your husband about it  
3 and that he told you, "Go in and tell the state  
4 troopers what you saw.", is that right?

5 A He left it totally up to me.

6 Q Did he make any suggestions to you as to what  
7 you should say to the state troopers?

8 A No, he did not.

9 Q Was there any reason why you were reluctant to  
10 speak to the state troopers?

11 A They all think the name Delozier and Delozier  
12 would seem kinda fishy to a few people. And my  
13 husband does his job and does it very well. I  
14 knew, being a normal person, that it would seem  
15 kinda funny that Ms. Delozier -- just exactly  
16 what you have somewhat insinuated yourself here  
17 today. That's why I was reluctant. Mark never  
18 pressured. He said, "You do what you want to do,  
19 and you have to live with yourself."

20 He never suggested what I saw, what I heard,  
21 or what the gentleman ordered and drank.

22 Q You're supportive of your husband, I take it?

23 A In doing the job and doing it thoroughly and  
24 justly, yes, sir, I am.

25 Q And you are also supportive of Mr. Delozier

1           advancing his career at that time?

2           A           Mr. Delozier had plans and did follow through  
3           with those plans of retiring. We had plans to  
4           retire November 1, whatever happened in the  
5           world, and we did do that. And now he is doing  
6           another completely different job.

7           Q           Let me ask you this, Ms. Delozier: Why do you  
8           think people would think it was fishy that you  
9           come forward with this...

10          A           Human nature; Delozier and Delozier. My  
11          husband got quite a bit of publicity during all  
12          of this.

13          Q           Were you jealous?

14          A           No, I was not jealous.

15          Q           Did you want to get some publicity yourself?

16          A           I didn't want to be involved one way or the  
17          other. Then you're gonna get the ever-present  
18          questions, "What were you doing in a bar?", you  
19          know. I don't need that...

20          Q           What were you doing in the bar?

21          A           Drinking coffee. I was there -- I'm there  
22          three days out of five. You can ask anybody in  
23          town. Always wearing dental white.

24          Q           Do you have any children?

25          A           Uh-huh (affirmative).

1 Q How many children?  
2 A A 13 year old and 16 year old, boy and a girl.  
3 Q Do they come home for lunch?  
4 A Uh-uh (negative).  
5 Q The don't come home for lunch. What time do  
6 they get off from school?  
7 A 3:30.  
8 Q And you go in there to the Pipeline Club  
9 three, four times a week to drink coffee?  
10 A Uh-huh (affirmative). Sit with the same  
11 people every time I go in.  
12 Q And do you go there to ever drink?  
13 A Nope.  
14 Q You never...  
15 A I'm on the dart team there. I'm the captain  
16 -- last year I was the captain of a dart team. I  
17 resigned from that because it was just too --  
18 trying to keep up with six arguing women was just  
19 -- I didn't want to be part of it.  
20 Q And you never go to the Pipeline Club to  
21 drink, is that your testimony?  
22 A That's not what you asked me.  
23 Q Well, do you ever go to the Pipeline Club...  
24 A For dinner. Uh-huh (affirmative). For pizza.  
25 Uh-huh (affirmative).

1 Q Were you in the Pipeline Club this evening on  
2 the 23rd?  
3 A My dart team has darts there at 7:30. I got  
4 there 15 after.  
5 Q Seven?  
6 A Uh-huh (affirmative).  
7 Q Was your husband in the bar that night?  
8 A No. Mark comes to score keep sometimes. He  
9 never comes at the beginning of the game. He  
10 usually comes when it's halfway through.  
11 Q Do you remember seeing him that night in the  
12 bar?  
13 A Uh-huh (affirmative).  
14 Q Was he drinking that night?  
15 A I don't know. I'm the score keeper and the  
16 captain. He nodded like this (indicating) as in  
17 good luck and sat down.  
18 Q Where was your husband sitting that night?  
19 A Here are the boards. We don't ever use this  
20 one on account of the lighting, so we use this  
21 board here (indicating). The home time -- the  
22 away team, the team that we played, gets this  
23 table. We try to get as close as we can, and one  
24 that is as much seating arrangement as we can, so  
25 we were here. Which, this wall comes out and the

1 phone is here.

2 Q And where was your husband standing?

3 A Well, in here at the bar. I have to come out  
4 and stand. I left my table to recognize him.  
5 Sometimes at past dart games he could have been  
6 there and me not even know it, as I stood up to  
7 read off the roster for my girls. He's sitting  
8 at the bar at one of those stools.

9 Q He's keeping score from the bar, is he?

10 A No. He comes as a volunteer, because home  
11 team has to provide...

12 Q I see. And you couldn't tell from where you  
13 were standing, where you just pointed. How far  
14 away from your husband were you then?

15 A From here to the jury.

16 Q So would you point where you said you were  
17 standing?

18 A Well, here's my table. As I stand out in the  
19 open here to read the roster, Mark is sitting  
20 behind me at one of these stools.

21 Q So the distance that you just pointed out is  
22 about 15 feet, 20 feet?

23 A Yes, sir. It's about that, 12 to 15.

24 Q And from that distance you couldn't see what  
25 your husband was drinking you say?

1 A No. Or, if he was drinking. He, generally,  
2 on my dart nights, stays home to make sure  
3 homework is checked, homework is done, and things  
4 are squared away with our two kids before he  
5 leaves.

6 Q But on this particular night he was there?

7 A Late. He never leaves with me because you get  
8 there too early, and there's too much -- there's  
9 no sense in him to go with me. There's too much  
10 organization to do.

11 (604)

12 Q What time did you leave the bar that night?

13 A The ladies' games take a little bit longer  
14 than men's. I think our last game was probably  
15 around 10:00 -- quarter after 10:00, which is  
16 usually how the women's teams run; some a little  
17 longer, some a little shorter.

18 Q And what time did your husband leave?

19 A He left with me.

20 Q At about what time?

21 A About 10:30.

22 Q 10:30?

23 A Uh-huh (affirmative).

24 Q Is he on the dart team as well?

25 A He was on a man's dart team.



1 Q Did he play that evening?  
2 A No, men do not play on Thursday's at all.  
3 Q So you got home then about 10:30, 11:00?  
4 A Yes, sir.  
5 Q Right around there.  
6 A Between 10:30 and 11:00. You have to turn in  
7 money; turn in score sheets; seal three or four  
8 envelopes for the other captain. That process  
9 takes 5, 10 minutes.  
10 Q Who drove you to the Pipeline Club?  
11 A I drove myself.  
12 Q I'm talking about in the afternoon?  
13 A The lunch break?  
14 Q Yes.  
15 A It was Diane -- maiden name Schulick (ph).  
16 She went back to her name, Rhoden -- Diane Rhoden  
17 (ph).  
18 Q Did she come in with you?  
19 A She came in to let me know that, in fact, she  
20 was there. She had a cup of coffee, also. She  
21 had been off with her fiance or her boyfriend for  
22 lunch.  
23 Q I think we're getting confused. Let's go back  
24 to when you left the dentist office at 1:15 or  
25 so.

1 A Uh-huh (affirmative).

2 Q Ms. Rhoden gave you a ride to the Pipeline  
3 Club?

4 A Yes, sir.

5 Q And did she go in with you?

6 A No, sir, she did not. She went out to her  
7 boyfriend, Tom.

8 Q All right. Now, when you came into the  
9 Pipeline Club where did you go?

10 A Straight in; this is the hallway; spoke to  
11 several people coming in and out of the kitchen,  
12 the two cooks; sat right here; the coffee pot is  
13 right here. I generally sit here any time I'm  
14 having coffee. It keeps you out of the way of  
15 traffic and other people.

16 Q Did you meet anybody in there?

17 A Friends?

18 Q Yes.

19 A Or several acquaintances.

20 Q Could you tell us their names, please?

21 A Paul Dussenbury, Dennis Stein, Wanda Crowley  
22 or Crowder, bartenders, along with a friend of  
23 mine, Lisa Hutes (ph). We talked dental business  
24 for a while. She's having some extensive work  
25 done -- planning to have it done. Mark Lee.

1 Mark Lee, he's the proprietor's son.

2 Q I see. Where were these people sitting?

3 A Depending on how the janitor cleans up the  
4 night before, there is generally -- counting me,  
5 there is generally always four too five bar  
6 stools. Counting me, sometimes there's only  
7 four. Then the bar station right here, where the  
8 waitress gets her service. Then two right in  
9 here. And you just kinda talk back and forth.  
10 It's not generally busy in there that time of  
11 day. You have nine or 10 coffee drinkers and  
12 that's about it.

13 Q I see. And where were you sitting?

14 A Either the second or the third seat, and the  
15 last seat is a wall, and right next to the wall  
16 is the coffee machine itself.

17 Q So you were sitting closest to the coffee  
18 machine?

19 A Yes, sir. Almost right up against the wall.

20 Q And there was somebody between -- right next  
21 to you?

22 A Uh-huh (affirmative).

23 Q And there was a person around the corner  
24 there?

25 A Uh-huh (affirmative).

1 Q And a person right next to them?  
2 A Right.  
3 Q Now, how far away from the station were you in  
4 that picture?  
5 A Three, three and a half feet.  
6 Q Now, you say that you've been in there about  
7 1:20 or so?  
8 A 1:20, 1:30.  
9 Q And about 10 minutes later somebody else  
10 walked in that you identified as Captain  
11 Hazelwood?  
12 A About 15 'til 2:00, yes, sir.  
13 Q About a quarter of 2:00?  
14 A Uh-huh (affirmative).  
15 Q And this person had a golf cap on?  
16 A That's how I described it. I have on like it.  
17 Q It's a hat that has a snap in front?  
18 A Some of them have a snap, some of them don't.  
19 Q When you gave the interview to the state  
20 investigator you told them that the man had a hat  
21 with a snap on it, right?  
22 A Yeah.  
23 Q Isn't that right?  
24 A Maybe a small bill, yes, sir.  
25 Q You remember that?

1 A Uh-huh (affirmative).

2 Q And you remember the had being snapped down?

3 A It looked snapped.

4 Q What was the color of the hat?

5 A Dark. I would say black, dark brown. It was  
6 not a light color. It was not white. Probably  
7 black.

8 Q When you described this person that you saw to  
9 the state investigators, you said that he had a  
10 scruffy beard not a full beard, is that right?

11 A Uh-huh (affirmative).

12 Q And you started to describe it this morning as  
13 a beard that sorta came around the chin.

14 A No, no, no. I was just saying it was scruffy  
15 [sic]. The second man that joined him, to me,  
16 had a fuller more molded beard. The man I saw --  
17 the first man I saw -- his was like -- I want to  
18 say scratchy, sparse. It's not what I call a  
19 full rounded molded beard. It's kinda patchy.

20 Q Now, you described the man that you saw to the  
21 state troopers as being about 5 foot 8, 5 foot 9?

22 A 5 foot 9. Uh-huh (affirmative).

23 Q 160 pounds?

24 A Uh-huh (affirmative).

25 Q And you also told the state troopers that that

1 man was about 55 years old, didn't you?  
2 A 50 to 55, yes, sir.  
3 Q Now you say this particular gentleman came up  
4 to the bar and ordered some drink and then walked  
5 to where?  
6 A He left the bar waitress station; walked  
7 through here -- this is open -- it's what we call  
8 a "high top" -- the juke box and the video game.  
9 The video game has now been removed. Sit right  
10 here.  
11 Q Where exactly did the man sit?  
12 A Sit with his back to the jukebox, so his face  
13 would have been looking out towards the open bar  
14 area.  
15 Q Were you talking with your friends at this  
16 time?  
17 A Uh-huh (affirmative).  
18 Q You were engaged in conversation about your  
19 dog team, and teeth, all that?  
20 A Uh-huh (affirmative).  
21 Q And in the course of that, you took the time  
22 out to notice somebody coming up to order a drink  
23 and then walk back about 20 feet, 25 feet, sit  
24 down, and you knew exactly what he was doing, is  
25 that right?

1 A No, I didn't take the time. Sir, he came up  
2 directly -- nodded at me, came directly into my  
3 eyesight. I heard every word he said to Ms.  
4 Hutes. I heard the brand of vodka he ordered. I  
5 did follow him and go sit back down with my eyes.  
6 I was in -- but I also specified I did not have  
7 any reason to turn around and listen. I was not  
8 listening. I did not eavesdrop. I watched him  
9 get his drink. I watched him take his table. I  
10 did not look back again.

11 The man came in -- the second person came in.  
12 Three feet away you hear him order; you hear him  
13 say, give his fried one. None of this was  
14 intentional. This was just, I was there, it was  
15 said, I heard it.

16 Q Now, when you spoke with your husband, did he  
17 tell you that he had interviewed, prior to that  
18 Sunday, the chief mate and the radio officer, and  
19 they had told him that they were in the Pipeline  
20 Club that day?

21 A No, he did not tell me that.

22 Q He did not?

23 A No, he did not.

24 Q When the second man came in, about what time  
25 did he come in?

1 A About 15 to 20 minutes after the first  
2 gentlemen.  
3 Q This would have been about 2:00?  
4 A About 2:00, maybe five after.  
5 Q And the second man walked to the same spot the  
6 that man that you identified as Captain Hazelwood  
7 talked up, and he ordered something?  
8 A Yes, he did.  
9 Q And you had the opportunity to observe him as  
10 you had the first man? You listened to what he  
11 said?  
12 A Yes, I listened. I mean, there's no way you  
13 cannot hear.  
14 Q And you looked at him?  
15 (910)  
16 A I did not have the eye contact that Mr.  
17 Hazelwood made with me. The man did not turn  
18 around and do this (indicating). The man walked  
19 in -- I saw a side, which is why I was not, in my  
20 type, 100% sure he had a beard. I'm very sure he  
21 did, but not 100% sure the second man had a  
22 beard.  
23 Q How tall is he?  
24 A I'd say taller than Mr. Hazelwood.  
25 Q Taller than the man you identified as Captain



1 Hazelwood? You heard him speak. How was his  
2 voice?

3 A Wasn't high pitch, low pitch, I didn't pick up  
4 a particular bold, like southern or anything like  
5 that.

6 Q You told the investigators that he had a  
7 higher pitch voice than the man you identified as  
8 Captain Hazelwood, is that right?

9 A Uh-huh (affirmative).

10 Q Do you remember that now?

11 A And I also said that Hazelwood appeared to be  
12 a quite meek person. Yes, I did say that.

13 Q And you had never met either man before?

14 A Had never met either man.

15 Q What color hair did the second man have?

16 A Brown.

17 Q Were you able to see anything about his face?

18 A No, sir, I did not. Just the part that sticks  
19 in my mind that he had a beard. A more full  
20 beard than Mr. Hazelwood. I don't mean like,  
21 down to here, but I mean more out further.

22 Q Now you say that you remember these two  
23 gentlemen having at least two drinks by the time  
24 you left?

25 A I remember Mr. Hazelwood having two. I cannot

1 swear that when he came to get his second drink  
2 that he got his friend another one, also.

3 I know he got the second one because the girl  
4 said, "This time we're gonna do it right."

5 Hazelwood kind pleasantly -- she poured the  
6 wrong drink first, but it was vodka. She poured  
7 the drink he, in fact, asked for the second time.

8 Q During this period of time were you talking to  
9 our friends?

10 A Uh-huh (affirmative).

11 Q Were you engrossed in conversation?

12 A Not continuous. Not word, after word, after  
13 word, after word; just talking. They'd get  
14 quiet, I'd get quiet. At least when we were  
15 talking about dental.

16 I never looked back to say, "Oh, well, they're  
17 still here." I did not do that.

18 Q Do you know whether or not there were other  
19 people in the bar at this time?

20 A Uh-huh (affirmative). A group of birthday  
21 ladies came in while we were still there, while  
22 Mr. Hazelwood was still there.

23 Q Where did the birthday ladies sit?

24 A They spoke to all of us, because, like I say,  
25 a small town, we all knew everybody. They were

1 carrying balloons on a stick, somewhat like this,  
2 that say "Birthday Girl". They stop. They cut  
3 up with Lisa about the girl's birthday. There's  
4 four to five of them. They're talking amongst  
5 theirselves, where do they want to sit. They  
6 finally decide to sit right in here at this table  
7 or this table (indicating). The girls with their  
8 balloons go and take a seat. One girl stays and  
9 orders four to five drinks.

10 As the drinks are poured that one girl gets up  
11 to come help her carry the four to five drinks.

12 Q How many of these birthday girls were there?

13 A There was just one particular girl's birthday  
14 and some of her friends had congregated to take  
15 her out to lunch and get her some funny balloons?

16 Q How many?

17 A I would say four.

18 Q Four girls all together?

19 A Uh-huh (affirmative).

20 Q Did you know any of the girls?

21 A I know the birthday person, yes, sir.

22 Q What was her name?

23 A Leanne Powers (ph).

24 Q Did you know any of the other girls?

25 A Not be sight. I didn't -- Leanne's kind loud,

1           kinda funny, and it's her birthday, so she was  
2           the one that was doing most of the loud talking;  
3           cutting out; yelling.

4           Q           And was there some other girl that did the  
5           ordering?

6           A           Uh-huh (affirmative).

7           Q           What drinks did they order?

8           A           Well, I never had tasted it. I'm not a liquor  
9           drinker. They ordered drinks called "slippery  
10          nipples". Which, I didn't want to say that on  
11          the tape, either.

12          Q           How many drinks did they have?

13          A           I saw only that round.

14          Q           Just one round?

15          A           Uh-huh (affirmative). While I was there, yes,  
16          sir. They got there about -- they got there  
17          after the second man -- after the second guy came  
18          in -- not Mr. Hazelwood, but the second man. I  
19          would say that second guy with Mr. Hazelwood had  
20          been there 20 minutes. So I guess the girls got  
21          there at 20 after 2:00.

22          Q           When you were asked by the state trooper to  
23          identify these girls and describe them, you  
24          weren't able to do that, were you?

25          A           I was not asked to describe the girls, I was

1 asked to give names. And Leanne Powers did call  
2 me telling me she did not appreciate me giving  
3 her name. I was told that my name would be left  
4 out, how they got Ms. Powers' name -- Ms. Powers'  
5 name, which, in fact, it wasn't. I named one  
6 person. I did not get asked or get the time or  
7 the availability to describe anyone. I could  
8 have if I had been asked; I was not asked. That  
9 is on the tape in case you care to listen to it.

10 Q Well, I have the transcript right here. Was  
11 there anybody else in the bar besides the  
12 birthday girls?

13 A And Hazelwood and his friend? I don't think  
14 so, sir. I just know the immediate area of the  
15 coffee people and the people that are talking  
16 with me. I did not -- the bar even has a dark  
17 side to it. The lights are kept pretty much off.  
18 I did not even look over in here.

19 During the daytime you generally have no one  
20 here. You generally have no one here, here,  
21 here, here (indicating). If they have any kind  
22 of business, other than coffee or restaurant  
23 Cokes and tea, those people would go to the lit  
24 area versus going to the back side, which is  
25 kinda of empty.

1 Q The place that you said this person that you  
2 identified as Captain Hazelwood was sitting was a  
3 lit area?

4 A More lit than the rest of the building would  
5 be. But it's not -- none of it's like daylight  
6 bright. They have lights that they adjust  
7 according to the bartenders' preference.

8 Q You say that you saw a picture of Captain  
9 Hazelwood that Tuesday in the Anchorage Daily  
10 News?

11 A Uh-huh (affirmative).

12 Q How did you come by that picture?

13 A How did I come by it?

14 Q Yes.

15 A The lady that owns the flower shop either had  
16 one -- I didn't look under there, or she had her  
17 own copy sitting right by her cash register just  
18 folded -- not messed up, just folded, laying  
19 perfectly straight.

20 Q You didn't tell that to the investigators, did  
21 you? You told them that the first picture you  
22 saw of Captain Hazelwood was a picture that an  
23 L.A. Times reporter showed you?

24 A No, sir, I did not. Did not. I played the  
25 tape at my home this whole weekend...

1 THE COURT: Excuse me. Just answer the  
2 question.

3 Q Before you came here today you played the  
4 tape?

5 A My tape at my home Friday.

6 Q Why did you do that?

7 A Because I wanted to make sure that I was not  
8 told that -- the DA's office one thing, and then  
9 come up here and say something wrong. And I did  
10 mess up the one thing on the tape, and to my  
11 knowledge, just the one thing.

12 Q Where was that?

13 A I used the word in my tape of a drink poured  
14 and given in a shot glass. It was not a shot  
15 glass it was a rocks glass.

16 Q Mrs. Delozier, do you remember saying -- the  
17 investigator asked you, "Would you recognize him  
18 again if you saw a picture of him?"

19 And you said, "Yes."

20 Then he asked you, "Or, if you saw him in  
21 person?"

22 And you said, "I had an L. A. Times guy flash  
23 it in front of my face. I just -- a blown up  
24 picture that I had seen. It was, you know, blown  
25 up."

1 "Under what circumstances did he show you?

2 You say, "The L. A. Times guy?"

3 "Yeah."

4 MR. COLE: Is he reading this or is he asking  
5 it?

6 MR. CHALOS: I'm reading what she said to the  
7 investigator.

8 Q Do you recall the L. A. Times person showing  
9 you a picture?

10 A Where in that statement does it say that I was  
11 asked if that was the first time I saw a photo of  
12 Mr. Hazelwood?

13 Q I don't see that.

14 A Well, it wasn't -- they didn't ask me that.

15 Q So this was another time somebody showed you a  
16 photo?

17 A (No audible response.)

18 THE COURT: Is that a yes, or, no?

19 A Oh! Yes, sir.

20 Q When did the L. A. Times guy show you a  
21 picture of Captain Hazelwood?

22 A He came into the Pipeline talking to anybody  
23 that would look at him, and had a picture just  
24 like this.

25 Q When was that?



1 A After I had been to the Coast Guard -- their  
2 office -- after I had -- I want to say after --  
3 after I had been to Emily's shop; after I had  
4 seen the Anchorage paper laying there. That  
5 being a Monday or a Tuesday. The gentleman came  
6 into the Pipeline Club asking if anyone -- he  
7 was, like, running up and down the open area  
8 asking anyone that would look, if any of you  
9 people ever seen this gentleman.

10 Q Let me see if I have this right: You were  
11 with the flower shop lady. What's her name?

12 A Her first name is Emily. I can't recall her  
13 last name.

14 Q Emily Kaiser?

15 A Uh-huh (affirmative).

16 Q She has a flower shop?

17 A Uh-huh (affirmative).

18 Q And this was on Monday?

19 A Monday or Tuesday.

20 Q What did you say when you saw the picture?

21 A I'm not sure. AS I said earlier, that I said  
22 anything out loud. I just was -- it clicked that  
23 I had seen this person. That I knew exactly  
24 where I had seen him at. There was no doubting  
25 -- there was no me saying, "Where did I see him?"

1 I knew where I saw his face.

2 Q And when you saw that picture did you say to  
3 Emily Kaiser, "Hey, this man was in the Pipeline  
4 Club..."

5 A No, I did not.

6 MR. COLE: Objection. Asked and answered.

7 THE COURT: Objection overruled. You can  
8 continue.

9 Q Now, you say after you saw this picture you  
10 ran over to the Coast Guard office?

11 A No, sir, I didn't run over to the Coast Guard  
12 office.

13 Q When did you go to the Coast Guard office?

14 A I got off work at 6:00; waited on my husband  
15 to come home; wondering if I should tell him  
16 this; wondering if it's of any importance.

17 Q Why didn't you wonder whether you should tell  
18 him or not?

19 A No particular reason.

20 Q He had already told you, didn't he, that the  
21 master had been drinking?

22 A I'm not even sure he told me that, sir.

23 Q Didn't you just testify that on Sunday...

24 A I'm saying, this is a year ago, and I also  
25 said that Mark didn't generally talk over serious

1 business with me and the two teenagers. He's not  
2 that kind of an investigator.

3 I did tell him -- I thought it would be like,  
4 "big deal". Mark said to me, "I think that might  
5 be something other people would want to hear.  
6 Not me, Jamie. Not, come with me -- other people  
7 might want to hear, like the FBI and like the  
8 state trooper that are using my office as a  
9 gathering spot.

10 Q And you went over to his office that evening  
11 to tell them what?

12 A No, sir, I did not go to his office that  
13 evening. Mark gave me at least a couple of days  
14 to think about what I wanted to do. Left it  
15 totally up to me.

16 Q What did you say to your husband about the  
17 picture that you saw?

18 A That, in fact -- "This is supposed to be Mr.  
19 Hazelwood?"

20 Mark said, "Yes."

21 I said...

22 Q Is that the picture you saw?

23 A In the Anchorage Times?

24 Q Yes.

25 A Yes, sir, it is.

1 Q And is that the picture you were shown by the  
2 L. A. Times reporter?

3 A A blown up scratchy one, yes, it is.

4 Q What did the L. A. Times reporter show you?

5 A Before -- whatever day the 4th was on. That's  
6 when I went to Mark's office. Honestly, I can't  
7 say if it was the day before -- the day -- the  
8 L. A. guy -- I said, out loud, "Yes, I seen that  
9 picture."

10 The L. A. guy -- man said, "Would you come and  
11 sit in the corner and talk with me, have a coffee  
12 and do an interview."

13 I, emphatically, flat out, said, "No."

14 Q What was his name?

15 A The Daily Times man? I don't know, sir. He  
16 showed me a calling card to verify that's who he  
17 was. He was staying at the Pipeline Club, I  
18 understand -- at the motel.

19 Q Well, what did he look like?

20 A Sweatshirt -- not a suit. Just a casual  
21 sweater, jeans, casually dressed, brown hair  
22 parted on the side, that's about it. Early 40s.

23 Q How tall?

24 A Six foot, six foot one.

25 Q What did he weigh?

1 A Probably 180, 185. The head bartender  
2 emphatically told him to get out. He kinda -- to  
3 see that I was not gonna use that tone to him,  
4 but I did tell him to go, period. There was no  
5 question asked.

6 Q Was his name Bill Remple?  
7 A I could not tell you, sir.

8 Q He showed you a card?  
9 A Uh-huh (affirmative). Had L. A. Times in the  
10 corner.

11 Q You didn't look at his name?  
12 A No, sir, I did not.

13 Q Now, when you saw this picture, you say --  
14 when did you go to the Coast Guard office?  
15 A 4th of April, about 1:30 in the afternoon.

16 Q Is that what you're talking about, going to  
17 the Coast Guard office to give your interview?  
18 A Yes.

19 Q Well, then, you obviously had seen the L. A.  
20 Times man before that, because you speak about  
21 him in your interview?  
22 A Yes, sir, that is right.

23 Q Okay. When did you see the L. A. Times man?  
24 A Probably -- I saw him -- I was in Emily's shop  
25 -- probably it was a day after -- no more than

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two days after I had been in Ms. Kaiser's shop and saw the Anchorage Times.

Q When you saw this picture that you identified as Captain Hazelwood, did you speak about that with your friends that were there at the bar that day?

A No, sir, I did not.

Q You kept it all to yourself?

A It's important business. I've been in the military 21 years. You don't go out and do that kind of thing, not that's going to jeopardize, or help, or hinder, you don't do that.

Q You mean when you saw this picture, you didn't go in and tell Lisa Hutes, "Lisa, I just saw this picture of a guy that was here, do you remember?", anything like that?

A The gentleman at the Coast Guard office said, "Have you spoke with Lisa about giving testimony, too?"

I said, "Yes." I asked her didn't she feel like she ought to tell. She refused to take any part of it. She refused to get involved in any shape, form, or fashion.

Q I thought you said you didn't discuss it with Lisa.

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A Not until I talked to the Coast Guard people.

Q But in your interview you say that you spoke to Lisa Hutes and she didn't want to take part in this?

A Right.

Q So you actually had spoken with her before you went to the Coast Guard office?

A Possibly.

Q Well, you talk about it in your interview. Is it possible that...

A I talk with her every day. I talked with -- okay, then I did.

Q How about the other fellow, what was his name, Mark?

A Mark Lee.

Q Mark Lee. Did you speak with him?

A No.

Q You didn't say to him, "Hey, do you remember the guy that was standing right here, that was Captain Hazelwood."

A Mark Lee wasn't in there that long. Mark Lee had a cup of coffee and went upstairs to do accounting for his -- he's second in charge of the business.

Q How long was Mark Lee with you?

1 A Five minutes.

2 Q That's it.

3 A Uh-huh (affirmative).

4 Q You didn't tell that to the investigators, did  
5 you?

6 A They asked me who I saw in the building while  
7 having coffee. I named Mark Lee, and who he was,  
8 and his position in the business.

9 Q How about Mr. Dussenbury? How long was he  
10 there?

11 A He was in the chair before I got there and he  
12 was there after I left.

13 Q Did you discuss this with Mr. Dussenbury? Did  
14 you say, "Hey, you remember that guy; that was  
15 Hazelwood."?

16 A I don't think I did, sir. Paul is a heavy  
17 drinker -- heavy drinker. He would -- I even  
18 specified to the second state trooper who talked  
19 to me on January 30th. Or, even if he didn't  
20 want to, Mr. -- even if he didn't want to be  
21 dishonest, I don't think Mr. Dussenbury could put  
22 one day's actions in line, because he was quite a  
23 heavy drinker, and that's just from personal  
24 observation.

25 Q Who was the third person?



1 A Sitting with us? Dennis Baim, B-a-i-m, and  
2 Wanda Crowley or Crowder.  
3 Q Okay. Let's start with Mr. Baim. Did you  
4 tell him?  
5 A Uh-uh (negative).  
6 Q How come?  
7 A Dennis was -- I didn't tell Lisa for any  
8 particular reason, so there's no "how come"  
9 involved. I'm not the Town Crier. Dennis went  
10 out immediately after to work for the oil spill  
11 -- was gone extensively. That's what I was told.  
12 I don't know for a fact.  
13 Q And how about Ms. Crowder?  
14 A No.  
15 Q You didn't speak with her about it either?  
16 A No, sir, I did not.  
17 Q Where was Ms. Crowder sitting?  
18 A The first chair past where the open area  
19 placing your drinks was at. Like, three to four  
20 stools from me.  
21 Q Ms. Crowder would have had probably the best  
22 view of the captain. She would have been the  
23 closest?  
24 A Uh-huh (affirmative). She was not there the  
25 entire time. Wanda was there a total of 20

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minutes.

Q Any particular reason why you didn't coach Ms. Crowder to verify what you thought was Captain Hazelwood?

A Ms. Crowder is not the kind of young lady that I would hang out with anyway. If spoken to, I will speak back. I don't sit with her, hang out with her, or associate with her for very professional reasons. I would not...

Q Because you think she's an air head, right?

A No, sir, Lisa Hutes -- I said Lisa Hutes.

Q That's what you said to the investigator.

A I said Lisa Hutes. I sure did. I did not say Wanda.

Q Your husband called her "Wicked Wanda".

A Uh-huh (affirmative). Which is another reason why I don't hang out with her. She doesn't have a very good rep.

Q I see. But she was, in fact, the closest person to this person that you call Captain Hazelwood?

A Uh-huh (affirmative). She was in there about 10 to 15 minutes at the most. She was not there after Mr. Hazelwood picked up and left with the first drink.

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Q Before you came here today did you discuss your testimony with your husband?

A No, I did not.

Q Were you listening to this tape at home on your own?

A I listened to it Friday.

Q Was this on your own?

A Uh-huh (affirmative). We have entire copies of all the tapes.

Q The what?

A We have copies of all the tapes.

Q What kind of tapes?

A All of them.

Q Do you have tapes of messages from the ship to...

A No, sir. My husband has those. But he has a whole locked up file cabinet of tapes that he does himself.

Q At home?

A Uh-huh (affirmative). He took this tape himself, if I might clarify this. He ran this tape with the acknowledgement of Mr. Burke and Mr. Steele. Some of the things would not be said that I didn't say. This was not for protection of...

1 Q You were concerned about somebody getting your  
2 statement wrong?

3 A I wasn't. Mark was. He was misquoted himself  
4 in many, many papers, this whole ordeal. So it  
5 was like a safety on his part that what I said  
6 would, in fact, be what I said.

7 Q Mrs. Delozier, are you absolutely certain that  
8 the person you identified as Captain Hazelwood  
9 sat there from quarter to 2:00 until the time you  
10 left at quarter to 3:00?

11 A Absolutely positive.

12 Q Incidentally, did you hear these men talking  
13 with each other?

14 A No, sir, I did not.

15 Q But you heard someone -- this person you  
16 identified as Captain Hazelwood yell up to the  
17 other person, is that correct?

18 A He intended for his friend to hear him, and  
19 his friend was three feet from me.

20 Q Did you hear any names spoken? Did anybody  
21 call the other by any name?

22 A No, sir, not the word "captain"; not the word  
23 "master; not the word "Hazelwood"; no, sir, no  
24 names. I heard no names from either of the...

25 Q And he didn't call the other person by name?

1 A No, sir, he did not.

2 Q Is there a particular reason why you would  
3 remember a detail like crowsfeet of a person you  
4 never met before?

5 A No. I have a strange memory. That was also  
6 in the tape. That is why I have been very good  
7 at both of my past two medical jobs. I have a  
8 history of a good memory. It's like recall.

9 Q You called it a weird memory, didn't you?

10 A Uh-huh (affirmative).

11 Q Yet, when you were talking about a friend of  
12 your's whose brother committed suicide right  
13 around that time...

14 MR. COLE: Your Honor, I'm going to object to  
15 this.

16 THE COURT: Why don't you come up here and  
17 let's deal with this at the side bench first of all.  
18 (1838)

19 (Whispered bench conference as follows:)

20 THE COURT: What is the question?

21 MR. CHALOS: In her interview she was talking  
22 about...

23 THE COURT: Whisper.

24 MR. CHALOS: She was talking about a friend of  
25 hers (indiscernible - whispering) she couldn't remember

1 (indiscernible - whispering).

2 THE COURT: You're not going to be getting  
3 into a suicide (indiscernible - whispering).

4 MR. CHALOS: No, no.

5 THE COURT: I'm going to let the question go.

6 (End of whispered bench conference)

7 (1860)

8 THE COURT: Objection overruled.

9 Q Mrs. Delozier, you say that you have this  
10 fantastic weird memory.

11 A At times.

12 Q But you were asked -- you were talking in your  
13 interview about a friend of yours whose brother  
14 committed suicide, do you remember that?

15 A Uh-huh (affirmative).

16 Q And you said that you thought she was in there  
17 that day as well. But then you couldn't remember  
18 if it was that day or a previous day or a later  
19 day, right?

20 A Right. I'm not good with hand language, so  
21 you'll have to tell me what you want me to  
22 answer.

23 Q Was there a particular reason why you had this  
24 fantastic memory, but couldn't remember that  
25 event?

1 A Just exactly what I said -- just exactly what  
2 I said on the tape. I did not want to name her  
3 and then turn out it be that she wasn't there. I  
4 have coffee at the Pipeline a lot. My face and  
5 my white uniform are seen there a lot. It could  
6 have been, in fact, then Tuesday the 27th that  
7 Lisa walked up to me crying. It could have, in  
8 fact, been the Wednesday -- it could have been  
9 Wednesday the 22nd that me and my husband sat on  
10 the sofa that evening and said, "Did you hear  
11 about the suicide?"

12 I, 100%, beyond a shadow of a doubt, cannot  
13 say that Nicki Leasman was there.

14 Q I see. You can't remember.

15 A That has nothing to do with how well I  
16 remember one incident and not the next.

17 Q And you couldn't remember eight days later  
18 whether it was that day, or a previous day, or  
19 some other time?

20 A To put it down on a tape for state evidence,  
21 no, sir, I could not. And you will notice that  
22 is the only person that I had trouble relating to  
23 as being there.

24 (Pause)

25 Q Ms. Delozier, has it ever occurred to you that

1           you might be mistaken in your identity of Captain  
2           Hazelwood?

3           A           It has occurred to me, sir, yes, sir, it has.

4           Q           And what have you done to verify that the man  
5           you saw was Captain Hazelwood?

6           A           What have I done?

7           Q           Yes.

8           A           Nothing to verify.

9           Q           There were other witnesses in that bar on that  
10          particular date. But you didn't talk to any of  
11          them to see if their recollection was the same as  
12          yours did you?

13          A           No, sir, I didn't. I didn't feel like I had  
14          to.

15          Q           Well, if you had doubts, was the logical thing  
16          to do, would be to ask the other...

17          A           When did I say I had...

18          Q           ...people who were there with you?

19          A           When did I say I had doubts. I know who I  
20          saw. I just said a few minutes ago, 100%, it was  
21          the same man in the picture; the same man sitting  
22          to my right.

23          Q           And you have no doubt about that at all?

24          A           Whatsoever.

25          Q           Or the time that he was in there?



1 A Whatsoever, none. I wouldn't be sitting here  
2 under oath if I had those doubts.

3 Q Now, you said before you left, you thought you  
4 saw a third person there?

5 A The back side of a third person, yes, sir.

6 Q But you didn't say that in your statement, did  
7 you?

8 A Not on the 4th. On January 30th, the  
9 gentleman that was in Valdez. He said, "two --  
10 we're talking two people here?"

11 I said in that interview, "Possibly --  
12 definitely two, possibly three."

13 Q Which 30th are you talking about?

14 A 30th of January, when that state trooper came  
15 to my home.

16 MR. CHALOS: Your Honor, may we approach the  
17 bench?

18 THE COURT: I think we'll take a break about  
19 now, it's -- we've been at it for a while. So we'll  
20 take a little recess for about 10 or 15 minutes. I'll  
21 take up the matter with counsel outside of your  
22 presence.

23 Don't discuss the matter in any fashion, and  
24 don't form or express any opinions. Mr. Purden will  
25 give you a key, and we'll call you back after break.

1 Would the last one of you close the door for me,  
2 please.

3 (Jury not present)

4 Mr. Chalos?

5 (2131)

6 MR. CHALOS: Do you want her to step outside?

7 THE COURT: No. I think we need to find out  
8 if there's been another statement taken here. Go  
9 ahead.

10 MR. CHALOS: Your Honor, I haven't seen any  
11 reports of an investigator interview of Mrs. Delozier  
12 on the 30th. I wanted to get into who this  
13 investigator was and whether there were any notes made,  
14 but we haven't seen them.

15 THE COURT: Let's make sure that what  
16 happened. You say you were interviewed on the 30th of  
17 January. That would be about a week ago?

18 A A week ago yesterday, sir.

19 THE COURT: Was it a tape recorded interview?

20 A No, sir, it was on a yellow legal pad.

21 THE COURT: Who was the person that  
22 participated in the interview?

23 A James -- I can't pronounce his last name. Is  
24 starts with an "S". He's a state trooper.

25 MR. CHALOS: Stogsdill.

1 THE COURT: Okay. And he took notes, did he?

2 A Yes, sir. I asked him why we were rehashing  
3 this, and he said something to the effect of --  
4 once again, he said something to the effect of --  
5 I said, "I've already done this." I even named  
6 the man that I had went through this with. And  
7 he said something about, he was doing it again.  
8 He was given the case to redo again, or taking  
9 some notes because maybe some of them earlier  
10 were taken too soon. I did not get the gist of  
11 it, I just cooperated. I did ask for ID. He did  
12 show it to me. It was at my home.

13 THE COURT: Now, try to just answer my  
14 questions if you can. Did you notice if there was a  
15 tape recorder present?

16 A There was no tape recorder, sir.

17 THE COURT: Did you sign anything?

18 A No, sir, I did not, that I could remember.

19 THE COURT: Did he read anything back to you  
20 after...

21 A We kinda went over the same things that I had  
22 related to the state trooper and FBI last April.

23 THE COURT: Anything further?

24 MR. CHALOS: Yes, on this point, Your Honor.  
25 I wanted to know if her husband was present during this

1 meeting?

2 A No, sir, my husband was...

3 THE COURT: Was anybody else present besides

4 you and Trooper Stogsdill?

5 A No, sir, there sure were not -- no one.

6 Q (Ms. Delozier by Mr. Chalos:) And during this

7 interview did you play back the tape of the

8 previous interview?

9 A No, sir, I did not.

10 Q Did he show you a copy of your previous

11 statement?

12 A Not to me, sir. He had a yellow legal pad

13 that sometimes he would flip back over to his own

14 notes. He did not show me anything typed on

15 white paper. No, sir.

16 Q Did you have a copy of your statement?

17 A No, sir, I have never seen a copy of my

18 statement.

19 MR. CHALOS: Your Honor, could we call for the

20 production, obviously, of any notes that might have

21 been made of that interview. We haven't been provided

22 with any.

23 THE COURT: Mr. Cole?

24 MR. COLE: My understanding is -- I don't

25 know. I assume that it was just witness preparation.

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THE COURT: Produce the notes.

MR. COLE: Okay.

THE COURT: I think it's fair that counsel have these notes before the cross examine this witness. So is Stogsdill around someplace? I think I saw him in here yesterday.

MR. COLE: He's out getting the next witness who is arriving at 10:30 from Valdez.

THE COURT: Okay. We'll take our break and you could get the notes from him now and we'll just resume cross examination of this witness.

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

(Off record - 10:34 a.m.)

(On record - 11:07 a.m.)

(2285)

(Jury present)

THE COURT: You may resume.

Q (Ms. Delozier by Mr. Chalos:) Mr. Delozier, do you recall giving an interview to Mr. Stogsdill, the state investigator on January 30th?

A Yes, sir.

Q That's about a week ago you say?

A A week ago yesterday.

1 Q Do you remember the investigator asking you if  
2 you had any discussions with Ms. Hutes about her  
3 identifying Captain Hazelwood?

4 A I told him who the bartender was. I really  
5 can't -- I don't remember him asking me.

6 Q Do you remember telling him that Lisa didn't  
7 know Captain Hazelwood?

8 A No, I don't remember telling him that.

9 Q Well, he has it in his notes. Do you know why  
10 he would put that in his notes?

11 A (No audible response.)

12 Q And you don't recall speaking to Lisa about  
13 whether she recognized the same picture that you  
14 saw as being Captain Hazelwood?

15 A Yes, I don't recall. Right. I don't recall  
16 asking her if she recognized the picture.

17 Q And you told Mr. Stogsdill again that the hat  
18 that this person had had a snap in the front,  
19 didn't you?

20 A It appeared to be snapped, yes, sir.

21 Q Now, did you tell Mr. Stogsdill that you  
22 arrived -- did you tell him that you got to the  
23 Pipeline Club at 12:30 and left at 1:30 to go  
24 back to your job?

25 A I did.

1 Q You did?

2 A Uh-huh (affirmative).

3 Q But that's different than what you testified  
4 here today?

5 A I did not -- yes, sir. Nine months past the  
6 date I did make that mistake. He did -- in his  
7 office Friday he did tell me that before we get  
8 to court we need to clarify this one way or the  
9 other. Which is why I went to my past employer  
10 to check out last year's books and Xeroxed it.

11 Q So last week you remembered it being 12:30 to  
12 1:30, but now it's 1:20 to 2:45, is that right?

13 A When we're not busy at the dental office, it's  
14 not uncommon to go to lunch at an earlier hour.  
15 We don't generally get two hours. Therefore, I  
16 made the mistake of saying, yes, it was a day  
17 that we went an hour earlier. But he did tell me  
18 to try to clarify that before we came to court,  
19 which is what I did yesterday morning.

20 Q Did the state investigator tell you that the  
21 time of 12:30 to 1:30 that you told him was  
22 wrong, that it had been later?

23 A He told me he needed to clarify it.

24 Q He told you to go back and clarify it in your  
25 mind?

1 A He said that according to my first tape, the  
2 4th of April, that, in fact, stated one time.  
3 And then I said to him -- I stated another time.  
4 He wanted to get that clear before we started  
5 court proceedings.

6 Q He suggested that to you?

7 A To do it one way or the other.

8 Q Now, you mentioned to the investigator that  
9 you went back to the Pipeline Club. And  
10 according to his notes you said, "Erma Lee  
11 actually waited on him that night." What are you  
12 talking about, "that night"?

13 A He asked me -- the investigator asked me,  
14 "Jamie, you did see him at darts that night?" I  
15 emphatically corrected that because I did not see  
16 him at darts that night.

17 Q Who?

18 A The investigator. I did not see Mr. Hazelwood  
19 and I wanted the state trooper to understand  
20 that.

21 Q How did you know that Erma Lee actually waited  
22 on him that night?

23 A How did I know?

24 Q Right.

25 A Just the bartender on duty, rumor, that he was



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in the building after the time that I saw him.

Q Did you...

A I know I saw him. I can't speak after 15 'til 3:00, sir.

Q But you did say to the investigator that you knew that Erma Lee waited on him that night didn't you?

A Yes, I did.

Q Did you speak to Erma Lee?

A After the oil tank incident?

Q Yeah.

A Yes, I did.

Q And did you show her the picture that you...

A No, I did not, sir. She was approached by several state people.

Q Did you discuss your seeing Captain Hazelwood that day with Erma Lee?

A No, I did not. And I don't carry a picture of Mr. Hazelwood with me to show to people.

Q But you did take the time to talk to Erma Lee and find out what she knew, didn't you?

A No, sir, I did not. It was brought to my attention through general public, that she was the bartender that was working that night.

Q The general public usually approaches you with

1 information?

2 A No, sir. It's a small town. You don't have  
3 to ask things. I work at the dental office. I  
4 see 22 people a day.

5 Q And you speak with a lot of people all the  
6 time?

7 A No doubt.

8 Q And you told them about how you saw Captain  
9 Hazelwood in the...

10 A No, sir, I did not. Now, we're talking about  
11 Erma Lee. No, sir, I did not tell anyone. I  
12 probably spoke with Lisa Hutes. I told my  
13 husband. My husband took it upon himself to let  
14 me think about it a couple of days as to what I  
15 wanted to do with my knowledge. We did not jump  
16 in the car and go straight to his office.

17 Q Now, you got to the Pipeline Club about 7:00  
18 you say?

19 A 7:15.

20 Q And you didn't see Captain Hazelwood in there?

21 A No, sir, I did not.

22 Q Who is Anita Steimans (ph)?

23 A She's a local girl that plays darts and works  
24 at the local hospital there -- the hospital for  
25 the handicapped, not the regular hospital.

1 Q Does she play on your team?  
2 A No, sir, she does not.  
3 Q She plays on an opposing team?  
4 A Yes, sir.  
5 Q Was she there that particular evening?  
6 A Her team was the one that we were playing  
7 against.  
8 Q Did they get there about the same time you got  
9 there?  
10 A A lot of people go in as much as an hour early  
11 and take their practice shots.  
12 Q I understand that. But was she there about  
13 the same time you were there?  
14 A I did not see her when I got there at 7:15.  
15 Q She came in later?  
16 A I do not know when Anita arrived.  
17 Q But you told the investigator that Anita  
18 Steimans was on the opposing team that night.  
19 She was sitting near where Hazelwood was sitting.  
20 A Her table, sir, is the high top, which I said  
21 earlier, the team right here would be here; I  
22 would be here; Mr. Hazelwood is there  
23 (indicating). It is -- generally you could tell,  
24 visually her table would be closer.  
25 Q And did Anita Steimans see Captain Hazelwood?

1 A I do not know if she did or not. She has  
2 never told me that she did.

3 Q Well, why did you tell the investigator that  
4 she was sitting near Hazelwood?

5 A Nearer than myself, if he was there.  
6 I never brought the name "Anita Steimans" up,  
7 sir, the investigator did.

8 Q Did you speak to Anita Steimans?

9 A No, sir, I did not.

10 Q Now, you told us today that you went to the  
11 flower shop on Monday or Tuesday and saw the  
12 Anchorage Times?

13 A Correct.

14 Q You told the investigator a week ago that it  
15 was Saturday.

16 A Or a couple days later than Saturday. I did  
17 tell him Saturday, or possibly a couple of days  
18 later.

19 Q Have you seen a copy of the notes?

20 A Briefly. Have not read it. It was handed to  
21 me before they called me in here.' The first time  
22 I had a chance to look at it. I did not read it.  
23 I didn't have time, sir.

24 Q Just now?

25 (2710)

1 A Before I came in here. It's folded in my  
2 book, just like I put it.

3 Q You were handed a copy of these notes just  
4 before you came on the stand?

5 A Yes, sir. (Pause) Is that not allowed? I've  
6 said it.

7 THE COURT: Just respond to the questions.  
8 Don't be volunteering, please.

9 Q Now, I asked you if you had any conversations  
10 about Captain Hazelwood with Emily Kaizer. Do  
11 you recall that?

12 A Uh-huh (affirmative).

13 Q And you told me you didn't?

14 A Uh-uh (negative).

15 Q It says here, "Emily told James about him  
16 buying flowers."

17 A After the investigation had started she said  
18 to me that several personnel -- I assume she  
19 meant personnel from different facilities had  
20 asked her about a credit card slip and flowers.  
21 I did not go in and say, "Let's talk about Mr.  
22 Hazelwood."

23 Q Mrs. Delozier, I asked you if you had any  
24 conversations with...

25 A She had the conversation with me, sir. I

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didn't...

Q Oh, I see. We're making a distinction between you having a conversation and she having a conversation with you, is that right?

In other words, if I ask you if you had a conversation, that doesn't take into -- the possibility that someone may have spoken to you, is that how you understand...

A I didn't take it that way. I took it that you were wanting me to say that I talked to all my friends about the picture.

Q Did Ms. Kaiser tell you -- what did Mrs. Kaiser tell you about the flowers?

MR. COLE: Objection. Hearsay.

THE COURT: Just a second before you answer.

What did Ms. Kaiser say about the flowers, is that your question?

MR. CHALOS: The purchasing of the flowers.

THE COURT: Well, it sounds like it's hearsay to me.

MR. CHALOS: I'll withdraw the question.

Q (Ms. Delozier by Mr. Chalos:) What discussions did you have with Mrs. Kaiser about Captain Hazelwood being in her shop?

A I believe -- and I use the word "believe" --

1 that the state people and possibly some of the  
2 Coast Guard personnel were trying to track the  
3 chain of events. I do a lot of flower buying and  
4 giving with Ms. Kaiser. If I remember correctly,  
5 I believe...

6 MR. CHALOS: Your Honor, I move to strike as  
7 non-responsive. My question was, what specific  
8 conversations did you have with Mrs. Kaiser?

9 A I was getting a flower for a "secret sister",  
10 which is part of a club for ladies. As I was  
11 getting the flowers, I do believe she said to  
12 me...

13 MR. COLE: Objection, Your Honor. Mr. Chalos'  
14 question is vague; it calls for hearsay.

15 THE COURT: If you have some exception you're  
16 thinking this might come under, if you draw it to my  
17 attention, otherwise it sounds like whatever she was  
18 told by this other person would be hearsay.

19 MR. CHALOS: Well, let me approach it a  
20 different way, Your Honor.

21 THE COURT: Okay. Objection sustained.

22 MR. CHALOS: I'll withdraw the question and go  
23 on to something else. We can pick it up later.

24 Q (Ms. Delozier by Mr. Chalos:) Now, you told  
25 Mr. Stogsdill a week ago that you closed the

1 dental office between 12:15 and 2:00 p.m., is  
2 that right?  
3 THE COURT: Is that right?  
4 A No, sir.  
5 Q You didn't tell him that?  
6 A I think I said we closed at 12:15, which  
7 should have been 1:15, and I think I told him we  
8 went back to open close to 2:00, which, in fact,  
9 should have been close to 3:00.  
10 Q So...  
11 A I had the whole thing off by approximately an  
12 hour.  
13 Q So as of a week ago you couldn't remember what  
14 time you left the dental office and what time you  
15 got to the bar, and what time you left the bar?  
16 A No, sir. After I made the -- no, sir -- not  
17 -- in nine months time I sure said it wrong, I  
18 sure did.  
19 MR. CHALOS: Your Honor, I would like to  
20 approach the witness with your permission.  
21 Q I would like to show you what we've marked as  
22 Defendant's Exhibit E for identification, and ask  
23 you, is this the diagram you drew for the state  
24 investigators back in April?  
25 A Yes, sir.



1 Q Is that your handwriting?

2 A Yes, sir.

3 Q Is that your signature?

4 A Yes, sir.

5 MR. CHALOS: Your Honor, I move for its  
6 admission into evidence.

7 MR. COLE: I have no objection.

8 THE COURT: Thank you. It's admitted.

9 EXHIBIT E ADMITTED

10 Q Mrs. Delozier, you're absolutely sure that the  
11 person you saw at the Pipeline Club on March 23rd  
12 was a male, 5 foot 9, about 160 pounds, in his  
13 mid-50s, wearing a snap cap. And was there from  
14 about 1:45 to 2:45 while you were there. Are you  
15 absolutely sure about all that?

16 A Yes, sir.

17 Q I have no further questions, Your Honor.

18 (2982)

19 REDIRECT EXAMINATION OF MS. DELOZIER

20 BY MR. COLE:

21 Q Are you absolutely sure that that person is  
22 sitting right here in this courtroom?

23 A Yes, sir, I am.

24 Q The notes that your received today, when did  
25 you get those notes?

1 A Prior to us walking in the door, handed to me  
2 by yourself today, sir.  
3 Q This morning or...  
4 A No, sir, as we came back from the adjournment.  
5 Q You said that you made a mistake about a shot  
6 glass. Would you tell the jury what that was?  
7 MR. CHALOS: Objection, Your Honor. I don't  
8 remember that.  
9 THE COURT: Objection overruled. I remember  
10 that.  
11 A The shot glass, sir, is generally what an  
12 untrained bartender pours the drink with. If you  
13 do bourbon and Coke you do a shot of bourbon and  
14 the rest Coke. I said shot glass in my interview  
15 on the 4th.  
16 Q When you were referring to what?  
17 A What Mr. Hazelwood ordered and drank.  
18 Q And what actually did you see?  
19 A There was not a shot glass involved. He drank  
20 vodka on the rocks, which Ms. Hutes did pour in a  
21 rock's glass.  
22 Q And do you remember the brand of vodka that he  
23 ordered that day? Was it a particular type of  
24 name?  
25 A What he wanted and did not get the first time?

1 Yes, sir, I do.

2 Q What was that?

3 A Smirnoff.

4 Q And when you spoke with Investigator Stogsdill  
5 back in January, when was the last time you had  
6 talked to anyone about the facts in this case  
7 prior to that?

8 A 4th of April.

9 Q Did Investigator Stogsdill show you any notes  
10 or transcripts, or have you listen to tape before  
11 he asked you...

12 A No, sir, he did not.

13 MR. COLE: Your Honor, I have nothing further.

14 MR. CHALOS: Your Honor, we have no further  
15 questions of this witness. I would, for the record,  
16 renew my objection to the witness having been shown the  
17 picture of Captain Hazelwood before she made the in-  
18 court identification. I think by showing the picture  
19 Mr. Cole tainted the in-court identification, and I  
20 would move to strike any testimony relating to the in-  
21 court identification of Captain Hazelwood.

22 THE COURT: In the future, if you are  
23 requesting reconsideration of an earlier ruling, as  
24 I've told you before, just place it in writing. I've  
25 already ruled on that subject. Your application is

1 denied again.  
2 Can we excuse the witness?  
3 MR. CHALOS: Yes. I have nothing further.  
4 THE COURT: You're excused.  
5 (Witness excused)  
6 MR. COLE: Your Honor, at this time the State  
7 would call Gretchen Dunkin.  
8 THE COURT: Would counsel approach the bench  
9 for a minute, please. Mr. Madson, would you come up,  
10 please.  
11 (3162)  
12 (Whispered bench conference as follows:)  
13 THE COURT: I know you're not intending it,  
14 but I can hear your whispers up here when you get  
15 really active there. I heard every word.  
16 MR. MADSON: Sometimes I get excited.  
17 THE COURT: I understand that.  
18 (End of whispered bench conference.)  
19 (3179)  
20 (Pause)  
21 THE CLERK: Ma'am, there's a microphone right  
22 there hanging. Please attach that to your vest and  
23 remain standing and raise your right hand.  
24 (Oath administered)  
25 A I do.

1 GRETCHEN DUNKIN

2 called as a witness in behalf of plaintiff, being first  
3 duly sworn upon oath, testified as follows:

4 THE CLERK: Ma'am, would you please state your  
5 full name and then spell your last name?

6 A Gretchen Marie Dunkin. D-u-n-k-i-n.

7 THE CLERK: Current mailing address, ma'am?

8 A Post office box 204, Valdez, Alaska.

9 THE CLERK: And your current occupation?

10 A Administrative assistant for Alaska Maritime  
11 Agencies.

12 THE COURT: You may inquire.

13 DIRECT EXAMINATION OF MS. DUNKIN

14 BY MR. COLE:

15 Q Ms. Dunkin, can you tell the jury what your  
16 responsibilities are at the Alaska Maritime  
17 Agency?

18 A Basically clerical. I remain in the office  
19 from the hours of 8:00 to 4:30 in the afternoon.

20 Q What time do you take lunch?

21 A Between 1:00 and 2:00.

22 Q Do you remember working on March 23rd, 1989?

23 A Yes. I do.

24 Q Did you see Captain Hazelwood that day?

25 A Yes, I did.

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1 Q When did he come in to the office?  
2 A Well, it was late in the morning, between  
3 11:00 and 11:30, maybe.  
4 Q And do you remember if he came with other  
5 people?  
6 A I know there was one other person with him, at  
7 least.  
8 Q Do you remember who that was?  
9 A No. I don't.  
10 Q What time, about -- how long did he stay  
11 there?  
12 A Until just about noon, I believe.  
13 Q And did he say he was going to lunch, or do  
14 you know what he did after that?  
15 A I think while he was there that I received a  
16 telephone call from Ed Murphy and I relayed to  
17 Captain Hazelwood that Captain Murphy was going  
18 to pick him up. I think they had a lunch date.  
19 Q Did you end up seeing Captain Hazelwood at all  
20 later on in the day?  
21 A Yes. I saw him after I got off work at 4:30.  
22 Q And where did you see him at?  
23 A At the Pipeline club.  
24 Q Do you remember who he was with there?  
25 A I think he was with the same gentleman that

1           came into the office with him.

2       Q           How did you get to the Pipeline Club that day?

3       A           I drove my car from the office.

4       Q           Would you have gone directly there?

5       A           I did go directly there.

6       Q           How long did it take to get to the Pipeline  
7       Club?

8       A           Oh, a minute and a half, two minutes.

9       Q           And would you tell the jury -- if you could  
10       point, there's a diagram there, could you tell  
11       the jury where you saw Captain Hazelwood when you  
12       got off work that day?

13      A           I came in this door right here, and I think  
14       Captain Hazelwood would have been right here, or  
15       here, in that area.

16      Q           And were there any glasses on the table?

17      A           I believe that there were glasses.

18      Q           Can you give the jury an idea of how many  
19       glasses were in front on the table?

20      A           Well, certainly not exactly, but there was  
21       probably between two and five. I don't know.  
22       They could have been...

23      Q           Do you remember how people were there at the  
24       time with him?

25      A           I know there were two for sure, but there may

1           have been three.

2           Q           Why did you go there?

3           A           I went there because upstairs from the

4           Pipeline Club there was a fellow that was

5           preparing our taxes. He has an office up there.

6           And I had either to drop something off, or pick

7           something up. And when I pulled into the parking

8           lot I noticed a car that belonged to a friend of

9           mine and I assumed that that friend was in the

10          bar, so I went in to say hello to her.

11          Q           How long were you there?

12          A           Not very long. Three minutes, four minutes.

13          Q           And did you talk to Captain Hazelwood?

14          A           Yes.

15          Q           What did you talk about?

16          A           Earlier in the day I -- during the

17          conversation in the office I had mentioned to the

18          captain that it was my league dart night. And

19          when I went into the bar he asked me where my

20          dart team was. And I explained to him that the

21          match didn't begin until 7:30 in the evening and

22          that we weren't playing at the Pipeline Club that

23          night. We were playing across the street.

24          Q           And when you were talking with him were the

25          glasses sorted out across the table? Were they



1 in any particular place? The glasses?

2 A I don't remember.

3 Q And then you left the Pipeline Club after  
4 that?

5 A Yes.

6 Q Did you end up coming back later?

7 A Not to the Pipeline Club, no.

8 Q I have nothing further, Your Honor.

9 (3559)

10 CROSS EXAMINATION OF MS. DUNKIN

11 BY MR. MADSON:

12 Q Ms. Dunkin, you were interviewed by the state  
13 trooper, were you not, with regard to this  
14 incident?

15 A Just recently.

16 Q Yeah.

17 A Yeah.

18 Q In any event, ma'am, you said that you left  
19 work and -- well, let me back up. Let's go back.  
20 You said you saw Captain Hazelwood around 11:30  
21 to noon at the...

22 A Uh-huh (affirmative).

23 Q ...with some other gentlemen that came in?

24 A At least one.

25 Q Do you recall seeing his demeanor, everything

1 at that time?

2 A Yes. I do.

3 Q Is it true, ma'am, that you didn't see any  
4 indications that he had been drinking or was  
5 under the influence of alcohol at that time?

6 A No. There were no indications.

7 Q You said you got off at what time? Work?

8 A 4:30.

9 Q And went over to the Pipeline Club?

10 A Yes.

11 Q Getting back to your interview with the state  
12 trooper, the recent one, you said you arrived  
13 there about 4:40, is that approximately correct?

14 A Probably by the time I went upstairs and did  
15 whatever I had to do up there it was probably  
16 4:40.

17 Q So, about 10 minutes to five you came in the  
18 Pipeline Club and you said you saw Captain  
19 Hazelwood with at least one other gentleman that  
20 you recognized from the noon, or the noon time  
21 incident, right?

22 A I believe so.

23 Q And you said there might have been others with  
24 him?

25 A There may have been one other person, right.

1 Q I take it this event wasn't terribly  
2 significant and important to cause you to really  
3 remember exactly what happened at that time?  
4 A No. It wasn't significant at all.  
5 Q Now you identified a table that he was sitting  
6 at there, ma'am, and of course, the record  
7 doesn't really show which one.  
8 On looking at that diagram there's a bar and  
9 it says cash register there, right?  
10 A Yes.  
11 Q And you go directly downward on that chart  
12 there are two tables almost in a direct line  
13 between there and the jukebox, correct?  
14 A Two little tables? These two?  
15 Q No. The big tables.  
16 A These two?  
17 Q Yeah.  
18 A Okay.  
19 Q And you pointed to the one nearest the bar,  
20 correct?  
21 A Yes.  
22 Q That they were sitting at?  
23 A Yes.  
24 Q Do you remember which chair he was sitting in  
25 at all? Where he was facing?

1 A Well, I believe he was on this side of the  
2 table.  
3 Q Now, when you say this side, that's the side  
4 would be more facing the bar? Those chairs, the  
5 way they're described there?  
6 A Well, his left side would have been to the  
7 bar. His face would have been towards this wall,  
8 I think.  
9 Q When you say toward the wall, that would be  
10 the wall to the right in that diagram, correct?  
11 A Yes.  
12 Q Where it says "Restaurant and Kitchen"?  
13 A Correct.  
14 Q You just have a short conversation? A minute  
15 or two?  
16 A Very short.  
17 Q Did you get -- I mean, have that conversation  
18 within two or three feet of him?  
19 A Yes.  
20 Q And let me ask you, ma'am, did his demeanor  
21 and everything appear to be the same -- at 4:40,  
22 as it did at noon?  
23 A Pretty much. He seemed relaxed.  
24 Q He just appeared to be having a conversation  
25 with his friends?

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A Yes.

Q Thank you, ma'am. I don't have any other questions.

MR. COLE: Judge, I have nothing further.

THE COURT: May the witness be excused?

MR. COLE: Yes.

MR. MADSON: Yes.

THE COURT: You're excused, thank you.

(Witness excused)

(3798)

THE COURT: Mr. Cole, have you run out of witnesses for the day?

MR. COLE: Yes.

THE COURT: Well, as we indicated earlier, yesterday, ladies and gentlemen, not all the witnesses are available today, but I've been told that we'll be able to proceed with enough witnesses to fill up the trial days from now on. So, we won't be recessing early, I don't expect at this time.

In the meantime, I'm going to let you go until tomorrow morning at 8:30. Don't discuss this case with any person, including among yourselves, and don't form or express any opinions. I think if you think of the reasons behind those instructions it will become real clear why they are given. And please avoid the media

1 as I've indicated before. Have it screened. I'll see  
2 you tomorrow morning. Be safe.

3 Anything else we can take up?

4 MR. COLE: Mr. Linton is here.

5 THE COURT: Would the last one out close the  
6 door for us, please.

7 (Jury not present)

8 (3895)

9 THE COURT: Mr. Linton.

10 MR. LINTON: Your Honor, in the course of the  
11 defense's opening statement they made reference to...

12 THE COURT: You're going to have to speak up  
13 louder. I've been told on several occasions your voice  
14 is so soft we don't make the record when you speak.  
15 And if you want to get behind the podium, or get closer  
16 to a mike, that might help.

17 MR. LINTON: Judge, there's some dispute  
18 between the prosecution and the defense as to what  
19 under Your Honor's ruling may be played of the tape  
20 recording of the transmissions between the Coast Guard  
21 station and the Exxon Valdez in the early morning hours  
22 of the 24th.

23 The problem came up particularly when in  
24 opening statement the defense referred to two things,  
25 first, the fact that Captain Hazelwood spoke the words

1 that, "We are aground and leaking some oil." That was  
2 the kind of thing which the court had ruled would not  
3 properly be admitted by the state, but the defense  
4 raised it in its very opening statement.

5 Normally, that would be considered opening the  
6 door to the prosecution and introducing that in  
7 evidence, that is, having been suppressed once, when  
8 the defense makes reference to it, presumably they're  
9 doing so in a knowing fashion, recognizing the court's  
10 ruling and choosing to insert evidence which they had  
11 complained about earlier and now are presumably no  
12 longer complaining about.

13 THE COURT: Is there still a dispute about  
14 that now at this time, do you know?

15 MR. LINTON: There is. We conferred this  
16 morning just before 8:30, or around 8:30.

17 THE COURT: Is that correct, Mr. Madson?  
18 There's a dispute -- even though you made that  
19 statement in your opening statement?

20 MR. MADSON: Yes, Your Honor. We're not  
21 entirely sure, at least I'm not, what exactly the  
22 dispute is. I thought Mr. Linton was talking about the  
23 conversations between the Exxon Valdez and Commander  
24 McCall after the grounding, and that's what we were...

25 THE COURT: Let's just take one thing at a

1 time. In your opening statement you indicated that  
2 Captain Hazelwood called and said, "We're aground  
3 leaking some oil." I remember that. I even put a star  
4 along side of it, because it rather surprised me since  
5 I suppressed that.

6 Now, is there a dispute as to whether or not  
7 that's going to come into evidence at this point?

8 MR. MADSON: I don't have any problem with it  
9 at all. We're not waiving our objection, Your Honor,  
10 but we made it and the court ruled on it. I don't  
11 think it's -- that statement, by itself, means  
12 anything. Our objection earlier on was the immunity  
13 question, not the context of his statement.

14 THE COURT: Okay. I suppressed that  
15 statement. I determined that that was a statement that  
16 Captain Hazelwood was immune from that particular  
17 statement. My ruling went to the events that took  
18 place after that that were inevitably to be discovered.  
19 And I also ruled that his statement that, "We're  
20 evidently leaking some oil," is not admissible, but  
21 that his statement that there was a grounding  
22 constituted an independent source investigation.

23 So, the statement you made in opening that  
24 Captain Hazelwood called and said, "We're leaking some  
25 oil" appeared to me to be waiving, at least to the



1 extent that you made that statement in front of the  
2 jury, any objection to that particular statement coming  
3 into evidence. Now, do you object to that particular  
4 statement coming into evidence?

5 MR. MADSON: No, sir. We objected to  
6 everything that came after that statement.

7 THE COURT: All right. So, that resolves that  
8 particular statement.

9 MR. LINTON: Judge, then -- I have, actually,  
10 a copy of the transcript so I can refer to the court to  
11 the specific point. The statement we've been referring  
12 to appears on the first page of what I handed Your  
13 Honor. It's marked Tape 18346 of discovery. The  
14 second controversial part appears on a page marked  
15 18350, the final page in the packet.

16 THE COURT: All right.

17 (Tape: C-3604)

18 (003)

19 MR. LINTON: That shows that at 1:07 the  
20 captain of the port, Mr. McCall, Commander McCall,  
21 called the Exxon Valdez and spoke to him about the  
22 subject of, among other things, whether the Exxon  
23 Valdez was going to stay on, or try to get off the  
24 reef.

25 That falls after the 12:45 time, but there

1 were points in the pre-trial hearings where the defense  
2 sought to treat that as part of the initial report.

3 If you'll recall, Mr. Friedman, when he had  
4 his chart of the things which constituted the original  
5 report claimed that the statement that there'd been  
6 some trouble with the third mate was part of the  
7 initial report. It's in this communication that  
8 Captain Hazelwood in the fourth entry, "Not at the  
9 present, Steve, or a little problem here with the third  
10 mate, but we're working our way off the reef," was the  
11 quotation that was causing the defense to treat that as  
12 part of the initial report.

13 However, having listened to Mr. Madson's  
14 opening statement, it appears that he wishes to place  
15 in evidence the communication between Commander McCall  
16 and Captain Hazelwood, which is reflected on page 18350  
17 that's before Your Honor.

18 That comes after the cut off time that Your  
19 Honor has specified. And it has now, in addition, been  
20 referred to expressly in opening statement by the  
21 defense. Therefore I would submit that that would  
22 properly be played for the jury, too.

23 THE COURT: All right. Mr. Madson, do you  
24 recall whether you referred to this in your opening  
25 statement.

1 MR. MADSON: I didn't refer to the tape, Your  
2 Honor. We have no intention of playing the tapes.

3 THE COURT: Did you refer to the contents on  
4 18350, where Captain Hazelwood referred to attempting  
5 to get the vessel off the reef?

6 MR. MADSON: Yes. And what we're going to do  
7 there, and I said, and I told the jury in my opening  
8 and it maybe didn't come across that clear, but we  
9 intend to call Commander McCall. He's under subpoena  
10 right now. And we would ask him these questions of  
11 what transpired with the tape, if it could be used at  
12 all may be for -- possibly for impeachment. We weren't  
13 going to introduce the tape. We certainly were going  
14 to call -- Your Honor, I think the court has to  
15 understand one thing here, because of the court's  
16 ruling it placed us in a real position here. We still  
17 have to defend Captain Hazelwood. And the court said,  
18 "Well, this is all that's really suppressed," as I  
19 understood it, was basically that statement.

20 But, we still have to come across and present  
21 a defense to what happened after the grounding. And  
22 one of the main witnesses here was, of course,  
23 Commander McCall, who is talking with him, and we  
24 believe will testify as to what he understood by those  
25 communications, and, in fact, will state what he

1 believes Captain Hazelwood did, what he was trying to  
2 do, which is contrary to the State's position. But, we  
3 weren't trying to use the tape for that.

4 We may have some real problems with that tape.  
5 I think it's being looked at right now. That's the one  
6 we were talking about earlier. You know, we raised the  
7 court's attentions trying to get somebody to listen to  
8 it. But, basically we want to use McCall just as a  
9 witness.

10 THE COURT: Are you going to ask Commander  
11 McCall what Captain Hazelwood told him when they had  
12 the communication?

13 MR. MADSON: I think that would be necessary.

14 THE COURT: Now, isn't the tape the very best  
15 of that evidence of what was said?

16 MR. MADSON: I think it's hearsay. No, Your  
17 Honor, it's hearsay.

18 THE COURT: Well, there's no question that it  
19 may, or may not be hearsay if it's an admission. I  
20 mean, this goes to the very root of part of the State's  
21 case on what the captain did after he was on the reef.  
22 The jury is going to be presented the question of  
23 whether or not that was reckless to try to take a  
24 vessel off the reef that had been hulled, and that  
25 would constitute an admission and under our rules that

1 doesn't constitute hearsay.

2 (Tape: C-3605)

3 MR. MADSON: Well, Your Honor, just yesterday  
4 I think we tried to interdict something on that line  
5 and it was ruled to be hearsay, that statement by  
6 Captain Hazelwood. So, I get a little puzzled as to  
7 when it is and when it isn't.

8 THE COURT: Well, Mr. Madson, I would suggest  
9 you check the rules out. When you try to introduce a  
10 statement of your defendant it may very well be hearsay  
11 under Agony and not prevented, but when it comes in by  
12 the State it comes in for a different purpose as an  
13 admission, not exculpatory, inculpatory.

14 MR. MADSON: I agree and it still can be  
15 construed as admission whether we introduce it, or not,  
16 but getting back to that, I still feel that we aren't  
17 going to introduce the tape. We never intended to.  
18 But, I think we're certainly entitled to call Captain  
19 McCall as a witness.

20 THE COURT: I don't know that that's the issue  
21 here. The question is whether the State can introduce  
22 this tape. I think that's the issue. Is that right  
23 Mr. Linton?

24 MR. LINTON: Precisely, Your Honor.

25 MR. MADSON: Well, we object to the

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introduction of that tape.

THE COURT: On the grounds of hearsay,  
correct?

MR. MADSON: Yes.

THE COURT: The objection's overruled.  
Anything else we need to take up?

MR. LINTON: Nothing further, Your Honor.

THE COURT: We'll stand in recess until 8:30  
tomorrow morning. If you have any matters to take up  
we can take them up at 8:30.

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

(179)

(Off record - 11:44 a.m.)

\*\*\*CONTINUED\*\*\*