

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

STATE OF ALASKA,

Plaintiff,

vs

JOSEPH HAZELWOOD,

Defendant.

---

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

TRIAL BY JURY, CONTINUED  
FEBRUARY 12, 1990  
PAGES 3367 THROUGH 3601

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H & M Court Reporting  
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v.19

BEFORE THE HONORABLE KARL JOHNSTONE  
Superior Court Judge

Anchorage, Alaska  
February 12, 1990  
8:53 o'clock a.m.

APPEARANCES:

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1 PROCEEDINGS

2 FEBRUARY 12, 1990

3 (Tape: C-3603)

4 (1839)

5 (Jury not present)

6 THE COURT: Be seated.

7 (Side conversation)

8 I have a request from the State of Alaska. I  
9 got the request by telephone. Mr. Samuel Adams called  
10 me on Friday and asked me if I would allow the State to  
11 videotape the remainder of the trial.

12 I told him that I'd like to have him put in  
13 writing his request and the reasons for it, and why the  
14 media coverage that we have now is not adequate.

15 The gist of his letter which we will make part  
16 of the record in just a moment is that the State is  
17 involved in civil litigation and that there's a general  
18 stay of discovery, which has been imposed for several  
19 months, and that this would be for the purpose of  
20 perpetuating the testimony of fact witnesses, which  
21 would be called to testify in the civil case.

22 Virtually all the fact witnesses testifying at  
23 this trial are going to be needed for the purpose of  
24 pursuing the State's civil claims.

25 Additionally, he says the Governor's office

1 has requested the trial be videotaped so that it may be  
2 preserved for the State's archives. The cameras that  
3 are set up now by the media are not adequate because  
4 they take pictures of many things, including witnesses.  
5 And when they choose to discontinue and interrupt  
6 coverage the attorney general's office would be unable  
7 to recapture the (indiscernible - paper noise)  
8 testimony.

9 He indicated that he had talked to Mr. Russo,  
10 the defendant's attorney, who has opposed the request.  
11 And I just got a letter this morning by hand delivery  
12 that has Mr. Russo's signature on it which sets forth  
13 his opposition.

14 Mr. Adams is not here. Do Ms. Henry, or Mr.  
15 Cole wish to address this in any way.

16 MR. COLE: Judge, that was a request by the  
17 civil, and they asked us to file it on their behalf.  
18 We didn't want to, but that's what they asked us to do.  
19 And we aren't taking any position.

20 THE COURT: I don't need to hear argument on  
21 this. It seems to me that the State is asking for an  
22 advantage here that would not be given to the other  
23 parties. And it might be contrary to the spirit of the  
24 general stay of discovery which has been imposed by  
25 both Judge Holland and Judge Shortell.

1 I'm going to deny the request. It's not a  
2 media request. It's for the purpose of perpetuating  
3 testimony. And since it's been opposed and there  
4 doesn't seem to be any valid reason for it, I'm not  
5 going to allow it.

6 But, we will make both of these documents part  
7 of the official record in this case.

8 Are we ready with the jury now?

9 MR. COLE: Judge, I just want to put one thing  
10 on the record if it's permissible?

11 THE COURT: All right.

12 MR. COLE: When we were coming into the  
13 courthouse today I took the elevator. There were two  
14 jurors on the elevator. The gentleman that's standing  
15 to my right running the video camera turned to me and  
16 said, "Are you going to take up any motions?"

17 I looked at him and said, "Don't discuss that  
18 right now."

19 After we got off the elevator there were no  
20 other conversations. I walked in and I told him,  
21 "Look, there is a reason why we can't talk to you guys.  
22 You put me in a bad situation."

23 I think I need to go on the record. I can  
24 identify the jurors. There was no other conversation  
25 other than that.

1 THE COURT: That's fine. There hasn't been  
2 any harm done if that's the case.

3 Use a little better discretion if you can,  
4 than discussing the case on elevators. Lots of times  
5 during the minutes preceding a trial we'll have jurors  
6 commingle with other people in the elevator. It's  
7 sometimes difficult to see them. I know it wasn't  
8 intentional.

9 Okay. Ready now with Mr. Taylor?

10 MR. MADSON: Yes, Your Honor, we are.

11 THE COURT: Okay. Is Mr. Taylor available?

12 MR. COLE: Yes. I'll step out in the hall.

13 THE COURT: Okay. Before we do, move the  
14 camera towards the door about two feet, and back  
15 towards the wall about a foot. It was very distracting  
16 to the juror in the corner. Some place where you can  
17 still get it -- that looks good. Sure. Any place in  
18 there is fine. Thanks.

19 Let's bring the jury in.

20 Can you still get coverage from there?

21 Okay.

22 (Jury present)

23 Mr. Taylor, you may have a seat and attach the  
24 microphone. And you are still under oath, sir.

25 \*



1 GORDON P. TAYLOR

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

5 Q Good morning.

6 A Good morning.

7 (Side conversation)

8 THE COURT: That's your normal seat, isn't it?

9 UNIDENTIFIED JUROR: Yes, sir.

10 THE COURT: It just happened to work out that  
11 way, huh? It's close to...

12 UNIDENTIFIED JUROR: Yeah. Luckily.

13 THE COURT: Are you okay?

14 UNIDENTIFIED JUROR: Yeah. I'm fine, sir.

15 THE COURT: Okay. If you need any kind of a  
16 break because of your leg, let me know, would you?

17 UNIDENTIFIED JUROR: Yes, sir. I'll do that.

18 THE COURT: Thank you for being on time,  
19 ladies and gentlemen. We'll resume the testimony of  
20 Mr. Taylor, who is still under oath.

21 (2180)

22 CROSS EXAMINATION OF MR. TAYLOR, CONTINUED

23 BY MR. MADSON:

24 Q Good morning, Mr. Taylor.

25 A Good morning.

1 Q A few more questions to kind of take up where  
2 we left off last week.

3 Let me ask you a little bit about the subject  
4 of radar again. You testified, I believe, and  
5 correct me if I'm wrong, sir, that the primary  
6 function, or purpose of the VTC is to aid and  
7 assist in the navigation of vessels in Prince  
8 William Sound and Port Valdez to prevent  
9 groundings and accidents?

10 A Yes. That's true. We give them what  
11 information that we received from participating  
12 vessels in the traffic system, and pass that on  
13 to the vessels.

14 Q And certainly radar coverage is a part of that  
15 ongoing process, or means to insure that there's  
16 no groundings or collisions, right?

17 A For the area that the radar can handle, yes.  
18 That's true.

19 Q Let me ask you this, sir. Prior to last  
20 Thursday did you have any discussions with any  
21 Coast Guard personnel, or Justice Department  
22 attorney's regarding your testimony here in this  
23 trial?

24 MR. COLE: Judge, I object to that on the  
25 grounds of relevance. I don't know if he's going into

1 privileged areas.

2 MR. MADSON: I only asked if there were  
3 discussions, Your Honor. Not what the content of them  
4 were.

5 THE COURT: Objection sustained.

6 Q (Mr. Taylor by Mr. Madson:) With regard to  
7 that radar coverage, sir, the manual, which I  
8 think you were familiar with because of your job  
9 at the time, right? You were familiar with the  
10 VTS manual?

11 A Yes.

12 Q It states, does it not, that Valdez Arm is  
13 being continuously monitored?

14 A The entire system is being continuously  
15 monitored.

16 Q The area, I was talking about, is being  
17 continuously monitored by radar, according to the  
18 manual?

19 A As best as the radar can do at the particular  
20 time, yes. That is correct.

21 Q The manual doesn't say as best the radar can  
22 do. The manual says, does it not, it is being  
23 continuously monitored, or you are being  
24 continuously monitored in Valdez Arm, does it  
25 not?

1 A As best the radar can do is continuously  
2 monitor.

3 Q I agree with your -- but I'm only asking you  
4 what you recall the manual, itself, saying  
5 without your caveat?

6 A Okay. Yes.

7 Q Right?

8 And that manual is required to be on the  
9 bridge of every vessel that's also required to be  
10 part of the VTS system, right?

11 A Yes.

12 Q So, if someone were on the bridge of a vessel  
13 that's required to be part of the system, they  
14 pick it up, it says, if they were to read it, you  
15 are being continuously monitored in Valdez Arm by  
16 the radar at the VTC Center?

17 A If they were to read that, yes. That's what  
18 it would say.

19 Q Now, getting to your point, you're saying that  
20 the radar does not provide continuous coverage in  
21 all situations, then, right?

22 A It's possible that it can not.

23 Q Well, did it generally provide coverage, say,  
24 down to Busby Island?

25 A Generally?

1 Q Generally.

2 A Yes. Generally, yes.

3 Q What about Bligh Reef?

4 A That depends on how well the gear is working,  
5 weather conditions and such.

6 Q Can you give the jury any idea about what kind  
7 of percentage of time you could see a tanker,  
8 let's say in the vicinity of Bligh Reef, between  
9 Busby and Bligh Reef?

10 A I couldn't give you a percentage. That would  
11 be speculation on my part.

12 Q Okay. Sometimes it does and sometimes it  
13 doesn't, right?

14 A Right.

15 Q When it doesn't cover that area, is it not  
16 true, sir, that you don't notify the master of a  
17 vessel that's in the area, you'll tell them, get  
18 on the radio and say, "You are now outside our  
19 radar coverage, we can not see you any longer"?

20 A That is correct. I do not tell them.

21 Q When there is coverage in that particular  
22 area, let's say again in part of Valdez Arm and  
23 on your radar you notice that the vessel is  
24 straying outside the designated VTS lanes, would  
25 you get on the radio and say, "You're a little

1 off course. Direct you to take a course back in  
2 the lanes"?

3 A No. I would not. I would not direct any  
4 vessel to take any courses, because I'm not  
5 there. I can't tell why they're going out of the  
6 way. And so, my response would be, "My radar  
7 shows you out of the lanes. What are your  
8 intentions?" Or, "Please take corrective  
9 action."

10 Q Have you ever directed a vessel to return to  
11 the lanes when they were outside?

12 A I've never directed them.

13 Q You can, though, can you not?

14 A Really, I can't. If they were outside of the  
15 lanes then I would call the OD, who would give me  
16 the answer or would call the Captain of the Port,  
17 then he would tell me what he would like to do,  
18 and then I would come back and say, "By authority  
19 of the Captain of the Port, I am directing  
20 you...."

21 Q Let's back up there a little bit. Who's the  
22 OD?

23 A The Officer of the Deck.

24 Q What was your designation while you were  
25 there? Just watch stander? Is that what they

1 call you?

2 A Yes, sir.

3 Q Where would the OD normally be?

4 A He would normally be below, not in the Traffic  
5 Center at the time. He would be in the vicinity.

6 Q When you say below, does that mean one level  
7 down? I mean...

8 A He would be outside. He could be one level  
9 down. He could be a level up.

10 Q Uh-huh (affirmative).

11 And then you say that'd have to go to him, and  
12 then he'd have to go to somebody else?

13 A He would go directly to the captain, the  
14 Captain of the Port, the Captain of the Station.

15 Q Okay, that's the Coast Guard Captain of the  
16 Port, you mean Port Valdez?

17 A Right.

18 Q He's the overall commander, right?

19 A Right.

20 Q And he could be anywhere, right?

21 A That's true.

22 Q So, this would take some time, is that what  
23 you're saying? You'd have to relay all these  
24 orders up and orders down?

25 A Well, it's not five or six people. It's of

1 the persons who are the eyes and the ears of the  
2 commanding officer. And then, they would contact  
3 him. And usually he's always in contact, or he  
4 tells you where he's going to be. If he's out of  
5 town, then the executive officer becomes the  
6 Acting Captain of the Port. So, there's always  
7 somebody there.

8 Q Whether or not you actually direct him to  
9 return to the lanes or not, it's a fact, is it  
10 not, that you would at least notify him that he  
11 is not where he's supposed to be?

12 A If I could see him on radar, yeah, I would...

13 Q Well, we're making that assumption of course,  
14 yes.

15 A That's all it is is an assumption.

16 Q Now, on the 23rd of March last year, during  
17 the latter part of your particular watch, say  
18 around 11 o'clock or thereabouts, who else was on  
19 duty besides yourself?

20 A I was the only one on duty on my part of the  
21 radar watch. I was the only one on duty.

22 Q The manual says there's supposed to be two  
23 people on duty at all times?

24 A There's two people in the traffic center. One  
25 of them is Valdez Radio, the other with Valdez



1 Traffic. So, there were two of us there. The  
2 other person's name was Lowell Widner (ph).

3 Q What was his function on this evening?

4 A He was there as Valdez Radio. He responded to  
5 the search and rescue. He gave weather  
6 broadcasts at specific times, and he just  
7 listened in on his part of the radio.

8 Q If I understand correctly, then, he's not the  
9 guy that is on the radio to the vessels. He's  
10 just doing some other kind of radio?

11 A Right. I'm the guy that's on the vessels.

12 Q You're on radio and also on the radar?

13 A That is correct.

14 Q Now, let's assume if a hazardous condition  
15 arises, then is there any changes that occur as  
16 far as how many people are supposed to be there,  
17 or on duty if there's, say a hazardous condition  
18 at that time?

19 A If a hazardous condition came up, I would call  
20 the OD, who would instantly be there.

21 Q On this evening at that time, let's say 11  
22 o'clock to 12:00, somewhere, do you know where  
23 the OD was at that time?

24 A I know I didn't know exactly where he was, no.

25 Q I mean, was he in the building?

1 A I don't recall. He was close by. I could  
2 have gotten a hold of him instantaneously. I  
3 don't know if he was in the building.

4 Q I assume you never contacted him on your watch  
5 prior to midnight for any reason involving  
6 potential hazardous conditions?

7 A No.

8 Q Ice, I think that you described from the ARCO  
9 Juneau report was not a hazardous condition?

10 A It could be a hazardous condition. At the  
11 time, it was four hours earlier, that was the  
12 only ice report I had was four hours earlier, so  
13 I didn't know what the ice conditions were at  
14 that time. The ice flows in and out with the  
15 tide. By the time the Exxon Valdez got down  
16 there, it's possible there could have been ice  
17 clean across the way, there could have been ice  
18 out in the lane.

19 Q The radar you have certainly doesn't pick up  
20 ice in that area, does it?

21 A It does not.

22 Q It's not capable of doing that, right?

23 A No.

24 Q You have to rely on basically people that are  
25 coming through the area?

1 A That is correct.

2 Q Was there any other reports from, say, the  
3 motor vessel Bartlett, from the Alaska Ferry  
4 System?

5 A I don't recall them calling me up with any ice  
6 reports. When they come up, I believe they are  
7 coming from Cordova, but they didn't give me any  
8 ice reports, no.

9 Q They, normally when they come up, if there's  
10 ice, they just kind of skirt Bligh Reef? Just  
11 kind of go by the edge of Bligh Reef?

12 A I'm really not familiar with their route.  
13 They come up through that area there, but I  
14 couldn't tell you the courses that they come up  
15 through.

16 Q When the radar is capable of seeing a vessel,  
17 how accurate would you say it is to a given  
18 point? I mean, can you give me an idea in terms  
19 of yards, or feet, or something, as to where it  
20 actually is?

21 A Well, it's supposed to be accurate. I'm not a  
22 technician. I plot them, you know, as what it  
23 tells me. I only have one way of doing it and  
24 that's with the radar.

25 Q Well...

1 A I don't understand your question.

2 Q Well, I think what my question is, if a  
3 vessel's in a particular position and you can see  
4 it's outside the lanes, is it outside by a  
5 hundred yards, I mean, you know. From the point  
6 where -- a given point, let's put it that way?

7 A You can tell fairly close where it's at.

8 Q I guess that's my question. What do you mean  
9 by fairly close?

10 A Well, within a few hundred yards.

11 Q Going back to my other question about the  
12 motor vessel Bartlett, do you recall making a  
13 statement to a state investigator, Paul Burke?  
14 This would have been on April 10th, 1989?

15 A I made a lot of statements to a lot of people.  
16 Could you refresh me with that?

17 Q Sure. I'm not trying to trick you or  
18 anything. I just want to see if you can recall.  
19 Remember the question asked on page 13, and  
20 there's a Julia Grimes there, too, another  
21 investigator at the same time, apparently a  
22 woman. Do you remember that?

23 A I've talked to hundreds of people.

24 Q Well, do you remember the question being asked  
25 to you, "Did they tell you," and I'm referring to

1 the motor vessel Bartlett, "Did they tell you  
2 anything about ice in the lanes?" Remember that  
3 question?

4 A No, I don't.

5 Q Do you remember your response, "I don't  
6 remember. I don't recall. They were coming out  
7 of Cordova. They skirt right around Bligh Reef.  
8 So, really, you know, unless the ice is really  
9 thick over there that they do not, you know, the  
10 ice will be over in here. But they just shoot  
11 around Bligh Reef and come on up."

12 Do you recall making that statement, sir?

13 A That's -- they do that from time to time.

14 Q Uh-huh (affirmative).

15 A Yeah. The Bartlett does that.

16 Q By the way, who was the Officer of the Deck on  
17 that particular night?

18 A I don't recall.

19 Q How many are there?

20 A Well, it depends. There's usually four or  
21 five that swap off, that stand different night  
22 duty.

23 Q There are four to five Officers of the Deck,  
24 and then there are what, four watch standers?

25 A Four. Depending on, you know, incoming guys.

1 If a guy is gone, then there's only four.  
2 There's five to six, you know. Usually between  
3 four and six watch standers.

4 Q We've talked about the VCC, the Vessel Control  
5 Center. According to the manual it is operated  
6 like the bridge of a ship, is it not? It's just  
7 as if you're on a ship, only you're on the  
8 ground, land?

9 A What do you mean by that?

10 Q Well, according to the manual as I read it,  
11 sir, it says the way you operate is just as if  
12 you're on a ship...

13 MR. COLE: I object to Mr. Madson's  
14 characterizations and his questions. I think they're  
15 an improper comment.

16 THE COURT: Which part do you object to?

17 MR. COLE: According to my readings.

18 THE COURT: The form of the question is the  
19 objection and I'll sustain it, Mr. Madson.

20 Q (Mr. Taylor by Mr. Madson:) Let me ask you a  
21 few questions in the meantime here, sir.

22 You indicated earlier that you can not tell a  
23 master of a vessel what course to take, is that  
24 correct?

25 A That's correct.

1 Q The reason for that is, is it not, that you're  
2 not there. You're some distance away and you  
3 have radar sometimes, and say the radar's  
4 available. You also have radio communication,  
5 but you can't see what the captain can see?  
6 A That's correct.  
7 Q So there has to be, I would assume, a little  
8 flexibility between your ability to do your job  
9 and the captain of a ship to do his.  
10 Getting back to my other question...  
11 MR. COLE: Is that a question or an answer?  
12 MR. MADSON: I don't know.  
13 MR. COLE: A statement?  
14 Q (Mr. Taylor by Mr. Madson:) Is that correct?  
15 A There's...  
16 Q There has to be some flexibility?  
17 A Well, what do you mean by flexibility?  
18 Q Well, you can't tell him everything that he  
19 can do, right?  
20 A No.  
21 Q But the same time your function and your  
22 purpose is to aid and assist to see that he  
23 doesn't get into trouble, that he doesn't ground  
24 the vessel, there's no collisions, right?  
25 A That's what we try to do, yes.

1 Q I want to call your attention to the vessel  
2 control manual, Chapter 2, and it's called 2.2,  
3 General Watch Procedures.  
4 "The VTC shall at all times be conducted in an  
5 efficient professional manner."  
6 MR. COLE: Judge, I object. Is Mr. Madson  
7 asking questions? Is he reading this into evidence?  
8 Is he asking it to refresh his recollection?  
9 MR. MADSON: I'll do that. Withdraw the  
10 question.  
11 THE COURT: Is the document in evidence?  
12 MR. COLE: I don't know.  
13 THE COURT: Is the manual in evidence?  
14 MR. MADSON: It is not, Your Honor, at this  
15 time it is not in evidence.  
16 Q (Mr. Taylor by Mr. Madson:) Would you read  
17 this paragraph, sir?  
18 A "Watch conduct standards..."  
19 Q Well, you can read it yourself, if you wish.  
20 A Sure. I'd like to.  
21 Q I just want to refresh your recollection.  
22 (Pause)  
23 Mr. Taylor, when you worked for the Coast  
24 Guard as a civilian employee, you were required  
25 to be familiar with this manual, correct?



1 A Yes.

2 Q Having read just what you did, can you now  
3 answer the question as to whether or not the  
4 system, the Control Center, should be maintained  
5 and function like the deck of ship, or the bridge  
6 of a ship, excuse me?

7 A That's what they'd like it to be, yes.

8 Q What do you mean they'd like it?

9 A Well, they'd like it to be. It's not the  
10 bridge of ship, obviously.

11 Q Uh-huh (affirmative). But it should operate  
12 in a similar fashion?

13 A Right.

14 Q And are you on an upper level where you're  
15 physically located in the building when you work  
16 there?

17 A Yes.

18 Q At times you could leave there and go down  
19 below, right?

20 A Yes.

21 Q When the traffic was light? Things like this?

22 A When there's no traffic in the immediate area,  
23 if a vessel, say in between reporting points, we  
24 could go to the head, run down and get a cup of  
25 coffee, grab some chow, bring it back up.

1 Q Is a galley down below?

2 A Down below, yes.

3 Q Now, if you as a watch stander were to  
4 determine, or in your mind you think that a  
5 vessel was doing something that was in violation  
6 of the standards, you don't have the authority,  
7 yourself, to do anything about it, but you go up  
8 one level to report it, is that correct?

9 A I do not -- well, I don't physically go up one  
10 level to report it.

11 Q Okay. When I mean up one level I mean in  
12 terms of...

13 A I don't -- chain of command.

14 Q ...chain of command. Right.

15 And then that person normally, according to  
16 the manual, then, if asked if it's correct or  
17 not, what do they do next if the vessel's doing  
18 something that you believe is to be incorrect?  
19 Radio?

20 A I tell them that I believe the vessel's doing  
21 something that is incorrect. And I tell them all  
22 the facts I can. They'll either say -- tell me  
23 what to do, or they'll say I'll be right there.

24 Usually they say, "I'll be right there." They  
25 come up and assess the situation, make sure that

1 they have all the facts straight. And then if  
2 they can handle it to where they think they can  
3 handle it and do the proper thing, then they'll  
4 do that without contacting the commanding  
5 officer.

6 If they think that they should contact the  
7 commanding officer, they do.

8 Q Would the first step normally be for the  
9 Officer of the Deck to get on the radio, contact  
10 the vessel and request corrective action? You  
11 know, notify them that, "Hey, you're doing  
12 something wrong. Change it"?

13 A He might possibly call them up and ask them  
14 their intentions, also, just to get more  
15 information for himself.

16 He's the eyes and ears of the commanding  
17 officer. You know, I don't know his job. I only  
18 know my job.

19 Q So, you don't know what he would do, or what  
20 he's supposed to do?

21 A No.

22 Q Your job is simply to...

23 A Pass on...

24 Q ...tell it?

25 A ...the information.

1 Q Pass along the information.

2 A And then he makes any deliberations and tells  
3 me what to do.

4 Q But you are, again, familiar with the -- or at  
5 least you were familiar, were you not, with the  
6 VTC manual?

7 A Uh-huh (affirmative).

8 Q Did that include the 1988 supplement?

9 A I don't know.

10 Q Well, let me show you, this is page 23,  
11 counsel, of the 1988 supplement of the manual.  
12 Let me just see if this would refresh your  
13 recollection, sir? 4.3.5, if you could just kind  
14 of read that over to yourself?

15 (Pause)

16 A Do you want me to read A and B, or just...

17 Q Read as much as you feel is necessary to  
18 refresh your recollection.

19 (Pause)

20 Finished, sir?

21 A Yes.

22 Q Okay. Thanks.

23 Did reading that give you an opportunity to  
24 refresh your recollection regarding the manual  
25 and its contents of it in that portion of it?

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A Yes.

Q Does it not, then, indicate that if a vessel is determined to be in violation that the master should be notified promptly, and politely advised of the situation and corrective action be taken if necessary?

A Yes.

Q And if that isn't done, there are provisions, are there not, for citing a master, or a pilot for violations of the regulations?

A Right.

Q You also, were you not, aware that the Coast Guard, or yourself, personally, could be held liable for any actions that you might take which are beyond the scope of your authority as a watchstander?

A Yes. That's one of the main reasons I would call the OD in immediately if I felt something was going wrong.

Q Sure. You'd like to have someone with higher authority, would you not, make that decision?

A Right.

Q In an emergency situation, and I assume we're again talking a hazardous condition, or emergency, you could, if you didn't tell the

1 vessel what course to steer, you could at least  
2 recommend it, could you not?

3 A I don't know if I'd recommend it. I could  
4 just tell them that I recommend that they take  
5 corrective action. That would be a  
6 recommendation.

7 Q At the very least, if you, again, assuming you  
8 had the vessel on radar, a clear blip on there,  
9 and you saw it was off course and heading towards  
10 something such as a reef, a shoal, or shore, you  
11 would at the very least notify the vessel by  
12 radar...

13 A Yes.

14 Q ...or by radio, would you not?

15 A Yes, I would. In a very polite manner.

16 Q If -- polite but firm?

17 A Yes.

18 Q When you plot, again, when a vessel leaves the  
19 Terminal, at least for a period of time you  
20 actually plot the course of the vessel, do you  
21 not?

22 A We usually start the -- you mean, actually  
23 plot it on paper?

24 Q Again, I don't know. I'm not there when  
25 you're doing. Why don't you explain that to us?

1 (3579)

2 A Usually as soon as a vessel gets under way we  
3 set up our data logger, which records the  
4 course...

5 Q Maybe you better explain what that is, the  
6 data logger?

7 A Okay. The data logger is a machine that  
8 records the course and speed of the vessel. And  
9 it does it at a specific time. So, all you have  
10 to do is just punch in the vessel, acquire the  
11 vessel on the radar and punch in your data logger  
12 and tell the data logger that you want to do a  
13 six minute plot, or a three minute plot, and  
14 every six minutes or three minutes it will take  
15 down a course and speed, a range and bearing from  
16 a particular point and give you the speed of the  
17 vessel.

18 When the vessel gets under way we start that  
19 data logger up and that's usually about a mile  
20 before it gets into the Narrows we start to plot  
21 so that the data logger, itself, can get itself  
22 squared away and get things working properly.

23 And it logs it every six minutes outside  
24 Narrows, every three minutes through the Narrows  
25 the data logger will give me this information.

1 I don't manually plot it, but I have that  
2 information there, that historical information so  
3 that if anything goes wrong I can go back and I  
4 can plot the vessel now.

5 Q Excuse me. You say if anything goes wrong  
6 you'd do what?

7 A I can go back -- not if anything goes wrong,  
8 but if anybody wanted to, say "Plot this vessel  
9 for me," then I'd go back to the vessel data  
10 sheet. I'd have the data logger output sheet of  
11 paper and I'd go back and I'd manually plot it on  
12 there so that you could look at it and say...

13 Q So, what you're doing with the data logger is  
14 not actually putting it on a chart that you can  
15 follow the course of the vessel on, is that  
16 right?

17 A (No audible response.)

18 Q You could do that, but...

19 A Yes.

20 Q ...you aren't doing it as a matter of course?

21 A At the time, no.

22 Q Maybe I'm just confused, but what really is  
23 the purpose then of doing this, the data logger,  
24 if you just -- if somebody asked you where was  
25 this vessel at that time, say a month or two



1 later, said, you know, "What was it's course?"  
2 You could go back and resurrect it, I guess?

3 A That's correct. Yes.

4 Q Is that it's only purpose?

5 A It's historical data and it's there so that  
6 you can tell where the vessel's at and have it  
7 documented.

8 Q And that data logger still exists for the  
9 Exxon Valdez, does it?

10 A I would hope so.

11 Q For the 23rd? Pardon?

12 A I would hope so. I don't have no idea, but I  
13 would really think that it is.

14 Q Yeah. When would it end, if you know, as far  
15 as the Exxon Valdez was concerned on this night?  
16 Where would the data logger end? Where you lost  
17 it on radar?

18 A Well, I could have ran it 'til then. I don't  
19 believe I did. I think, you turn the data logger  
20 -- as soon as it gets through the Narrows I  
21 usually give it three or four more plots and then  
22 shut the data logger down, 'cause you've got your  
23 information through the Narrows.

24 Q So, you're really only interested in the  
25 portion through the Narrows, is that right?

1 A That's right.

2 Q But, you could, if you had the means, the  
3 capability, you could continue to monitor the  
4 progress with the data logger?

5 A With that data logger as long as you have a  
6 contact on the scope and you have it acquired,  
7 which means that your radar has acquired it and  
8 knows this contact is, it will as far down as it  
9 can see until you lose the contact, it will keep  
10 giving your six minute position reports.

11 Q Now, with regard to radar for people who may  
12 not understand how it works, could you describe  
13 it in layman's terms, you know, what you look at  
14 and what you really have to determine the  
15 position of a vessel? Do you think you could do  
16 that? Or, even, do you think you could do a  
17 sketch on the board, that would be okay, too?

18 A All I would be drawing you is a circle.

19 Q Okay. Can you describe what it looks like?  
20 What you're actually looking at?

21 A What I'm actually looking at is a circle. And  
22 in this circle, as the sweep goes around, which  
23 you have a line that sweeps around. It just  
24 keeps going constantly around in a circle. It  
25 takes a few seconds to make a complete sweep.

1 And in that time it will give you a graphic  
2 outline of outlying areas, of a vessel, of the  
3 shoreline, and it will -- if you can look at the  
4 chart and then look at the radar, it would draw  
5 you the same picture.

6 Q Now, when you see a vessel is this kind of a  
7 little green blip that you see on the screen?

8 A Green, yellow, whatever color they have up  
9 there at the top, and it is a blip.

10 If it's a long vessel, then it's elongated,  
11 you know. If it's a short vessel then you only  
12 see your blip.

13 Q Would that depend which direction you're  
14 looking at it if it's long or short? I mean, if  
15 the vessel's going away from you...

16 A Sometimes yes. Sometimes no. The closer it  
17 is the better the radar works for you.

18 Q How far is Bligh Reef from the VTC in terms of  
19 statute miles, if you know?

20 A Not off the top of my head I don't know. I  
21 could roughly say 15 miles, probably.

22 Q Can you determine the position, that is, the  
23 heading of a vessel at that distance with your  
24 radar?

25 A At 15 or 16 miles?

1 Q Uh-huh (affirmative).

2 A If I can pick them up on the radar I can  
3 determine their heading.

4 Q Now, with regard to radar again, is there  
5 different scales you can use?

6 A Yes, there are.

7 Q How -- would you explain that, sir?

8 A Different scales, what they do is we have a  
9 1.5 mile scale, which just makes the entire  
10 screen larger. You see a smaller area, but it's  
11 larger.

12 You have a three mile scale which gives you a  
13 three mile range from the center of the screen  
14 out to the edge of the screen.

15 And you have a six mile scale which is the  
16 same thing. From the center of the screen  
17 outwards.

18 And it just has -- different radars have  
19 different ranges. 24 miles scale, 48 mile scale  
20 if you've got a powerful radar.

21 What that does it gives you a very small  
22 picture, but it's larger. You see more area.

23 Q You can cover more area?

24 A Right.

25 Q The radar you had on this particular evening,

1 on the 23rd of March, what scales did you have  
2 available at that time?

3 A 1.5, 3, 6, 12, 24, 48. If you turn it to 48  
4 you've got a huge picture, but you only see about  
5 this much of the entire screen because it's so  
6 small. We rarely use that, never use it.

7 I mean, if the techs are tuning it up they'll  
8 go for the 48 miles scale, but I've never used it  
9 for tracking purposes.

10 I've never used the 24 mile scale for tracking  
11 purposes. Mainly use the 3, the 6, and the 12.

12 Q 12 is the one that is kind of a limit, you  
13 might say...

14 A Right.

15 Q ...capacity of the radar system you have.

16 Was the radar on this particular night  
17 working, or tuned up as well as you thought it  
18 could be?

19 A It was working as well as it did. I'm not a  
20 radar technician. I couldn't really tell you, it  
21 would be -- I'd just be speculating, you know,  
22 because I don't really know.

23 Q You didn't see anything obviously wrong with  
24 it, let me ask you that?

25 A No.

1 Q Okay. Now, one of the radar sites is at a  
2 place called Potato Point, is it not?  
3 A That's correct.  
4 Q Do you know how far that is from Bligh Reef?  
5 A 10 miles? 13 miles? 13.2.  
6 Q Now, lastly then, sir, I want to ask you a few  
7 more questions about the night, and I think you  
8 may have answered this already, but the ARCO  
9 Juneau did give you an ice report earlier,  
10 about...  
11 A Approximately four hours earlier, yes.  
12 Q You recall the ice report, what it said when  
13 the captain, or whoever it was, what they told  
14 you?  
15 A Not verbatim. What he actually said is there  
16 are numerous small pieces extending across the  
17 lanes over toward Bligh Reef buoy.  
18 Q And the ARCO Juneau to your knowledge  
19 deviated, or went around the ice?  
20 A Yes, sir. By then they were out of the --  
21 they were off my scope. I saw them turn, make  
22 their initial turn to skirt the ice. And then I  
23 lost them off the scope. So, I just took their  
24 word for it as to their intentions, what they  
25 were going to do.

1 Q That would be the normal situation if you  
2 couldn't see them on the scope, would it not?  
3 A Right. Right.  
4 Q The master says, "I'm going to deviate to go  
5 around ice." You assume that's what he's going  
6 to do?  
7 A That's correct.  
8 Q And when you were watching the Exxon Valdez  
9 this evening, you said it disappeared from your  
10 radar on the six mile scale at about what point?  
11 Where'd you lose it?  
12 (Tape: C-3609)  
13 (010)  
14 A I'd say it was from the tip of Rocky Point.  
15 Between Rocky and Busby.  
16 Q And did you switch the next scale, the 12 mile  
17 scale?  
18 A Yes, sir. I did.  
19 Q And did you see it on that scale?  
20 A I saw it for a -- it would take a sweep and  
21 the vessel would be there, and it would take four  
22 or five sweeps and it wouldn't be there. And  
23 then I totally lost it all together. So, I  
24 switched back the six mile scale. At that time  
25 six mile offset to 10, which means I can move my

1 radar from the very center of the screen. I can  
2 switch it up so that I have, instead of six miles  
3 on the six mile scale I have approximately 10  
4 miles to see.

5 I switched it back to the six mile scale from  
6 the 12 mile scale because I saw it on the six  
7 mile scale. I didn't see it on the 12 mile  
8 scale. So, it was pretty obvious that I would  
9 switch it back.

10 I still it had on the six mile scale  
11 approximately an inch to go on the scope of which  
12 I saw the vessel. I watched it 'til it went off  
13 the screen, switched back, still nothing.

14 Switched back to 12 mile scale. Still didn't  
15 see it.

16 I had the target stretcher on, which target  
17 stretcher stretches your target, makes it larger  
18 by say a third. It's just easier to see. If you  
19 have a small boat, turn your target stretcher on,  
20 it will -- sometimes it will double the size. It  
21 just makes it easier to see.

22 I had the gain turned all the way up.

23 Q So, you were stretching the capacity of your  
24 equipment to it's maximum at that scale?

25 A That's right.



1 Q And you said you lost it all together?

2 A Yeah. After it went off the scale.

3 Q Weather condition, sir, is a factor to be  
4 considered whether you can see a vessel at that  
5 point?

6 A That is definitely correct.

7 Q Snow squalls, rain, anything like this?

8 A Anything like that. If you get, say if I have  
9 a vessel down by Rocky Point and I have a weather  
10 cell, or a snow squall move through, you can  
11 actually see it on the radar. You can see it  
12 moving in. It will -- you'll have your shoreline  
13 going down and then this, as this moves in, it  
14 will -- you'll be able to see a big yellow mass  
15 coming across the screen.

16 Usually if this mass goes into the vessel, you  
17 know, covers the vessel, you're going to lose the  
18 vessel completely. If it's between you and  
19 vessel, you're probably going to lose your  
20 contact also.

21 So, weather is a major.

22 Q Do you recall any squalls or anything on your  
23 screen that you concluded might be interfering  
24 with your ability to track the Exxon Valdez at  
25 this time?

1 A Not off the top of my head, I don't. I know  
2 that -- see, I'm in a dark room. I can't see  
3 what the weather is outside. At that particular  
4 time I don't recall if I did or not.

5 Q Of course the weather could be different at  
6 your location as opposed to...

7 A That's very true.

8 Q ...ten miles away, right?

9 A Very true.

10 Q You get off duty normally, then, at midnight?  
11 Quarter 'til.

12 Q Who replaced you on the 23rd?

13 A Bruce Blandford.

14 Q What time did Mr. Blandford show up to replace  
15 you?

16 A I believe he showed up at approximately  
17 between 11:30 and 11:35 that evening.

18 Q Is it normal that he would show up a little  
19 earlier? Is that the normal routine, to come in  
20 a little earlier?

21 A Right.

22 Q Is part of your duties, then, when you go off  
23 duty to explain to the person replacing you  
24 what's going on?

25 A That is correct.

1 Q Did you tell Mr. Blandford that the Exxon  
2 Valdez was outbound?  
3 A That's correct.  
4 Q Did you tell him any ships were coming in?  
5 A Yes, I did.  
6 Q What was that?  
7 A I told him that there were two ships  
8 approximately an hour out from Cape Hinchinbrook,  
9 Chevron California and ARCO Alaska, if I remember  
10 correctly.  
11 I told him that the Exxon Valdez was outbound  
12 and they were deviating around the ice. They  
13 were at 200 at 12 knots. They'd call us when  
14 they got through the ice with an updated ice  
15 report and updated ETA to Naked Island.  
16 Q And from your experience, sir, if a vessel, or  
17 master indicates he's going to deviate through  
18 the ice, or wind his way through the ice, that  
19 means he's going to have to make course changes,  
20 does it not?  
21 A Yes.  
22 Q And did you tell Mr. Blandford that you could  
23 not see them any longer on the radar?  
24 A That is correct.  
25 Q And approximately what time was that?

1 A Well, it was before 11:45. Between 11:30 and  
2 11:45.

3 Q What time did you physically leave the  
4 building?

5 A I believe I walked out at 11:45 -- 11:46.

6 Q Then, with the information Mr. Blandford had,  
7 then, he could have gone to radar and still tried  
8 to locate the Exxon Valdez and if a snow squall  
9 or something had disappeared it's likely, or  
10 possible -- possible, let's put it that way --  
11 possible he could seen them?

12 A Yeah if the -- yeah, right. If the snow  
13 squall had moved through it's possible. Anything  
14 is possible.

15 Q So, when you left, at any event, it was off  
16 the screen and you didn't see it any more?

17 A That's correct.

18 Q Thank you, sir. I don't have any other  
19 questions.

20 REDIRECT EXAMINATION OF MR. TAYLOR

21 BY MR. COLE:

22 Q Mr. Taylor, I'm showing you what's been marked  
23 for identification as Plaintiff's Exhibit 75. Do  
24 you recognize that?

25 A Yes, sir. I do.

1 Q What is that?

2 A It's a Prince William Sound User's Manual for  
3 the Vessel Traffic Service.

4 Q Okay. Who is required to carry that manual?

5 A All vessels participating in the traffic  
6 system.

7 Q And that would include tankers?

8 A That's correct, sir.

9 Q Is this a fair and accurate copy of the Vessel  
10 Traffic Service manual?

11 A Yes, sir. That's the one.

12 MR. COLE: I would move for the admission of  
13 what's been identified as Plaintiff's Exhibit 75.

14 MR. MADSON: May I see it again, counsel?

15 (Pause)

16 THE COURT: Hearing no objection...

17 MR. MADSON: No objection. That's correct.

18 I'm sorry.

19 EXHIBIT 75 ADMITTED

20 THE COURT: It's admitted.

21 Q (Mr. Taylor by Mr. Cole:) Mr. Taylor, can you  
22 read the disclaimer that's on the first page of  
23 that manual?

24 A Aloud or just to...

25 Q Yes.

1 A ...myself? Out loud?

2 It says here, "The mariner is cautioned that  
3 information provided by the Vessel Traffic Center  
4 is to a large extent based upon reports of  
5 participating vessels and can be no more accurate  
6 than the information received. The Coast Guard  
7 may not know of all hazardous circumstances  
8 within the vessel traffic service area.  
9 Unreported hazards may confront the mariner at  
10 any time. Any conflicting circumstances or  
11 hazardous conditions should be reported to the  
12 Vessel Traffic Center immediately."

13 Q Who has control over the tankers as far as  
14 their navigation when they're in the vessel  
15 traffic system?

16 A The captain of the vessel, the vessel.

17 Q Can you give them any orders to turn one way,  
18 or the other?

19 A No. I can not, not without contacting the  
20 Captain of the Port and having -- I have to say,  
21 "By authority of the Captain of the Port." I  
22 can't make any decisions of that nature on my  
23 own.

24 Q Now, Mr. Madson asked you a lot of questions  
25 about warning tankers if they get off course.

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Can you do that if you can't see them on radar?

A I have no way of knowing they're off course if I can't see them on the radar. Once they're off the radar then it's totally radio contact.

Q And do you keep track of the tankers after you lose them on the radar?

A That's correct. With ETAs to their specific check in points, and that's the only way we can keep track of them.

Q What do you mean by that? ETAs?

A Estimated time of arrivals. If they tell me that they're going to be at, say Naked Island at 5 o'clock, then I'm expecting a call from them at Naked Island at 5 o'clock. And at that time they would give me another estimated time of arrival at their next check in point.

Q Do you mentally plot their course in between the time they call and the time they arrive at the place, just to keep in your mind where these tankers are generally?

A I wouldn't say a mental plot. I keep in my mind, you know that it's going to take approximately an hour and a half to get down to Naked Island, a couple hours after that to get to their next check in point.

1           If they don't check in by that specific time  
2 then you start wondering well, where they're at.  
3 And at that time I'll probably give them a call  
4 asking what's their location.

5           They'll either tell me they're a little behind  
6 time, a little ahead of time, they forgot, sorry  
7 and give me the next ETA.

8   Q           Would you tell the jury, you have a chartboard  
9 in the VTC Center, what's that used for?

10   A           The large one that we had talked about? It's  
11 approximately seven by eight. It's used just to  
12 keep track of the vessels. We have vessel tags,  
13 magnetic vessel tags of all the vessels that  
14 participate. And as a vessel leaves we just go  
15 up there manually, just slide them down as they  
16 do their check in points just slide them down so  
17 that we know where they're at. So if we have  
18 five or six vessels in the system it's easy that  
19 way. You can just visually look over at a glance  
20 and tell where they're all at, if you keep it up  
21 to date.

22           And it's a very helpful piece of gear.

23   Q           Now, the accuracy of the radar, Mr. Madson  
24 asked you some questions about the accuracy of  
25 the radar, does that -- as to where it's located.



1 Does that depend on how far it is away from your  
2 radar?

3 A I would say yes. The farther away I think the  
4 greater degree of inaccuracy.

5 But that -- if you talk to a radar tech, he  
6 might tell you just the opposite. That's just  
7 what I've found over the years.

8 Q Now, why is it that you don't plot after the  
9 vessel leaves the Narrows? You don't keep the  
10 data. Why?

11 A Well, basically because we're required to do  
12 it through the Narrows by law. Outside the  
13 Narrows it widens up to a larger area and we  
14 figure that they can navigate their vessel down  
15 through there without...

16 Q I didn't hear you?

17 A We figure that they can navigate their vessel  
18 down through that area...

19 Q By themselves.

20 A ...by themselves, yeah.

21 Q Now how long have you worked in the VTS Center  
22 as a watchman?

23 A All together approximately 7-1/2 years.

24 Q Have you ever in the course of that time had a  
25 tanker captain tell you that he was lost and ask

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you where he was?

A No. Not that I can recall, no.

Q Can you tell the jury why you don't use the 24 and the 48 mile scale on the radar?

A Well, it makes it so small, it makes what you're looking at on your screen so small that actually, your bearing marker, it's an electronic bearing marker, which is a line that goes from your, say Potato Point down. If you laid that on the 24 mile scale, put that over top of a vessel, you'd totally cover it. It makes it so small that it doesn't help you at all. So, that's why we try to keep them up on the 12 mile scale. We have a better picture on the scope.

MR. COLE: May I approach your clerk, Your Honor?

THE COURT: Yes.

Q (Mr. Taylor by Mr. Cole:) I'm showing you what's been marked for identification as plaintiff's Exhibit 79. Do you recognize that tape?

A Yes, I do.

Q Why do you recognize it?

A I initialed it.

Q And have you listened to that tape?

1 A Yes, sir. I have.

2 Q And the taping procedure at the VTC Center,  
3 how is that done?

4 A It's done on a double reel to reel tape and it  
5 works 24 hours a day. It's running constantly.

6 Q And does it record the messages that you  
7 receive and the messages that you give?

8 A That is correct, on the VHF.

9 Q Channel 13?

10 A Channel 13 and 16.

11 Q And is there a clock on it?

12 A Yes, there is.

13 Q It keeps track of time.

14 A A chronometer.

15 Q And is that done in the regular course of  
16 business, this recording of these conversations?

17 A Yes, it is.

18 Q Have you listened to this tape, and does it  
19 provide a fair and accurate representation of the  
20 conversations that you had with the Exxon Valdez  
21 from the time the Exxon Valdez left the dock  
22 until you went off duty that evening?

23 A Yes, sir. I believe it does.

24 Q And it references -- have you read a  
25 transcript of that?

1 A Yes. I did.

2 Q And is that transcript a fair and accurate  
3 representation of the conversation?

4 A Yes, it is.

5 Q And where that says "VTC", whose voice is  
6 that?

7 A Mine for a good portion of it.

8 Q And that's up to the point where you were off  
9 duty, or you left?

10 A Right.

11 Q And do you recognize any other voices on  
12 their?

13 A I recognize the pilot's.

14 Q And would that have been at the beginning of  
15 the...

16 A Yes.

17 Q And to the best of your knowledge are the  
18 times on the transcript accurate also?

19 A Yes.

20 Q I have nothing further, Your Honor.

21 (620)

22 RE CROSS EXAMINATION OF MR. TAYLOR

23 BY MR. MADSON:

24 Q Mr. Taylor, just a few more questions.

25 A Yes, sir.

1 Q The manual, Exhibit 75, which I think you have  
2 in front of you there, that you've identified...  
3 A Yes, sir.  
4 Q ...has a Coast Guard disclaimer in it, does  
5 it not?  
6 A Yes.  
7 Q Beginning -- okay. Basically it says, does it  
8 not, that the information we are providing you is  
9 only as good as we can get. In other words, if  
10 there's an ice report from another vessel, we're  
11 just relaying that information on...  
12 A That's correct, sir.  
13 Q ...right?  
14 On the other hand, a vessel in the VTS system  
15 doesn't rely on radar from any other vessels,  
16 does it? You're not getting radar reports from  
17 other vessels, are you?  
18 A No. Not that I -- no.  
19 Q The only radar coverage is by the Coast Guard  
20 VTC?  
21 A That's correct.  
22 Q You also indicated now about the authority to  
23 give orders or give directions to captains of  
24 tanker vessels. The Narrows is one way traffic,  
25 is it not?

1 A That's correct.

2 Q If there's a vessel coming out, let's say it's  
3 in the middle of the Narrows and there's a vessel  
4 that's going to go in, you get on that radio,  
5 don't you, and you say you can not go in there  
6 now, words to that effect? You are directed to  
7 slow down and do not enter until 0700, or  
8 something like that?

9 A Right. I would say that they're not cleared  
10 until the other vessel clears the Narrows.

11 Q So there are certainly directions and controls  
12 that you can give a vessel in the VTS system?

13 A For the one way zone.

14 Q No other?

15 A Just for the one way zone. Other than that  
16 you don't tell them what to do.

17 Q But, you can certainly tell them that they are  
18 not where they are supposed to be, right?  
19 They're not doing what they're supposed to be  
20 doing?

21 A I can tell them that. That's correct.

22 Q And you can take it -- now when we say "you",  
23 you can take it one step higher in the authority  
24 scale...

25 A That's right.

1 Q And that person may do something about it?  
2 A That's right.  
3 Q Exhibit 79 you have there in front of you,  
4 sir. I just want to clear something. Is that  
5 the tape of the outbound conversations, or  
6 inbound?  
7 A Outbound.  
8 Q Outbound. Okay.  
9 And even if you don't have radar contact with  
10 a vessel, you still have radio contact, do you  
11 not?  
12 A That's correct.  
13 Q How far does your radio contact extend?  
14 A Well, it extends outside of Cape Hinchinbrook.  
15 It extends completely through Prince William  
16 Sound. When I say completely, I mean in the area  
17 of the Vessel Traffic System. And I would say  
18 maybe four to five hours outside of Cape  
19 Hinchinbrook.  
20 Q So, certainly you have good radio contact  
21 between yourself and vessels, say in the vicinity  
22 of Bligh Reef?  
23 A Yes. Excellent.  
24 Q And you could, even without radar, contact the  
25 vessel and say, how are you coming through the

1 ice, what's the conditions, things like this?

2 A That's true. I could do that.

3 Q The Exxon Valdez between, say 11 o'clock and

4 the grounding was the only vessel that you really

5 had to monitor, did you not?

6 A Right. Other than the Bartlett that came

7 through earlier, but right. That's correct.

8 Q Well, is the Bartlett, is it required to be

9 part of the VTS system, too?

10 A Uh-huh (affirmative). If you say monitor, I

11 mean, I'm still monitoring the inbound vessels

12 out at Cape Hinchinbrook.

13 Q By radio?

14 A By radio.

15 Q But by radar, the Exxon Valdez was the only

16 one that you could even try to monitor?

17 A By radar.

18 Q By radar.

19 A Yes.

20 Q And on the 12 mile scale, for instance, that

21 doesn't limit you to just 12 miles, does it? You

22 can actually...

23 A I can set it to approximately 15 to 18 miles,

24 yeah.

25 Q Thank you. I don't have any other questions.



1 REDIRECT EXAMINATION OF MR. TAYLOR

2 BY MR. COLE:

3 Q Just two questions. Are you encouraged to  
4 have conversations with -- well, let me withdraw  
5 that.

6 Mr. Madson asked you about conversations that  
7 you can have with a captain about icing  
8 conditions. Would you do that?

9 A I call them up and ask them for an ice report,  
10 but I, you know, at the time I was going to get  
11 an ice report and updated ETA. We don't call  
12 them up and shoot the breeze or anything like  
13 that. It's supposed to be short and sweet,  
14 professional, right to the point, concise. I  
15 don't know how to word it.

16 Q Nothing further.

17 THE COURT: You're excused.

18 Is there any further need for this witness?

19 MR. MADSON: No, Your Honor. No reason to  
20 recall him that I know of..

21 THE COURT: All right. You're excused.

22 (Witness excused.)

23 A Does that mean I can go home?

24 THE COURT: Any further use of the witness?

25 MR. COLE: (No audible response.)

1 THE COURT: You're free to go home.  
2 Call your next witness please.  
3 MR. COLE: Mr. Skip Blandford.  
4 (Pause)  
5 THE CLERK: Sir, you'll find a microphone.  
6 Attach that to your tie, remain standing and raise your  
7 right hand, please.  
8 (Oath administered.)  
9 A I do.  
10 BRUCE LEONARD BLANDFORD  
11 called as a witness in behalf of State of Alaska, being  
12 first duly sworn upon oath, testified as follows:  
13 THE CLERK: Sir, would you please state your  
14 full name and then spell your last name?  
15 A Bruce Leonard Blandford. B-l-a-n-d-f-o-r-d.  
16 THE CLERK: Your current mailing address?  
17 A Box 789, Valdez.  
18 THE CLERK: And your current occupation?  
19 A Pardon.  
20 THE CLERK: Your current occupation, sir?  
21 A The Department of Transportation, U. S. Coast  
22 Guard civil service.  
23 (899)  
24 \*  
25 \*

1 DIRECT EXAMINATION OF MR. BLANDFORD

2 BY MR. COLE:

3 Q Mr. Blandford, where do you live?

4 A In Valdez.

5 Q How long have you lived there?

6 A 12-1/2 years.

7 Q And where did you come from before Valdez?

8 A Charlevoix, Michigan.

9 Q Since living in Valdez would you tell the jury  
10 what your jobs have been there?

11 A I came to Valdez initially with the Coast  
12 Guard on active duty. I was assigned there in  
13 August of 1977. I was on hand when the pipeline  
14 and terminal and vessel traffic service more or  
15 less simultaneously opened for business. I was  
16 assigned there as a Vessel Traffic Center watch  
17 officer, initially, with other collateral duties.

18 After six to eight months I took over the  
19 duties as the Vessel Traffic Center supervisor  
20 and operations officer.

21 Q How long did you remain in the Coast Guard?

22 A I stayed in the Coast Guard in Valdez until  
23 June 30th of 1980.

24 Q And what did you do after that?

25 A For about a year I had my own charter fishing

1 business in Valdez. And approximately May or  
2 June of '81 I went to work for the local electric  
3 co-op, Copper Valley Electric as their district  
4 superintendent.

5 Q Did you at some point join, or start working  
6 again at the VTC Center?

7 A Right. I had another job in between with  
8 Copper Valley Telephone, running their Radio  
9 Shack store down there for a couple of years.  
10 And in 1986, August of 1986 I went back to work  
11 for the Coast Guard as a civil service employee.

12 Q And what were your responsibilities when you  
13 went back to work in 1986?

14 A The job opening which I had applied for and  
15 subsequently received was that of the position of  
16 a civil service vessel traffic controller, is the  
17 job title, GS-9.

18 Q And would you tell the jury what your  
19 responsibilities were as a vessel traffic  
20 controller?

21 A Much the same as those whom I had supervised  
22 as the operations officer being in charge of the  
23 vessel traffic center. That to be the actual  
24 watch stander to run the minute to minute  
25 business of the traffic center, itself.

1 Q Would you tell the jury, is this located in  
2 downtown Valdez?  
3 A Yes.  
4 Q The Vessel Traffic Center?  
5 A Yes, it is.  
6 Q What type of equipment did you have available?  
7 A We had, primarily, to operate the Vessel  
8 Traffic Service a communications network which is  
9 connected by microwave with various VHF, FM radio  
10 sites placed throughout Prince William Sound.  
11 We monitor the vessel's progress through the  
12 use of this communications equipment. And in  
13 areas where we have radars installed, also use  
14 the radar to get a visual presentation of the  
15 vessel's progress. Particularly in Valdez  
16 Narrows.  
17 Q Where does the -- do you first have contact  
18 with incoming tankers?  
19 A According to the regulations they are to call  
20 us three hours prior to their taking arrival at  
21 Cape Hinchinbrook entrance, depending on the  
22 vessel's speed, generally around 45 miles. They  
23 average around 15 knots.  
24 Q 45 miles from where?  
25 A 45 to 50.

1 Q I'm showing you what's been previously  
2 admitted as Plaintiff's Exhibit 25. Can you give  
3 the jury an idea of where these tankers are  
4 located when they call you three hours early?  
5 Can you see it on that chart?

6 A Well, generally, most of the traffic will be  
7 arriving from the southeast coming up from the  
8 lower 48, either California or Puget Sound area.  
9 And they'll be coming from this direction. Three  
10 hours from Cape Hinchinbrook light, which would  
11 be, depending on their speed, somewhere around 45  
12 or 50 miles.

13 Q Can you see 45 or 50 miles from Cape  
14 Hinchinbrook on that chart?

15 A I don't believe so.

16 Q Where is the first place that you generally  
17 pick them up on radar?

18 A Up in Valdez Arm.

19 Q Now, from the time that you make initial  
20 contact with them, the three hour time, how do  
21 you maintain contact with them until, say, they  
22 get to Bligh Reef?

23 A Okay. According to the regulations which are  
24 contained in the little pamphlet here, the user's  
25 guide, the next reporting point is one hour prior

1 to entering Cape Hinchinbrook, which they're  
2 required to relay certain other information. And  
3 then, they confirm at that point that their ETA  
4 to Cape Hinchinbrook remains the same.

5 Once they arrive in Cape Hinchinbrook they  
6 call again and give us an ETA to a point abeam of  
7 Naked Island, right there.

8 When they arrive at that point, they, again,  
9 call with an ETA to the pilot's station. And if  
10 the vessel has a federally licensed pilot on  
11 board for this route that pilot station would  
12 have been at Rocky Point.

13 Q If they don't have a federal pilot aboard,  
14 where is that?

15 A That would have been Bligh Reef.

16 Q Now, during this time that you're coming in  
17 can you see them on the radar through  
18 Hinchinbrook and Naked Island?

19 A We can't see -- we can't see them on the radar  
20 any portion of this route up until they arrive  
21 approximately at Bligh Reef.

22 Q And what type of factors effect whether or  
23 not, where the first point is that you can pick  
24 them up?

25 A Mainly weather and sea conditions. Weather

1 more than sea conditions.

2 Q How about whether or not the tanker is laden  
3 or unladen?

4 A The unladen tankers coming in in ballast are  
5 riding much higher on the water, probably  
6 presenting two to three times the target area as  
7 they would be if they're unladen. Excuse me, as  
8 they would if they were laden and loaded down  
9 into the water.

10 Q Now, was your shift at about 11:45 on March  
11 23rd, 1989?

12 A Yes.

13 Q Would you tell the jury when you got there  
14 that evening?

15 A As best I recall I arrived in the Traffic  
16 Center at about 2340.

17 Q Who was there when you arrived at the Vessel  
18 Traffic Center?

19 A Mr. Taylor was the off going watch stander  
20 whom I was to relieve.

21 Q And what did you do when you got there?

22 A He informed me of the pending traffic. He  
23 informed me that -- of course we -- I looked at  
24 the status board which is just a big blow up of  
25 this chart, which we have little magnetic tags we



1 move around that show all the positions of the  
2 different vessels.

3 Q What did he tell you about the Exxon Valdez?

4 A He said that the Exxon Valdez had just prior  
5 to that, shortly before that, had dropped his  
6 pilot and that he had called recently and said  
7 that he was going to course 200, 12 knots, and  
8 entering the southbound lane in order to avoid  
9 ice which was presumably in the northbound lane.  
10 Excuse me. He was going into the northbound lane  
11 to avoid ice, because there was ice across the  
12 southbound lane and separation zone, and that he  
13 would call with a new ETA for Naked Island once  
14 he was clear of the ice.

15 He also informed of the two inbound vessels we  
16 had at that time.

17 Q Did you take a look at the radar that evening  
18 when you got on duty to see if you could see the  
19 Exxon Valdez?

20 A Yes. According to Mr. Taylor, he said that he  
21 had lost contact with the Exxon Valdez on the  
22 radar...

23 Q Okay. Would you explain what you mean by that  
24 so the jury would understand what you understood  
25 that to mean?

1 A I understood that to mean that the weather  
2 conditions and or some kind of equipment  
3 problems, whatever, was effecting the situation  
4 at the time, probably mostly weather conditions.  
5 And for that reason he's no longer be able to  
6 make contact with the vessel on radar.

7 Q Okay. Did you look to see if...

8 A Yes, I did. I looked at the scope and we  
9 weren't picking anything up.

10 Q What did you do, then, after that?

11 A In terms of...

12 Q Well, it's 11...

13 A ...of the watch relief?

14 Q Yeah.

15 A I believe Mr. Taylor actually completed the  
16 watch relief. He gave me the situation on the  
17 ice. And he mentioned that the ARCO Juneau had  
18 gone out a few hours before that and they had  
19 done -- this is the same, basically the same  
20 maneuver that he told me that the Exxon Valdez  
21 was currently conducting, and that they had gone  
22 through there with no problem.

23 And then we discussed what the ice was, and  
24 various aspects of the relief. Whether or not  
25 any of the equipment was down, which at that time

1 it was. We had some communications sites  
2 inoperative. I believe it was Cape Hinchinbrook  
3 and possibly Naked Island VHF sites were  
4 inoperative.

5 Then, about 2345, he left.

6 Q What did you do after he left?

7 A Best I recall I set the various pieces of  
8 paper that we keep the watch going on set up in  
9 the way that I like to set them up so I know  
10 where everybody is and where they're going to be.  
11 And I got it all pretty well straight in my mind  
12 as to what was happening.

13 And after I had satisfied myself that I was  
14 familiar enough with what was going on, I went  
15 downstairs to get a cup of coffee. And I came  
16 back up and checked with the weather service, who  
17 is right next door to our traffic center, to see  
18 what the current weather conditions were like and  
19 what the forecast was.

20 And then I went back into the traffic center.  
21 I'm not sure what time I arrived back in there.  
22 It probably took me a total of five minutes to do  
23 that, get coffee and come back in.

24 (1570)

25 Q What did you do then, next?

1 A Well, I'm sure I just sat there for a few  
2 minutes. And then right at midnight I started my  
3 midnight chore routine.

4 Q Would you explain to the jury what that is?

5 A Okay. We have to, first of all, the 24 hour  
6 tape recorder that we use -- 40 channel tape  
7 recorder has to be changed. The tape has to be  
8 changed at midnight. The old one rewound, or the  
9 one that has just finished recording, it has to  
10 be rewound all the way. The heads have to be  
11 cleaned on the machine. You have to pull a used  
12 tape that's a month old off the shelf, use a bulk  
13 tape eraser on it. Erase that. And install it  
14 on the reel that you've just removed the present  
15 day's -- or the previous day's tape from.

16 And at midnight the other reel starts  
17 recording automatically, so you don't miss  
18 anything. One stops, the other one starts.

19 Q This 24 hour clock, is this an accurate clock?

20 A Yes, it is. You take a time tape with WWB  
21 every day and compare it. And if it's more than  
22 two or three seconds off we make sure it's  
23 corrected.

24 Q Did you receive any radio communications,  
25 then, during that time?

1 A Any radio?  
2 Q Communications?  
3 A No. None whatsoever.  
4 Q When did you get your first communication?  
5 A As far as receiving any communications, while  
6 I was gone, if I had not been there to take a  
7 radio call, the radioman would have answered it  
8 for me.  
9 Q Oh, he remained in the room when you went to  
10 get a cup of coffee?  
11 A Yes. Yes, he did.  
12 And if it were something that he couldn't  
13 handle, or something that was pretty important we  
14 have a system where he could get me back up there  
15 right away within 30 seconds  
16 Q Did he inform you of anything when you came  
17 back up to the...  
18 A I asked him when I came back if I'd had any  
19 calls and he said no.  
20 Q Now, when was the first radio transmission  
21 that you actually received while you were on duty  
22 then?  
23 A I believe it was a minute 17. I got a call  
24 from, I believe it was the Chevron California who  
25 was inbound at Hinchinbrook.

1 Q Did you receive a call from the Exxon Valdez  
2 shortly thereafter?

3 A Yes, I did.

4 Q What time was that?

5 A I have it logged in the station log as being  
6 minute 0028. That time was, in fact, when I  
7 finished talking to them (indiscernible -  
8 unclear) record the time. When he initially  
9 called, according to the time of this report on  
10 the tape was minute 0026 and so many seconds.

11 Q When you say 0026, for people that aren't  
12 familiar with a 24 hour time, what does that  
13 mean?

14 A 26 after midnight.

15 Q Now, who called you?

16 A The Exxon Valdez.

17 Q And when he called you what did he say?

18 (1775)

19 A He said that he was hard aground on Bligh Reef  
20 and that he was leaking oil. And that he would  
21 -- and he -- let me slow down a minute. He said  
22 he was hard aground on Bligh Reef, and he gave me  
23 a position north of Goose Island which I didn't  
24 readily...

25 Q Well, let's talk...

1 A ...comprehend.

2 Q ...about that.

3 Would you get that pointer there and show the  
4 jury where Goose Island is?

5 A Do you have M-708 chart? This one's kind of  
6 small.

7 (Pause)

8 Q How about that?

9 A That's better.

10 Okay. This is Goose Island right here. And  
11 this is Bligh Reef up here. It's about, oh,  
12 eight to 10 miles away.

13 But, anyway, you want me to continue?

14 Q Well, tell me as best you remember, and if you  
15 need to refresh your recollection, tell me. But  
16 as best you remember what did the person from the  
17 Exxon Valdez tell you?

18 A Okay. That he was hard aground north of Goose  
19 Island on Bligh Reef. And that he was leaking  
20 some oil, and that this was, he was just  
21 reporting that.

22 Q Now, when you heard where he told you he was,  
23 where did you think that was?

24 A Well, I had a little bit of difficulty,  
25 because...

1 Q Why'd you have difficulty?

2 A Because of the differences of position. Was  
3 he down here by Goose Island, or was he up here  
4 by Bligh Reef?

5 So, after that I shifted my radars to try to  
6 see if I could find him anywhere. And, of  
7 course, I can't see anything down here by Goose  
8 Island. It's in the shadow. All you can see is  
9 through this, like a V-shaped area going straight  
10 down the Arm. Anything that's behind Goose  
11 Island here, I wouldn't be able to see.

12 But, I noticed a target up in this area that  
13 was way out of the traffic lanes. And  
14 approximately 90 degrees to the radar.

15 Q Now, what had the radar been on before you --  
16 when you looked at it first?

17 A Okay. When I came in and relieved Mr. Taylor  
18 the radar was on the six mile scale offset to 10  
19 miles.

20 Q Did you change it?

21 A Yes, I did.

22 Q When did that happen?

23 A At midnight.

24 Q And what did you change it to?

25 A I changed to three mile scale to take the



1 bearing range of Middle Rock for the midnight  
2 calibration of the radar.

3 Q And is that something that you'd go through  
4 every evening on your ship?

5 A Right. It comes right after changing the  
6 tapes.

7 Q And when did you change the radar after that?

8 A When he called.

9 Q And what did you change it to?

10 A 12 mile scale.

11 Q And were you getting a solid fix, or was it  
12 intermittent?

13 A At that time it was pretty solid.

14 Q Would you again describe the position of how  
15 the ship was laying at that time?

16 A It was -- the aspect of the ship was broadside  
17 to the radar, or 90 degrees.

18 Q Maybe if you could use that marker there,  
19 right in front of you? Right in front of you  
20 there.

21 A Okay.

22 Q And on the map, or on the chart, excuse me,  
23 would you point out to the jury how the tanker  
24 was sitting?

25 A It appeared to be sitting about like this.

1 Q And in your experience as a radar person, is  
2 it easier to pick up a tanker when it's sitting  
3 broadside to the radar, or when it's sitting  
4 lengthwise?

5 A Certainly when it's broadside.

6 Q Why is that?

7 A Because you have more target area.

8 Q After the person told you that they were  
9 aground north of Goose Island, did you respond  
10 immediately to them?

11 A Well, I went out -- it took me -- it seemed  
12 like forever. But, it took like maybe a minute  
13 for me to figure out what was going on. I asked  
14 him, after I saw this contact here which is not  
15 normally there, I asked him, are you about a mile  
16 north of Bligh Reef, and he said yes.

17 Q Now when you say a mile north of Bligh Reef,  
18 would you point out to the jury where you were  
19 talking about?

20 A Okay. This is -- the reef, itself, is right  
21 here. The ship was right here and the buoy is  
22 right here, off to the western edge of the reef.

23 Q What went through your mind when you heard  
24 this report?

25 MR. MADSON: Your Honor, I object. I think

1 it's irrelevant.

2 MR. COLE: It goes to his observations and how  
3 he acted after that?

4 THE COURT: I'll let it in. Objection  
5 overruled.

6 Q (Mr. Blandford by Mr. Cole:) What went  
7 through your mind?

8 A Well, I don't exactly recall. But, I did a  
9 pretty hard swallow and I don't know. I guess  
10 the old flight or fight instinct took in and the  
11 adrenalin started pumping and we really went to  
12 general quarters.

13 Q What did you do then, after that?

14 A I immediately called the commanding officer.

15 Q And who would that have been at the time?

16 A Commander McCall.

17 Q And what did you tell him?

18 A That this was the big one. Exxon Valdez was  
19 on the rocks and leaking oil.

20 Q Okay. And who did you call after that?

21 A Lieutenant Commander Falkenstein and I  
22 basically told him the same thing.

23 And they said, both said they'd be right there  
24 and they were about, oh, I would say no longer  
25 than five minutes after they arrived on the

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station.

Q Now, did you ask the Exxon Valdez for a weather report?

A Yes, I did.

Q Why did you do that?

A Mostly for the -- to be able to give the weather to any assisting resources, and/or to be able to judge what kind of resources to send to assist the tanker.

Q When Commander McCall arrived, what happened?

A When he arrived he immediately called the ship and communicated with the master. I just handed him the radio and he...

Q Would you describe for the jury what you did for the rest of that morning?

A Well, it became pretty much a -- if you will, a search and rescue case at the initial phase. Tried to coordinate in getting assistance out to the tanker. There were various arrangements that had to be made to try to line up the appropriate size hoses to lighter the fuel off -- or, excuse me, the cargo off, remaining cargo.

And it couldn't have been more than an hour after the grounding that the phones just literally started ringing off the wall. And we

1           only had a very small watch section, which is  
2           normal. And it got to be pretty much to handle.

3           Q           How long did you work that morning?

4           A           I stayed until 8:00, which was my regular end  
5           of shift, and then I stayed for an additional  
6           four hours to help out with all the additional  
7           volumes of traffic that were coming in.

8           THE COURT: Mr. Cole, this would be a good  
9           time to take a break?

10          MR. COLE: Sure. That's fine.

11          THE COURT: Remember my instructions not to  
12          discuss this case among yourselves, or with any other  
13          person, not to form or express any opinions. We'll see  
14          you back in about 15 minutes.

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

17          (2310)

18                   (Off record - 10:28 a.m.)

19                   (On record - 10:54 a.m.)

20                   (Jury not present)

21          THE COURT: Mr. Madson, you needed to take  
22          something up before we reassume with the witness?

23          MR. MADSON: Your Honor, Yes. I just thought  
24          we could do it now since the jury was out.

25          Mr. Cole asked Mr. Blandford certain questions

1 about his state of mind and his observations and things  
2 of this nature. I would ask permission of the court,  
3 then, based on that on cross examination to inquire as  
4 to whether or not he had consumed any alcoholic  
5 beverages just before coming to work, while he was  
6 there, or consumed any other non-prescription type  
7 drugs.

8 I think it goes to his powers of observation  
9 and recollection and I think the door has already been  
10 opened in to cross examine on that point.

11 THE COURT: Mr. Cole.

12 MR. COLE: I think he could ask it anyway,  
13 judge. No problem.

14 MR. MADSON: Okay. That's all I had, Your  
15 Honor.

16 THE COURT: That's not to open the door to a  
17 test result that took place 12 hours later. I think  
18 you understand that that's...

19 MR. MADSON: Yes.

20 THE COURT: You can ask him about his...

21 MR. MADSON: As I told you before, Your Honor,  
22 I did consult with an expert and he tells me that based  
23 on the information available, and that's on certain  
24 assumptions, but that it would be just about physically  
25 impossible to have that kind of a reading that short a

1 time afterwards, you know, without drinking prior to  
2 that.

3 THE COURT: That may be so, however the  
4 request you've made now doesn't address that and my  
5 ruling only addresses your inquiries concerning what he  
6 had to drink before, whether he was drinking, whether  
7 his judgment was impaired by alcohol, something of that  
8 nature, but not the test results.

9 MR. MADSON: No, but I assume I could ask if  
10 he drank afterwards?

11 THE COURT: Mr. Cole.

12 MR. COLE: I think that that opens the door.

13 MR. MADSON: What difference does that make?  
14 I mean, what's the relevance if he drank afterwards?

15 MR. MADSON: Well, Your Honor, if I can get  
16 the information of the witness then I can relate this  
17 to an expert and have a more foundation for the basis  
18 of his...

19 THE COURT: No. That's denied, Mr. Madson.  
20 You can ask him about things that effected his ability  
21 at the time, but not something that may have effected  
22 his ability afterwards.

23 Let's bring the jury in.

24 (Jury present)

25 THE COURT: We'll recess at noon, so keep an

1 eye on the clock.

2 (Pause)

3 Mr. Cole.

4 MR. COLE: Thank you, Your Honor.

5 (2545)

6 Q (Mr. Blandford by Mr. Cole:) Mr. Blandford,  
7 you mentioned that the radio sites, a couple of  
8 those were down that evening?

9 A Yes, I did.

10 Q How did the effect the communications system  
11 that evening?

12 A We had diminished communications capabilities  
13 with the traffic outside of Cape Hinchinbrook.

14 Q How about inside?

15 A We had probably adequate coverage. We were  
16 able to talk to the people from Cape Hinchinbrook  
17 in using the Potato Point site.

18 All communications that were made with, for  
19 instance, the inbound Chevron California, he was  
20 at Cape Hinchinbrook. He read me loud and clear  
21 from speaking to him from Potato Point.

22 Q Do you recognize what's previously been  
23 admitted as Plaintiff's Exhibit 75?

24 A Yes, I do.

25 Q What is that?



1 A That's the user's manual that all  
2 participating vessels are required to carry  
3 aboard.

4 Q And would you read section 6(C) to the jury?

5 A Okay. 6(C), under VTC, or Vessel Traffic  
6 Center directions.

7 "Under normal circumstances the VTC, Vessel  
8 Traffic Center, will exercise narrow direct  
9 control over vessel movements in the VTS, Vessel  
10 Traffic System), area. However, when the  
11 situation dictates, the Coast Guard will exert  
12 control over vessel movements by invoking this  
13 regulation. Responsibility of the master, or  
14 pilot, for safe navigation and prudent  
15 maneuvering of his vessel is in no way lessened  
16 or relieved by this regulation."

17 Q And do you recognize what's been marked for  
18 identification as Plaintiff's Exhibit 79?

19 A Yes.

20 Q And why do you recognize that?

21 A That has my name on it.

22 Q And did you listen to that tape?

23 A Yes, I did.

24 Q And is it a -- except for a weather broadcast,  
25 is it a fair and -- except for the time you asked

1 the Exxon Valdez for the weather, is it a fair  
2 and accurate representation of the conversations  
3 you had from the time you came on duty until  
4 approximately 2 o'clock that morning?  
5 A Yes, it is.  
6 Q And have you reviewed a transcript of those  
7 conversations?  
8 A Yes, I have.  
9 Q And is it a fair and accurate representation  
10 of the conversations on that tape?  
11 A Yes, it is.  
12 Q And the times accurately correspond to the  
13 times these conversations took place?  
14 A Yes.  
15 Q When the transcript says, "VTC" for the  
16 period after 12 o'clock, who would that be  
17 talking?  
18 A That would be myself.  
19 Q And is there a way to determine whether or not  
20 another person like the captain of the port was  
21 -- is he identified on this tape?  
22 A Yes, he is.  
23 Q And what is his label?  
24 A COTP, I believe.  
25 Q I have nothing further, Your Honor.

1  
2 CROSS EXAMINATION OF MR. BLANDFORD

3 BY MR. MADSON:

4 Q Good morning, Mr. Blandford.

5 A Good morning.

6 Q Now, you indicated that you were a Coast Guard  
7 watch stander, officially in the Coast Guard  
8 prior to your job now as a civilian, is that  
9 correct?

10 A That's correct.

11 Q I may have misunderstood how that works, but  
12 what experience have you had all together with  
13 this so-called VTS system, either in Prince  
14 William Sound, or elsewhere?

15 A Prior to arriving in Valdez I served as an  
16 Underway Deck Watch Officer on the Coast Guard  
17 cutter Gresham on the east coast for two years.  
18 And I spent two years as executive officer of the  
19 Coast Guard cutter Sunday in the Great Lakes.  
20 And that was my previous assignment prior to  
21 arriving in Valdez.

22 Q Okay. As an executive officer, what kind of  
23 rank is that? Where you a first officer? Second  
24 officer? Third officer? I mean, how does that  
25 work?

1 A I would be the equivalent of the chief mate  
2 on...  
3 Q Right under the captain?  
4 A That's correct.  
5 Q And when you got to Valdez in 1977 you were  
6 still in the Coast Guard?  
7 A That's correct.  
8 Q And you were assigned then on shore, not on a  
9 ship?  
10 A That's correct.  
11 Q And you were assigned at what they call the  
12 VTC Center, control center, right?  
13 A Uh-huh (affirmative).  
14 Q What was your duties at that time?  
15 A As I said earlier, my primary duty was a  
16 vessel traffic center watch officer. In other  
17 words, the OOD.  
18 Q OOD. Is that...  
19 A Right.  
20 Q You're kind of in control, or in charge of the  
21 whole station?  
22 A We're in charge of the Vessel Traffic Center,  
23 the operation of it on a day by day basis,  
24 standing watches with one day on and three days  
25 off, depending on how many people we had. It was

1 a 24 hour watch. We stayed at the station, slept  
2 in an OOD room and were awakened if there were  
3 any emergencies arise, and it was our  
4 responsibility to monitor each transit of a  
5 tanker through the Narrows.

6 Q And you slept right there at the station, is  
7 that...

8 A That's correct.

9 Q I mean, was that your quarters, as such, or, I  
10 mean, did you have a home somewhere else?

11 A No. That was our -- it would be similar to if  
12 you were a fireman and you had a 24 hour duty  
13 tour and had to stay at the firehouse.

14 Q Okay. So, certain days you'd have to be there  
15 around the clock?

16 A That's right.

17 Q Now, you retired from the Coast Guard, is that  
18 right?

19 A No. I just got out.

20 Q Okay. Cut out, that means "I quit"?

21 A Correct.

22 Q When was that, sir?

23 A June 30, 1980.

24 Q You went back to work for the Coast Guard, but  
25 as a civilian in 1986?

1 A That's correct.

2 Q Is the system there, in 1986 was that still  
3 the same as the one you were used to, or function  
4 the same as the one you were used to?

5 A Except for...

6 MR. COLE: Objection. I would object to that  
7 question.

8 MR. MADSON: I'm not talking about radar, Your  
9 Honor. I'm just talking about the overall function of  
10 the center.

11 THE COURT: Objection sustained.

12 Q (Mr. Blandford by Mr. Madson:) Well, what was  
13 your job when you went back, as opposed to the  
14 job you had before, let me ask you that?

15 A Okay. I went back as a watch stander, rather  
16 than a watch officer.

17 Q Is that a lower grade job, then?

18 A In other words, I went back doing the job of  
19 the people whom I had previously supervised.

20 Q Oh, now they were supervising you?

21 A No. It was all different people.

22 Q Oh. I see.

23 But, essentially, you're still doing the same  
24 thing, only...

25 A Right.

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Q Is it fair to say you spent more time at a radar console...

A Right.

Q ...since 1986?

A I don't know if it's relevant or not, but when I originally -- when the job was originally advertised they were going to hire three vessel traffic controllers and one supervisor. And I applied for the supervisor job, given my past experience and that position was never funded subsequent to that.

Q So, you...

A So I took one of the controller jobs.

Q And you're still doing that job?

A I'm still doing that job today.

Q So, you certainly are familiar with the VTS system, are you not?

A Yes, I am.

Q Are you familiar with the manuals that you are required to go by?

A Yes, I am.

Q That's part of your job, is it not?

A Correct.

MR. MADSON: May I approach the witness, Your Honor.

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THE COURT: Yes, sir.

Q (Mr. Blandford by Mr. Madson:) Let me hand you, sir, what's been previously marked as Defendant's Exhibit G and I and ask you if you recognize either of those documents?

A Okay. It's been a long time since I've seen this one.

(Pause)

I don't believe this one is any longer in effect.

Q Well, let me show you what's been marked I and ask you if that just merely supplements Exhibit G?

A G. This is...

(Pause)

If this one supplements...

Q It doesn't replace, but merely supplements the other? In other words, in addition to.

A No. This, to my understanding this replaces this one.

Q When does it take effect, if you know, sir?

A This one was 2 November, 1988.

Q So, you're saying that Exhibit I, then, was in effect on March 23rd, 1989 as far as you know?

A Yes, it was.



1           This document here...

2           Q           Are you referring to G, sir?

3           A           Document G to the best of my recollection was  
4           not even in effect in August of '86 when I  
5           returned to...

6           Q           Exhibit I...

7           A           This one wasn't either, obviously, because  
8           it's dated 2 November '88, but there was an  
9           earlier edition of this one.

10          Q           When you say this one you're referring to I?  
11          A           To I, right.

12                    And this is also an updated user's manual.

13          Q           Okay. Now that's Exhibit 75. You say  
14          updated?

15          A           Right. As you can see, it's dated 1988.

16          Q           Okay.

17          A           So, it was also updated after August of '86  
18          when I returned.

19          Q           But after August of '86 when you returned  
20          until the incident in question the document  
21          labeled Defendant's Exhibit I would be the one  
22          that was in effect that you had to go by, is that  
23          correct?

24          A           Either this or it's predecessor.

25                    MR. MADSON: Well, Your Honor, at this time I

1 would ask that Exhibit I be admitted.

2 THE COURT: What is it?

3 MR. MADSON: It is a VTS Operator's Manual,  
4 Your Honor.

5 THE COURT: Is that what it is, Mr. Blandford?

6 A It's the Prince William Sound Vessel Traffic  
7 Center Manual.

8 MR. COLE: I have no objection.

9 THE COURT: Okay.

10 A This is an internal...

11 THE COURT: That's I you want?

12 MR. MADSON: Yes. It's I.

13 A This is an internal...

14 EXHIBIT I ADMITTED

15 THE COURT: No objection. I's admitted.

16 Q (Mr. Blandford by Mr. Madson:) I just want to  
17 cover this one more time. You can't say whether  
18 or not Exhibit, then, G, was in effect and merely  
19 supplemented or totally replaced. You believe it  
20 was totally replaced?

21 A I believe it was totally replaced. I had not  
22 seen anything resembling this since coming back  
23 to work in '86.

24 Q Okay. But, in any event you are required, are  
25 you not, as part of your job to be familiar with

1 the manual, itself?

2 A That's correct.

3 Q Of course, the function and purpose of the VTS  
4 system is to prevent groundings and collisions by  
5 vessels in Prince William Sound, is it not?

6 A That's one of the functions.

7 Q Certainly as a watch stander one of your  
8 duties was to do everything in accordance with  
9 the manual, to see that these things don't occur,  
10 if possible?

11 A If possible.

12 Q Now, you indicated that when a ship is inbound  
13 you can not see it in the area of Cape  
14 Hinchinbrook, correct?

15 A That's correct.

16 Q But, somewhere in the vicinity of, let's say  
17 Bligh Reef, you usually can pick it up on radar?

18 A Depending on conditions, yes. Usually. It  
19 really depends a lot on the weather.

20 Q Yeah. A little squall or something can come  
21 through and momentarily knock it off radar, and  
22 in a minute or two you can see it again, right?

23 A And to a certain extent how the equipment is  
24 functioning.

25 Q Well, does the equipment vary in its

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capability from day to day?

A Well, it's just like your automobile. It needs a tune up once in a while, and parts wear out. In those cases you may have some difficulties.

Q Did it need a tune up on March 23rd in the evening hours?

A I couldn't say for sure, but I had been relieving Mr. Taylor for -- I don't know if this was the second or third night, but it was my function to almost always relieve Mr. Taylor the way our watch rotation was set up. And I seem to recall him remarking during the previous days, or few weeks that the targets were getting hard to hold onto.

Q In other words, they would go off the screen more frequently than he thought they should?

A He'd be -- lose his capability to track them. In other words, he could acquire them, maybe, but it wouldn't hold on, which is a result of diminished video.

Q Well, if you notice something like this do you make some kind of report to someone and say, "Maybe there's something wrong with the radar"?

A Generally you tell the watch -- well, it was

1 the OD at the time.

2 Q Is the radar maintained by Coast Guard  
3 personnel, or civilian personnel?

4 A Radar personnel.

5 Q Enlisted Coast Guard people?

6 A That's correct.

7 Q Now, you indicated that you came on duty at  
8 about 2340, and that's about 11:40 p.m.?

9 A That's correct.

10 Q What time do you actually start work when you  
11 officially take over from Mr. Taylor?

12 A Well, whenever he leaves then that's when I  
13 start.

14 Q Would you say, sir, that according to the  
15 manual and the routine operation of the VTC it is  
16 operated pretty much like the bridge of a ship,  
17 Coast Guard vessel?

18 A Not pretty much. In some way.

19 Q Well, doesn't the manual indicate that as near  
20 as possible it should function like the bridge of  
21 a ship?

22 A Well, it says that, but for all practical  
23 purposes that's not quite true.

24 Q Well, obviously there's some big differences,  
25 right?

1 A Right.

2 Q Like when you indicated you sounded general  
3 quarters, you didn't don a life jacket, or  
4 something?

5 A No.

6 Q You didn't put the life boats out?

7 A No.

8 Q So, you know, it's the fact that you're on  
9 land and the ship is at sea?

10 A Right.

11 Q But, as far as who you report to and this sort  
12 of thing, it's much like a ship's bridge?

13 A Much the same, yes.

14 Q For instance, when you came in to replace Mr.  
15 Taylor, you, in effect, he had turned over the  
16 con to you, so to speak, right?

17 A Well, this is where I'm having a hard time  
18 relating, because the OOD, theoretically would  
19 have the con on a ship. And the OOD was at home.

20 Q He was at home?

21 A Uh-huh (affirmative).

22 Q Who was on duty, then, when you arrived,  
23 besides Mr. Taylor?

24 A The radio person.

25 Q And what is his function, sir?

1 A His function is to stand a communications  
2 watch under the call sign of Valdez Radio. His  
3 functions include making safety broadcasts,  
4 standing by to assist in search and rescue. If  
5 we were to have a search and rescue case he would  
6 take that call and ultimately handle that. VTC  
7 watch stander would probably assist him as  
8 necessary.

9 He also conducts the external communications  
10 through message traffic with various Coast Guard  
11 units.

12 Q Do you know what time the OOD left the  
13 station?

14 A No. I don't.

15 Q The manual requires that you have two watch  
16 standers on duty, at least when ships are going  
17 through the Narrows, does it not?

18 A Well, it requires two watch standers on duty,  
19 and they're to stay in the Traffic Center, except  
20 for brief periods to get coffee, dinner, head  
21 breaks, smoke breaks, whatever. And at all times  
22 at least one person shall remain in the traffic  
23 center.

24 Q So, if you're not there on this night in  
25 question, the radio operator was there, right?

1 A That's correct.

2 Q And was it the two of you, physically...

3 A In the room.

4 Q ...in the building?

5 A In the room.

6 Q In the room?

7 A Right.

8 Q Who else was in the building, if you know,  
9 sir, that night, say at 11:00, say when you came  
10 on duty?

11 A I really don't know.

12 There -- the building houses the single Coast  
13 Guard personnel. And that's probably -- and the  
14 weatherman, who is in the next office. That's  
15 probably all of whom would have been there.

16 Q So, when you came on duty you spoke to Mr.  
17 Taylor and he essentially told you -- let's see,  
18 he told you the Chevron California was inbound?

19 A Correct.

20 Q Was still outside of Cape Hinchinbrook at that  
21 time?

22 A That's correct.

23 Q Certainly you had no radar coverage, or  
24 anything for that ship?

25 A No.



1 Q You wouldn't even attempt to watch it, would  
2 you, on radar?

3 A No. It's impossible.

4 Q He also told you the Exxon Valdez was  
5 southbound?

6 A Right.

7 Q He told you its approximate location when he  
8 lost it on radar?

9 A Right. He told me what time. He even told me  
10 what time he dropped the pilot, or I looked at  
11 the data sheet -- I can't remember which -- to  
12 see what time he had dropped the pilot.

13 And, as I stated before, that he had just  
14 called not too long ago and had stated that he  
15 was changing course to two zero zero, speed 12,  
16 and entering the southbound lane to avoid ice and  
17 then would call again when he was clear of the  
18 ice with a new ETA for Naked Island and possible  
19 an ice report.

20 Q So, essentially, you knew the Exxon Valdez was  
21 deviating from the southbound lane to go around  
22 ice that had been reported, right?

23 A That's correct.

24 Q You say, sir, that this was pretty routine?

25 A That was routine.

1 Q And you indicated that a target, such as a  
2 ship, a laden oil tanker, would be easier to see  
3 if it was broadside to your radar coverage, or  
4 you radar site, let's put it that way?

5 A That's correct.

6 Q When the Exxon Valdez made a turn two zero  
7 zero, would this, in effect have made it more  
8 broadside to the Potato Point radar site?

9 A Not very much.

10 Q Where's Potato Point on this map?

11 A Potato Point is right here. And two zero  
12 zero, of course, when he's going out on the  
13 recommended track, he's absolutely end on. Two  
14 zero zero only puts him about like this, just a  
15 very slight angle.

16 Q So it turns it slightly more broadside, is  
17 that fair to say?

18 A Pardon?

19 Q Slightly more broadside?

20 A Just very slightly.

21 Q Now, looking at a ship like the Exxon Valdez,  
22 just from the stern...

23 A Uh-huh (affirmative).

24 Q ...it's about 166 feet wide, right?

25 A Right.

1 Q About 80 feet high?

2 A Uh-huh (affirmative).

3 Q This is, would you say, equivalent to a large  
4 building, isn't it?

5 A Fairly large.

6 Q And if you look at it broadside, you still  
7 have the superstructure, that is the part, you  
8 know, containing the bridge and all that, it's  
9 still the same height, right? Well, you're  
10 nodding your head, sir, and I have to ask you  
11 to...

12 A Oh. I'm sorry.

13 Q Is that a yes, or a no?

14 A That's correct.

15 Q Okay. And would it be about the same looking  
16 at it, let's say from the starboard side, as  
17 opposed to the stern?

18 A No.

19 Q Narrower?

20 A No. Much wider, much larger.

21 Q I'm talking only about the superstructure  
22 now...

23 A Oh.

24 Q The part sticking up from the deck.

25 A Well...

1 Q Let me do this, sir, so you won't get  
2 confused?

3 A That comparison would be good for over the  
4 horizon.

5 Q Let me show you what's been previously  
6 admitted as Exhibit 19. And I wonder if you  
7 could illustrate to the jury, in other words, I  
8 asked you earlier if you were looking from the  
9 stern this is about 80 feet high, right?

10 A Uh-huh (affirmative).

11 Q 166 feet wide?

12 A Right.

13 Q Now, this vessel would you say is laden, or  
14 unladed, as the picture indicates?

15 A This one is in ballast.

16 Q What does that mean, sir?

17 A That means he has no cargo. He just has  
18 ballast aboard.

19 Q Now, if you look at the ship from the side  
20 there's two different colors on the hull. Do you  
21 know what that means, if anything?

22 A Well, that's your load line, there. And when  
23 he's loaded he's down in the water to where the  
24 colors change, basically.

25 Q So, I think as you said earlier, when it's

1 laden it's usually harder to see on radar,  
2 because it's lower in the water, right?  
3 A That's correct.  
4 Q And now, if you're looking at this target,  
5 laden...  
6 A Uh-huh (affirmative).  
7 Q As it was going outbound, the water line would  
8 be approximately at the color change here?  
9 A That's correct.  
10 Q And you're still, then, essentially looking at  
11 the superstructure? That's the main target, is  
12 it not?  
13 A It depends.  
14 (4120)  
15 Q But you have a lot less target when the vessel  
16 is down lower in the...  
17 A That's correct.  
18 Q ...water?  
19 (Pause)  
20 Now when you spoke to Mr. Taylor and he gave  
21 you this information and he said lost it on  
22 radar, did you know what scale it was on at that  
23 time?  
24 A It was on six mile scale when I came in there.  
25 Q Did you change the scale after talking to Mr.

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Taylor?

A Yes, I did.

Q Okay. First of all, did you attempt to find the vessel on radar?

A No. I didn't.

Q What did you change the scale to, sir?

A Three miles.

Q Why?

A To calibrate the radar on Middle Rock.

Q Certainly at a three mile it would have been physically impossible, under any circumstances, to see the Exxon Valdez?

A That's correct.

Q I mean, assuming that it was in its present position and hadn't changed.

A (No audible response.)

Q Now, I think you also said, then, that -- well, let me ask you.

Do you remember the time Mr. Taylor actually left the center?

A As close as I can remember it was 2345.

Q 15 minutes before midnight?

A Correct.

Q And I think, then, you said -- well, let me ask you again. What exactly did you do? Would

1           you go through that one more time, what did you  
2           do from the time Taylor left until you got the  
3           radio report at 0026?

4           A           Okay. After I had familiarized myself with  
5           what was happening on the watch, what the traffic  
6           was, what people were doing, or what they were  
7           supposed to be doing, I went down and got a cup  
8           of coffee, checked the weather. I may have been  
9           gone for five minutes, came back up. Probably  
10          spent another five minutes just sitting there,  
11          which is mostly what we do. And then at midnight  
12          started in on the midnight watch routine, which  
13          was to change the tapes, clean the heads, file  
14          the tapes, make the mid-watch log entry, which  
15          involves checking the radar calibration on Middle  
16          Rock, and then filing the day's traffic and  
17          entering that in the various logs that were  
18          required at the time.

19          Q           Pretty much routine administrative duties?

20          A           Right. It took me -- I didn't know for sure  
21          at the time, but it took me probably 12 to 15  
22          minutes.

23          Q           And when you left your radar room, if you want  
24          to call it that, and went down below to get a cup  
25          of coffee, I think you said, right?

1 A Right.

2 Q The only person there would be the radio man,  
3 right?

4 A That's right.

5 Q He's not qualified to operate radar, is he?

6 A No.

7 Q But you felt under the circumstances you could  
8 certainly leave him alone, you know, 'cause you  
9 were close by and could be called in an  
10 emergency?

11 A Right. And we had no -- we had no reason to  
12 suspect that there was anything happening out of  
13 the ordinary.

14 Q It seemed like everything was routine, right?

15 A That's correct.

16 Q Considering the vessel's location, course, and  
17 everything else...

18 A From the information that we had from him and  
19 the fact that we could no longer hold him on  
20 radar it was more or less -- the next move was  
21 his.

22 Q You were waiting for a radio report?

23 A That's right.

24 Q Say at Naked Island?

25 A Well, no. I was waiting for what Mr. Taylor



1 relayed to me. I expected him to call me when he  
2 was clear of the ice.

3 Q On the other hand, the radio works both ways,  
4 right? You could certainly if you wanted to?

5 A That's right.

6 Q So, is it fair to say, sir, then, that from  
7 the time you arrived at the station until you got  
8 the call at 0026 you made no efforts to see if  
9 you could actually visibly see the Exxon Valdez  
10 on radar?

11 A No. About the time that I responded the  
12 Chevron California and advised him of the  
13 outbound traffic, which the only outbound traffic  
14 was the Exxon Valdez, and I repeated essentially  
15 what Mr. Taylor had told me to the Chevron  
16 California, then I began to wonder, "Where is  
17 he?" And it wasn't just a few minutes after that  
18 that he called.

19 Q Okay. But my question was, did you ever flip  
20 the scope on the 12 mile scale, the six mile  
21 scale to see if you could see the Exxon Valdez  
22 prior to the grounding?

23 A Not until after he called.

24 Q So, the answer is, you did not, right? Did  
25 not attempt to see him on the radar until after

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the grounding?

A Not until after he called.

Q When you did flip it on to the next scale you said that you saw him clearly, right?

A Well, I saw a target there. I was not sure that it was him until I called the vessel to verify his position.

Q But you saw something that was just off Bligh Reef...

A That's correct.

Q And not only was it something that you could see so clearly, you could even tell it's heading, is that right?

A Pretty much so. I could tell that he was broadside to the radar.

Q Because it had such a strong spot on the scope, if you will? And it was somewhat elongated, was it?

A Yes.

Q Had you turned that on any earlier, sir, I guess you don't know whether you would have been able to see him or not? Say 10 minutes earlier? 15 minutes earlier?

A I really don't know.

Q Had you done so, had you turned it on do you

1 know what you would have done if you saw the  
2 vessel apparently too close to Bligh Reef, or in  
3 an area where you thought was dangerous or  
4 hazardous?

5 A Objection. I object. Can we approach the  
6 bench?

7 THE COURT: All right.

8 (190)

9 (Whispered bench conference as follows:)

10 MR. COLE: My objection is it sounds like this  
11 is going to get into (indiscernible - whispering). My  
12 understanding is there's not -- what Mr. Madson's  
13 addressing (indiscernible - whispering) issue through  
14 them.

15 THE COURT: Okay. The objection's overruled.  
16 You may ask the question.

17 (End of whispered bench conference.)

18 Q (Mr. Blandford by Mr. Madson:) Mr. Blandford,  
19 do you recall what my question, sir?

20 A Would you restate it, please?

21 Q Had you turned the radar on sooner, and had  
22 you got a strong visual contact that indicated to  
23 you with your experience that the vessel was in  
24 peril, what would you have done, if anything?

25 A Well, if 1, I had switched the radar, if 2, I

1 had been able to see him on the radar, and if 3,  
2 he appeared to be standing into danger, I  
3 probably would have called him and asked what his  
4 intentions were.

5 Q Certainly your function, or one of your  
6 functions is to prevent groundings and accidents,  
7 is that not true?

8 A To try to help prevent. We can't prevent  
9 anything.

10 Q Accidents happen, right?

11 A That's right.

12 Q Groundings happen?

13 THE COURT: There's no question.

14 MR. COLE: I object to that. Move to strike  
15 Mr. Madson's comment. Unless it's a question.

16 MR. MADSON: I phrased it as a question.  
17 "Groundings happen, right?" With a question mark after  
18 it.

19 MR. COLE: I object to the use of that  
20 question.

21 THE COURT: Objection sustained, Mr. Madson.  
22 It's argumentative.

23 Q (Mr. Blandford by Mr. Madson:) After you got  
24 the message -- well, first of all, the message  
25 came from the vessel, you said at 0026?

1 A Correct.

2 Q You said you noted the clock afterwards, 0028,  
3 which meant that it was approximately two  
4 minutes, right?

5 A Right.

6 Q Now, the conversation -- you said you reviewed  
7 a transcript earlier of that conversation, sir?

8 A Yes, I have.

9 Q And you've listened to the tape, right?

10 A Uh-huh (affirmative).

11 Q Were the words that were actually spoken to  
12 you at that time, 0026, "Yeah. It's Valdez back.  
13 Should be on your radar there. We're fetched up  
14 hard aground north of Goose Island off Bligh  
15 Reef, evidently leaking some oil and we're going  
16 to be here for a while, so you're notified." Is  
17 that correct?

18 A That's essentially it.

19 Q The vessel was off Bligh Reef, was it not?  
20 That's where it was located?

21 A Well...

22 Q On or off, but it's...

23 A It was on it.

24 Q Yeah.

25 A Technically speaking, he was aground here and

1 Bligh Reef is named right here. But, this whole  
2 area is considered Bligh Reef.

3 Q So, is it fair to say it's kind of up to  
4 subjective judgment as to whether he was actually  
5 on Bligh Reef, or another part of a reef which  
6 might be near Bligh Reef?

7 A That's quite subjective.

8 Q And you said at that point your adrenalin  
9 started kicking in and you were quite excited,  
10 right?

11 A Uh-huh (affirmative).

12 Q Fair to say the person on the other end of  
13 that radio transmission might have had his  
14 adrenalin kind of pumped up a little, too?

15 MR. COLE: Objection. Speculation.

16 MR. MADSON: If he knows.

17 THE COURT: Don't answer the question. It's  
18 got to be speculation and it can't help the finder of  
19 fact.

20 Q (Mr. Blandford by Mr. Madson:) Well, it was  
21 an exciting time for you, wasn't it?

22 A I wouldn't want to relive it.

23 Q You said something about flight or fight  
24 instinct. What does that mean?

25 A Well, the basic, you know. Generally that's

1 applied to when you're cornered, but you could  
2 also apply it to any cataclysmic event.

3 Q You also said something about, "Well, this is  
4 the big one," right?

5 A Uh-huh (affirmative).

6 Q Does that imply, sir, that you were expecting  
7 something like this to happen?

8 A No, it doesn't.

9 It means that if it ever happens it's going to  
10 be a big one.

11 Q And after it did happen you realized...

12 A It never was supposed to happen, but...

13 Q It did.

14 A ...it did.

15 Q And, of course, you were part of the process,  
16 if you will, or the means to ensure that it  
17 doesn't happen, right?

18 A Well, you say part of the means to ensure,  
19 what do you mean?

20 Q You're trying to prevent this. Your job is to  
21 try to prevent it, right?

22 A That's what we're, hopefully there for.  
23 (Pause)

24 Q Mr. Cole asked you about the Exhibit 75, the  
25 user's manual there. That's the one that goes on

1 the -- the small one. As far as you know, that's  
2 the one that vessels are supposed to have on  
3 board, correct?

4 A That's correct.

5 Q And you have one that you've already  
6 identified as Exhibit I, as the user's manual  
7 that you operate under, right?

8 A No. This is our operating manual. These are  
9 our watch procedures.

10 Q Right. That's what you have in your  
11 station...

12 A Right.

13 Q And Exhibit 75 is what the...

14 A This is to the public. This is internal.

15 Q When you say "this", that' the...

16 A 75 is a public document. This is an internal  
17 document.

18 Q And that's I?

19 A G.

20 Q G, excuse me.

21 A No. I got the wrong one.

22 Q Here's why you do, I think, because I have it  
23 up here. Let me get it back to you, sir. I  
24 didn't mean to pull a sneaky there.

25 (Pause)



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A Exhibit I is the Traffic Center manual, which is an internal document used by the Traffic Center to operate on a daily basis.

This is a public document that's to be on the bridge of the ship of all participating vessels, 75.

Q Okay. Thank you.

Do you know who the OD was on duty that night, sir?

A Petty Officer Gonzalez, I believe.

Q And do you know whether or not he actually physically at the VTC Center when the grounding occurred?

A No. He was at home.

Q He was what?

A At home.

Q According to the manual, wasn't he supposed to be at the station?

A Pardon?

Q Was he supposed to be at the station?

A The OODs had been going home for quite a while prior to this at night, leaving at about 2200, I believe.

Q Lastly, when you came on duty until the grounding, the Exxon Valdez was the only ship

1           that was even arguably under radar surveillance  
2           or coverage, was it not?  
3       A           He was the only one within range.  
4       Q           The only one that you could have watched had  
5           you chosen to do so?  
6       A           No, not had I chose to do so. He was the only  
7           one that was in range if we had been able to  
8           watch him.  
9       Q           And you don't know if you were able or not  
10           during this half hour period or thereabouts,  
11           because you did not try to do that?  
12       A           I had no reason to doubt what Mr. Taylor had  
13           told me. I'd been relieving him for 2-1/2 years.  
14           And if he says we're losing the targets down  
15           there, I have no reason to doubt it.  
16       Q           Yeah, but the fact remains...  
17       A           If the...  
18       Q           ...when you did turn it on later, he was there  
19           clear as can be?  
20       A           That's correct. That would have been roughly  
21           45 minutes from when I relieved him.  
22       Q           And, of course, that radar coverage is subject  
23           to change almost minute by minute because of  
24           weather conditions, is it not?  
25       A           Well, it really depends on the weather. It

1 can be squally. You can have an overall just  
2 blanket type snowstorm, little cells of little  
3 squalls, but on several occasions within the past  
4 month I observed inbound vessels, 1000 foot  
5 tankers, in ballast like pictured on the picture  
6 and I've had contact with them. And at times  
7 they have completely disappeared from the scope  
8 in the area between Bligh Reef buoy and Busby  
9 Island.

10 And I know it seems phenomenal, but in ballast  
11 the ship's presenting probably three times the  
12 surface area of the ship that's laden and even  
13 so, at times they just disappear and our radar  
14 right now is just tuned to the max. It's really  
15 putting out.

16 Q Stretched right the maximum of its  
17 capabilities?

18 A I believe it is.

19 Q And is what you just described about losing  
20 some of these contacts, ships in ballast, is this  
21 something rather new, a new phenomenon, or has  
22 this been kind of routine...

23 A It's routine. It's...

24 Q ...since '86 when you came back?

25 A That's right. There's not a radar made --

1           it's my belief there's not a radar made of this  
2           type that would function any better than the one  
3           we have.

4           Q           Is it fair to say, sir, when you didn't have  
5           him on radar, or believed he wasn't on the radar  
6           and you went around your normal administrative  
7           duties, it's kind of similar to a situation like  
8           out of sight, out of mind? You weren't really  
9           thinking about the Exxon Valdez?

10          A           Well, our duty is to monitor the vessels. And  
11          we have to use the best means available. If we  
12          don't have the radar means available we always  
13          have -- which we consider to be the primary  
14          means, is our radio aspect. And that we're  
15          almost positive of having, unless we have some  
16          kind of calamity, or massive power outages, or  
17          whatever. We always have that capability. So,  
18          that's our 1 resource.

19          Q           Radio's 1 because the range...

20          A           Right.

21          Q           ...is extended further, right?

22          A           And we know that there are limits -- I think  
23          I'm probably stating a personal belief here, but  
24          I know there are limits on the radar effecting  
25          this radar from monitoring the traffic. And for

1 that reason it's been my belief that that was why  
2 the focus of this system has been directed at the  
3 Narrows since 1977.

4 Q Since 1977 it's been directed primarily at the  
5 Narrows?

6 A That's correct.

7 MR. MADSON: Your Honor, could I approach the  
8 bench a second?

9 THE COURT: Yes, sir. Mr. Cole.

10 MR. COLE: Yes, Your Honor.

11 (685)

12 (Whispered bench conference as follows:)

13 MR. MADSON: Your Honor, this raises the whole  
14 thing that the court ruled on earlier about some of the  
15 changes that were made since '77, basically the change  
16 that (indiscernible - whispering). It doesn't cover  
17 what it did in 1977. I think he's going toward that  
18 (indiscernible - whispering).

19 THE COURT: Well, you let him give his  
20 opinion. It wasn't responsive to a question. I'm not  
21 going to let this in because of a non-responsiveness  
22 answer.

23 MR. COLE: Then I'd ask that it be stricken,  
24 Your Honor as being non-responsive.

25 THE COURT: What do you wish to have stricken?

1 MR. COLE: (Indiscernible - coughing) whether  
2 it's 1977 (indiscernible - whispering).

3 THE COURT: Which specific...

4 MR. COLE: I don't remember exactly what he  
5 said.

6 He answered it no, but he said since 1977  
7 basically the situation (indiscernible - whispering).

8 THE COURT: There was plenty of opportunity to  
9 control your witness when he said, "This is my personal  
10 opinion," you could have stopped him at that time.  
11 Your request is denied.

12 (End of whispered bench conference.)

13 (720)

14 Q (Mr. Blandford by Mr. Madson:) Mr. Blandford,  
15 you just gave an opinion which you said is your  
16 personal opinion, right?

17 A Probably.

18 Q It may or may not be...

19 A I would not say that would be the official  
20 opinion of the U.S. Coast Guard.

21 Q Right. That's yours and not what might be an  
22 official opinion, right?

23 A Correct.

24 Q Your duties are to maintain a radar watch at  
25 all times, are they not?

1 A Uh-huh (affirmative).

2 Q Thank you. I don't have any other questions.

3 THE COURT: Mr. Cole.

4 REDIRECT EXAMINATION OF MR. BLANDFORD

5 BY MR. COLE:

6 Q Mr. Blandford, who's in the best position to

7 navigate a tanker? The tanker captain, himself,

8 or you, sitting in a small...

9 MR. MADSON: I'd object, Your Honor. That's a

10 leading question.

11 THE COURT: Rephrase your question, Mr. Cole.

12 Q (Mr. Blandford by Mr. Cole:) Who is in the

13 best position to navigate a tanker?

14 A Certainly the master.

15 Q Why is that?

16 A Or the person piloting the vessel.

17 Q Why is that?

18 A Well, in reference to a VTC with radar

19 coverage, if we have contact with the vessel I

20 can only see him in relation to where he is with

21 other vessels and/or hazards. I can't see what

22 he can see. If he's 15 miles away my

23 representation of his vessel has built in by the

24 limits of the radar a certain degree of error. I

25 know approximately where he is, but he being on

1 the vessel with his own radars, which may or may  
2 not be better than mine, is much closer to the  
3 locale, and I can't see what he sees.

4 Q Is that why there is that one passage that I  
5 asked you to read to the jury in the system  
6 manual? Is that why the language is there?

7 A That's correct. I would...

8 MR. MADSON: Your Honor, I'd object to that.  
9 I don't think the witness can answer why the language  
10 is there. Whoever publishes the manual is in a  
11 position to know that.

12 THE COURT: I think the objection sounds like  
13 foundation. I'll sustain it.

14 Q (Mr. Blandford by Mr. Cole:) Now did you get  
15 any calls from the master, or anybody else  
16 representing themselves to be the representative  
17 of the Exxon Valdez, saying that they were going  
18 to turn to a heading of 180?

19 A No.

20 Q Did you get any calls from the master saying  
21 that he was going to leave the bridge and wanted  
22 you to watch over his tanker while he was...

23 A No.

24 Q You said in response to Mr. Madson's questions  
25 that at about midnight you were calibrating the



1 radar at Three Mile Rock [Middle Rock] and placed  
2 it on the three mile radar?

3 A Middle Rock.

4 Q Middle Rock. I'm sorry.

5 Were you looking for the Exxon Valdez at that  
6 time?

7 A No.

8 Q And why not?

9 A Because I was calibrating the radar. I wasn't  
10 looking for him, because he had been lost. And I  
11 had no reason to believe that anything was  
12 happening other than what Mr. Taylor had told me.

13 Q What's been identified as Defendant's Exhibit  
14 I, just to clarify this, this is a manual that is  
15 given to the watch standers, is that correct?  
16 And the personal in the Coast Guard?

17 A Right. You could call this SOP, if you want  
18 to.

19 Q Which means?

20 A Standard operating procedure.

21 Q And is that distributed to, say, tanker  
22 captains?

23 A No. It isn't.

24 (Pause)

25 MR. COLE: If I could just have one minute,

1 Your Honor.

2 I have nothing further.

3 (943)

4 RECROSS EXAMINATION OF MR. BLANDFORD

5 BY MR. MADSON:

6 Q Mr. Blandford, just a question or two.

7 Recalling the question about error on the  
8 radar...

9 A Uh-huh (affirmative).

10 Q Can you describe that in somewhat better  
11 terms? What are you talking about when you say  
12 error?

13 A Well, generally all radars of this type of a  
14 certain amount of inherent error, plus or minus  
15 two or three percent, or whatever.

16 Now, if you have that much error in a bearing  
17 at 15 miles, it's quite a bit larger number than  
18 it is plus or minus -- than that same error  
19 applied down to three miles.

20 Q If your target is at three miles your error in  
21 your radar is still the same, two or three  
22 percent, right?

23 A Uh-huh (affirmative).

24 Q But, that means that the target is actually  
25 much closer to where it should be as opposed to,

1           say, 12 miles...

2           A           Right.

3           Q           ...with the same degree of error?

4           A           Right.  If you have them at 10 miles and your  
5           error is three percent, obviously you've got --  
6           well, three percent of 10 miles would be a third  
7           of a mile, versus at one mile it would be,  
8           instead of three tenths it would be three  
9           hundredths.

10          Q           Now, when you are monitoring radar and a  
11          vessel is, say inbound and it's in Valdez Arm, if  
12          it strays from the lane...

13          A           Uh-huh (affirmative).

14          Q           ...the proper lane, isn't it a fact, sir, that  
15          you would get on the radio and say you are  
16          outside the lanes.  Please make a correction?

17          A           Where...

18          Q           Say he's just inbound.  He's supposed to be in  
19          your...

20          A           In what position?

21          Q           Well, let' assume he's in the separation zone,  
22          okay?  He's strayed off...

23          A           Somewhere...

24          Q           Yeah.

25          A           ...above Bligh Reef?

1 Q Well, let's say above Bligh Reef, okay?

2 A Okay.

3 Q And he's into the separation zone. You can  
4 see him on your radar and your error is such that  
5 you can still determine that he is clearly in the  
6 separation zone, would you not be on the radio  
7 and say, "You are in an improper position.  
8 You're not in a lane. Please make a correction"?

9 A No. I would call him up and say what are your  
10 intentions. He may, I, not know he's there, or  
11 have a good reason for being there.

12 Q But at least you'd tell him...

13 A Oh, I would like to know first why he's there.

14 Q Because you know the place that is not the  
15 proper place for him to be, right?

16 A Correct.

17 Q Have you ever directed a vessel to return to  
18 the lane directly?

19 A Personally?

20 Q Yes.

21 A Not that I can recall.

22 Q Do you know if other people that have done  
23 that, other watch standers have?

24 MR. COLE: Objection.

25 THE COURT: Unless it's based on his personal

1 knowledge or his presence, it would be hearsay, Mr.  
2 Madson.

3 MR. MADSON: Well, maybe, Your Honor, I could  
4 ask this question.

5 Q (Mr. Blandford by Mr. Madson:) Were you ever  
6 physically present when some other watch stander,  
7 or an OD has done that?

8 A Not that I recall.

9 Q Now, when you were aware that the Exxon Valdez  
10 was on a course of two zero zero, but going to  
11 weave it's way through the ice, or deviate  
12 through the ice...

13 A Uh-huh (affirmative).

14 Q This implied to you, did it not, that it would  
15 not remain on that course forever. It was going  
16 to have to make a course change and weave through  
17 the ice?

18 A I didn't really understand him to be weaving.

19 Q Or deviate?

20 A Right. I understand him to be altering course  
21 to two zero zero and taking a straight...

22 Q Okay. But do you know what he actually told  
23 Mr. Taylor, and I'm speaking of the...

24 MR. COLE: Objection.

25 Q ...on the ship?

1 THE COURT: That's been opened up by both  
2 sides. That's been waived. Go ahead, Mr. Madson.  
3 Q (Mr. Blandford by Mr. Madson:) Do you know  
4 the exact words that were used by the person on  
5 the ship, the Exxon Valdez to Mr. Taylor?  
6 A Right.  
7 Q Do you know those?  
8 A Right.  
9 Q Wholly through what Mr. Taylor told you,  
10 right?  
11 A Right. Up until I read the -- I listened to  
12 the tape myself.  
13 Q Well, did Mr. Taylor not tell you that the  
14 vessel was going on that course, but then was  
15 going to wind his way, or weave his way through  
16 the ice?  
17 A I can't recall the exact words, wind or weave,  
18 or -- to make his way through the ice is what I  
19 was impressed with.  
20 Q And if ice is in the way he would have to  
21 change one way or the other to get around it, is  
22 that fair to say?  
23 A Right. Well, we didn't know -- I didn't know  
24 if he was skirting it, or going through it, or...  
25 Q Sure. You weren't there and you weren't in

1 the best position to determine what he had to do,  
2 right?

3 A Correct.

4 Q Cause you've said that the person...

5 A Right.

6 Q ...on the bridge...

7 A We couldn't see him and we couldn't see the  
8 ice. So, we're pretty much relying on what he  
9 says.

10 Q Would you ever tell a vessel, radio a vessel  
11 and tell them that you're no longer on radar, we  
12 can not see you?

13 A No.

14 Q Thank you, sir. I don't have any other  
15 questions.

16 THE COURT: Anything further, Mr. Cole?

17 (Pause)

18 MR. COLE: No.

19 THE COURT: All right. You're excused for now.

20 That completes the examination.

21 (Witness excused.)

22 We'll take our lunch break now ladies and  
23 gentlemen. We'll take until about 1:15.

24 Don't discuss this case among yourselves, or  
25 with any other person. Do not form or express any

1 opinions concerning the case. Watch for press badges.  
2 If you are inadvertently exposed to someone that's  
3 wearing a press badge and they start to talk to you,  
4 they may not know you're a juror. So, just let them  
5 know you're a juror, and just avoid that contact if you  
6 can.

7 They're very responsible, and they're wearing  
8 their press badges at all times in the building. So,  
9 that should become obvious to you. We'll see you back  
10 after lunch.

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

13 (1207)

14 (Off record - 11:55 a.m.)

15 (On record - 1:16 p.m.)

16 (Jury not present)

17 THE CLERK: ...resumes its session.

18 THE COURT: You may be seated.

19 I have a note from a juror which I'll share  
20 with counsel and associated media people.

21 "Would it be possible to instruct the media to  
22 not tape their coverage outside the elevator doors. I  
23 returned from lunch this afternoon, KIMO was taping  
24 right outside the elevator, making it hard to avoid the  
25 media. I thought about bringing it to their attention



1 that I was a juror. However, the camera was taping. I  
2 did not want to end up on their tape.

3 "Their conversation as much as I heard dealt  
4 with the defense blaming the U.S. Coast Guard. Perhaps  
5 it is not anything of importance, but you did instruct  
6 us to bring it to your attention."

7 It's signed by one of the jurors.

8 All I can say is I'd ask the media, those of  
9 you in the back one way glass and the rest of the media  
10 to use some discretion. I'm not sure exactly where  
11 this took place, but on this floor there is to be no  
12 media coverage outside the courtroom. And if it's  
13 downstairs the jurors have to use the tape [elevator],  
14 and if you rush to interview people who are getting on  
15 board you may inadvertently come in contact with  
16 jurors.

17 I don't think anybody would want such a jury  
18 taint that would result in us having to declare a  
19 mistrial, and I doubt that would ever happen, but let's  
20 nip it in the bud if it's getting started.

21 As far as the conversation, apparently this  
22 juror heard something that deal with the defense  
23 blaming the U.S. Coast Guard. She brought that to my  
24 intention as I instructed her. And I don't know what  
25 else to do about that except just notify the media.

1 Counsel need to address this any further, Your  
2 Honor?

3 MR. MADSON: I don't believe so.

4 THE COURT: Do you need to address it any  
5 further?

6 MR. COLE: Could I just have a minute?

7 (Pause)

8 Does the note indicate whether it was just  
9 the...

10 THE COURT: I read the note to you?

11 MR. COLE: I'm trying to figure out whether  
12 Mr. Madson was there and they were interviewing him...

13 THE COURT: I read the note to you, Mr. Cole.  
14 I read it to you verbatim. Their conversation, it  
15 said, "The media was taping. I did not want to end up  
16 being on their tape."

17 I don't know who they were taping, if they  
18 were taping Mr. Madson, the defendant.

19 "Their conversation, as much as I heard, dealt  
20 with the defense blaming the U.S. Coast Guard. Perhaps  
21 it is not anything important, but you did instruct us  
22 to bring it to your attention."

23 MR. MADSON: Your Honor, since the question  
24 was asked, I can only say it was none of us. I didn't  
25 know anything about it until the court read the note.

1 THE COURT: Okay. I just wanted to bring it  
2 to the court's attention. We'll mark this. We won't  
3 mark it. Let's make it part of the file, though.

4 Ready with the jury?

5 Ready with your next witness?

6 MR. COLE: Yes.

7 THE COURT: Okay. You can go get the witness.  
8 We'll bring the jury in.

9 (Pause)

10 (Jury present)

11 (1425)

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

13 MR. COLE: Your Honor, at this time the State  
14 would call Mr. Harry Claar.

15 (Pause)

16 THE CLERK: Sir, if you'd raise your right  
17 hand, please.

18 (Oath administered.)

19 A I do.

20 THE CLERK: Please be seated.

21 HARRY L. CLAAR

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

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

1 A Harry Lamoyne Claar, II. C-l-a-a-r.  
2 THE CLERK: And your current mailing address?  
3 A Box 7673, Incline Village, Nevada.  
4 THE CLERK: And your current occupation?  
5 A Merchant seaman.  
6 THE CLERK: Thank you.  
7 DIRECT EXAMINATION OF MR. CLAAR  
8 BY MR. COLE:  
9 Q Mr. Claar, how long have you been a merchant  
10 seaman?  
11 A About 13 years.  
12 Q Would you tell the jury what type of licenses  
13 you've held, or you hold now?  
14 A I have an AB's ticket, unlimited AB's ticket.  
15 Q When did you get that?  
16 A '77, '78. Sometime around there.  
17 Q And would you give the jury an idea what type  
18 of jobs you had in the maritime industry?  
19 A I've worked as an AB, a ship's carpenter, a  
20 boson and a boson mate.  
21 Q When did you begin working for Exxon?  
22 A Two years ago. January of '88.  
23 Q And what did you hire on as?  
24 A An AB.  
25 Q Did you attend any schools, or anything like

1           that, or training courses with Exxon?

2       A           No.

3       Q           Are you working for Exxon now?

4       A           No.

5       Q           Who are you working for now?

6       A           I work for ARCO now.

7       Q           What are you doing for them?

8       A           I'm an AB.

9       Q           When did you change?

10      A           Just in November.

11      Q           Back in March of 1989 which vessel were you

12                   assigned to?

13      A           I was on the Exxon Valdez.

14      Q           How long had you been assigned to that vessel?

15      A           I spent a total of 90 days on it.

16      Q           And did you sail on any other vessels other

17                   than the Exxon Valdez for Exxon?

18      A           Yes.

19      Q           What vessels would those have been?

20      A           The Venetian, the Washington and the

21                   Philadelphia.

22      Q           And was that engaged on the west coast or on

23                   the east coast?

24      A           West coast.

25      Q           Can you give the jury an idea of how many

1 trips you made to Prince William Sound while you  
2 were working for Exxon?

3 A I don't know. A dozen, 15.

4 Q And how about on the Exxon Valdez?

5 A I don't know. Maybe three.

6 Q Who were the captains aboard the Exxon Valdez  
7 while you were an able-bodied Seaman?

8 A When I first went aboard Captain Stalzer was  
9 there, and then Captain Hazelwood relieved him.

10 Q How long had you been sailing on the Exxon  
11 Valdez when Captain Hazelwood came aboard?

12 A I don't remember when he came aboard.

13 Q How long did you sail with him after that?  
14 Maybe I can...

15 A Three weeks, a month. I don't really  
16 remember.

17 Q Would you tell the jury a little bit about how  
18 the ABs coordinate their watches, how they  
19 coordinated their watches aboard the Exxon  
20 Valdez?

21 A I don't understand exactly what you mean.

22 Q Did you have a partner?

23 A Yes.

24 Q Who would that have been?

25 A Paul Radtke was my watch partner.

1 Q And was he an able-bodied Seaman also?  
2 A Yes.  
3 Q What shift did you work?  
4 A We were on the 8:00 to 12:00 watch.  
5 Q Would you explain to the jury what that means?  
6 A We worked from 8:00 in the morning until  
7 midnight and from -- I mean from 8:00 in the  
8 evening -- from 8:00 in the morning until noon.  
9 Q Would you give the jury an idea of what your  
10 responsibilities would have been as an able-  
11 bodied Seaman while you were, say for instance,  
12 out at sea?  
13 A During the day it was mostly day work. We  
14 just maintenance. And at night we stood bridge  
15 watch lookout and wheel watches.  
16 Q Do you remember being on the Exxon Valdez when  
17 it arrived in Valdez on March 22nd, 1989?  
18 A I don't know what you mean do I remember it?  
19 Q Do you remember being on the Exxon Valdez?  
20 A Yes. I remember being there.  
21 Q And do you remember what time it arrived in  
22 Valdez that evening?  
23 A No. I don't recall. See, it seems to me that  
24 it was the end of our watch, though. It was real  
25 close to the end of it.

1 Q Do you remember if you were at the helm, or  
2 out on the bow?  
3 A When we arrived?  
4 Q Yeah.  
5 A I think I was on the wheel.  
6 Q What did you do after the Exxon Valdez had  
7 docked the evening?  
8 A I probably went to bed if it was at the end of  
9 our watch.  
10 Q Did you man your shift that next day? The  
11 8:00 to 12:00 shift?  
12 A Yes.  
13 Q What would you have done -- what did you do  
14 during that shift?  
15 (1710)  
16 A Well, we were taking cargo from what I recall  
17 and we just stood our regular cargo watches. You  
18 know, just -- I took ullages and sounding the  
19 tanks and that sort of thing.  
20 Q And would that have been at the request of  
21 who?  
22 A I don't understand what you mean by at the  
23 request of...  
24 Q Who would have asked you to do certain things  
25 during that watch?



1 A The mate on watch.

2 Q Who was the mate that oversaw you?

3 A Greg Cousins.

4 Q Now, can you tell the jury what time you were  
5 called out to work that evening?

6 A It was around 7:20 or 7:30.

7 Q Why were you called out prior to your -- was  
8 that prior to your shift?

9 A Yes.

10 Q Why would that have been?

11 A We were leaving and we had to secure the deck  
12 for sea.

13 Q What were your responsibilities during that  
14 undocking process?

15 A Well, after we secured the deck I was forward  
16 and I was lookout forward.

17 Q That would have been on the front of the  
18 tanker?

19 A Right.

20 Q And there's a pointer there. Can you indicate  
21 on that picture there to your left where you  
22 would have been? Is there a pointer up there?

23 A No. I would have been up here.

24 Q Can you tell the jury do you remember what the  
25 weather was like that evening?

1 A It was kind of a slushy sort of rain, or snow,  
2 or whatever you call it.

3 Q Were there heavy winds, or heavy wave action  
4 while you were on the watch there?

5 A I don't recall that there was any wave action.

6 Q Now, on the trip out to the entrance did you  
7 remain out on the bow?

8 A No. I didn't stay the entire watch up there.

9 Q About what time would you have -- did you end  
10 your watch?

11 A On the bow?

12 Q On the bow?

13 A At 10:30.

14 Q When you're out on the bow how do you  
15 communicate with the bridge?

16 A With a hand held radio.

17 Q What are your responsibilities when you're out  
18 on the bow?

19 A To watch our for things, report lights,  
20 vessels and...

21 Q Did you report any lights that evening?

22 A Yes.

23 Q Do you remember which one those were?

24 A No.

25 Q Did anything eventful happen while you were

1           -- that you remember while you were out on the  
2 bow on lookout?

3       A           No.

4       Q           At some point you indicated that you were  
5 contacted about being relieved on the bow. Where  
6 did you...

7       A           Right.

8       Q           ...go from there?

9       A           I went to the down in the mess decks and took  
10 a break, changed my clothes and went to the  
11 bridge.

12      Q           How long were you there, changing your  
13 clothes?

14      A           Well, I took a 20 minute break all totaled.

15      Q           Who was on lookout at that time?

16      A           While I was on break?

17      Q           Yes.

18      A           There was no one on the bow.

19      Q           Where did you go after you were done with your  
20 break?

21      A           I went to the bridge.

22      Q           You, then, replaced the helmsman, is that  
23 correct?

24      A           Right.

25      Q           Would you describe for the jury what your

1 responsibilities as a helmsman were at that time?  
2 A Well, to steer the ship on a given course.  
3 Q And do you make the decision on where to  
4 steer, or how does that...  
5 A No.  
6 Q Who makes those decisions?  
7 A Well, the mate on watch.  
8 Q And if the captain has the con, who would give  
9 it then?  
10 A The captain.  
11 Q I'd like you to talk just a little bit and  
12 explain to the jury how the vessel is steered.  
13 What type of console did the Exxon Valdez have?  
14 A Well, of course it has a small steering wheel,  
15 I guess you'd call it. And I guess the console  
16 is probably as wide as this and it has a little  
17 video screen.  
18 Q What information was on the console video,  
19 sir?  
20 A There was the course, the rudder angle, and  
21 the rate of swing indicator.  
22 Q Did you -- do you use those in the course of  
23 your duties as a helmsman?  
24 A Yes.  
25 Q Were there other course heading indicators

1           that you could see while you were at the helm?

2           A           I don't really remember.

3           Q           How about were there other rudder indicators,  
4           rudder angle...

5           A           Yes.

6           Q           Where would those have been?

7           A           Well, there's -- it's been a while since I've  
8           been on there. But, from what I can recall there  
9           was one kind of almost dead ahead at the  
10          overhead. And if I'm not mistaken, I think  
11          there's one on each wing of the bridge.

12          Q           How did you place the Exxon Valdez in auto-  
13          pilot, or Iron Mike?

14                 MR. MADSON: Objection, Your Honor,  
15          foundation.

16                 MR. COLE: I'll lay the foundation.

17          Q           (Mr. Claar by Mr. Cole:) Could the Exxon  
18          Valdez be placed in auto-pilot?

19          A           Yes.

20          Q           How do you do that?

21          A           There's a button to push.

22          Q           And would the console tell you whether or not  
23          you were on automatic pilot or in the helm mode?

24          A           Yes.

25          Q           Would you explain to the jury where that

1 information -- where you could determine that?

2 A I'm not absolutely certain, again, but it  
3 seems to me that there's a little pinpoint red  
4 light that comes on and there's the course that  
5 it's steering kind of pops up in the corner of  
6 this video screen.

7 Q While you were at the helm was it your duty to  
8 place the tanker on automatic pilot or not?

9 A Was it my duty to do it?

10 Q Yes.

11 A No.

12 Q Who made that decision?

13 A That I should put it on? The captain did.

14 Q And would it be the same for when the  
15 automatic pilot would come off?

16 A Yes, I suppose so.

17 MR. CHALOS: Your Honor. I'd like to object  
18 here. Is Mr. Cole speaking generally, or this specific  
19 situation.

20 THE COURT: Maybe you can be a little more  
21 specific. I'm having a hard time understanding what  
22 you're talking about.

23 Q (Mr. Claar by Mr. Cole:) When the vessel is  
24 in automatic pilot, what would happen when you  
25 turn the wheel?

1 A Nothing.

2 Q When you say nothing, what do you mean? The  
3 rudder angle, would the rudder turn?

4 A No.

5 Q When you came on the bridge that evening who  
6 was up on the bridge?

7 A I saw the pilot and the third mate.

8 Q Would you explain to the jury, is there a  
9 procedure whereby you go through when you replace  
10 the helmsman up on the bridge?

11 A Well, you just go up. The helmsman tells you  
12 what course you're steering and you just shout it  
13 out to whoever happens to be on the con that  
14 you're relieving the wheel, and repeat the  
15 course.

16 Q How about whether or not it's on Iron Mike, or  
17 automatic pilot?

18 A Normally if it would be on the Mike, there  
19 wouldn't be a relief of the helm unless you were  
20 actually standing there watching it, I guess.  
21 And I don't recall doing that.

22 Q When you replaced Mr. Radtke did the two of  
23 you follow that procedure?

24 A Yes.

25 Q Do you remember what your heading was at that

1           time?

2       A           We were not in the middle of it. At the end  
3           of a course change we were coming to two one  
4           nine.

5       Q           Was the tanker on automatic pilot at that  
6           time?

7       A           No.

8       Q           Was Captain Hazelwood present?

9       A           I don't recall that he was.

10      Q           And approximately what time did this occur?

11      A           At 10 minutes to 11:00.

12      Q           When you came on the bridge did you look at  
13           any of the charts, or look at the radar?

14      A           No.

15      Q           Why not?

16      A           I was interested in getting to the wheel and  
17           relieving my watch partner. And I don't normally  
18           look at the radar, or the charts when I go up on  
19           the bridge. It's not my job.

20      Q           When you say it's not your job, the navigation  
21           of the vessel is not your job? Is that what you  
22           mean?

23      A           Right.

24      Q           How long were you at the helm before Captain  
25           Hazelwood came up on the bridge?



1 A I don't know.

2 Q Do you remember the pilot disembarking that

3 evening?

4 A Yes.

5 Q About what time was that?

6 A Around 11:20, 11:25.

7 Q What was the ship's heading at that time?

8 A I believe at that time we were still steering

9 two one nine.

10 Q Was Captain Hazelwood at the bridge when the

11 pilot left?

12 A Yes.

13 Q Now, is there a procedure whereby you contact

14 the next watch to let them know about their shift

15 coming up?

16 A Yeah. We call them on the phone.

17 Q And what time do you generally call them?

18 (2270)

19 A 11:20.

20 Q And what time do they generally report for the

21 change of shift?

22 A At 10 minutes to the hour.

23 Q Did you do that on that evening?

24 A Yes.

25 Q Who would you have called?

1 A I called Maureen Jones and Bob Kagan.  
2 Q What time would that have been?  
3 A At 11:20.  
4 Q Did you call up Mr. LeCain?  
5 A No.  
6 Q Why not?  
7 A Well, normally the mate called his own relief.  
8 Q Where was the mate at 11:20?  
9 A I think he was down on deck helping with the  
10 pilot.  
11 Q What course changes did you make, then, after  
12 the pilot left the vessel that evening?  
13 A Came to two zero zero and to one eight zero.  
14 Q Do you remember when the two zero zero command  
15 was given?  
16 A No.  
17 Q Do you remember if the third mate was in the  
18 bridge when that was given?  
19 A I don't remember.  
20 Q Do you remember when the second course change  
21 was given?  
22 A I don't know the exact time, no.  
23 Q Approximately?  
24 A Well, it was close to the end of the watch.  
25 Q Were you given any other instructions at the

1 time about the steering of the vessel after the  
2 second command?

3 A I was told to put it on Mike.

4 Q Who gave you that instruction?

5 A The captain.

6 Q Do you remember how long after you received  
7 that command you were at the helm before being  
8 relieved by Mr. Kagan?

9 A Just several minutes, I suppose, maybe five  
10 minutes.

11 Q What happened when Mr. Kagan came to the  
12 bridge?

13 A You mean when he relieved me?

14 Q Yeah. When he first came to the bridge?

15 A Well, he came up, it seemed like he got there  
16 a couple of minutes early and he'd forgotten his  
17 jacket, so he went back to get his jacket. And  
18 when he came back I was just -- I had just  
19 steadied it up and put it on the Mike.

20 Q And when you say on the Mike, you mean...

21 A On the gyro.

22 Q ...gyro or automatic pilot?

23 A Right.

24 Q Where was the third mate during this period?

25 A I don't remember whether he was on the bridge,

1 or not. He may have still been down on deck  
2 securing the pilot ladder.

3 He showed up, I suppose around that time.

4 Q What time did Mr. Kagan replace you that  
5 evening?

6 A At 10 minutes to 12:00.

7 Q What did you tell him, then, when he replaced  
8 you?

9 A I told him that I had just steadied it up on  
10 one eight zero and put it on the Mike. And for  
11 him to stand for a few minutes and make sure it  
12 was steering a straight course.

13 Q Did you know where you were in Prince William  
14 Sound at that time?

15 A No.

16 Q Could you see any lights out in front of you?

17 A No.

18 Q When did Maureen Jones come up that evening?

19 A I believe she came up just a few minutes  
20 before Bob Kagan did.

21 Q Where did she go?

22 A Out to the starboard wing, from what I recall.

23 Q Would you point out the starboard wing on the  
24 Exxon Valdez in that picture right there?

25 A Right here.

1 Q After being relieved from duty that evening  
2 where did you go?  
3 A I just went below.  
4 Q When you say below, what do you mean?  
5 A I went to the mess decks and I got a drink and  
6 then went to the dayroom and went to my room.  
7 Q When was the first time you were aware that  
8 the Exxon Valdez grounded?  
9 A I was in one of the passageways and I ran into  
10 the pumpman and he said that we had gone aground.  
11 Q What did you do after that?  
12 A There wasn't anything I could do. I was just  
13 there. I went outside and shined my light over  
14 the side to see if I could see any oil, or smell  
15 any oil. I just stayed up. I stayed up for  
16 several hours after that just kind of walking  
17 around.  
18 Q Could you see any oil then?  
19 A Yes.  
20 Q Would you describe for the jury what that  
21 looked like?  
22 A Well, it was dark. I mean, I could tell if  
23 there was oil in the water, but I -- it's...  
24 Q Could you actually see it coming up?  
25 A No. I didn't go up to where the ship had been

1           hulled. I was aft.

2           Q           How did you know that there was oil out there?

3           A           Well, it just looked different than water

4           does.

5           Q           Could you smell it?

6           A           Yes.

7           Q           Was it a strong odor?

8           A           Yes.

9           Q           Did you go back to your room at some point?

10          A           Yes.

11          Q           Did you receive any instructions while you

12           were in your room that evening, or morning, I

13           guess?

14          A           Yeah. Greg Cousins came around and said that

15           we had gone aground and the Coast Guard was

16           coming out.

17          Q           Did he give you any further instructions later

18           on?

19          A           No.

20          Q           When was that?

21          A           I don't know.

22          Q           What was Exxon's policy as far as possession

23           of alcohol on the tanker?

24          A           Well, my understanding was that you weren't

25           supposed to have it.

1 Q And what were the consequences if you were  
2 found in possession?  
3 A Well, I suppose you'd have been fired for it.  
4 Q And how about alcohol use on the tanker?  
5 A Well, you weren't supposed to use it either.  
6 Q Did you see Captain Hazelwood at all that  
7 morning, after the grounding?  
8 A After the grounding I saw him the next day.  
9 Q When would that have been?  
10 A Well, it was probably late in the morning. It  
11 seems -- I'm not certain, but I think it was on  
12 my watch the next morning.  
13 Q That would have been 8:00 to 12:00?  
14 A Yes.  
15 Q Where would that have been?  
16 A Down on deck.  
17 Q Did you have any alcohol in your room?  
18 A No.  
19 Q Were you aware of any alcohol on board the  
20 Exxon Valdez?  
21 A No.  
22 Q I have nothing further, Your Honor?  
23 (2695)  
24 CROSS EXAMINATION OF MR. CLAAR  
25 BY MR. CHALOS:

1 Q Good afternoon, Mr. Claar.  
2 (Pause)  
3 Mr. Claar, you stated that you hold an AB's  
4 ticket?  
5 A Right.  
6 Q Who issued the AB's ticket?  
7 A The Coast Guard.  
8 Q Does an AB's ticket signify that you're  
9 qualified to steer a vessel, among other duties?  
10 A It's supposed to, yes.  
11 Q Your watch, you said, was the 8:00 to 12:00?  
12 A Right.  
13 Q Was that Greg Cousins watch as the third mate?  
14 A Yes.  
15 Q He was your mate on watch, if you will?  
16 A Right.  
17 Q You stated that you received a call sometime  
18 around 10:30 to change watch...  
19 A Right.  
20 Q ...or, to change from the lookout to the  
21 bridge?  
22 A Right.  
23 Q Where did that call come from?  
24 A From the bridge.  
25 Q Who called you? Do you remember?



1 A I'm not certain, but I think it was the  
2 captain.  
3 Q Do you recognize the captain's voice?  
4 A Yes.  
5 Q He speaks in a low, slow, deliberate style,  
6 does he not?  
7 A Right.  
8 Q Now, when you got up to the bridge at about 10  
9 minutes of 11:00, you said the captain wasn't  
10 there, is that correct?  
11 A Well, I said I didn't see him.  
12 Q He could have been off to the side, or on the  
13 wing?  
14 A Yes.  
15 Q Could have been -- strike that.  
16 You did see the captain shortly thereafter,  
17 did you not?  
18 A Yes.  
19 Q Did the captain speak to you while you were on  
20 the helm in the period that the pilot was on?  
21 A While the pilot was there?  
22 Q Yes.  
23 A I don't recall.  
24 Q Did you see the captain speaking with the  
25 pilot?

1 A Yes.

2 Q At some point the pilot left, is that correct?

3 A Right.

4 Q And the captain gave you an order to come to  
5 two zero zero?

6 A Right.

7 Q When the captain gave you that order was the  
8 order clear?

9 A Yes.

10 Q Was the captain slurring his words?

11 A I don't think so.

12 Q Did he look to you to be in any way impaired?

13 A No.

14 Q Did you smell any alcohol on his breath?

15 A No.

16 Q Now, you had seen the captain the night before  
17 as well, did you not? Coming into Valdez?

18 A Yes, I guess I was on the bridge with him.

19 Q Was he acting on this particular night the  
20 same way he was acting the night before?

21 A Yes.

22 Q At some point you said the captain gave you an  
23 order to come to one eight zero and put it on the  
24 Mike?

25 A Right.

1 Q Was that order clear?

2 A Yes.

3 Q Now, you mentioned that that order came near  
4 the end of your watch, is that correct?

5 A Correct.

6 Q And you also mentioned that when Bob Kagan  
7 relieved you you were still in the process of  
8 steadying up, is that correct?

9 A No. When Bob relieved me I had just put it on  
10 the Mike when he -- it was like he arrived  
11 simultaneously to when I was putting it on the  
12 Mike.

13 Q Is it fair to say that if he relieved you at  
14 2350 you had put that, the wheel, or the helm on  
15 Iron Mike right around that time?

16 A Yes.

17 Q Now, when Mr. Kagan relieved you, you told  
18 him, I'm steering one eight zero and I'm on the  
19 Iron Mike, is that correct?

20 A Right.

21 Q Mr. Cousins was standing right there, was he  
22 not?

23 A Yes. He was at the radar.

24 Q And when you shouted it out, Mr. Cousins asked  
25 you something, didn't he?

1 A Yes.

2 Q He asked you what was your magnetic heading at  
3 that time, did he not?

4 A Right.

5 Q And you gave him the magnetic heading?

6 A Yes.

7 Q Would you explain to the jury what that was,  
8 or what the magnetic heading is?

9 A The best of my recollection it was one five  
10 five.

11 Q Would you tell them what the magnetic compass  
12 is, as opposed to the gyro compass?

13 A Well, it's just another compass used for  
14 steering the ship. You know, it's to check the  
15 gyro. It's not down on the, you know, in the  
16 wheelhouse. It's up on the top of the  
17 wheelhouse. There's a little periscope you look  
18 through and catch it.

19 Q So, at the time that you were relieved on  
20 watch you told Mr. Cousins the course that you  
21 were steering on gyro and the course that you  
22 were steering on magnetic compass?

23 A Right.

24 Q The captain was standing there at the same  
25 time as well?

1 A Yes.

2 Q After the grounding you mentioned that you  
3 went down to the mess hall and got yourself  
4 something to drink. I take it non-alcoholic?

5 A Right.

6 Q Did you have anything to eat?

7 A I don't think so.

8 Q And then you went into the day room?

9 A Uh-huh (affirmative).

10 Q What'd you do in the day room?

11 A I just, you know, just kind of wandered  
12 around. It's just a little nervous energy. Just  
13 walking around the ship before I go to bed.

14 Q At some point you felt some vibrations, didn't  
15 you?

16 A Yes.

17 Q And those vibrations lasted about 10 -- 15  
18 seconds?

19 A That's, yeah. I would suppose. It's hard to  
20 say.

21 Q Prior to feeling those vibrations, did you  
22 feel anything else?

23 A No.

24 Q I mean, did you feel anything?

25 A No.

1 Q Did you feel any vibrations prior to that?  
2 A I don't recall, no.  
3 Q Did you feel any vibrations subsequent to the  
4 10 -- 15 second vibration?  
5 A I don't remember that either.  
6 Q Now you stated in one of your interviews that  
7 the general alarm was not used...  
8 A Correct.  
9 Q ...but everyone was told that the vessel was  
10 aground?  
11 A I don't know that everyone was told. I was  
12 told.  
13 Q That was by Mr. Cousins?  
14 A Right.  
15 Q Now you've stated -- strike that. Let me ask  
16 you this. You've mentioned that alcohol is not  
17 permitted on board these vessels.  
18 A Uh-huh (affirmative).  
19 Q And that alcohol use is not permitted aboard  
20 the vessel, even, as an Exxon policy?  
21 A Right.  
22 Q You're not aware of any Exxon policy that  
23 prohibits someone from having a drink or two  
24 ashore, do you?  
25 A No.

1 Q Now, you've been a helmsman since 1977?

2 A Right.

3 Q As a helmsman is a 10 degree right rudder  
4 command a simple order?

5 A Yes.

6 Q Putting a ship over, like the Exxon Valdez,  
7 let's say loaded to 57 feet and doing about 11.75  
8 knots, is the task of putting that ship over 10  
9 degrees right rudder a simple one?

10 A Yes.

11 Q I have no further questions at this time.

12 THE COURT: Before you ask, Mr. Cole, I want  
13 to hear the difference if there is any, between a gyro  
14 heading of one eight zero and a magnetic compass  
15 heading of one five five. Is there a difference in  
16 those two?

17 A Well, the magnetic heading is the, say, yes.  
18 There is a difference. You know, there's  
19 magnetic north and the compass points to magnetic  
20 north. And the gyro is true north.

21 THE COURT: Oh, it's set to true headings,  
22 then, rather than magnetic headings.

23 A The gyro, the magnetic is, of course,  
24 magnetic.

25 THE COURT: Okay. And do you know what the

1 difference between the true and magnetic headings  
2 represents?

3 A I don't understand what you mean by the  
4 difference.

5 MR. MADSON: Your Honor, may we approach?

6 THE COURT: Sure.

7 (3179)

8 (Whispered bench conference as follows:)

9 MR. CHALOS: (Indiscernible - whispering)

10 THE COURT: I understand what the variation  
11 is. I just think the jury should hear all this.

12 MR. COLE: (Indiscernible - whispering)

13 THE COURT: Wait? Okay. That's fine. I  
14 understand the difference.

15 UNIDENTIFIED SPEAKER: (Indiscernible -  
16 whispering) so 180 on the gyro is equivalent to 155,  
17 because a 25 degrees variation.

18 MR. CHALOS: (Indiscernible - whispering)

19 (3210)

20 (End of whispered bench conference.)

21 THE COURT: You gonna get to this in a while,  
22 Mr. Cole, then?

23 MR. CHALOS: I can ask this witness, if you  
24 like, Your Honor.

25 THE COURT: All right. Go ahead.



1 Q (Mr. Claar by Mr. Chalos:) Mr. Claar, when I  
2 asked you about the magnetic and gyro compass  
3 headings, did you understand that Mr. Cousins was  
4 checking the variation between the two, that is,  
5 what he was steering on gyro, as opposed to what  
6 was steering on magnetic?

7 A I still don't quite understand what you mean  
8 by he was checking it. I...

9 Q Well, in other words...

10 A It's just kind of a -- it's kind of a normal  
11 thing they, you know, when they change course  
12 they check the magnetic heading to -- yeah, to  
13 check against one another.

14 Q Right. It's to check and make sure that the  
15 two are reading what they should be reading?

16 A Right.

17 Q Because the third mate knows what the  
18 variation is...

19 A Well, he has to...

20 Q ...between true and the magnetic north?

21 A Right. There's a formula to work it up and  
22 all that stuff.

23 Q Okay. I have no further questions, Your  
24 Honor.

25 (3293)

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REDIRECT EXAMINATION OF MR. CLAAR

BY MR. COLE:

Q Now, Mr. Chalos asked you about your conversation at 10:30 when you were relieved and allowed to go on break. You answered that that call came from the bridge.

How do you know it came from the bridge?

A Well, they called me on the radio.

Q They called you using what?

A My hand held radio.

Q Can someone take the hand held radio off the bridge?

A I suppose they could.

Q Are you certain that Captain Hazelwood was the one that called you?

A I'm not absolutely positive.

Q Mr. Chalos asked you about Captain Hazelwood's commands that evening. Did you hear him speak with the Coast Guard that evening?

A Yes.

Q And would you say that he was precise that evening in talking to the Coast Guard?

MR. CHALOS: Objection, Your Honor. I don't know what the word "precise means".

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THE COURT: Objection overruled.

Q (Mr. Claar by Mr. Cole:) Would you say that he was precise when he spoke with the Coast Guard that evening?

A I don't remember the entire conversation, that he had with the Coast Guard.

Q The part that you remember, was it precise?

A I'm confused with precise, also.

What I recall was the fact that ice was mentioned and that we were going to go east of the shipping channels.

Q Do you remember him start to call the tanker the Exxon Baton Rouge and then change it to the Exxon Valdez?

A No.

Q Where was Captain Hazelwood standing when you were up on the bridge at the helm?

A Well, forward of the console and just, you know, there's a space there...

Q Was he standing...

A ...and he just paced.

Q ...in one place, straight up?

A No. He paced back and forth to look out the window.

Q He ever lean against the window?

1 A Yes.

2 Q Was that a normal position for Captain  
3 Hazelwood, or not?

4 A It's pretty normal for captains to talk into  
5 the window.

6 Q How far away from Captain Hazelwood were you?

7 A At the closest point?

8 Q Yeah.

9 A Three feet, I guess.

10 Q Now, you indicated that you placed the vessel  
11 on automatic pilot when Mr. Kagan arrived. Was  
12 that when he arrived the first time or when he  
13 arrived the second time?

14 A The second time.

15 Q You remember giving a statement to the NTSB?

16 A Yes.

17 Q And that was the time when you were asked to  
18 testify, is that correct?

19 A I don't...

20 Q Do you remember that?

21 A No.

22 Q Do you remember being here last May and being  
23 asked to testify at that time?

24 A Correct.

25 Q Mr. Chalos asked you about any alcohol

1 regulations that you were aware of that did not  
2 permit someone from having a drink. Do you know  
3 of any alcohol regulations as far as time periods  
4 when a person can not have a drink before coming  
5 on board a tanker vessel?

6 A That Exxon has?

7 Q No. The Coast Guard.

8 A I'm aware of one now.

9 Q What is that?

10 A I believe it's four hours.

11 Q What is the rule?

12 A I don't really know. I'm just aware of a  
13 drinking regulation that they're not supposed to  
14 drink four hours prior to coming to work.

15 Q Have you spoken with any Exxon attorneys since  
16 the grounding of the Exxon Valdez?

17 A Yes.

18 Q What did you speak with them about?

19 A About what we're talking about?

20 MR. CHALOS: Your Honor, I think Mr. Cole's  
21 getting into the area of attorney/client privilege.

22 THE COURT: I don't know, but why don't you  
23 approach the bench and we'll see.

24 (3604)

25 (Whispered bench conference as follows:)

1 THE COURT: Attorney/client privilege, do  
2 Exxon attorneys represent this man?

3 MR. CHALOS: Your Honor, I'd make the  
4 objection because Mr. Cole made a similar objection.

5 THE COURT: He didn't make an attorney/client  
6 privilege objection. He didn't make that at all. He  
7 made a relevance objection. I'm gonna overrule your  
8 objection on attorney/client privilege unless you  
9 (indiscernible - whispering).

10 MR. CHALOS: Okay. We'll make a relevance  
11 objection.

12 THE COURT: Where you going with this?

13 MR. COLE: I just want to know how many times  
14 he's been talked to to show that so many of the  
15 witnesses have been spoken to by Exxon. I think it's  
16 one of the reasons why there may be biases.

17 THE COURT: Objection sustained.

18 (End of whispered bench conference.)

19 (3650)

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

21 RE CROSS EXAMINATION OF MR. CLAAR

22 BY MR. CHALOS:

23 Q Mr. Claar, you said that you now know about  
24 the four hour rule. I take it you didn't know  
25 about that in March of 1989?

1 A No.

2 Q I have no further questions.

3 THE COURT: You may step down. May this  
4 witness be excused?

5 MR. CHALOS: Yes.

6 MR. COLE: Yes.

7 THE COURT: Okay. You're excused from further  
8 participation in this case.

9 (Witness excused.)

10 You may call your next witness.

11 MR. COLE: Your Honor, at this time the State  
12 would call Mr. Robert Kagan.

13 (Pause)

14 THE CLERK: Sir, if you'd raise your right  
15 hand, please.

16 (Oath administered.)

17 A I do.

18 THE CLERK: Please be seated.

19 ROBERT M. KAGAN

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

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

24 A Robert M. Kagan. K-a-g-a-n.

25 THE CLERK: And your current mailing address?

1 A 735 Franklin Avenue, Harahan, Louisiana. H-  
2 a-r-a-h-a-n Louisiana.

3 THE CLERK: And your current occupation?

4 A Merchant seaman.

5 DIRECT EXAMINATION OF MR. KAGAN

6 BY MR. COLE:

7 Q Mr. Kagan, how long have you been a merchant  
8 seaman?

9 A Almost 15 years with that gone.

10 Q Can you give the jury an idea of what type of  
11 positions you held as a merchant seaman?

12 A I have the messman's job. I held an  
13 ordinary's job and an AB's job.

14 Q Okay. What was the first one that you  
15 mentioned?

16 A Messman's job.

17 Q Tell the jury what a messman is?

18 A They're the ones that clean the rooms and  
19 serve the food.

20 Q And an ordinary seaman?

21 A An ordinary seaman is the entry rating for the  
22 deck department.

23 Q And do you have to get a license to be an  
24 ordinary seaman?

25 A No, you don't.



1 Q And how about, you worked as an able-bodied  
2 Seaman?  
3 A Yes, I did.  
4 Q Do you have to get a license for that?  
5 A Yes. You have to get an indorsement from the  
6 Coast Guard.  
7 Q How do you get one of those?  
8 A You have to pass a test.  
9 Q Okay. What does that test ask you? What  
10 questions?  
11 A About seamanship and lifeboats.  
12 Q When did you get your AB card?  
13 A I got it in 1981.  
14 Q And how long did you sail as an AB, then,  
15 after that?  
16 A I sailed I think it was about six months.  
17 Q Did you ever sail with Captain Hazelwood  
18 before?  
19 A Yes, I have.  
20 Q When was that?  
21 A 1985.  
22 Q What vessel would that have been?  
23 A That's the Exxon Yorktown.  
24 Q What were you doing then?  
25 A I was an Able Seaman.

1 Q Did you get a chance to see Captain Hazelwood?  
2 Did you take the helm at any time during that...  
3 A Yes, I have.  
4 Q Do you know whether or not he evaluated you?  
5 A No. He didn't. The chief mate does.  
6 Q Have you worked as an able-bodied Seaman since  
7 1981?  
8 A No. I haven't.  
9 Q You said you worked as an able-bodied Seaman  
10 for about six months. What did you do after  
11 that?  
12 A I was an ordinary seaman.  
13 Q And when was the last time you worked as an  
14 able-bodied Seaman?  
15 A 1985.  
16 Q And did you continue to work as an able-bodied  
17 Seaman then?  
18 A No. I haven't.  
19 Q When was the next time you became an able-  
20 bodied Seaman?  
21 A On the -- oh, excuse me. On the Valdez.  
22 Q Do you remember when you reported to the Exxon  
23 Valdez?  
24 A I think it was in January.  
25 Q Of 19...

1 A 1989.

2 Q Where did you board?

3 A In San Francisco.

4 Q Did you have a partner at that time?

5 A Yes, I did.

6 Q Who would that have been?

7 A Let's see. John Peacock, I think.

8 Q Did you end up getting another partner later

9 on?

10 A Yes, I did.

11 Q Who would that have been?

12 A Maureen Jones.

13 Q Would you tell the jury how, what shift you

14 worked on?

15 A I worked the mid-watch, the 12:00 to 4:00

16 watch. That's 12:00 midnight to 4:00 in the

17 morning and 12:00 afternoon to 4:00 in the

18 afternoon.

19 Q And tell the jury what your responsibilities

20 were as a AB when the tanker was out at sea?

21 A We painted, we chipped. We done moll

22 seamanship and all deck duties, splicing wire,

23 splicing bonds.

24 Q Were you responsible for taking the helm at

25 times?

1 A Yes, I was.

2 Q And what about watch duties? What were your  
3 responsibilities there?

4 A On the bridge?

5 Q Yeah.

6 A Steering, make sure if we're on the Mike make  
7 sure she won't go off course, check the magnetic.

8 (Tape: C-3611)  
9 (003)

10 Q Let's say that you're not at the helm, you're  
11 on lookout. Where were the places you'd be  
12 stationed?

13 A I'd stand by the helm, stand by the helm.

14 Q Did you ever go out on the bow of the tanker  
15 and act as a lookout out there?

16 A Yes. I have.

17 Q Do you remember coming into Valdez on March  
18 22, 1989?

19 A Yes, I did.

20 Q What did you do from 12 o'clock until 4:00  
21 that morning?

22 A Well, I did partly bridge watch and lookout  
23 duties.

24 Q Do you remember when the Exxon Valdez docked  
25 in Valdez?

1 A I don't remember.

2 Q Do you remember when it left Valdez?

3 A Yes, it did. Yes, I do.

4 Q When did it leave Valdez?

5 A I think it was around 9 o'clock that night.

6 Q Would that have been on the 23rd, March?

7 A Yes, it was.

8 Q When did the Exxon Valdez get into Valdez?

9 A I don't even remember.

10 Q Do you remember working on the ship from 12:00

11 to 4:00 that day, on March 23rd?

12 A Yes, I did.

13 Q What did you do that day?

14 A I think we were topping tanks. And I had the

15 wires and make sure the wires were all secured to

16 the dock.

17 Q The jury might not be familiar with what you

18 mean by "the wires" can you tell them...

19 A The mooring lines.

20 Q And those hold the tanker to the dock?

21 A Yes, it does.

22 Q How would you check those?

23 A By just hanging on the wire and just see if it

24 has a lot of tension on it. It would start to

25 get tight. And the tides.

1 Q Did you go into town, to Valdez, that day?  
2 A No. I did not.  
3 Q How come?  
4 A I don't go to town at Valdez.  
5 Q Did you make any phone calls from the dock?  
6 A Yes, I did. I called my wife.  
7 Q What time did you get called out that evening  
8 for the undocking?  
9 A I think it was around 7:30.  
10 Q And what were your responsibilities?  
11 A Well, we were securing everything off the deck  
12 for sea.  
13 Q Would you give the jury an idea of what type  
14 of things you would have been doing?  
15 A Putting away fire extinguishers and loose gear  
16 that was on the deck, like tools and so on like  
17 that.  
18 Q And how about when the lines were let go?  
19 Where were you about that time?  
20 A I was on the stern.  
21 Q What were your responsibilities then?  
22 A Just getting the wires in and securing the  
23 wires for sea.  
24 Q Who did you work with?  
25 A Let's see. I can't remember who it -- I think

1           Maureen Jones and I think there was another  
2           person back there, too, but I can't remember who  
3           it was.

4           Q           Did you have a mate that you reported to?

5           A           Yes. I did.

6           Q           Who would that have been?

7           A           That would have been second mate.

8           Q           What was his name?

9           A           Lloyd LeCain.

10          Q           After the ship had -- the lines had been taken  
11          in and secured, where did you go that evening?

12          A           I went up to the mess room, first, and got me  
13          a cup of coffee, and then I went straight to my  
14          room and sat on my easy chair.

15          Q           Did you have anything to eat?

16          A           No. I didn't.

17          Q           Just went straight to your room?

18          A           Yes, I did.

19          Q           Did you sleep then, there?

20          A           I slept on the easy chair, just a cat nap.

21          Q           What time were you scheduled to go to work  
22          that evening?

23          A           10 minutes to 12:00.

24          Q           And is there a procedure that the ABs follow  
25          as far as letting one another when their shift is

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coming?  
A Yes. There is.  
Q Would you tell the jury about that?  
A Well, they will usually call them on the telephone and tell them how the weather is and it's time to get up.  
Q Did you receive that call that evening?  
A Yes, I did.  
Q What did you do when you got it?  
A Started getting -- I went down below and got a cup of coffee, and then I came up to my room and put on my winter gear. I set my winter gear to go to the bridge, but I forgot my coat.  
Q So, you walked up from your room up to the...  
A Yes, I did.  
Q And got up there about what time?  
A I think it was around 10 minutes to 12:00, maybe a little bit before.  
Q And where did you go then?  
A And I told the AB I was relieving to stand by for a few minutes so I could go down and get my coat.  
Q Who was that?  
A Harry Claar.  
Q What did you do after you told him that?



1 A I went down below and got my coat.  
2 Q Where did you go then?  
3 A And then I came up, back up to the bridge.  
4 Q Now, what position did you take when you came  
5 up to the bridge?  
6 A On the helm. Beside the AB and he told me  
7 that he was on the -- that the course he was  
8 steering, and he was on he Iron Mike.  
9 Q Do you remember what course that was?  
10 A I think it's 180.  
11 Q He told you it was steering Iron Mike?  
12 A Yes.  
13 Q Why did you go to the helm? Why did you  
14 replace the helmsman?  
15 A Well, that's the procedure. I stood by the  
16 helm.  
17 Q Where did your partner go?  
18 A She went out on the wing of the bridge.  
19 MR. COLE: I have to get a couple exhibits  
20 here.  
21 (Pause)  
22 Q (Mr. Kagan by Mr. Cole:) Now, I'm showing you  
23 what's previously been admitted as Plaintiff's  
24 Exhibit 22. Do you recognize that diagram?  
25 A Yes, I do. That's the bridge.

1 Q Can you use this pointer to show the jury  
2 where you would be standing when you were at the  
3 helm?  
4 A Let's see. Where am I?  
5 Q Careful of the wire there.  
6 A Okay. I stand right here at the helm.  
7 Q And can you describe for the jury how'd you  
8 steer the Exxon Valdez? Was it difficult to  
9 steer?  
10 A No, it wasn't.  
11 Q Can you compare it to driving a car?  
12 A No. You can't.  
13 Q Okay. Was it easier or harder than turning  
14 the wheel of a car?  
15 MR. CHALOS: Objection, Your Honor. He said  
16 you couldn't compare it to driving a car.  
17 THE COURT: You can ask him about turning the  
18 wheel, I suppose. That's your question now.  
19 MR. COLE: Yes.  
20 THE COURT: As it goes to turning the wheel?  
21 Q (Mr. Kagan by Mr. Cole:) How difficult is it  
22 to turn the wheel?  
23 A Not very difficult to turn a wheel which is  
24 -- set up your courses might be, you might have a  
25 little more turn to it.

1 (Pause)

2 Q Now, I'm showing you what's been previously  
3 admitted as Plaintiff's Exhibit 40. Is that what  
4 you would stand in front of, Mr. Kagan?

5 A Yes. It was.

6 Q How comfortable were you at steering the Exxon  
7 Valdez?

8 A That night I was very comfortable steering  
9 her.

10 Q Had you ever expressed any concern to anyone  
11 about that you didn't feel comfortable about  
12 steering?

13 A Well, when she was kind of heavy, she was -- I  
14 was chasing the compass a little bit by  
15 oversteering her.

16 Q Would you explain to the jury what that means?  
17 "Chasing the compass"?

18 A Well, I would put a little too much rudder in  
19 and she would swing, the bow would swing a little  
20 off course.

21 Q Who did you tell about that?

22 A I told the second mate that he's head of -- I  
23 chased the compass one time.

24 Q And how would you receive orders when the  
25 conning officer wanted to turn the vessel?

1 A He would give it to us in degrees and -- wheel  
2 orders and degrees.  
3 Q Okay. Give the jury an example of what an  
4 order that you would hear would be?  
5 A 10 right.  
6 Q And what would that mean?  
7 A That means the rudder angle would be 10  
8 degrees.  
9 Q Now, when you were steering at the helm what  
10 instruments would you use to show you, for  
11 instance, what angle the rudder was at?  
12 A The rudder angle indicator.  
13 Q Did you use the one that was on the automatic  
14 pilot?  
15 A No. I didn't. I used the one on the  
16 overhead.  
17 Q Now, I'm showing you what's been marked for  
18 identification as Plaintiff's Exhibit 25. Do you  
19 recognize that?  
20 A They got the swing indicator, but they don't  
21 have the rudder indicator on that chart.  
22 Q Do you recognize this, though?  
23 A Yes, I do.  
24 Q What's that a photograph of?  
25 A That's the forward bulkhead.

1 Q Okay. Of the Exxon Valdez?

2 A Yes.

3 Q And is that a fair and accurate picture of  
4 what the forward bulkhead looks like?

5 A Yes, it does.

6 MR. COLE: I'd move for the admission of  
7 what's been previously identified as Plaintiff's  
8 Exhibit 25.

9 MR. CHALOS: No objection, Your Honor.

10 EXHIBIT 27 ADMITTED

11 THE COURT: Admitted.

12 Are you sure it's 25?

13 MR. COLE: 27. I'm sorry.

14 THE COURT: 27's admitted, not 25.

15 MR. CHALOS: Your Honor, I should mention Mr.  
16 Cole mentioned while he was standing over here there  
17 needs to be one change made on one of the instruments.  
18 It's been misidentified, but we have no objection.

19 MR. COLE: That's going to be done.

20 THE COURT: Okay.

21 Q (Mr. Kagan by Mr. Cole:) Did you use those  
22 instruments on the forward bulkhead at all?

23 A Yes, I did. I used the -- this is the  
24 repeater I used. And...

25 Q What would that show you?

1 A That's the compass. That's the course of the  
2 compass, of the gyro. And I would use the rate  
3 of turn indicator.

4 Q Was there another rate of turn indicator that  
5 you liked to use?

6 A I usually used that one there.

7 Q Was there another one up on the...

8 A Yes, it was.

9 Q Do you remember where that was?

10 A That was on the -- you mean the rudder  
11 indicator?

12 Q Right.

13 A I used -- there was one above on the starboard  
14 side on the overhead.

15 Q Okay. I'm showing you what's been marked for  
16 identification as Plaintiff's Exhibit 42. Do you  
17 recognize that photograph?

18 A Yes, that's right.

19 Q No. Just do you recognize the photograph?

20 A Yes, I do.

21 Q What's that a photograph of?

22 A That's the radar and the con and the overhead  
23 rudder indicator.

24 Q Is that on the bridge of the Exxon Valdez?

25 A Yes, it is.

1 Q Is that a fair and accurate representation of  
2 that?

3 A Yeah. I believe so.

4 MR. CHALOS: No objection.

5 MR. COLE: Move for the admission of what's  
6 been identified as Plaintiff's Exhibit 42.

7 MR. CHALOS: No objection, Your Honor.

8 (570)

9 EXHIBIT 42 ADMITTED

10 THE COURT: Admitted.

11 Q Can you point to that, Mr. Kagan and show me  
12 where the other rudder indicator that you used?

13 A Right there.

14 Q That one up on the ceiling?

15 A Yeah.

16 Q And would that correspond to number  
17 (indiscernible - dropping sound), about where  
18 that is?

19 A Yes. I think so.

20 Q How come you didn't use the instruments on the  
21 console of the steering console?

22 A Well, I was getting confused with it and I was  
23 advised by the mate not to use it.

24 Q Which mate advised you that?

25 A This was another mate that told me not to use

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it.

Q Was the Exxon Valdez capable of being placed in automatic pilot?

A Yes, it was.

Q How did you do that?

A Well, I didn't fool with it. The mate fooled with it.

Q Did you know how it worked?

A No. I -- well, I just knew how to take it off. That's all.

Q Whose responsibility was it to place the ship on automatic pilot, or take it off?

A I believe it's the mate.

Q When you got up to the bridge that evening at about 11:50 did you take a look at any of the charts, or the manuals?

A No. I didn't.

Q How come?

A That's not my job. That's the mate's job.

Q What happened, then, after you took over the helm? What happened next?

A Well, I went and checked my gyro, checked the repeater.

Q Why did you do that?

A Just to make sure the Mike wasn't gonna go off



1 course.

2 Q Okay. Which gyro did you check?

3 A I checked the repeater on the...

4 Q How about if you turn the -- on the forward  
5 bulkhead?

6 A Yes. Right here.

7 Q Okay.

8 A And I checked the magnetic to make sure it  
9 jives with the board on the forward bulkhead.

10 Q Did you stay in front of the steering console,  
11 or did you walk around?

12 A Just, I walked to get a -- I walked to the --  
13 just a little ways up to get an ashtray.

14 Q When you came up the stairs how did you go to  
15 get to the -- can you show the jury, draw how you  
16 get from the stairs to the console?

17 A Back of the chart table and...

18 Q Where's the chart room?

19 A Chart room's right here.

20 Q Is that lit up, or is it dark?

21 A It's dim light, probably. I didn't even  
22 notice.

23 Q And was it light, or dark on the bridge?

24 A It was real dark.

25 Q Now, after you took over the helm where did

1           you go? Can you show the jury where you walked?  
2       A           Walked over to the coffee table to get an  
3           ashtray and I came back and I put the ashtray  
4           right there on the console.  
5       Q           Who was up on the bridge when you did this?  
6       A           The second mate.  
7       Q           Did you see Captain Hazelwood?  
8       A           No. I didn't.  
9       Q           Do you remember him being up on the bridge  
10          when you came up the first time?  
11       A           I don't even remember. He could have been.  
12       Q           And after you got your ashtray, what happened  
13          then?  
14       A           I stood by the con.  
15       Q           And how long did you stand there before --  
16          were you having to turn it this time at all?  
17       A           No. I didn't.  
18       Q           How come?  
19       A           We were still on the Mike.  
20       Q           How long did you stay on Iron Mike?  
21       A           I really don't remember. It was -- I really  
22          don't remember.  
23       Q           Well, would it have been five minutes, or 10  
24          minutes?  
25       (765)

1 MR. CHALOS: Objection, Your Honor. The  
2 witness said he doesn't remember and I think Mr. Cole  
3 is improperly suggesting an answer that he knows is not  
4 correct.

5 THE COURT: Mr. Cole, would you rephrase your  
6 question? It sounds to me like the witness doesn't  
7 remember, but if you can refresh his recollection in  
8 some other way, you can try it.

9 Q (Mr. Kagan by Mr. Cole:) Can you approximate  
10 how long?

11 A I wasn't looking at a watch, or anything.

12 Q Did Maureen Jones come in? Do you remember  
13 when she came in to the...

14 A I really didn't see her come in.

15 Q Where was Mr. Cousins standing when he was up  
16 on the bridge?

17 A He was standing by the radar and standing by  
18 on the -- right on the left hand side on the con  
19 there. I can hear him talking.

20 Q Do you remember him going out on the port  
21 wing?

22 A No. I didn't.

23 Q When was the vessel taken off automatic pilot?

24 A I don't remember. It was a while -- it was a  
25 little while later.

1 Q Who took it off automatic pilot?  
2 A Well, we both reached for the button and he  
3 got -- and Mr. Cousins pressed the button and it  
4 was off. He turned it off.  
5 Q Why did you reach for it at the same time?  
6 A Because he said we were going on the -- on  
7 hand steering.  
8 Q Had he given you any steering commands before  
9 that?  
10 A No. He didn't.  
11 Q When did he give you the first steering  
12 command?  
13 A I don't remember.  
14 Q Do you remember what that steering command  
15 was?  
16 A Yes, it was. It was 10 right.  
17 Q How about, do you remember how long after the  
18 vessel was taken off automatic pilot before he  
19 gave the first command?  
20 A No, I don't.  
21 Q Where was Mr. Cousins when he gave you that  
22 command?  
23 A He was right beside me.  
24 Q Did he tell you anything else besides that?  
25 A No. He didn't.

1 Q Did you have the console lit up at that time?  
2 A No. I didn't. I dimmed it.  
3 Q How come you dimmed it?  
4 A 'Cause the reflection of the white hit me in  
5 the face.  
6 Q Did you use any other instruments to make sure  
7 that the vessel was responding to your command?  
8 A Yes. I was using the rudder indicator.  
9 Q There's that other picture there in front of  
10 you. Right in front of you.  
11 A Oh. This. Using the one over here.  
12 Q Okay. You need to point to the jury, so the  
13 jury can see.  
14 Q And what did you see when you looked at that?  
15 A I saw 10 degree right rudder.  
16 Q And would you describe how Mr. Cousins was  
17 acting at that time?  
18 A He just -- after he gave me a 10 right he was  
19 -- I guess he was silent for a few minutes. I  
20 mean, not a few minutes. For a little while.  
21 Q I didn't catch that. He was what?  
22 A He was silent and then -- he was silent for  
23 God! I don't know how long. He just...  
24 Q Didn't say anything?  
25 A No. He didn't say anything.

1 Q Do you remember speaking on the phone, or  
2 anything like that?  
3 A No. I didn't.  
4 Q What were you concentrating on doing this  
5 time?  
6 A I was concentrating on the turn of the vessel  
7 on 10 degrees right rudder.  
8 Q Did you notice the gyro changing?  
9 A Just a little bit, a couple degrees to the  
10 right.  
11 Q Mr. Kagan, when the tanker turned do you  
12 remember what this -- this thing would do?  
13 A That's a repeater. That'll cut off the --  
14 past the degrees.  
15 Q How about this thing? Do you remember what  
16 that would do?  
17 A That thing would turn clockwise.  
18 Q Okay. Did it make any difference which way  
19 you were turning?  
20 A Yes, it did. Right it'll turn it would click.  
21  
22 Q Click. And if you were turning to your port  
23 side, or your left side, which way would it turn?  
24 A It'd turn counterclockwise.  
25 Q What was the next command you received?

1 A 20 degrees right rudder.

2 Q And who gave you that command?

3 A Mr. Cousins.

4 Q Where was Captain Hazelwood during this time?

5 A I don't know.

6 Q Did you follow that order?

7 A Yes, I did.

8 Q What instruments did you look at then, to make  
9 sure the vessel was turning?

10 A The rudder indicator.

11 Q Do you ever remember seeing your partner come  
12 in, Maureen Jones, during this time?

13 A No. I didn't.

14 Q Would you describe how Mr. Cousins was acting  
15 at that time? When he gave you the second  
16 command?

17 A He was calm.

18 Q How were you feeling?

19 A I was feeling okay.

20 Q Do you have any idea of when this is happening  
21 now, after the vessel, after you had taken over  
22 the helm?

23 A No. I don't.

24 Q Where was he standing when he gave you the  
25 second command?

1 A I think he was standing beside me.

2 Q How about a third command? Do you remember  
3 getting a third command?

4 A Yes, I did. It was a hard right.

5 Q How long after the first command did you get  
6 the second command?

7 A I don't remember.

8 Q Can you give us an estimate of how long?

9 A Maybe about 30 seconds, maybe. I just can't  
10 remember. Maybe 30 seconds or a minute.

11 Q How was Mr. Cousins acting then?

12 A He was acting normal then.

13 Q Do you remember Mr. Cousins saying anything to  
14 you at that time?

15 A No. He didn't.

16 Q Where was he standing when he gave you that  
17 command?

18 A He was standing -- I think he was standing  
19 beside me somewhere.

20 Q Did you turn the tanker hard right?

21 A Yes, I did.

22 Q How many degrees would you have turned the  
23 rudder?

24 A I think it's 35 degrees.

25 Q Did you do it fast, or did you do it slow?



1 A I did it fast.

2 Q How come you did it fast?

3 A Just to make up -- make sure that rudder was

4 turning.

5 Q Did you think it wasn't turning?

6 A No. I didn't.

7 Q Was the heading changing at all...

8 A Yes, it...

9 Q ...in front of you?

10 A ...was.

11 Q Were you watching the gyro repeater?

12 A Yes, I was.

13 Q Did you -- what is a counter rudder?

14 A A counter rudder is referred to when you

15 change the other direction.

16 Q Why do you give a counter rudder?

17 A When you're ordered to.

18 Q Did you get a counter rudder command?

19 Were you ordered to give a command?

20 A Yes, I was. There was a hard left.

21 Q Did that ever occur before, while you were

22 turning hard right?

23 A No. It wasn't.

24 Q Did you do a counter rudder command during the

25 times it was turning 10 degrees, or 20 degrees,

1 or hard right?

2 A No, I didn't. No, I didn't.

3 Q Do you remember when the Exxon Valdez first  
4 hit ground?

5 A I don't remember.

6 Q Can you estimate how long after you'd been on  
7 the bridge it occurred, before you hit the  
8 ground?

9 A I don't remember. I just didn't have -- I  
10 didn't know what time it was and so on.

11 Q What did it sound like when you first heard it  
12 hit the ground?

13 A It sounded like a little rattle, bumpy  
14 sensation.

15 Q How long did that last?

16 A I don't remember that either.

17 Q Where was Captain Hazelwood at this time?

18 A I think he was on the bridge, then?

19 Q Do you know he was there?

20 A I didn't know if he was there or not.

21 Q Did you see him?

22 A I didn't see him.

23 Q What makes you think he was on the bridge.

24 A I don't even remember if -- wait a minute. I  
25 don't think he was on the bridge then.

1 Q Where was Mr. Cousins at that time?  
2 A He was on the bridge.  
3 Q Do you remember where he was?  
4 A I don't remember where he was.  
5 Q Did you see Mr. Cousins make a phone call?  
6 A Yes, I did.  
7 Q What did Mr. Cousins do after that?  
8 A That was before the hard left.  
9 Q When did the hard left turn occur?  
10 A Right after he ordered me to turn a hard left.  
11 Q Had you hit the ground yet?  
12 A I don't think so. I don't remember anyway.  
13 Damn I get confused.  
14 Q Who made the turn hard left?  
15 A Cousins and I. He -- I started making that,  
16 swinging that hard left and he grabbed a hold of  
17 the wheel and helped me swing it.  
18 Q Would you describe how he was acting then?  
19 A I think he was kind of panicking then.  
20 Q Why do you think that?  
21 A I think he was just kind of excited. He's --  
22 I don't...  
23 Q Do you remember what Mr. Cousins did after he  
24 got off the phone?  
25 A After he got off the phone he ordered me to

1 execute a hard left.

2 Q And that's when he helped you?

3 A Yes, He did.

4 Q Were you aground at that time, or not?

5 A I don't remember if we were aground yet or

6 not.

7 Q What happened after the tanker got grounded?

8 What did you do?

9 A I stood by the con.

10 Q What did Mr. Cousins do?

11 A I really don't know.

12 Q Do you remember anyone going out on the port

13 wing?

14 A No, I didn't.

15 Q How about Maureen Jones? Did you see what she

16 did after the grounding?

17 A I think she was still out there.

18 Q At some point do you remember Captain

19 Hazelwood returning to the bridge?

20 A Yes, I did.

21 Q Where were you during this time after he

22 returned to the bridge?

23 A I was on the con.

24 Q And who would have been on the throttle for

25 the teletype, telegraph?

1 A Guess it's the third mate.

2 Q Would you show the jury, using your pointer,  
3 where that -- where he would have stood if he was  
4 operating the throttle?

5 A Right here.

6 Q That would be right about 21 he would stand?

7 A Yes.

8 Q Do you remember being asked to make some hard  
9 right and hard left turns?

10 A Yes, I did.

11 Q When did that happen?

12 A Apparently after the grounding.

13 Q How long did you stay at the helm?

14 A I stayed until I was relieved by Maureen  
15 Jones.

16 Q What time was that?

17 A At 10 minutes to 2:00.

18 Q Would you have made all the turns of the Exxon  
19 Valdez from the time of the grounding until you  
20 were relieved?

21 A Yes. I would have.

22 Q How many times did you make turns at the  
23 request of Captain Hazelwood?

24 MR. CHALOS: Your Honor, I object to the word  
25 turns.

1 (1420)

2 THE COURT: Well, this is as good a time as  
3 any to take a break.

4 We'll take a break, ladies and gentlemen for  
5 about 15 minutes or so. Don't discuss the case among  
6 yourselves, or form or express any opinions, or discuss  
7 it with anybody else.

8 You all can go to your jury room now. I'll  
9 take this matter up outside your presence.

10 (Pause)

11 (Jury not present)

12 THE COURT: You may make your objection now.

13 MR. CHALOS: Yes, Your Honor. I object to the  
14 use of the word "turn". I think what Mr. Cole meant  
15 was turn of the wheel, rather than the vessel actually  
16 turning?

17 THE COURT: Okay. That's what you meant,  
18 wasn't it? How many times do you turn the wheel?

19 MR. COLE: Right.

20 THE COURT: Okay. That's fine. The object is  
21 sustained as to the form of the question. You can  
22 rephrase it when we come back.

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

25 (1475)

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(Off record - 2:45 p.m.)

(On record - 3:02 p.m.)

(Jury not present)

THE COURT: Did somebody need to bring something up at this time?

MR. CHALOS: Yes, Your Honor. May we approach the bench.

(Whispered bench conference as follows:)

MR. RUSSO: Judge, something has come to my attention which I think you may want to make some inquiry to. And that concerns the...

THE COURT: You can whisper a little bit, if you want to, since we're up here, or we can take them back there.

MR. RUSSO: ...that concerns the media room. There is a person back there who claims that he is video taping proceedings for the Department of Justice. I'm also told by the Department of Justice lawyer that he's heard there's somebody there that may (indiscernible - whispering) with Exxon as well.

THE COURT: Is the someone video taping (indiscernible - whispering) Exxon?

MR. RUSSO: And the Department of Justice.

THE COURT: I'm allowing somebody to tape...

MR. RUSSO: No, I'm talking about video tape

1 now, not the stenographic assignment.

2 Also, I'm also told by some of the attorneys  
3 and reporters that the witness room which is located  
4 directly opposite the media room, you can hear  
5 everything that's going on in the courtroom because of  
6 the fact that...

7 THE COURT: If you're in the media room you  
8 can hear things -- I mean, in the witness room you can  
9 hear?

10 MR. RUSSO: Yes. Because of it's location.

11 MR. COLE: When you talked about this earlier,  
12 about having people stay down there, I didn't realize  
13 our witnesses are staying in there.

14 MR. RUSSO: Right across...

15 MR. COLE: Right. I didn't realize they were  
16 in there.

17 MR. RUSSO: And they can hear everything  
18 that's going on.

19 THE COURT: All right. I'm assuming that's  
20 correct. So, you can change that from now on. And  
21 I'll hold a recess and we'll have Scott -- do you have  
22 the person who told you that there's somebody in there  
23 videotaping?

24 MR. RUSSO: Well, I spoke to the gal that's  
25 video taping for the Department of Justice. I do not



1 know...

2 THE COURT: Okay.

3 MR. RUSSO: ...anybody else.

4 THE COURT: Anybody that's videotaping I want  
5 to be brought in to my chambers.

6 Scott, will you go with Mr. Russo and Mr. Cole  
7 and you find out who's videotaping in the media room.  
8 I want them brought in my chambers right now. I want  
9 to find out what's going on there.

10 Okay. And if you know if anybody else is  
11 video taping have them bring them in to.

12 Okay. We'll stand in recess for a couple  
13 minutes and resolve this.

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

16 (1585)

17 (Off record - 3:04 p.m.)

18 (On record - 3:14 p.m.)

19 (Jury not present)

20 THE COURT: You may be seated.

21 What's happened that the media should be aware  
22 of is that there's some non-authorized people who have  
23 been using the media room in the back. I don't make  
24 the media guideline rules. Those are established by  
25 the supreme court. But, I'm here to enforce them.

1 Unless you have a press pass, unless you've signed the  
2 media request and been approved by the court, you're  
3 not permitted to use the media courtroom in the back.

4 There's some video coverage being taken by the  
5 Department of Justice, who has no authority to do that.  
6 There was a commercial reproduction outfit in the back  
7 who has no authority without a press pass. And I would  
8 just encourage the media personnel to consider that  
9 this has been permitted to allow media coverage of this  
10 trial. It's not to allow commercial reproductions and  
11 sale of that.

12 And if your purpose is to under the auspices  
13 of a media request take video so you can sell it to the  
14 Department of Justice, the State of Alaska, Exxon, or  
15 other people who might be involved in the civil  
16 litigation, then you're jeopardizing the media coverage  
17 of this trial for those who honestly wish to reproduce  
18 it for media broadcast.

19 If this persists I will be -- I don't want to  
20 make threats, but if it persists, I'll have to close  
21 down the media room in the back so I'll know exactly  
22 who's involved in the media reproduction here.

23 I would like you to use some good judgment.  
24 You must have a press pass. I've noticed several  
25 people do not wear their press passes. If you don't

1 have a press pass, then the very thing that happened  
2 earlier, the possibility of jury taint takes place.

3 This is a heavily covered trial and it's up  
4 the media to exercise some good judgment here. I would  
5 like to see press passes on everybody. And I would  
6 appreciate it if you would have a press pass available  
7 before you go into the media room in the back.

8 If you haven't requested media coverage,  
9 please do so. We have those forms and we'll be happy  
10 if it's for media purposes to sign that form, and you  
11 can fool with the service who's handling this, I  
12 believe it's KTUU, they're the ones who seem to be  
13 doing this.

14 When KTUU is not available I will allow  
15 somebody else to do that, but I would like to have it  
16 broadcast for media purposes, for news purposes, not  
17 commercial reproductions.

18 If there's going to be an abuse of that I'll  
19 have to take steps to curtail that which might involve  
20 curtailing in general some media coverage of the trial.  
21 I hope not to do that.

22 Let's bring the jury in.

23 And I thank counsel for bringing this to my  
24 attention. I was unaware of that until counsel brought  
25 it to my attention.

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(Pause)

THE COURT: Thank you, ladies and gentlemen.  
You may continue.

MR. COLE: Thank you, Your Honor.

(1799)

Q (Mr. Kagan by Mr. Cole:) Mr. Kagan, when we took our break we were talking about what happened after the Exxon Valdez grounded. Do you remember taking orders to turn the vessel right and left?

A Yes, I did.

Q Do you remember how many times you were ordered to turn the vessel right or left?

A I really don't remember.

Q Do you think your memory might be refreshed if you were able to take a look at a course recorder?

A No, I won't.

Q How long were you at the helm when these instructions were being given?

A Oh, I don't remember how long.

Q What was the purpose of all this, of the hard right and the hard left?

A To keep...

MR. CHALOS: Objection, Your Honor.

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MR. COLE: If he knows.

THE COURT: If you know what the purpose was.

A I wasn't sure.

Q (Mr. Kagan by Mr. Cole:) Well, what did you think?

A Objection.

THE COURT: Lay a foundation for what he thought, but without that it's not very meaningful.

Q (Mr. Kagan by Mr. Cole:) Did -- I just want to think about this one second.

Did you hear the captain talking to the Coast Guard?

A No, I didn't.

Q Did the captain ever talk to you?

A He just gave me a lot of wheel orders.

Q Based on your experience, what did you think the captain was trying to do?

MR. CHALOS: Objection.

MR. COLE: I believe he can say based on his own experience what he was trying to do, or what he thought he was trying to do.

THE COURT: I don't know, but I'd imagine this is a fairly unique situation and unless you can establish he's got some experience like this, I'm going to sustain the objection.

1 I mean, I assume this is -- this is after the  
2 vessel has gone aground?

3 MR. COLE: Yes.

4 THE COURT: Okay. The objection's sustained  
5 unless you can tie it up with some experience.

6 Q (Mr. Kagan by Mr. Cole:) You don't remember  
7 what was going on? Is that right?

8 A Yes.

9 Q Have you told other people in the past what  
10 you thought was happening?

11 A No, I didn't.

12 Q Do you remember being interviewed by  
13 Investigator Delozier on the day of the  
14 grounding?

15 A Yes.

16 Q Okay. And do you remember telling him what  
17 happened? What you remember happening earlier  
18 that morning?

19 A I can't -- yes, I did. I think I did.

20 Q Do you remember telling him, "After grounding  
21 the master gave commands of left and right rudder  
22 in an attempt to steer of ground"?

23 A I might have said that, but I really wasn't  
24 sure what he was doing.

25 Q Okay. Well, do you remember talking to the

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FBI?

A Yes, I have.

Q And when was that?

A That was right after.

Q Do you remember telling them that he, that's you, "stated that he does not remember additional rudder commands to try and free the ship after the first five or ten minutes when the captain did make such an attempt."

Do you remember telling him that?

A I really -- the concept of time wasn't in my mind when I was up there. All I was doing was trying to get -- to steer that thing off.

Q You were trying to what?

A I was just trying to follow orders from the captain.

Q And do you remember speaking with the Grand Jury? Do you remember that you spoke in front of...

A Yes.

Q ...a Grand Jury?

A Yes, I did.

Q And that was a group of people that sat in front of you?

A Yes.

1 Q And you were asked questions at that by Ms.  
2 Henry?  
3 A Yes.  
4 Q And do you remember telling them, "Yes. I was  
5 on the helm when he came up on the bridge and  
6 that's when he gave me a couple wheel commands  
7 to, I guess, rock the ship off the shoals"? Do  
8 you remember giving that answer?  
9 A Yes, I did, but I just -- I said, "I guess."  
10 I wasn't really sure if he was -- what he was  
11 doing.  
12 Q Did Captain Hazelwood say anything to you that  
13 morning about your job?  
14 A He said I did a hell of a job.  
15 Q When did you get off work that day?  
16 A At 4 o'clock in the morning.  
17 Q What did you do after you were relieved by Ms.  
18 Jones at the helm?  
19 A I stood on the bridge until I was relieved by  
20 the 4:00 to 8:00 watch.  
21 Q Did you have any idea of how much damage had  
22 been done to the Exxon Valdez?  
23 A No. I don't.  
24 Q When did you learn?  
25 A I learned daylight.



1 Q Tell the jury about that.

2 A It was just a lot of oil around the ship.

3 That's all I could see.

4 Q Were you surprised when you woke up in the

5 morning?

6 A I was pretty -- I was very surprised.

7 Q What was Captain Hazel -- no. Let me retract

8 that.

9 You've worked for Exxon for how many years?

10 A 15 years.

11 Q What has been their policy toward the

12 possession of alcohol on board tankers?

13 A They will fire you.

14 Q What about alcohol use on tankers?

15 A They will fire you, too.

16 Q Did you have any alcohol in your possession on

17 the 23rd of March of 1989?

18 A No. I didn't.

19 Q Did you know of any alcohol that was on board?

20 A No. I didn't.

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

22 (2185)

23 CROSS EXAMINATION OF MR. KAGAN

24 BY MR. CHALOS:

25 Q Good afternoon, Mr. Kagan.

1 A Good afternoon.

2 Q Sir, at the time of the grounding you held a  
3 Coast Guard issued AB certificate, able-bodied  
4 seaman sticker?

5 A Yes, I did.

6 Q You were assigned to the Exxon Valdez, were  
7 you not?

8 A Yes, I was.

9 Q I'd like to direct your attention, please, to  
10 2350 when you changed watch?

11 A Yes.

12 Q At that time you said that Mr. Claar told you  
13 that the vessel was steering one eight zero and  
14 that it was on the Mike.

15 A Yes.

16 Q Is that correct?

17 A Yes, it was.

18 Q When he gave you that information did you  
19 repeat it back?

20 A Yes, I did.

21 Q Did you do it in a loud voice?

22 A Yes, I did.

23 Q Was the third mate standing right there?

24 A I didn't see the third mate.

25 Q Did you say, "One eight zero on the Iron

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Mike"?

A Right.

Q Now, do you recall giving a statement to the NTSB and to the FBI where you said that you took -- you and Mr. Cousins both reached for the button to take the vessel off gyro?

A Yes.

Q And do you remember telling them that you did that about two or three minutes after you got on watch?

A I didn't -- I don't remember saying that.

Q Now, tell us what you did to take this ship off gyro?

A Well, usually you press a button and the light goes off on the console.

Q Now, you...

A And...

Q Go ahead.

A That's it.

Q And that's all you have to do to take it off gyro...

A Yes.

Q ...is push a button?

A Yes.

Q And did you do that?

1 A The second mate did it. I mean, the third  
2 mate did it.  
3 Q Mr. Cousins?  
4 A Yes, Mr. Cousins did it.  
5 Q And you were standing right there?  
6 A Yes.  
7 Q You saw the light go out?  
8 A Yes, I did.  
9 Q Were you in the helm mode at that time?  
10 A Yes, it was.  
11 Q That means you were in hand steering?  
12 A Yes.  
13 Q Did anybody put this vessel on gyro after it  
14 was taken off, before the grounding?  
15 A No. It wasn't.  
16 Q You said that you checked the magnetic compass  
17 as well when you went on watch?  
18 A Yes.  
19 Q So, to make sure that it jived with the gyro  
20 compass?  
21 A Yes.  
22 Q Did it?  
23 A Yes, it did.  
24 Q I'd like to ask you about the time that you  
25 chased the compass.

1 A That was a long time ago. That was...

2 Q How long ago was that?

3 A That was maybe my first trip up there.

4 Q Back in January?

5 A Yes.

6 Q That was on this ship, right? The Exxon

7 Valdez?

8 A Yes. Yes, it was.

9 Q And that was with a different captain?

10 A Yes.

11 Q And a different mate?

12 A Yes.

13 Q At that time, when you started chasing the

14 compass you started to put right rudder on and

15 the ship got away from you and started to go too

16 fast to the right?

17 A Yes.

18 Q Were you yelled at for that?

19 A Yes, I was.

20 Q Who yelled at you?

21 A Second mate.

22 Q As a result of that were you a little

23 concerned about letting the ship get away from

24 you when you steer?

25 A Yes, I was.

1 Q Would you say that then, you were a little  
2 timid about putting too much wheel on the ship?  
3 A Well, when -- yes, a little bit. But when  
4 they gave me orders for rudder commands I'd do  
5 what they say.  
6 Q Right. The first command that you got was 10  
7 degrees right rudder?  
8 A Yes, it was.  
9 Q Did you put the wheel to 10 degrees  
10 immediately, or did you sort of ease your way  
11 over?  
12 A I put it immediately to 10 degrees.  
13 Q You weren't concerned about the possibility of  
14 oversteering were you?  
15 A No, sir.  
16 Q Now, how long did you hold the 10 degree right  
17 rudder?  
18 A I really don't remember.  
19 Q You said the next command that you were given  
20 was 20 degrees right rudder...  
21 A That's right.  
22 Q ...correct?  
23 Did you put the wheel over to 20 degrees right  
24 rudder...  
25 A Yes.

1 Q ...immediately, or did you ease it over?  
2 A I immediately put it over.  
3 Q Tell me what you did to make a 10 degree right  
4 rudder turn? How many times did you turn the  
5 wheel?  
6 A I could turn it -- you turn it until it gets  
7 to 10 degrees.  
8 Q And you're watching the rudder indicator?  
9 A Yes.  
10 Q And did the indicator go to 10 degrees?  
11 A Yes, it did.  
12 Q And then, did the rudder indicator follow  
13 that?  
14 A Yes, it did.  
15 Q Were you watching the rate of turn indicator  
16 at all?  
17 A Yes, I was.  
18 Q The rate of turn indicator indicates how much  
19 the vessel's heading is changing...  
20 A Yes.  
21 Q ...am I correct?  
22 A Right.  
23 Q Was the vessel responding to your 10 degree  
24 turn?  
25 A It was starting into a slow turn.

1 Q Did you expect the vessel to turn faster?  
2 A I didn't remember -- I don't know -- wait a  
3 minute. I think it was doing what it's supposed  
4 to do.  
5 Q Now, during this time when you were given the  
6 10 and 20 degree right rudder commands were you  
7 ever told to steer a specific course?  
8 A No. I didn't.  
9 Q Do you remember telling the NTSB and the FBI  
10 that you were trying to steady up on course two  
11 three five, or two four five?  
12 A No. I was -- I did not. I told them that we  
13 -- the second mate and I had discussed it.  
14 Q You and -- you mean the third mate?  
15 A Third mate, I mean. I'm sorry.  
16 MR. CHALOS: Your Honor, may I approach the  
17 witness.  
18 (Pause)  
19 MR. COLE: Can we get a page cite on that?  
20 MR. CHALOS: Yes. This is the NTSB interview  
21 of March 28th, 1989 and I'm on the first page in the  
22 second paragraph, last sentence.  
23 Q (Mr. Kagan by Mr. Chalos:) It says here,  
24 "Before the hard right rudder order he believed  
25 he had used some counter rudder to slow the swing



1 as he was preparing to steady on a course of two  
2 three five, or two four five."

3 A The only counter rudder I made was when I made  
4 a hard left at the reef.

5 Q That's when the third mate made the hard  
6 rudder?

7 A Yes.

8 Q So, it's your recollection today that you  
9 never tried to steady up on two four five?

10 A No, I didn't.

11 Q And the mate never gave you a course of two  
12 four five?

13 A No. He did not.

14 Q You don't recall how long you held the 20  
15 degrees right rudder, do you?

16 A No, I don't.

17 Q Now you said the Mr. Cousins was calm when he  
18 was giving you the orders, am I correct?

19 A Yes.

20 (2602)

21 Q You said to the NTSB and I think to the FBI  
22 that a hard right rudder command is not unusual  
23 in Prince William Sound. Is that right?

24 A Yes.

25 Q That didn't cause you any concern when he gave

1           you that order?

2       A           No, it did not.

3       Q           Now, before you were given the hard left order

4           you said you saw the mate on the telephone?

5       A           Yes.

6       Q           Is it your recollection that Captain Hazelwood

7           came up shortly after the mate made the call?

8       A           Yes.

9       Q           And was it between the time that Captain

10           Hazelwood came up and that telephone call that

11           the hard left was put on?

12      A           Yes.

13      Q           Now, when Captain Hazelwood came up on the

14           bridge, was his first order to you to put the

15           rudder amidships?

16      A           Yes.

17      Q           And was it thereafter sometime that he gave

18           you some additional orders?

19      A           Yes.

20      Q           Was Captain Hazelwood calm when he was giving

21           you the orders?

22      A           Yes, he was.

23      Q           Did he appear in command?

24      A           Yes, sir.

25      Q           Was he collected?

1 A I think he was.

2 Q Did he appear to you to be drunk?

3 A No, sir.

4 Q Did he appear to you to be impaired?

5 A No, sir.

6 Q Now, you and Captain Hazelwood didn't have any  
7 conversation other than the commands you got from  
8 him, right?

9 A No. Just...

10 Q So, you don't know what Captain Hazelwood's  
11 strategy was in giving you the commands?

12 A No. I didn't.

13 Q Mr. Cole asked you a series of questions about  
14 what Captain Hazelwood was trying to do?

15 A Yes.

16 Q And he showed you some testimony from the  
17 NTSB?

18 A Yes.

19 Q You remember meeting with Ms. Henry on  
20 Saturday?

21 A Yes, I did.

22 Q And do you remember telling her that you  
23 believe what the captain was trying to do was to  
24 keep the vessel on the reef?

25 A Yes.

1 MR. CHALOS: I think I'm about through, Your  
2 Honor. I just want to check my notes for a second.  
3 Q (Mr. Kagan by Mr. Chalos:) Mr. Kagan?  
4 A Yes.  
5 Q When the third mate was giving you orders on  
6 what side of you was he standing?  
7 A I think he was standing on the left hand side  
8 of me, but I can't remember.  
9 Q You have a slight problem in your left ear,  
10 don't you?  
11 A No, I don't.  
12 Q Do you remember taking a medical about a year  
13 ago?  
14 A Yes.  
15 Q And you were diagnosed as having a problem  
16 with your left ear?  
17 A It's not my left. I think it was my right.  
18 (Pause)  
19 Q Let me read you...  
20 MR. COLE: Your Honor, first of all, I object  
21 if he's going to read it..  
22 MR. CHALOS: Well, let me show...  
23 MR. COLE: And I'd like to see it first.  
24 (Pause)  
25 Q (Mr. Kagan by Mr. Chalos:) Let me show you a

1 report dated February 19th, 1988 called an  
2 audiological report from Elmwood Ear, Nose and  
3 Throat Clinic.

4 I guess that's down in Jefferson, Louisiana?

5 A Yes.

6 Q Read the second paragraph and let me ask you  
7 if that refreshes your recollection. Starting  
8 here.

9 (Pause)

10 Okay?

11 A Okay.

12 Q Does that refresh your recollection now that  
13 it was your left ear?

14 A Well, he said to my right ear.

15 Q And it says your right ear was normal.

16 MR. COLE: Judge, I object. May we approach  
17 the bench.

18 THE COURT: Okay.

19 (2880)

20 (Whispered bench conference as follows:)

21 MR. COLE: Mr. Chalos can not say does this  
22 refresh your recollection that you're deaf in your left  
23 ear. You asked does this refresh your recollection.  
24 If it doesn't, then it doesn't.

25 THE COURT: Mr. Chalos, he didn't indicate

1 that he didn't have a good recollection. He answered  
2 your question. Now, if you wish to impeach him you  
3 have to do it another way.

4 This is hearsay unless you want to get  
5 somebody up there. If he said I don't remember and  
6 it's different, you refresh recollection. This is not  
7 the kind of document that's used to impeach someone  
8 unless you've got somebody willing to testify about it.

9 I'm going to sustain the objection. He's  
10 answered your question.

11 (End of whispered bench conference)

12 (2930)

13 THE COURT: Objection sustained.

14 Q (MR. Kagan by Mr. Chalos:) Mr. Kagan, I have  
15 no further questions. Thank you.

16 MR. COLE: I've got a couple, Mr. Kagan.

17 REDIRECT EXAMINATION OF MR. KAGAN

18 BY MR. COLE:

19 A Okay.

20 Q When you spoke with Ms. Henry on Saturday, you  
21 remember that conversation?

22 A Yes.

23 Q And you were asked what you thought the  
24 captain was trying to do. And as you told Mr.  
25 Chalos, you said he was trying to keep it on the

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rocks?

A Yes.

Q Do you remember why you told Ms. Henry that?

A I wasn't sure what he was doing up there. As far as my wheel commands, I just follow orders from him.

Q Why did you tell her, though, that you thought that he was trying to keep it on the rocks?

A I can't answer that question.

Q Try to answer it, Mr. Kagan?

A Okay. That's what I thought he was doing, but I heard later that that's what he tried to do and there was no engine astern orders from the bell book.

Q Is it based on conversations you had with other people?

A Yes.

Q When did you talk about this?

A Right af -- well, right during the -- after the grounding.

Q And was it significant to you the amount of damage that you saw the next day?

MR. CHALOS: Objection, Your Honor. There's no foundation for that question.

THE COURT: I'm going to overrule the

1 objection.

2 Q (Mr. Kagan by Mr. Cole:) You remember waking  
3 up the next day and seeing all the damage?

4 A I just saw the -- I didn't know how much  
5 damage there was, but I saw a lot of oil.

6 Q When you talked with other people has this  
7 been since that time, people with you work with?

8 A Yes.

9 Q And did anybody express to you their opinion  
10 about the actions of the captain?

11 MR. CHALOS: Your Honor, I object. The answer  
12 will have to be hearsay.

13 THE COURT: I'm going to overrule the  
14 objection. Under the rules, I don't think it is  
15 hearsay. I think it is used for impeachment purposes  
16 in this case. I'm overruling your objection.

17 A What's the question again?

18 THE COURT: It's not being offered for the  
19 truth of the matter. It's being offered to explain his  
20 testimony.

21 Q (Mr. Kagan by Mr. Cole:) Did people that you  
22 talked with express to you whether or not they  
23 thought that a captain would try and take a  
24 tanker that had grounded, that he would try and  
25 take it off?



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A No. Not in this situation. The word was passed that he was going to try -- that the captain was going to try to keep the ship on the rocks.

Q And that was because no one would try and take it off the rocks...

A No, sir.

Q Your Honor, I object to that question.

THE COURT: Okay. That's the end of the inquiry on this area.

Q (Mr. Kagan by Mr. Cole:) Now, Mr. Chalos asked you a number of questions about what happened after the time that Mr. Cousins called and when you gave the left, the counter rudder to the left. Do you remember those questions?

A Yes, I did.

Q Did you see Captain Hazelwood on the bridge when you made that counter turn to the left?

A I don't remember. I don't really remember.

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

MR. CHALOS: Nothing from us, Your Honor.

THE COURT: Can this witness be excused?

MR. COLE: Yes, he may.

THE COURT: Any further need for him?

MR. CHALOS: Nothing from us.

1 THE COURT: You're excused from further  
2 participation in this trial.

3 (Witness excused.)

4 Call your next witness.

5 MR. COLE: Judge, the next witness, Mr.  
6 Cousins, is going to need extended time. I'm more than  
7 happy to start, but...

8 THE COURT: We might as well get started on  
9 him and get some preliminary matters out of the way.

10 MR. COLE: I have to go downstairs, so I'll be  
11 right back.

12 (Pause)

13 THE CLERK: Sir, if you'd please stand and  
14 raise your right hand.

15 (Oath administered)

16 A I do.

17 THE CLERK: Please be seated.

18 (3340)

19 GREGORY T. COUSINS  
20 called as a witness in behalf of the State of Alaska,  
21 being first duly sworn upon oath, testified as follows:

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

24 A Gregory T. Cousins. It's Cousins,  
25 C-o-u-s-i-n-s.

1 THE CLERK: And, your current mailing address  
2 is?

3 A 13966 Fletcher's Mill Drive, Tampa, Florida.

4 THE CLERK: That's Tampa?

5 A Yes.

6 THE CLERK: And, your current occupation?

7 A I'm on the fleet reserve with the Exxon  
8 Shipping Company.

9 THE COURT: Counsel, approach the bench for a  
10 minute, please.

11 (3377)

12 (Whispered bench conference as follows:)

13 THE COURT: You're getting tired. I can tell  
14 that. I would appreciate it when we swear the witness  
15 in that you could sit back there so he could stress the  
16 swearing in. Okay?

17 UNIDENTIFIED SPEAKER: (Indiscernible -  
18 whispering)

19 (3395)

20 MR. COLE: Sorry, Mr. Cousins.

21 DIRECT EXAMINATION OF MR. COUSINS

22 BY MR. COLE:

23 Q Can you tell the jury how long you've been in  
24 the maritime industry?

25 A Approximately 13 years.

1 Q And, would you explain what positions you've  
2 held in those 13 years from the beginning?

3 A Well, I started out as an ordinary seaman  
4 aboard the NOAA Fisheries research vessel. I put  
5 in enough time to get an AB's Endorsement.  
6 Shortly after I received that endorsement, I went  
7 to work with the Exxon Shipping Company.

8 Q How long have you worked for Exxon?

9 A It's been nearly ten years now.

10 Q And, have you always worked with them -- what  
11 licenses have you acquired since working with  
12 Exxon as an AB?

13 A The last license was a second mate's license.

14 Q When did you acquire your third mate's  
15 license?

16 A I believe that was in February of 1986.

17 Q And, when did you acquire your second mate's  
18 license?

19 A February of 1989.

20 Q Where have you worked for Exxon? Has it been  
21 primarily petroleum tankers?

22 A Yes, exclusively.

23 Q And, has it been on the east coast and the  
24 west coast?

25 A Both.

1 Q After you got your third mate's license, did  
2 you immediately begin serving as a third mate?  
3 A As I recall, it was about eight months after  
4 receiving the license.  
5 Q So, that would have been around 1987, in the  
6 beginning?  
7 A In January of '87.  
8 Q Does Exxon provide any training for its mates,  
9 the third mates, for ship handling or anything  
10 like that?  
11 A No, that would be on-board experience by  
12 observation and...  
13 Q Did you attend -- well, tell the jury how you  
14 got your third and second mate's licenses.  
15 A Through my studies at a maritime licensing  
16 school in New Orleans.  
17 Q Was it a program where you actually went to  
18 school or was it a home study program?  
19 A It was both. They allowed flexibility in time  
20 in school and materials that you could take with  
21 you to study at home if need be.  
22 Q How did you do it?  
23 A I spent time in school and also studied at  
24 home.  
25 Q Can you give the jury an idea of how many

1 times you have entered Prince William Sound on  
2 the helm?

3 A On the helm?

4 Q Yeah, at the helm. Or, no, I'm sorry. Let me  
5 take that back. How many times have you traveled  
6 to Prince William Sound through your job on a  
7 tanker?

8 A Including my AB time?

9 Q Yes.

10 A Oh, between 26 and 30 times, perhaps.

11 Q Can you give the jury an idea of how many  
12 times you would have been on the bridge of those  
13 times, in an out?

14 A More than half.

15 Q When did you get assigned to the Exxon Valdez?

16 A I don't recall the date right off-hand, but I  
17 believe my first assignment was 1987. I'm not  
18 real sure about that. It may have been in the  
19 spring of '88. I'm not sure.

20 Q Can you give the jury an idea of how many  
21 terms you served on the Exxon Valdez?

22 A I had three assignments. The last assignment  
23 was my third.

24 Q I'm going to ask you to identify some of these  
25 exhibits. I'll show you what's been marked for

1 identification as Plaintiff's Exhibit 45. Do you  
2 recognize that?

3 A That's the course recorder.

4 Q Is that a fair and accurate picture of the  
5 course recorder on the Exxon Valdez?

6 A Yes.

7 MR. COLE: I would move for the admission of  
8 what's previously been identified as Plaintiff's  
9 Exhibit 45.

10 MR. MADSON: No objection.

11 THE COURT: Admitted.

12 EXHIBIT 45 ADMITTED

13 Q And, I'm showing you what's been identified as  
14 Plaintiff's Exhibit 49. Do you recognize that?

15 A Yes, the Loran and Sat-Nav units.

16 Q And, that was on the Exxon Valdez?

17 A Yes.

18 MR. COLE: I move for the admission of what's  
19 been identified as Plaintiff's Exhibit 45 [sic].

20 MR. MADSON: No objection.

21 MR. COLE: 49, I'm sorry.

22 THE COURT: Admitted.

23 EXHIBIT 49 ADMITTED

24 Q And, where were these two -- you can look at  
25 the diagram, let me get you a pointer. Where was

1 the course recorder located on the bridge?

2 A Right here.

3 Q And, the Sat-Nav that you identified, where  
4 would that have been?

5 A I believe that's 33 here.

6 Q I'm showing you what's been marked for  
7 identification as Plaintiff's Exhibit 50. Do you  
8 recognize that?

9 A That's the RDF.

10 Q Can you explain what the RDF is?

11 A It's a radio direction finder.

12 Q And, was that on the Exxon Valdez in the chart  
13 room?

14 A Yes.

15 MR. COLE: I would move for admission of  
16 what's previously been identified as Plaintiff's  
17 Exhibit 50.

18 MR. MADSON: No objection.

19 THE COURT: Admitted.

20 EXHIBIT 50 ADMITTED

21 Q Where would the RDF have been located?

22 A On this next table.

23 Q I'm showing you what's been marked for  
24 identification as Plaintiff's Exhibit 43. Do you  
25 recognize that?



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A Yes.

Q What's that a photograph of?

A That's a picture of the chart room.

Q Is that a fair and accurate representation of the chart room?

A Yes.

MR. COLE: I would move for the admission of what's been identified as Plaintiff's Exhibit 43.

MR. MADSON: No objection.

THE COURT: Okay, it's admitted.

EXHIBIT 43 ADMITTED

Q I'm showing you what's been marked for identification as Plaintiff's Exhibit 38. Do you recognize that photograph?

A Yes.

Q What's that a photograph of?

A Looks like the starboard bridge wing.

Q Of the Exxon Valdez?

A The Exxon Valdez.

Q Fair and accurate representation?

A Yes.

MR. COLE: I move for the admission of what's been identified as Plaintiffs' Exhibit 38.

THE COURT: Any objection?

MR. MADSON: No, objection. No, Your Honor.

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(3990)

THE COURT: Okay, before you go any further, are you going to go through all those exhibits? Okay, we'll take our recess for the day now. That last exhibit is admitted.

EXHIBIT 38 ADMITTED

THE COURT: We'll recess until 8:30 tomorrow morning, ladies and gentlemen, with my instruction not to discuss the matter among yourselves or with any other person. That's a real important instruction, as you can see, and not to form or express any opinions.

So, you can be in a position to plan accordingly, I want to give you a couple items of information. I believe next Monday is President's Day. That's a week from today and that is a court holiday, I believe. Is that right, Scott?

THE CLERK: Yes, Your Honor.

THE COURT: That is a court holiday. We will not be conducting trial a week from today, so you can start planning your three day weekend. Also, we will be starting a new schedule starting a week from tomorrow, the 20th. That's from 8:30 until 1:30.

We'll get started promptly at 8:30 in the morning and with the jury. We've been not starting until later, as you know, so we could take up matters

1 outside your presence. But, I ask you to come here by  
2 8:30, so you'll be ready to go by 9:00. So, I'll ask  
3 you to come in at 8:15 during those days, so I'll know  
4 we'll be ready to go at 8:30. And, as I see my  
5 schedule, that's how we'll be doing it from now on,  
6 8:30 until 1:30, with no lunch break. We'll have  
7 periodic breaks like we've been taking and then you'll  
8 be free to go at the end of the day at 1:30.

9 So, that's just for your information. We'll  
10 see you back tomorrow morning at 8:30. Anything  
11 further from Counsel?

12 MR. COLE: No, Your Honor.

13 MR. MADSON: No.

14 THE COURT: Stand in recess.

15 THE CLERK: Please rise. This court stands in  
16 recess.

17 (Off record - no time noted)

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