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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: OIL SPILL BY THE OIL RIG	*	Docket 10-MD-2179
<i>DEEPWATER HORIZON</i> IN THE	*	
GULF OF MEXICO ON APRIL 20, 2010	*	Section J
	*	
Applies to:	*	New Orleans, Louisiana
	*	
Docket 10-CV-02771,	*	March 14, 2013
<i>IN RE: THE COMPLAINT AND</i>	*	
<i>PETITION OF TRITON ASSET</i>	*	
<i>LEASING GmbH, et al</i>	*	
	*	
Docket 10-CV-4536,	*	
<i>UNITED STATES OF AMERICA v.</i>	*	
<i>BP EXPLORATION & PRODUCTION,</i>	*	
<i>INC., et al</i>	*	
	*	
* * * * *		

DAY 12, AFTERNOON SESSION
TRANSCRIPT OF NONJURY TRIAL
BEFORE THE HONORABLE CARL J. BARBIER
UNITED STATES DISTRICT JUDGE

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1 AFTERNOON SESSION

2 (March 14, 2013)

13 : 2 3 3 **THE COURT:** Please be seated, everyone.

13 : 3 3 4 Before we resume, I just want to mention -- I
13 : 3 3 5 did mention it earlier today, but we are going to probably
13 : 3 3 6 recess at 5:30 today, let Judge Shushan come over and take care
13 : 3 3 7 of marshaling the exhibits and so forth. I'm looking at the --
13 : 3 3 8 where we are and it doesn't seem likely to me that we will
13 : 3 3 9 probably get to any other witness today. Does anybody believe
13 : 3 3 10 we will?

13 : 3 3 11 **MR. MILLER:** Kerry Miller for Transocean. The answer
13 : 3 3 12 is no, we don't think so. And in that vein, this is the PSC's
13 : 3 3 13 last witness to call at least before Mr. Quirk; and we have all
13 : 3 4 14 agreed that they can open the case back up next week for that.

13 : 3 4 15 We had informed the parties and the Court that
13 : 3 4 16 Mr. Barnhill would be our first witness. He is our first
13 : 3 4 17 witness. In light of where we are and the time it has, it just
13 : 3 4 18 so happens Mr. Barnhill's son is getting married tomorrow in
13 : 3 4 19 Lafayette. He is willing to stay today and see what happens,
13 : 3 4 20 but the rehearsal dinner is tonight and --

13 : 3 4 21 **THE COURT:** Why don't we all agree to just let him go
13 : 3 4 22 home. If by some miracle we finish with Mr. Webster a little
13 : 3 4 23 earlier than 5:30, I don't think anybody will mind, right?

13 : 3 4 24 **MR. MILLER:** Thank you, Judge. And Mr. Barnhill and
13 : 3 4 25 his family thank you for that.

13:34 1 **THE COURT:** That's fine. So the plan is we will
13:34 2 continue on this afternoon with Mr. Webster, and then we
13:34 3 will -- Transocean's case will begin on Monday.

13:34 4 **MR. MILLER:** Yes, with Mr. Barnhill, pursuant to the
13:34 5 list we sent out yesterday.

13:34 6 **THE COURT:** All right. Very well.

13:34 7 **MR. WILLIAMSON:** Jimmy Williamson, Your Honor, for
13:34 8 the PSC. I promised the Court I would finalize the Perkin
13:35 9 exhibit list. There's two on here that aren't agreed to by BP.
13:35 10 The rest of them are agreed to by everyone. And we are still
13:35 11 going to work out the redaction issue, either work it out or
13:35 12 bring it to you. BP and TO want to talk to you about it. And
13:35 13 I promised I would do that, and I want to get it done.

13:35 14 **THE COURT:** Very well.

13:35 15 **MR. WILLIAMSON:** I'm sorry, Your Honor. Mr. Irpino
13:35 16 corrected me. The PSC is now offering the exhibits on this
13:35 17 list with the subject of the -- we are now offering exhibits on
13:35 18 this list.

13:35 19 **THE COURT:** So you're moving to admit all but those
13:35 20 two. Is that it right now?

13:35 21 **MR. WILLIAMSON:** Correct.

13:35 22 **THE COURT:** Which two are we deferring on?

13:35 23 **MR. WILLIAMSON:** We are deferring on 5513, TREX-5513,
13:35 24 and TREX-26011.

13:35 25 **THE COURT:** Except for those two, are there any other

13:35 1 objections to the --

13:35 2 **MR. WILLIAMSON:** No, Your Honor.

13:35 3 **THE COURT:** I'm asking everybody else. I know you
13:35 4 don't object.

13:35 5 Are there any other objections to
13:36 6 Mr. Williamson's list?

13:36 7 These pertain to Mr. Perkin, right?

13:36 8 **MR. WILLIAMSON:** Yes, Your Honor.

13:36 9 **THE COURT:** Without objection, those are admitted
13:36 10 except for the two that were mentioned.

13:36 11 **MS. KARIS:** Hariklia Karis on behalf of BP.

13:36 12 We agree with what Mr. Williamson said and on
13:36 13 the list. They are identified with subjects and that's what
13:36 14 the subject pertains to, that we still have objections to
13:36 15 those. Thank you.

13:36 16 **THE COURT:** Thank you.

13:36 17 **MR. THORNHILL:** Tom Thornhill for the Plaintiffs'
13:36 18 Steering Committee.

13:36 19 With the exhibits from the Thomas Roth
13:36 20 examination that we conducted, we have, I believe, an
13:36 21 agreed-upon list. We have circulated this list, and everybody
13:36 22 agrees upon it.

13:36 23 There is one exhibit which there was some
13:36 24 confusion about, and it also was an exhibit common to
13:36 25 Mr. Probert. And so I've talked to Mr. Godwin about it and

13:36 1 generally our objective is to get all the information to you so
13:36 2 that you can look at it in Probert because you said you wanted
13:36 3 to take a look at it. If you recall, it was admitted in
13:36 4 Probert and Mr. Godwin objected and so whatever you decide with
13:37 5 respect to Probert will apply.

13:37 6 **THE COURT:** Is that on the list?

13:37 7 **MR. THORNHILL:** It is not, Your Honor. Should we put
13:37 8 it on there with an asterisk?

13:37 9 **THE COURT:** You can do it separately.

13:37 10 Are there any objections to the ones you have on
13:37 11 the list?

13:37 12 **MR. THORNHILL:** None.

13:37 13 **THE COURT:** No objections? Those are admitted. The
13:37 14 one that is the subject of an objection, tell us again the
13:37 15 number of that exhibit.

13:37 16 **MR. THORNHILL:** 4357, TREX-4357. It was observations
13:37 17 of Mr. Roth.

13:37 18 **THE COURT:** What I suggest is that maybe if you-all
13:37 19 can't work that out, why don't you-all submit a brief letter --
13:37 20 each a brief letter to us by maybe Monday.

13:37 21 **MR. GODWIN:** We will, Judge.

13:37 22 **THE COURT:** And we will sort it out.

13:37 23 **MR. THORNHILL:** That's perfect, Judge. And I offer,
13:37 24 introduce, and file these into evidence, too.

13:37 25 **THE COURT:** Those are admitted.

13:37 1 **MR. MILLER:** Good afternoon. Again, Kerry Miller for
13:37 2 Transocean.

13:37 3 I have with me the list of trial exhibits and
13:37 4 demonstratives that we used in our examination of Mr. Joe Keith
13:37 5 yesterday. At this time, I have the sheets that were
13:38 6 circulated yesterday to counsel. I would like to hand them to
13:38 7 Ben and Stephanie and have them introduced into evidence.

13:38 8 **THE COURT:** These pertain to Mr. Keith, right?

13:38 9 **MR. MILLER:** Mr. Keith, yes, sir.

13:38 10 **THE COURT:** Any objections?

13:38 11 Without objections, those are admitted.

13:38 12 **MR. IRPINO:** Your Honor, Anthony Irpino for the PSC.

13:38 13 The same thing, I have the PSC's list of
13:38 14 exhibits that were used and we're offering in connection with
13:38 15 Joseph Keith's testimony yesterday. It's been circulated
13:38 16 previously, and we have received no objections.

13:38 17 **THE COURT:** Any remaining objections?

13:38 18 Hearing none, those are admitted.

13:38 19 **MR. IRPINO:** I'll provide copies to Ben and
13:38 20 Stephanie.

13:38 21 **GEOFFREY WEBSTER,**
13:38 22 having been duly sworn, testified as follows:

13:38 23 **DIRECT EXAMINATION**

13:39 24 **BY MR. WILLIAMS:**

13:39 25 **Q.** Hello again, Mr. Webster.

GEOFFREY WEBSTER - DIRECT

13:39 1 A. Good afternoon.

13:39 2 Q. Conrad Williams for the PSC, and I have you on direct
13:39 3 examination.

13:39 4 A. Yes, sir.

13:39 5 Q. Believe it or not, I think we are getting close to being
13:39 6 done.

13:39 7 MR. WILLIAMS : Carl, could you pull up TREX-05033,
13:39 8 please.

13:39 9 BY MR. WILLIAMS :

13:39 10 Q. Mr. Webster, have you reviewed this e-mail and its
13:40 11 attachment?

13:40 12 A. I have, yes.

13:40 13 Q. The e-mail is from the *Deepwater Horizon* DPO operator,
13:40 14 apparently, to the *Deepwater Horizon* captain. And it says:
13:40 15 "Captain, here is a letter as per your request. It took a
13:40 16 while to get the formatting/spacing, etc., right. I got it as
13:40 17 close as I could. Have a good night. Katie Williams, senior
13:40 18 dynamic positioning officer, second mate, *Deepwater Horizon*."

13:40 19 Correct?

13:40 20 A. Correct.

13:40 21 MR. WILLIAMS : Carl, would you go to the second
13:40 22 page, please. Could you bring the first paragraph up for us,
13:40 23 please.

13:40 24 BY MR. WILLIAMS :

13:40 25 Q. We were talking, Mr. Webster, before we took a lunch

GEOFFREY WEBSTER - DIRECT

13 : 40 1 break, about the master and the OIM and the chain of command
13 : 40 2 and authority and all those things under the ISM Code, correct?

13 : 41 3 A. Correct.

13 : 41 4 Q. Let's read the first sentence or two under "Master/OIM
13 : 41 5 Relationship": "The OIM is the senior onboard manager who
13 : 41 6 reports directly to the shore-based rig manager. It is his
13 : 41 7 role to manage the overall operations and administration of the
13 : 41 8 installation."

13 : 41 9 Did I read that correctly?

13 : 41 10 A. You did.

13 : 41 11 Q. Let's go down to "Master's Responsibility and Authority,"
13 : 41 12 that paragraph.

13 : 41 13 "The master is responsible for DP stationkeeping,
13 : 41 14 general safety, and pollution prevention, regulatory
13 : 41 15 compliance, installation stability, safe navigation and
13 : 41 16 collision avoidance, ISM/MODU Code compliance and
13 : 41 17 implementation of emergency response training and all marine
13 : 41 18 operations issues."

13 : 41 19 Correct?

13 : 41 20 A. Correct.

13 : 41 21 Q. We have seen that language before, have we not?

13 : 41 22 A. I have, yes.

13 : 41 23 Q. Now, then it goes on to say: "Under Section 14.8 of the
13 : 42 24 MODU Code, the company designates the master 'person in charge'
13 : 42 25 during an emergency as specified in the station bill."

GEOFFREY WEBSTER - DIRECT

13 : 42 1 We saw the station bill earlier, correct?

13 : 42 2 A. Correct.

13 : 42 3 Q. "During an emergency, the person in charge determines from
13 : 42 4 the available situation reports, written procedures, acceptable
13 : 42 5 safe working practices, and advice from the onboard management
13 : 42 6 team" -- who is the onboard management team?

13 : 42 7 A. That would be the OIM and the drilling crew.

13 : 42 8 Q. -- "if there is a threat to personnel, the installation,
13 : 42 9 or the environment, then coordinates the appropriate response
10 action."

13 : 42 11 A. Correct.

13 : 42 12 Q. Now, is that generally an accurate -- or is that -- the
13 language in that paragraph generally compliant with the
14 ISM Code?

13 : 43 15 A. Not at all, no.

13 : 43 16 Q. Why isn't it?

13 : 43 17 A. Again, it's taking the ultimate decision of the captain to
18 be able to take immediate emergency action.

13 : 43 19 Q. Well, let's go down to the --

13 : 43 20 THE COURT: The MODU Code, that's part of the
21 ISM Code?

13 : 43 22 THE WITNESS: No, sir, that's part of the IMO,
23 International Maritime Organization.

13 : 43 24 THE COURT: Are you saying that there's a conflict
25 between the MODU Code and the ISM Code?

GEOFFREY WEBSTER - DIRECT

13 : 43 1 THE WITNESS: Yes, there is.

13 : 43 2 BY MR. WILLIAMS:

13 : 43 3 Q. Let's work through that paragraph again, Mr. Webster, just
13 : 43 4 so we are sure what we are talking about here.

13 : 43 5 Here's my question: During an emergency, the person
13 : 44 6 in charge -- now, the person in charge in the prior sentence
13 : 44 7 has been designated as the master, correct?

13 : 44 8 A. That is correct.

13 : 44 9 Q. Now, that would comply with the ISM Code, correct?

13 : 44 10 A. That is correct.

13 : 44 11 Q. Then it says: "During an emergency, the person in
13 : 44 12 charge" -- it goes on to say what he has to do during an
13 : 44 13 emergency before he can coordinate the appropriate response,
13 : 44 14 correct?

13 : 44 15 A. Correct.

13 : 44 16 Q. Then it goes on to say that "The person in charge is
13 : 44 17 assigned the legal requirement to hold overriding authority in
13 : 44 18 situations involving safety and pollution, prevention based
13 : 44 19 upon written procedures, etc., and the organizational chart and
13 : 44 20 approved station bill provide detailed information."

13 : 45 21 That paragraph in and of itself is an accurate
13 : 45 22 statement of the ISM requirement, is it not?

13 : 45 23 A. Oh, yes --

13 : 45 24 MR. KINCHEN: Objection, Your Honor. John Kinchen,
13 : 45 25 Transocean. Leading.

GEOFFREY WEBSTER - DIRECT

13:45 1 THE COURT: Overruled.

13:45 2 BY MR. WILLIAMS:

13:45 3 Q. Now, let's talk about the last --

13:45 4 THE COURT: Wait. Did he answer?

13:45 5 THE WITNESS: I did, Your Honor. I said, "yes."

13:45 6 THE COURT: Okay.

13:45 7 BY MR. WILLIAMS:

13:45 8 Q. Let's talk about the last sentence here that's underlined:
13:45 9 "Well control operations are not 'emergency' within the scope
13:45 10 of this paragraph."

13:45 11 As a marine safety expert, can you explain that?
13:45 12 Does that make any sense to you?

13:45 13 A. No, that doesn't make any sense at all because the well
13:45 14 control operation, an emergency within that is a major
13:45 15 emergency. That does not make any sense at all.

13:46 16 MR. WILLIAMS: Could I have the ELMO, please.

13:46 17 Judge, I'm just going to show the witness a
13:46 18 brief excerpt from the deposition testimony of Yancy Keplinger
13:46 19 to put this in context.

13:47 20 BY MR. WILLIAMS:

13:47 21 Q. Who was Mr. Keplinger? Who was he?

13:47 22 A. He was the senior dynamic positioning officer.

13:47 23 Q. When his deposition was taken, he was asked some questions
13:47 24 about this Exhibit 5033 that we just finished talking about.

13:47 25 And the question was:

GEOFFREY WEBSTER - DIRECT

13:47 1 "QUESTION: The first page -- I want to go over the
13:47 2 first page. You are -- you see it's from DP operator
13:47 3 mailbox?

13:47 4 "ANSWER: Yes.

13:47 5 "QUESTION: The date is August 22, 2009?

13:47 6 "ANSWER: Yes.

13:47 7 "QUESTION: And the 'To:' is to the *Deepwater Horizon*
13:47 8 captain mailbox, right?"

13:47 9 A. Correct.

13:47 10 Q. And you see the person who sent this e-mail is Katie
13:47 11 Williams. Then Mr. Keplinger was asked:

13:48 12 "QUESTION: Well, let's take a look at this
13:48 13 particular one. Its says: 'Captain, here is the letter,
13:48 14 as per your request. It took a while to get the
13:48 15 formatting spacing.'"

13:48 16 Everything I read to you earlier on the covering
13:48 17 e-mail, correct?

13:48 18 Well, I just summed up the question. I'll read it.

13:48 19 "QUESTION: It took a while to get the formatting
13:48 20 spacing right. I got it as close as I could. Have a good
13:48 21 night. Signed, Katie Williams.

13:48 22 And then turn the page, and you'll see the
13:48 23 attachment. And first thing I wanted to ask you is: Have
13:48 24 you ever seen this attachment, this document that was
13:48 25 attached to Katie's e-mail?

GEOFFREY WEBSTER - DIRECT

13:48 1 "ANSWER: I can't remember if I did or didn't.

13:48 2 "QUESTION: Did you have a chance to read it just
13:48 3 now?

13:48 4 "ANSWER: Yes. I went through most of it.

13:48 5 "QUESTION: And do you recall my question? Is that
13:48 6 an accurate statement of the person in charge on the
13:49 7 *Deepwater Horizon* at the time period you were senior DPO
13:49 8 aboard the *Deepwater Horizon*?"

13:49 9 What is Mr. Keplinger's answer?

13:49 10 A. "Yes."

13:49 11 Q. Thank you, sir.

13:49 12 Finally, I would like to bring up TREG-04472.

13:49 13 Mr. Webster, this is a recorded or a transcribed
13:49 14 statement of -- transcribed notes of an interview with Andrea
13:49 15 Fleytas, the DP operator on the *Deepwater Horizon*. Have you
13:49 16 reviewed this document?

13:49 17 A. I have, yes, sir.

13:49 18 Q. Ms. Fleytas was on duty at the time of the well control
13:50 19 event during the evening hours of April 20, 2010, was she not?

13:50 20 A. That is correct.

13:50 21 MR. WILLIAMS: Carl, could you go to page 5, please.
13:50 22 I would like you to -- the first full paragraph, would you
13:50 23 bring it up.

13:50 24 BY MR. WILLIAMS:

13:50 25 Q. I'm going to start right around mid-paragraph where it

GEOFFREY WEBSTER - DIRECT

13:50 1 starts "Andrea felt a jolt." I'm going to ask you some
13:50 2 questions about different passages here, Mr. Webster.

13:50 3 "Andrea felt a jolt. She thought perhaps the
13:50 4 thrusters were having problems. Yancy turned the CCTV" -- what
13:51 5 does the CCTV mean? I'm not sure.

13:51 6 A. Closed-circuit television.

13:51 7 Q. Thank you.

13:51 8 -- "around, and they saw mud spewing over the side."

13:51 9 Mr. Webster, do you have an opinion as to whether or
13:51 10 not the observance of mud spewing over the side of a vessel
13:51 11 constitutes an emergency situation?

13:51 12 A. Yes, sir. I would think it does, especially in this type
13:51 13 of operation.

13:51 14 Q. Would you, in your opinion, have expected the bridge crew
13:51 15 to know that the drill crew was involved in underbalancing and
13:51 16 cementing in this well?

13:51 17 A. Yes. Correct.

13:51 18 Q. It goes on to say: "She thought it might have been
13:51 19 nitrogen from the cement. Andrea first heard, then saw the
13:51 20 shaker house gas alarms on the Simrad panel, followed by the
13:52 21 drill floor gas alarm. Gas alarms then sounded all over the
13:52 22 rig."

13:52 23 MR. WILLIAMS: If you jump down, Carl, to the next
13:52 24 paragraph, last sentence.

25

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13 : 5 2 1 BY MR. WILLIAMS:

13 : 5 2 2 Q. "Mud spewed and the alarms came up magenta."

13 : 5 2 3 Now, based on your knowledge of the Simrad system,
13 : 5 2 4 can you tell us what it means when the alarms come up magenta?

13 : 5 2 5 A. I believe that is the most critical alarm on the panel.

13 : 5 2 6 Q. Do these alarm signals have different colors?

13 : 5 2 7 A. Yes.

13 : 5 2 8 Q. Different colors depend on how extreme the emergency is,
13 : 5 2 9 how high the gas levels that are being detected, things like
13 : 5 2 10 that?

13 : 5 2 11 A. Yes. It delineates the extent of the emergency, yes.

13 : 5 2 12 Q. "One of the crew members" -- going on to the next
13 : 5 2 13 paragraph -- "from the drill floor called and said, 'We have a
13 : 5 3 14 well control issue,' and hung up. Andrea said it sounded like
13 : 5 3 15 Brent Mansfield, but she might have been mistaken. Andrea
13 : 5 3 16 tried to call the drill floor back, but no one answered. She
13 : 5 3 17 received another call saying 'well control situation' and hung
13 : 5 3 18 up. She was not sure who called either time. She tried
13 : 5 3 19 calling back but never got an answer."

13 : 5 3 20 Next paragraph: "As Andrea remembered, the rig
13 : 5 3 21 blacked out at that time. Seconds passed, then she heard an
13 : 5 3 22 explosion and all alarms went off. Andrea hit the general
13 : 5 3 23 alarm, but it did not initially turn on. Yancy then did it and
13 : 5 3 24 made a PA announcement, 'Fire, fire.' People started coming to
13 : 5 3 25 the bridge. Jimmy Harrell arrived" -- and Mr. Harrell is who?

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13:54 1 A. The OIM.

13:54 2 Q. "Jimmy Harrell arrived and said, 'What is going on?'

13:54 3 After about one-minute, Chris Pleasant returned and went to the

13:54 4 BOP panel. The captain never indicated or announced 'abandon

13:54 5 rig' by this time. Willie Stoner came up to the bridge. Dave

13:54 6 Young suited up, and people were congregating by the BOP panel.

13:54 7 Mike Williams arrived on the bridge and said that the ECR" --

13:54 8 which the engine control room, right?

13:54 9 A. Correct.

13:54 10 Q. -- "that the ECR was gone."

13:54 11 "The captain" --

13:54 12 MR. WILLIAMS: Go to the next paragraph, please,

13:54 13 Carl.

13:54 14 BY MR. WILLIAMS:

13:54 15 Q. "The captain wanted to start the engines. Yancy told

13:54 16 Andrea to stay and monitor the panels. The rig position

13:54 17 dropped out."

13:54 18 What does that mean, Mr. Webster?

13:54 19 A. They had lost power, so the thrusters were out of use. So

13:55 20 the current was pushing them, the current or wind was pushing

13:55 21 them off station.

13:55 22 Q. Is it your opinion, when the rig position dropped out,

13:55 23 that that meant that they had no control of the vessel?

13:55 24 A. That is absolutely correct, yes.

13:55 25 Q. "The rig position dropped out, but they could not hold

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13:55 1 location without starting anything. Andrea noticed no lights
13:55 2 blinking on the panel. She took it upon herself to activate
13:55 3 the mayday and the GMDSS alarms. She told the captain that she
13:55 4 had issued the distress signal. The captain turned to her and
13:55 5 cursed and said, 'Did I give you authority to do that?' One
13:55 6 minute before the distress signal was sent, Captain Kuchta
13:55 7 wanted permission from Jimmy Harrell to disconnect (operate the
13:56 8 EDS)."

13:56 9 Mr. Webster, based on everything we have gone through
13:56 10 regarding the ISM requirements with respect to authority of the
13:56 11 master, the person in charge, do you have an opinion as to
13:56 12 whether or not this confirms that the master wasn't really in
13:56 13 complete charge of that vessel?

13:56 14 A. Absolutely. I mean, it's quite clear here that he had to
13:56 15 get permission from Jimmy Harrell to disconnect or operate the
13:56 16 EDS, which clearly meant, in my opinion, he did not have
13:56 17 authority to EDS without permission from the OIM. That's a
13:56 18 grave violation of the ISM Code.

13:56 19 Q. Steve Bertone, we have talked about him previously.

13:56 20 "Steve Bertone came to the bridge and went with
13:57 21 others to operate the standby generator."

13:57 22 Then Ms. Fleytas goes on to relate that "many colors
13:57 23 lit up the panel (screen), including pastels and other colors
13:57 24 that she had never seen before."

13:57 25 In your opinion, Mr. Webster, would a properly

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13:57 1 trained DPO, whose primary job it is to monitor the Simrad IACS
13:57 2 and emergency shutdown systems and fire and gas systems on that
13:57 3 rig, should know what colors the buttons -- what those colors
13:57 4 mean when they light up?

13:57 5 A. Absolutely.

13:57 6 Q. She goes on to say that "the captain was told that they
13:57 7 could not start anything."

13:57 8 He replied: "(Expletive) it. Let's leave."

13:58 9 Is that correct?

13:58 10 A. That is correct.

13:58 11 Q. Now, let me ask you about that comment and the comment
13:58 12 before when he cursed Andrea, turned to her and cursed her and
13:58 13 said he did not give her authority to send a mayday signal.

13:58 14 Sir, in your years of experience at sea, your
13:58 15 experience as a ship operations manager, your experience as a
13:58 16 marine safety expert, do you have an opinion as to what that
13:58 17 type of behavior suggests with respect to Captain Kuchta's
13:58 18 ability to command that vessel during an emergency?

13:58 19 A. Well, yes, I do. I think he clearly did not have control
13:58 20 or command of the vessel. He obviously was not strong enough
13:58 21 or experienced enough to understand what was going on. And he
13:59 22 should have behaved much better than that, certainly waited for
13:59 23 everybody else to leave the bridge before he left, to make sure
13:59 24 everybody got off safely.

13:59 25 MR. WILLIAMS: Let's go to the next page please,

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13:59 1 second paragraph.

13:59 2 **BY MR. WILLIAMS:**

13:59 3 Q. Dave Young, who is Dave Young?

13:59 4 A. I believe he is one of the mechanics.

13:59 5 Q. Actually, he is the first mate.

13:59 6 A. I'm sorry. I forgot. You're right.

13:59 7 Q. But regardless, Dave Young came in and told the captain,
13:59 8 "'We have an uncontrollable fire.'

13:59 9 "The captain told Dave to calm down. Andrea issued a
13:59 10 second mayday call.

13:59 11 "Dave said, 'We have an uncontrollable fire and are
14:00 12 aborting.

14:00 13 "The captain said to stand by and wait."

14:00 14 **MR. WILLIAMS:** Go down to the bottom third of the
14:00 15 page, Carl, the paragraph that starts "When asked."

14:00 16 **BY MR. WILLIAMS:**

14:00 17 Q. "When asked if anyone referred to the rig's emergency
14:00 18 response manual, Andrea said, no, that everything happened so
14:00 19 quickly and unexpectedly, they did not have time to refer to
14:00 20 it. She said people tried the best they could, but she was
14:00 21 sure that some procedures were not exactly followed."

14:00 22 **MR. WILLIAMS:** Then the second-to-the-last paragraph,
14:00 23 Carl.

14:00 24 **BY MR. WILLIAMS:**

14:00 25 Q. "Andrea said she and Yancy were the last two people to

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14:00 1 leave the bridge."

14:00 2 Mr. Webster, let me ask you a couple questions.

14:00 3 **MR. WILLIAMS:** Go back to the first -- to the prior
14:00 4 page we were looking at, if you would, Carl. Go up to that
14:01 5 first full paragraph.

14:01 6 **BY MR. WILLIAMS:**

14:01 7 **Q.** "Andrea said she felt a jolt, thought perhaps the
14:01 8 thrusters were having problems. Yancy turned the CCTV around,
14:01 9 and they saw mud spewing over the deck."

14:01 10 In your opinion, at that moment was that a dire
14:01 11 emergency --

14:01 12 **A.** I believe it was.

14:01 13 **Q.** -- situation?

14:01 14 **A.** Absolutely.

14:01 15 **Q.** In your opinion, should someone at that point have
14:01 16 initiated the EDS function in the bridge?

14:01 17 **A.** In my opinion, yes, absolutely. Get the rig off the
14:01 18 wellhead.

14:02 19 **Q.** Later on she said: "One of the crew members from the
14:02 20 drill floor called and said, 'We have a well control issue' and
14:02 21 hung up. Then another call was received saying 'Well control
14:02 22 situation' and hung up."

14:02 23 At this point, mud is still coming up out of the
14:02 24 riser?

14:02 25 **A.** Correct.

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14:02 1 Q. I'm not reading that. Is that your understanding?

14:02 2 A. Yes.

14:02 3 Q. At this point, if they hadn't done it before, in your
14:02 4 opinion as a marine safety expert, should they have EDS'd?

14:02 5 A. Absolutely.

14:02 6 Q. Down in that paragraph, fourth paragraph from the bottom
14:03 7 where it says, "She said that the rig position had dropped out,
14:03 8 that they could not hold location without starting anything,"
14:03 9 this was after Michael Williams arrived on the bridge and said
14:03 10 that the engine control room was gone, correct?

14:03 11 A. That is correct.

14:03 12 Q. At that point at least, should, in your opinion, the
14:03 13 master of that vessel or somebody in the bridge have activated
14:03 14 the EDS?

14:03 15 A. They should have done, yes.

14:03 16 **MR. WILLIAMS:** Would you bring up the Demonstrative
14:03 17 4328-A, alpha.

14:04 18 Your Honor, this was a demonstrative used by BP,
14:04 19 I believe, maybe the first week of the trial. I can't -- it
14:04 20 seems like a year ago in some ways.

14:04 21 **BY MR. WILLIAMS:**

14:04 22 Q. Now, Mr. Webster, I want you to assume that this time line
14:04 23 is approximately correct.

14:04 24 A. I will.

14:04 25 Q. At or about 2140, it indicates that mud overflowed on the

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14:04 1 rig floor, correct?

14:04 2 A. Correct.

14:04 3 Q. At 2142, approximately two minutes later, the annular
14:04 4 closed. The EDS had not yet been activated, correct?

14:04 5 A. Correct.

14:04 6 Q. In your opinion, Mr. Webster, does a well control
14:05 7 situation put the rig and its crew in extreme danger?

14:05 8 A. Yes, sir.

14:05 9 Q. Is it your opinion that, at 2140, when mud overflowed onto
14:05 10 the rig floor, that the crew -- the vessel and its crew were in
14:05 11 extreme danger?

14:05 12 A. Yes, sir.

14:05 13 Q. What is your opinion as to whether or not the captain
14:05 14 should have activated the EDS at that point?

14:05 15 A. I believe he should have done, yes.

14:05 16 Q. Do you give that opinion based on -- if the captain had
14:05 17 took that action, would that action have been in conformance
14:05 18 with the ISM Code?

14:05 19 A. I believe so, yes, emergency situation. He would have
14:05 20 taken the appropriate measures to save the ship, but save the
14:06 21 life of the crew.

14:06 22 Q. If mud is overflowing onto the rig floor when the well is
14:06 23 underbalanced, it's a dangerous situation, is it not?

14:06 24 A. Well, yes. You've got mud and you've got gas.

14:06 25 Q. If EDS had been activated immediately before a fire,

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14:06 1 before anything else, do you have an opinion as to whether or
14:06 2 not it's more likely than not that the well would have been
14:06 3 shut in and the vessel would have drifted off location?

14:06 4 A. I think that's a fair comment, yes.

14:06 5 Q. Let's go on with the time line here. At 2142, the bridge
14:07 6 is notified -- the bridge notified the *Damon Bankston* to move
14:07 7 away from the *Deepwater Horizon*.

14:07 8 In your opinion, why would somebody in the bridge
14:07 9 crew notify the *Damon Bankston*, a vessel standing by next to
14:07 10 the *Deepwater Horizon* -- why would someone on the bridge crew
14:07 11 notify the *Damon Bankston* to move away?

14:07 12 A. Well, clearly, the *Damon Bankston* was alongside probably
14:07 13 with engines running. And with a gas cloud, they wanted them
14:07 14 to get out of the way in case they blew up.

14:07 15 Q. Do you have an opinion as to whether or not somebody on
14:07 16 the bridge crew at least, who notified the *Damon Bankston* to
14:07 17 get away from the *Deepwater Horizon*, do you have an opinion as
14:07 18 to whether that person thought that there was a serious marine
14:07 19 emergency taking place?

14:07 20 A. Well, yes. To tell the *Damon Bankston* to leave right
14:08 21 away, they must have been aware that this was a very dangerous
14:08 22 situation. Absolutely.

14:08 23 Q. That's approximately two minutes after the mud overflowed
14:08 24 onto the rig floor, correct?

14:08 25 A. Correct.

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14:08 1 Q. Now, Mr. Webster, how long does it take when the EDS is
14:08 2 activated for the blind shear rams to activate and the LMRP to
14:08 3 unlatch so the vessel can drift off location?

14:08 4 A. Somewhere between 50 to 60 seconds, I believe.

14:08 5 Q. And if it's done and it's done timely, do you have an
14:08 6 opinion whether or not it shuts in the well as well?

14:08 7 A. Well, it's designed to shut in the well, yes, as long as
14:08 8 the blind shear rams cut through the drill string.

14:08 9 Q. If everything works okay, it will shut the well in and the
14:08 10 vessel drifts off, correct?

14:08 11 A. Yes, correct.

14:08 12 Q. Next demonstrative, please. Okay. 2149. There are
14:09 13 explosions on the rig. Power is lost. MUX cables severed,
14:09 14 terminating BOP communications. EDS still hadn't been
14:09 15 activated.

14:09 16 So according to this time line, from the first
14:09 17 appearance of mud on the drill floor until the explosions on
14:09 18 the rig which essentially neutralized the ability of the EDS to
14:09 19 activate the blind shear rams and disconnect, nobody on that
14:09 20 vessel activated the EDS, did they?

14:09 21 A. No, they did not. But still, the deadman function on the
14:09 22 LMRP should have activated, allowing for the drift-off.

14:09 23 Q. Well, that's another subject. I'm just talking about EDS.

14:09 24 A. Okay.

14:09 25 Q. In an emergency -- is it true, and is it your opinion

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14:10 1 based on your experience, that in an emergency situation the
14:10 2 person in charge, the captain of that vessel, must take
14:10 3 immediate action to save the ship?

14:10 4 A. Correct.

14:10 5 Q. What was his, in your opinion, last best chance to save
14:10 6 the ship and shut in the well?

14:10 7 A. To EDS immediately.

14:10 8 Q. And his obligation on the ISM is to protect life, to
14:10 9 protect property, and to protect the marine environment; is
14:10 10 that correct?

14:10 11 A. Absolutely correct, priority.

14:10 12 Q. That's his legal obligation, is it not?

14:10 13 A. It is.

14:10 14 Q. Did the captain in this case fulfill his legal obligation
14:10 15 under the ISM Code?

14:10 16 A. He did not.

14:10 17 Q. We are almost getting there. I just want to ask you a
14:11 18 couple questions.

14:11 19 In the opening statement by Transocean, they said a
14:11 20 couple things and I just want to ask you about those. I'll go
14:11 21 ahead and put it up on the ELMO if we can.

14:11 22 Can you read that, Mr. Webster?

14:11 23 A. I can. Thank you.

14:11 24 Q. Transocean's lawyer said this: "So let me talk for the
14:11 25 last few minutes on what happened on the bridge crew, because

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14:11 1 there had been an argument raised that somehow the crew and the
14:11 2 captain panicked and that they failed to disconnect immediately
14:11 3 from the well."

14:11 4 We'll skip down to the next paragraph: "Some people
14:11 5 seem to think that the EDS button is some sort of ejector
14:11 6 button like you see on an Air Force F-16. It's not. It's a
14:12 7 piece of equipment that's only designed to be used after you
14:12 8 communicate with the drill crew."

14:12 9 I want to ask you a couple questions about that.

14:12 10 Should, in your opinion as a marine safety expert,
14:12 11 the captain of a vessel that's in distress have to communicate
14:12 12 with anyone, any other person on his crew, as to whether or not
14:12 13 he should take immediate emergency action to save the vessel
14:12 14 and save the crew?

14:12 15 A. No, sir. He should do it by himself, on his own volition.

14:12 16 Q. Where is the drill crew located on the *Deepwater Horizon*?

14:12 17 A. They would have been in the drill shack.

14:12 18 Q. The drill -- is the drill shack on the drill floor?

14:12 19 A. Correct.

14:12 20 Q. Isn't it true, Mr. Webster, or is it your opinion, that
14:12 21 the drill floor, while a well control event, a riser unloading
14:12 22 event is going on or has just begun, is ground zero for the
14:12 23 emergency?

14:13 24 A. Yes.

14:13 25 Q. Is it your opinion that it's good marine practice to

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14:13 1 require the master to get on the phone and try and find the OIM
14:13 2 or the toolpusher or any other of the members of the drill crew
14:13 3 who are engaged in a well control event to ask their permission
14:13 4 or find out if it's okay to EDS the -- activate the EDS
14:13 5 function?

14:13 6 A. Absolutely not, in my opinion.

14:13 7 Q. Why do you say "absolutely not"?

14:13 8 A. Well, again, we're getting a delay in getting off the well
14:13 9 and saving the rig. I mean, we saw what the delay was, about
14:13 10 seven minutes, I believe.

14:13 11 Q. Mr. Webster, based on everything you know about this case,
14:13 12 what is the downside to immediately activating EDS, immediately
14:13 13 going to EDS up in the bridge, if clear evidence of a well
14:14 14 control event becomes apparent to the captain of the vessel?

14:14 15 A. I think the main downside is it's a commercial issue. I
14:14 16 mean, once they EDS and drift off and the blind shear rams have
14:14 17 cut the drill string, it's not a big deal, in fact, to get back
14:14 18 in position and use the ROVs and relatch onto the BOP.

14:14 19 It's just a time problem. I mean, the rig more
14:14 20 likely than not goes off-hire, they are not getting paid, it's
14:14 21 time consuming, they have to get the LMRP back in place, they
14:14 22 have to open the well and have to fish the drill string out.
14:14 23 All this takes quite a bit of time and, of course, it's costing
14:14 24 a lot of money.

14:14 25 Q. Let's go a little further in Transocean's opening

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1 statement. The question is asked: "Why? Why? Because the
2 drill crew is trying to control the well, and they have to take
3 actions. If you just EDS before you're supposed to" --

4 When is the master, the person who is supposed to be
5 in charge of an oceangoing vessel, supposed to take emergency
6 action when there is a dire emergency on that vessel?

7 A. As soon as he perceives it as a dire emergency, I would
8 say.

9 Q. "If you just EDS before you're supposed to or without
10 checking with them, or when it cuts the joints and it can't cut
11 through the joints, you may have a rig drifting out in the Gulf
12 of Mexico with a wide-open wellbore."

13 Now, after this tragedy, we had a wide-open wellbore
14 for many days, didn't we?

15 A. Yes.

16 Q. Unfortunately, we didn't have a vessel that was cast
17 adrift in the Gulf of Mexico, did we?

18 A. We did not.

19 Q. Based on your knowledge, Mr. Webster, and your expertise
20 as a marine safety expert and engineer, can immediate
21 activation of the EDS, if it had been done, endangered the
22 lives of anybody involved in that well control event?

23 A. No, sir. Absolutely not.

24 Q. Let's go to the next page.

25 "The next claim that Mr. Roy made, that somehow there

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14:16 1 was confusion because of the dual command, is not accurate.
14:17 2 Everybody knew that, in case of an emergency, Captain Kuchta
14:17 3 was in charge. He knew it and the other crew members knew it.

14:17 4 "It was totally proper for Captain Kuchta to ask
14:17 5 questions of some people before deciding to EDS. That was
14:17 6 entirely appropriate in an emergency. There was no panic in
14:17 7 Captain Kuchta, and he adhered to the right procedures on the
14:17 8 bridge -- on the bridge that night."

14:17 9 Now, the statement that there was confusion because
14:17 10 of the dual command is not accurate. That's not accurate, is
14:17 11 it? That statement is not accurate, is it?

14:17 12 A. No, it's not. From what I have read, there was, as some
14:17 13 people thought, said, pandemonium on the bridge.

14:17 14 Q. But Ms. Fleytas, in her statement, said that
14:18 15 Captain Kuchta waited until Jimmy Harrell entered the bridge,
14:18 16 asked, "What is going on?" before he -- asked him whether or
14:18 17 not EDS should be activated, correct?

14:18 18 A. That is correct.

14:18 19 Q. So apparently -- it says: "Everybody knew that, in case
14:18 20 of an emergency, Captain Kuchta was in charge."

14:18 21 But apparently, based on that statement,
14:18 22 Captain Kuchta didn't know that, did he?

14:18 23 A. No, he did not.

14:18 24 Q. Mr. Webster, in your opinion as an expert that's been
14:19 25 called in this case, was the vessel, the Transocean

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14:19 1 *Deepwater Horizon*, seaworthy on April 20, 2010?

14:19 2 A. No, it was grossly unseaworthy.

14:19 3 Q. In your opinion, was the vessel, Transocean

14:19 4 *Deepwater Horizon*, seaworthy the year before she was lost?

14:19 5 A. No. I think she was unseaworthy several years prior to

14:19 6 this, due to lack of maintenance, lack of training, and

14:19 7 everything else that we have discussed during my testimony.

14:19 8 Q. In your opinion, was the vessel, Transocean

14:19 9 *Deepwater Horizon*, not in compliance with the ISM Code for

14:19 10 years before this incident?

14:19 11 A. That is correct. It was in direct violation of the code.

14:19 12 Q. From a physical condition standpoint, based on everything

14:20 13 you have reviewed and everything we have talked about, in your

14:20 14 opinion, expert opinion, how would you characterize the

14:20 15 condition of the vessel that night?

14:20 16 A. I would say it was in gross neglect.

14:20 17 Q. From an ISM compliance standpoint, do you have an expert

14:20 18 opinion or characterization of Transocean's actions or lack

14:20 19 thereof with respect to ISM and code compliance?

14:20 20 A. Well, again, I think it was gross neglect. They never

14:20 21 followed any of it.

14:20 22 Q. Mr. Webster, based on your knowledge of the case, your

14:20 23 review of the other expert reports and exhibits, the

14:20 24 maintenance records, surveys, audits, depositions, do you have

14:21 25 an opinion as to whether or not Transocean management

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14:21 1 intentionally allowed the condition of the *Deepwater Horizon* to
14:21 2 deteriorate to a level that it was unsafe to the vessel's own
14:21 3 crew?

14:21 4 **MR. KINCHEN:** Objection, Your Honor, John Kinchen,
14:21 5 foundation.

14:21 6 **THE COURT:** Whether or not Transocean management
14:21 7 intentionally allowed? Is that your question?

14:21 8 **MR. WILLIAMS:** Yes, sir.

14:21 9 **THE COURT:** I'll sustain the objection.

14:21 10 **BY MR. WILLIAMS:**

14:21 11 **Q.** Let me ask it another way, Mr. Webster.

14:21 12 Based on your knowledge of the case, review of the
14:21 13 expert reports, depositions, surveys and audits, reports of the
14:21 14 other experts, do you have an opinion as to whether or not
14:21 15 Transocean management allowed or acquiesced in allowing the
14:21 16 condition of the *Deepwater Horizon* to deteriorate to a level
14:21 17 where it was unsafe to the vessel's own crew?

14:22 18 **MR. KINCHEN:** Objection, foundation, same objection.

14:22 19 **THE COURT:** I'll overrule. I'll let him answer that
14:22 20 if he can.

14:22 21 **THE WITNESS:** Yes. I think they knew, they were very
14:22 22 well aware of what was going on. They had all these reports,
14:22 23 they had all these audits. They had to have been aware of the
14:22 24 situation. And they had to have been aware of the training
14:22 25 problems, the lack of spare parts, the maintenance issues, and

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14:22 1 especially after the last UWILD, they broke down some four or
14:22 2 five, six or seven times. And that clearly would ring some
14:22 3 bells on the shore, to say what's going on with this rig.

14:22 4 **MR. WILLIAMS:** Thank you, Mr. Webster. Those are all
14:22 5 the questions I have at this time.

14:22 6 **THE COURT:** United States?

14:22 7 **MR. UNDERHILL:** Very short, Your Honor.

14:22 8 **MR. HAYCRAFT:** Your Honor, I have an objection.

14:23 9 **THE COURT:** Objection? Okay.

14:23 10 **MR. HAYCRAFT:** I have an objection to the
14:23 11 United States asking any questions.

14:23 12 **THE COURT:** Okay.

14:23 13 **MR. HAYCRAFT:** The basis of our objection, on behalf
14:23 14 of BP, is that the United States has no claims against
14:23 15 Transocean due to their settlement, and that the four corners
14:23 16 of Mr. Webster's report contain no allegations against any of
14:23 17 the other parties in this case: Halliburton, Cameron, or BP.

14:23 18 And so if Mr. Underhill has any questions that
14:23 19 go beyond the four corners of the report, then his questions
14:23 20 would be beyond the scope of the report.

14:23 21 Moreover, obviously, we have spent five or six
14:23 22 hours on the plaintiffs' examination of the plaintiffs'
14:23 23 maritime expert; and, therefore, Mr. Underhill's questions
14:23 24 would be cumulative. So for scope reasons and for cumulative
14:23 25 reasons, we object to the United States having any questions of

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14:23 1 Mr. Webster.

14:23 2 **THE COURT:** All right. Let me hear from
14:23 3 Mr. Underhill.

14:23 4 **MR. UNDERHILL:** Thank you, Your Honor. Your Honor,
14:24 5 Mike Underhill on behalf of the United States.

14:24 6 I think I can ask my questions without straying
14:24 7 from the four corners. I can do it in five minutes or less,
14:24 8 and it would be an area that was not covered by Mr. Williams.

14:24 9 **THE COURT:** With that caveat, we will proceed.

14:24 10 **MR. UNDERHILL:** Thank you, Your Honor.

14:24 11 Mike Underhill, on behalf of the United States
14:24 12 proceeding, I guess, on the direct.

14:24 13 **DIRECT EXAMINATION**

14:24 14 **BY MR. UNDERHILL:**

14:24 15 **Q.** Sir, we have not met. My name is Mike Underhill.

14:24 16 Let me just give you the road map where my short
14:24 17 questions will go. It goes to the length of time, if you have
14:24 18 an opinion, that the vessel MODU *Deepwater Horizon* would have
14:24 19 been in dry dock, had she been taken to dry dock to satisfy the
14:25 20 conditions that you indicate you believe were required under
14:25 21 various codes. Have you got me?

14:25 22 **A.** Yes, sir.

14:25 23 **Q.** Thank you. So let's just break it down into a few very
14:25 24 small chunks.

14:25 25 Was there a -- or are there dry docks in the Gulf of

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14:25 1 Mexico that would be able to handle a dry docking of a vessel
14:25 2 like *Deepwater Horizon* to accomplish the survey and perform
14:25 3 maintenance and repairs?

14:25 4 A. I believe there is, yes, sir.

14:25 5 Q. Ballpark estimate, are we talking -- let's say from
14:25 6 somewhere in the Gulf, are we talking a two- or three-day tow
14:25 7 to get her there?

14:25 8 A. Yes.

14:25 9 Q. And how about --

14:25 10 A. Not tow. She's self-propelled.

14:25 11 Q. Self-propelled. Thank you.

14:25 12 And general ballpark, about how long once she arrives
14:25 13 at whatever facility she goes to, to actually get her in dry
14:25 14 dock and up on the waves?

14:25 15 A. Again, unfortunately, that depends on the amount of
14:25 16 repairs that have to be done. But I would say at least a
14:25 17 couple weeks in dry dock.

14:25 18 Q. And so obviously the vessel can't, as they say down here,
14:26 19 make hole or drill when she's in a dry dock, correct?

14:26 20 A. No, that's correct. The vessel is off-hire.

14:26 21 Q. So just give me your best estimate then -- and I
14:26 22 understand this is a ballpark estimate. Let's assume that
14:26 23 she -- there are no unforeseen difficulties, there are no
14:26 24 difficulties -- long-term problems ordering parts and equipment
14:26 25 that would be needed to deliver and be installed.

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14:26 1 Do you have an estimate as to how long she would be
14:26 2 out of service once she commences propelling to the dry dock,
14:26 3 gets in dry dock, out of dry dock, gets back to the Gulf of
14:26 4 Mexico before she can start work again?

14:26 5 A. I would think anything between four to eight weeks.

14:26 6 **MR. UNDERHILL:** Thank you. That's all the questions
14:26 7 I have, Your Honor.

14:26 8 **THE COURT:** All right. Alabama?

14:26 9 **MR. MAZE:** No questions, Your Honor.

14:26 10 **THE COURT:** Louisiana?

14:26 11 **MR. KANNER:** No questions, Your Honor.

14:26 12 **THE COURT:** Transocean?

14:27 13 **THE WITNESS:** Your Honor.

14:27 14 **THE COURT:** Do you need a break?

14:27 15 Let's take about a 10- or 15-minute recess.

14:27 16 (Recess.)

14:41 17 **THE COURT:** Please be seated, everyone.

14:41 18 Mr. Kinchen.

14:41 19 **MR. KINCHEN:** Your Honor, John Kinchen for
14:41 20 Transocean. I will be cross-examining.

CROSS-EXAMINATION

14:41 22 **BY MR. KINCHEN:**

14:41 23 **Q.** Good afternoon, Mr. Webster.

14:41 24 **A.** Good afternoon, sir.

14:41 25 **Q.** I want to start with the topic that you have spent the

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14:41 1 majority of your time discussing over the past two days, and
14:41 2 that's the ISM Code.
14:41 3 A. Yes, sir.
14:42 4 Q. The ISM Code covers most every issue that a rig like the
14:42 5 *Deepwater Horizon* deals with, correct?
14:42 6 A. That is correct.
14:42 7 Q. Deals with maintenance, correct?
14:42 8 A. Correct.
14:42 9 Q. It deals with master's authority?
14:42 10 A. Yes, sir.
14:42 11 Q. Deals with training?
14:42 12 A. Yes.
14:42 13 Q. Designated persons?
14:42 14 A. Correct.
14:42 15 Q. Resources and personnel?
14:42 16 A. Correct.
14:42 17 Q. Emergency procedures?
14:42 18 A. Correct.
14:42 19 Q. And even deals with internal audits, correct?
14:42 20 A. That is correct.
14:42 21 Q. And as you mentioned yesterday, the Marshall Islands, the
14:42 22 flag state for the *Deepwater Horizon*, requires that
14:42 23 Transocean's safety management system comply with the ISM Code?
14:42 24 A. That is correct.
14:42 25 Q. So let's talk about compliance. The Marshall Islands

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1 requires a company like Transocean to obtain certification of
2 that compliance, doesn't it?

3 A. Yes.

4 Q. And the ISM Code describes that certification for the
5 company as a Document of Compliance, doesn't it?

6 A. Yes, sir.

7 Q. Now, that certification, given the importance of the
8 ISM Code, can't come from just anyone, can it?

9 A. No, it cannot.

10 Q. A flag state like the Marshall Islands won't just accept
11 Transocean's word that its safety management system complies
12 with the ISM Code, will it?

13 A. You are correct.

14 Q. In fact, the Marshall Islands wouldn't accept your word
15 either, would it?

16 A. No, sir, they would not.

17 Q. A company's safety management system is so integral to the
18 safety of the company, its personnel, the environment, that the
19 flag state requires it to be audited by, to use your words, an
20 independent body?

21 A. Correct.

22 Q. A recognized organization?

23 A. A recognized mostly classification society.

24 Q. Such as Det Norske Veritas?

25 A. Correct.

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14:44 1 Q. We have heard it referenced as "DNV" over the past two
14:44 2 days?

14:44 3 A. We have, yes, sir.

14:44 4 Q. Now, the PSC attorney during opening, Mr. Jim Roy,
14:44 5 described Det Norske Veritas as an international respected
14:44 6 organization. Do you agree with that?

14:44 7 A. I do, yes.

14:44 8 Q. Now, I know from the testimony that you have provided over
14:44 9 the past two days that you don't think Transocean's safety
14:44 10 management system complied with the ISM Code?

14:44 11 A. That's correct.

14:44 12 Q. In fact, just a few minutes ago, you made it clear that it
14:44 13 didn't comply for years. Those were your words, correct?

14:44 14 A. Correct.

14:44 15 Q. But, Mr. Webster, you don't speak for Det Norske Veritas,
14:45 16 do you?

14:45 17 A. No, sir.

14:45 18 Q. Det Norske Veritas audited Transocean's safety management
14:45 19 system multiple times?

14:45 20 A. They did.

14:45 21 Q. They audited Transocean's safety management system for the
14:45 22 singular purpose of determining whether it complied with the
14:45 23 ISM Code, correct?

14:45 24 A. That is correct.

14:45 25 Q. So let's look at one of the document of compliances that,

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14:45 1 we've just discussed, is used for purposes of determining
14:45 2 whether or not a company's safety management system complies
14:45 3 with the ISM Code.

14:45 4 **MR. KINCHEN:** Let's take a look at TREN-20044-1,
14:45 5 first page.

14:45 6 If we could blow up -- call up the top part,
14:45 7 please.

14:45 8 **BY MR. KINCHEN:**

14:45 9 **Q.** This is a Document of Compliance for Transocean Offshore
14:46 10 Deepwater Drilling, Inc., correct?

14:46 11 **A.** Correct.

14:46 12 **MR. KINCHEN:** If we could move toward the bottom
14:46 13 where the dates are. If we could highlight those dates.

14:46 14 **BY MR. KINCHEN:**

14:46 15 **Q.** We see that the date of issue is April 13, 2007; is that
14:46 16 correct?

14:46 17 **A.** Yes, sir, that's correct. That is correct. I'm sorry.

14:46 18 **Q.** If we look there at the top date, it says: "The Document
14:46 19 of Compliance is valid until January 25, 2012."

14:46 20 Do you see that?

14:46 21 **A.** Yes.

14:46 22 **Q.** So this was one of the five-year safety management system
14:46 23 audits that's allowed under the ISM Code, correct?

14:46 24 **A.** That is correct.

14:46 25 **Q.** Now, I'm going to get into the later audits in a little

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14:46 1 bit; but for now, you will agree that, pursuant to the ISM
14:46 2 Code, even though this is a five-year audit, the company is
14:46 3 subject to annual renewal audits, correct?

14:46 4 A. Yes. Good. I was about to clarify that.

14:47 5 Q. You're the expert. Let's stick with this 2007 Document of
14:47 6 Compliance. And if we look at the middle part there where it
14:47 7 says, "This is to certify" -- and actually, we've got a
14:47 8 call-out, 20044-1A.

14:47 9 We'll see that this states: "This is to certify that
14:47 10 the safety management system of the company" -- let's stop
14:47 11 there.

14:47 12 "The company" is Transocean, correct?

14:47 13 A. That is correct.

14:47 14 Q. -- "has been audited and that it complies with the
14:47 15 requirements of" -- and is that a fairly long description of
14:47 16 the ISM Code there?

14:47 17 A. Yes, sir.

14:47 18 Q. Now, "has been audited," that phrase right there, you
14:47 19 mentioned yesterday that these are trained auditors at these
14:48 20 recognized organizations, correct?

14:48 21 A. That is correct.

14:48 22 Q. Unlike your own review of Transocean's safety management
14:48 23 system, the auditors that are trained actually go on site to
14:48 24 the company for these audits of the company, correct?

14:48 25 A. That is correct.

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14:48 1 Q. Det Norske Veritas actually provides written guidelines to
14:48 2 its auditors recommending how these audits should be conducted,
14:48 3 correct?

14:48 4 A. Yes, sir, that is correct.

14:48 5 Q. These guidelines --

14:48 6 MR. KINCHEN: Let's pull up 3163-1.

14:48 7 BY MR. KINCHEN:

14:48 8 Q. Do you recognize that document?

14:48 9 A. Yes.

14:48 10 Q. That's the guidance for auditors to the ISM Code from DNV,
14:48 11 correct?

14:48 12 A. Yes.

14:48 13 Q. These guidelines address every section of the ISM Code,
14:49 14 correct?

14:49 15 A. That is correct.

14:49 16 Q. If we go to 3163-4, you see the table of contents there
14:49 17 for the guidelines; and, indeed, every section is covered,
14:49 18 correct?

14:49 19 A. Yes, all 12.

14:49 20 Q. Now, let's talk about -- while we are still talking about
14:49 21 this phrase "has been audited," let's pull up the work papers
14:49 22 from one of the audits that DNV conducted of Transocean, the
14:49 23 company, 1768-2A.

14:49 24 MR. KINCHEN: Going a little bit out of order. So
14:49 25 for the record, Your Honor, these are the work papers for the

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1 2009 renewal audit and we'll talk about the 2009 renewal audit
2 in a little greater depth; but for now, I just wanted to go
3 over the items that are addressed in an ISM audit of the
4 company.

5 **BY MR. KINCHEN:**

6 **Q.** As you look there, of course, one of the things they do is
7 review the SMS documentation. Do you see that?

8 **A.** Yes.

9 **Q.** You have spent the past two days talking about much of
10 Transocean's SMS documentation, right?

11 **A.** Safety management system, yes, sir.

12 **Q.** You see they interviewed personnel at all levels of the
13 company. Do you see that?

14 **A.** I do.

15 **Q.** We can agree that that's something you did not do, right?

16 **A.** I did not.

17 **Q.** Do you see they examined records from the class statutory
18 certificates, internal audits, master's reviews, management
19 reviews, corrective actions, maintenance records, records of
20 emergency? Do you see that?

21 **A.** I do.

22 **Q.** Sounds like a typical ISM audit of a company, correct?

23 **A.** It does.

24 **Q.** Let's look at the very last sentence there: "This
25 includes review of the company's two-way ship-shore and

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1 internal reporting and communication links vital to the
2 effective functioning of the safety management system."

3 Mr. Webster, that two-way ship-shore communication
4 link is the designated person ashore that you have spent time
5 talking about over the past two days?

6 A. It should be, yes. However, you have to remember they had
7 like 50, 60, 70 ships at this time, or drillships. So it's a
8 daunting task for any auditors to go in and audit a company
9 with so many vessels. So they would have gone and taken a
10 small smattering of what was produced to them.

11 Q. You're certainly not suggesting, Mr. Webster, that the
12 auditor who conducted this particular audit stated that he or
13 she did something that they actually did not do?

14 A. No, I am not saying that. I'm just saying when a company
15 has a multitude of ships, drillships, such as this, they can
16 only take a small percentage of the documentation. They would
17 be there for weeks if they were reviewing all the maintenance
18 records for every drillship.

19 Q. Let's be clear. We are talking about the safety
20 management system of the company right now?

21 A. Yes.

22 Q. And if an auditor spends one day at the company -- which
23 there is no indication they spent that little time; but if they
24 spent one day, that would be one day longer than you spent,
25 correct, Mr. Webster?

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1 A. That's correct. But you see, they are looking at
2 management reviews, corrective actions, maintenance records,
3 records of emergency exercise. That would be thousands and
4 thousands of documents.

5 Q. You actually spent some time talking about this particular
6 audit with Mr. Williams, this Det Norske Veritas audit; and you
7 actually pointed out a particular finding that was made in this
8 particular audit.

9 Is it -- I'll phrase that question: At this point in
10 time in 2007, it's your position that the safety management
11 system of the company did not comply with the ISM Code,
12 correct?

13 A. Correct.

14 Q. You disagree with Det Norske Veritas' conclusion?

15 A. I do. I think the maintenance records on the vessel
16 clearly show that it was in a deplorable condition. Why DNV
17 didn't review those maintenance records, I have no idea, sir;
18 but they should have done it.

19 Q. I understand your position; and I'm not going to try to
20 convince you otherwise, just wanting to make it clear that you
21 disagree with Det Norske Veritas.

22 Now, back to 2007. We have seen the conclusion of
23 Det Norske Veritas that the safety management system of the
24 company complied with the ISM Code.

25 Move forward to 2008, annual renewal audit is

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14:54 1 required, right?

14:54 2 A. Correct.

14:54 3 Q. Let's take a look at TREX-953-1A.

14:54 4 A. Actually, that's not an audit. That's the Document of
14:54 5 Compliance.

14:54 6 Q. Exactly.

14:54 7 A. Sorry.

14:54 8 Q. You bring up an excellent point. This is the conclusion
14:54 9 of the audit. This is the conclusion by Det Norske Veritas,
14:54 10 correct?

14:54 11 A. Yes. I can't really read it.

14:54 12 Q. Sure. And I will call it up.

14:54 13 This is a Document of Compliance for Transocean
14:54 14 Offshore Deepwater Drilling, Inc., correct?

14:54 15 A. Correct.

14:54 16 Q. If we go to the bottom, this was issued April 25, 2008,
14:55 17 correct?

14:55 18 A. Correct.

14:55 19 Q. The auditor in 2008 was subject to the same guidelines
14:55 20 from Det Norske Veritas that we have just gone over, correct?

14:55 21 A. That is correct.

14:55 22 Q. He or she was there for the singular purpose of
14:55 23 determining whether Transocean's safety management system
14:55 24 complied with the ISM Code?

14:55 25 A. That is correct.

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14:55 1 Q. One thing that not only guidelines but the ISM Code
14:55 2 requires is that its auditors look back at previous audit
14:55 3 findings, right?

14:55 4 A. Correct.

14:55 5 Q. This auditor determined that Transocean's safety
14:55 6 management system complied with the ISM Code, correct?

14:55 7 A. He did.

14:55 8 Q. You disagree with him, right?

14:55 9 A. Absolutely. As I said already, he obviously didn't go
14:55 10 into the files on the *Deepwater Horizon* to see what terrible
14:55 11 condition it was in.

14:55 12 Q. If we go to 953-2, I believe --

14:56 13 MR. KINCHEN: Maybe we can do a call-up, 2A.

14:56 14 BY MR. KINCHEN:

14:56 15 Q. Do you see the top line there, "Confirmed, carried out,
14:56 16 DNV" in a blue stamp at the top?

14:56 17 A. I do.

14:56 18 Q. R. Kuss. It appears that the gentleman's name is R. Kuss,
14:56 19 the trained auditor in 2008, correct?

14:56 20 A. Correct.

14:56 21 Q. That would be the gentleman that you disagree with, right?

14:56 22 A. Yes.

14:56 23 Q. This certification and the certification we just looked
14:56 24 at, these are issued to the company, right?

14:56 25 A. That's correct.

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14:56 1 Q. These would be provided for the designated person ashore,
14:56 2 correct?

14:56 3 A. They would.

14:56 4 Q. Let's move to the next year, 2009. Transocean's safety
14:56 5 management system underwent a renewal audit in 2009, correct?

14:57 6 A. Yes.

14:57 7 Q. From Det Norske Veritas?

14:57 8 A. Correct.

14:57 9 Q. The auditor in 2009 was subject to the same guidelines
14:57 10 from Det Norske Veritas that we just went over, right?

14:57 11 A. That is correct.

14:57 12 Q. Again, he was there for the singular purpose of
14:57 13 determining whether Transocean's safety management system
14:57 14 complied with the ISM Code, right?

14:57 15 A. That is correct.

14:57 16 Q. He was charged with looking at all sections of the
14:57 17 ISM Code, right?

14:57 18 A. He was; but again, it's impossible for him to review the
14:57 19 file of every drillship.

14:57 20 Q. He, too, was charged with looking back at the previous
14:57 21 audit findings, right?

14:57 22 A. Well, again, that's just a monumental task. All he can do
14:57 23 is take maybe randomly one or two of the rigs and see what had
14:57 24 been reported in the past.

14:57 25 Q. But we can agree that he was charged with looking back at

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14:58 1 prior audits of Transocean?

14:58 2 A. I agree with that, yes.

14:58 3 Q. He actually went to the company, right?

14:58 4 A. He did, yes.

14:58 5 Q. In 2009, just as in 2008 and in 2007, this trained ISM
14:58 6 auditor determined that Transocean's safety management system
14:58 7 complied with the ISM Code, correct?

14:58 8 A. Correct. But he obviously wasn't given the files of the
14:58 9 *Deepwater Horizon*.

14:58 10 Q. You disagree with his conclusion?

14:58 11 A. I do, yes, sir.

14:58 12 Q. That trained auditor --

14:58 13 **MR. KINCHEN:** If we can pull it back up.

14:58 14 **BY MR. KINCHEN:**

14:58 15 Q. -- appears to be David McKay. That's who you are
14:58 16 disagreeing with in 2009, right?

14:58 17 A. Correct.

14:58 18 Q. This certification was issued to Transocean, right?

14:58 19 A. Yes.

14:58 20 Q. It would have been sent to the designated person ashore,
14:58 21 correct?

14:58 22 A. Correct.

14:58 23 Q. Let's go to 2010. Transocean's safety management system
14:59 24 underwent a renewal audit in 2010 also, didn't it?

14:59 25 A. It did.

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14:59 1 Q. The auditor in 2010, Mr. Webster, was subject to the same
14:59 2 guidelines from DNV that the previous auditors we discussed
14:59 3 are?

14:59 4 A. That is correct.

14:59 5 Q. He was charged with looking back at prior audit findings,
14:59 6 right?

14:59 7 A. Same answer, sir. He can only see so much.

14:59 8 Q. Was he charged at looking back at prior audits,
14:59 9 Mr. Webster?

14:59 10 A. He was, but he would be there for weeks looking back on
14:59 11 all the information from all the rigs.

14:59 12 Q. In 2010, as in 2009, 2008, and 2007, this trained ISM
14:59 13 auditor determined that Transocean's safety management system
14:59 14 complied with the ISM Code, correct?

14:59 15 A. That's correct. That was his perception.

14:59 16 Q. His perception. You answered my next question. I will
14:59 17 ask it anyway. You disagree with him, correct?

15:00 18 A. I still do.

15:00 19 Q. That trained auditor in 2010 appears to be M.T. Close.
15:00 20 That's the trained auditor you disagree with in 2010, right?

15:00 21 A. That's correct.

15:00 22 Q. Now, you have spent quite a bit of time yesterday going
15:00 23 over DNV audits prior to 2007. Is it your position that
15:00 24 Transocean was out of compliance with the ISM Code prior to
15:00 25 2007?

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15:00 1 A. Yes. They were issued a major nonconformity at one time.

15:00 2 Q. We'll get to that; but since you mentioned it, that
15:00 3 actually was downgraded to a nonconformity, correct?

15:00 4 A. It was later on, yes.

15:00 5 Q. And indeed, as a result of that very audit, Det Norske
15:00 6 Veritas concluded that Transocean complied with the ISM Code,
15:00 7 correct?

15:00 8 A. They did, yes.

15:00 9 Q. But since your position is that this compliance issue
15:01 10 existed prior to 2007, let's go to the 2002 audit. And let's
15:01 11 pull up the Document of Compliance for that year, 1779-1A.

15:01 12 Do you recognize this as a Document of Compliance,
15:01 13 Mr. Webster?

15:01 14 A. I do.

15:01 15 Q. As you can see from the date, this is the Document of
15:01 16 Compliance for 2002, isn't it?

15:01 17 A. It is.

15:01 18 Q. The auditor in 2002 was subject to the same guidelines
15:01 19 from DNV that we have just gone over. I won't go over them
15:01 20 again.

15:01 21 A. Yes.

15:01 22 Q. He or she was there for the singular purpose of
15:01 23 determining whether or not Transocean's safety management
15:01 24 system complied with the ISM Code, right?

15:01 25 A. Yes.

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15:01 1 Q. He or she would have gone to the company, correct?

15:02 2 A. Correct.

15:02 3 Q. After following those guidelines, this auditor determined:
15:02 4 "This is to certify that the safety management system of the
15:02 5 company has been audited and that it complies with the
15:02 6 requirements of the ISM Code."

15:02 7 A. That's correct, sir, yes.

15:02 8 Q. This certification was issued to Transocean, right?

15:02 9 A. That is correct.

15:02 10 Q. It would have been sent to the designated person ashore,
15:02 11 correct?

15:02 12 A. It should have been, yes.

15:02 13 Q. Let's go to the second page of this document, 1779-2A.

15:02 14 Again, for the record, we are now into 2003.

15:02 15 Transocean's safety management system, Mr. Webster, underwent a
15:02 16 renewal audit by Det Norske Veritas in 2003, right?

15:03 17 A. Correct.

15:03 18 Q. The auditor in 2003 was subject to the same guidelines
15:03 19 from DNV that we just went over, right?

15:03 20 A. That's correct.

15:03 21 Q. He was there for the singular purpose of determining
15:03 22 whether Transocean's safety management system complied with the
15:03 23 ISM Code, right?

15:03 24 A. He was.

15:03 25 Q. He or she was charged with looking back at prior audit

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15:03 1 findings, correct?

15:03 2 A. Again, yes, but it's impossible to do that.

15:03 3 Q. We'll get to the disagreement; but for now, we can agree
15:03 4 that the trained ISM auditor determined that Transocean's
15:03 5 safety management system complied with the ISM Code, right?

15:03 6 A. Correct.

15:03 7 Q. Now, I think to your point earlier, you disagree with this
15:03 8 auditor, right?

15:03 9 A. Yes. They were in violation of ISM Section 5.2. They had
15:03 10 written them up. They gave them a nonconformity, a major
15:04 11 nonconformity; and that was never corrected. So I don't see
15:04 12 how DNV could ever have given them a Document of Compliance.

15:04 13 Q. So we can agree that it's a big disagreement with DNV that
15:04 14 you have?

15:04 15 A. It's not a big disagreement; it's a major disagreement.

15:04 16 Q. A major disagreement?

15:04 17 A. They themselves violated the ISM Code and the Marshall
15:04 18 Islands flag state regulations.

15:04 19 Q. I'm going to use your term, "major disagreement." That
15:04 20 trained auditor who you have a major disagreement with in
15:04 21 2003 -- looks like they had the initials V.C.C., I'm not
15:04 22 exactly sure what that last name is -- but that's who you're
15:04 23 disagreeing with in 2003, correct?

15:04 24 A. That's correct.

15:04 25 Q. This certification was issued to Transocean, right?

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15:04 1 A. Yes, it was.

15:04 2 Q. It was issued to the designated person ashore, right?

15:04 3 A. It should have been. We don't know it was, but it should
15:04 4 have been.

15:04 5 Q. Mr. Webster, Transocean's safety management system
15:05 6 underwent a renewal audit by Det Norske Veritas in 2004, didn't
15:05 7 it?

15:05 8 A. It did.

15:05 9 Q. The auditor in 2004 was subject to the same guidelines
15:05 10 from Det Norske Veritas we just went over, wasn't he?

15:05 11 A. Yes.

15:05 12 Q. He was there in 2004 for the singular purpose of
15:05 13 determining whether Transocean's safety management system
15:05 14 complied with the ISM Code, right?

15:05 15 A. He was.

15:05 16 Q. In 2004, this trained ISM auditor for the international
15:05 17 respected organization of Det Norske Veritas determined that
15:05 18 Transocean's safety management system complied with the
15:05 19 ISM Code, right?

15:05 20 A. Correct.

15:05 21 Q. And you disagree with him, right?

15:05 22 A. I do, for the same reasons I have already stated.

15:05 23 Q. This looks like someone familiar here in 2004, M.T. Close,
15:06 24 right?

15:06 25 A. Yes. That's the second --

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15:06 1 Q. It is.

15:06 2 A. Okay. Yes, I see it.

15:06 3 Q. Dated April 15, 2004. Do you see that?

15:06 4 A. I do.

15:06 5 Q. This certification with this signature and this date was
15:06 6 issued to Transocean, right?

15:06 7 A. Correct.

15:06 8 Q. It was issued to the designated person ashore, right?

15:06 9 A. Should have been.

15:06 10 Q. Transocean's safety management system underwent a renewal
15:06 11 audit by Det Norske Veritas in 2005, didn't it?

15:06 12 A. Yes, sir, it did.

15:06 13 Q. Actually, you spent some time talking to Mr. Williams
15:06 14 about the 2005 audit. There was a finding in there that you
15:06 15 indicated should have been a major nonconformity. Do you
15:07 16 recall that?

15:07 17 A. If you show me the document, it will refresh my memory,
15:07 18 please.

15:07 19 Q. Well, the record will speak for itself, but we can agree
15:07 20 that you did point out some findings yesterday that you believe
15:07 21 were major nonconformities?

15:07 22 A. I did in several of the documents, yes.

15:07 23 Q. Findings from Det Norske Veritas, correct?

15:07 24 A. Correct.

15:07 25 Q. Findings that these trained auditors during their review

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15:07 1 at the company pointed out in their report, right?

15:07 2 A. Correct.

15:07 3 Q. Now, they did not characterize those findings as major
15:07 4 nonconformities, right?

15:07 5 A. That's correct.

15:07 6 Q. You disagree with them, correct?

15:07 7 A. I do, yes.

15:07 8 Q. Well, let's stick with 2005 for now. This auditor in
15:07 9 2009, like the auditors in all the years we have just
15:07 10 discussed, was there for the singular purpose of determining
15:07 11 whether Transocean's safety management system complied with the
15:07 12 ISM Code, right?

15:07 13 A. Correct.

15:08 14 Q. In 2005, this trained ISM auditor determined that
15:08 15 Transocean's safety management system complied with the ISM
15:08 16 Code, right?

15:08 17 A. Correct.

15:08 18 Q. You disagree with that?

15:08 19 A. I disagree. Had he been given some of these audits from
15:08 20 BP, from ModuSpec, I think they would have probably, more
15:08 21 likely than not, changed their mind.

15:08 22 Q. You agreed -- you mentioned these audits. You agree that
15:08 23 one of the things that the auditor is charged with per the
15:08 24 guidelines is to review those audits?

15:08 25 A. If they are produced to him, yes.

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15:08 1 Q. This certification was issued to Transocean, right?

15:08 2 A. It was.

15:08 3 Q. And the designated person ashore, right?

15:08 4 A. Correct.

15:08 5 Q. Bringing us almost back to 2007.

15:08 6 Let's go to 2006. Transocean's safety management
15:08 7 system underwent a renewal audit by Det Norske Veritas in 2006,
15:09 8 didn't it?

15:09 9 A. Yes.

15:09 10 Q. The auditor in 2006 was subject to the same guidelines
15:09 11 from Det Norske Veritas that we have just gone over, right?

15:09 12 A. Correct.

15:09 13 Q. He was there for the singular purpose of determining
15:09 14 whether or not Transocean's safety management system complied
15:09 15 with the ISM Code, correct?

15:09 16 A. That is correct.

15:09 17 Q. In 2006, this trained auditor determined that Transocean's
15:09 18 safety management system complied with the ISM Code, right?

15:09 19 A. That's what his perception was, yes.

15:09 20 Q. You disagree with him, right?

15:09 21 A. I do, based on the records of maintenance, of training,
15:09 22 lack of spare parts, the whole management of the vessels. I
15:09 23 absolutely disagree.

15:09 24 Q. In 2006, that was David McKay, correct?

15:09 25 A. I guess, if you could read that.

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15:09 1 Q. Fair enough.

15:09 2 A. McKay. I think you're right. I've seen his signature
15:10 3 before.

15:10 4 Q. This certification would have been issued to Transocean,
15:10 5 right?

15:10 6 A. That's correct.

15:10 7 Q. And the designated person ashore, correct?

15:10 8 A. Should have been.

15:10 9 Q. Now, Mr. Webster -- the ISM Code provides, does it not,
15:10 10 for the cancellation or suspension of a Document of Compliance,
15:10 11 correct?

15:10 12 A. That's correct.

15:10 13 Q. Never happened here, did it?

15:10 14 A. Not to my knowledge.

15:10 15 Q. Every time Det Norske Veritas surveyed Transocean's safety
15:10 16 management system, the company's safety management system, the
15:10 17 recognized organization determined that its safety management
15:10 18 system complied with the ISM Code, correct?

15:10 19 A. That is correct.

15:10 20 Q. We have talked about audits of the company. But a company
15:10 21 like Transocean certainly has a number of vessels that have to
15:10 22 operate within Transocean and its own safety management system,
15:11 23 correct?

15:11 24 A. Yes.

15:11 25 Q. And like the audit of the company, the verification of the

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15:11 1 safety management system of the vessel requires an audit by a
15:11 2 recognized organization, right?

15:11 3 A. Yes, sir, that is correct.

15:11 4 Q. Such as Det Norske Veritas, right?

15:11 5 A. Correct.

15:11 6 Q. In the case of the *Deepwater Horizon* -- let's start with
15:11 7 2007. You went over that audit of the *Deepwater Horizon* with
15:11 8 Mr. Williams yesterday, and you pointed out several findings
15:11 9 from that 2007 audit, right?

15:11 10 A. I'm sure I did.

15:11 11 Q. Now, I don't recall you saying anything about the
15:11 12 conclusion of Det Norske Veritas from that audit. Did you?

15:11 13 A. I don't remember. I'm sorry. You would have to put it up
15:11 14 for me to see.

15:11 15 MR. KINCHEN: Let's pull it up, TREX-1776. Let's
15:11 16 call out the top part.

15:11 17 BY MR. KINCHEN:

15:11 18 Q. This appears to be a safety management certificate for the
15:12 19 *Deepwater Horizon*, doesn't it?

15:12 20 A. Correct.

15:12 21 Q. If we go down toward the bottom, we see that the date of
15:12 22 the audit is May 16, 2007. Do you see that? I'm sorry. I
15:12 23 will let you -- do you see the date of the audit?

15:12 24 A. 2007, May 16, 2007, correct.

15:12 25 Q. This safety management certificate is valid until May 16,

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1 2012, right?

2 A. That's what it says.

3 Q. So this is the safety management certificate that was in
4 effect at the time of the incident, right?

5 A. Correct.

6 Q. In the middle there's a certification.

7 MR. KINCHEN: If we can do a call-out, 1776-1B.

8 BY MR. KINCHEN:

9 Q. It says: "This is to certify that the safety management
10 system of the ship" -- now, the ship is the *Deepwater Horizon*,
11 isn't it?

12 A. That's correct, sir.

13 Q. -- "has been audited and that it complies with the
14 requirements of the" -- the extended description of the ISM
15 Code, correct?

16 A. That is correct.

17 Q. This would be a document that's issued to Transocean,
18 right?

19 A. Yes. But then this is the document that remains on board.

20 Q. It also remains on board.

21 Now, "has been audited," let's explore that phrase as
22 it's used in a safety management certificate. For one, these
23 audits involve trained auditors actually going to the rig,
24 right?

25 A. That is correct.

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15:13 1 Q. We can agree you did not do that. Did you?

15:13 2 A. I did not.

15:13 3 Q. Let's talk about what these auditors do when they get to
15:13 4 the rig. Let's go back to 3163-1, back to the guidelines which
15:14 5 you have indicated you recognize.

15:14 6 These guidelines talk about specific tasks that these
15:14 7 auditors should do when they are on the rig, right?

15:14 8 A. Yes.

15:14 9 Q. For example, Det Norske Veritas recommends interviewing
15:14 10 crew members, right?

15:14 11 A. Correct.

15:14 12 Q. We can agree you did not do that. Did you?

15:14 13 A. I did not.

15:14 14 Q. Det Norske Veritas recommends that its auditors observe
15:14 15 crew members performing drills, doesn't it?

15:14 16 A. It does.

15:14 17 Q. We can agree you did not do that, Mr. Webster?

15:14 18 A. I did not.

15:14 19 Q. Let's talk about maintenance. As you pointed out
15:14 20 yesterday and some today, that's Section 10 of the ISM Code,
15:14 21 right?

15:14 22 A. Yes.

15:14 23 Q. DNV provides guidance to its auditors as to what they
15:14 24 should do in determining compliance with Section 10 of the ISM
15:15 25 Code, doesn't it?

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15:15 1 A. Yes, sir.

15:15 2 Q. Det Norske Veritas recommends that its auditors review
15:15 3 documented maintenance procedures, right?

15:15 4 A. Correct.

15:15 5 Q. And in all fairness, Mr. Webster, that's probably
15:15 6 something you did too. Right?

15:15 7 A. I did. Yes, I did, indeed, every one of them.

15:15 8 Q. But Det Norske Veritas guidance goes a little further,
15:15 9 doesn't it? Let me be more specific.

15:15 10 A. Please.

15:15 11 Q. It directs its auditors to travel to the rig to verify
15:15 12 that maintenance procedures are actually implemented in the
15:15 13 day-to-day operation of the vessel, doesn't it?

15:15 14 A. It does.

15:15 15 Q. You did not do that, did you?

15:15 16 A. I did it when I did my own audit of the documents.

15:15 17 Q. I'm sorry. My question involved actually going to the rig
15:15 18 to review the implementation of the maintenance.

15:15 19 A. I did not.

15:15 20 Q. Det Norske Veritas directs its auditors to go to the rig
15:15 21 to look for evidence of preventive maintenance actions taken,
15:16 22 doesn't it?

15:16 23 A. Yes.

15:16 24 Q. You did not do that, did you?

15:16 25 A. I did not.

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15:16 1 Q. Det Norske Veritas recommends that its auditors determine
15:16 2 the effectiveness of the corrective actions, doesn't it?

15:16 3 A. Well, they obviously didn't, but that's another issue.

15:16 4 Q. I think you're jumping ahead to some questions I will have
15:16 5 about a disagreement. But right now, I'm just asking you:

15:16 6 Det Norske Veritas recommends that its auditors determine the
15:16 7 effectiveness of corrective maintenance actions, doesn't it?

15:16 8 A. Are supposed to, yes.

15:16 9 Q. We can agree that you did not do that. Did you?

15:16 10 A. I did not.

15:16 11 Q. Ultimately, after Det Norske Veritas completed its audit,
15:16 12 they concluded that the rig's safety management system complied
15:16 13 with the ISM Code, didn't they?

15:16 14 A. Unfortunately, yes.

15:16 15 Q. You disagree with that?

15:17 16 A. Absolutely, based upon the records on the rig itself.

15:17 17 Q. Major disagreement, to use your phrase?

15:17 18 A. Yes.

15:17 19 You have to understand, sir, that a surveyor, when
15:17 20 they go on board, like DNV or when I was a P/B surveyor, when
15:17 21 you go on a ship, you only have to rely on the documents that
15:17 22 the captain or the chief engineer give you. You don't
15:17 23 necessarily dig into the computer by yourself and start looking
15:17 24 for evidence of problems. I mean, you are given certain
15:17 25 documents and if those documents look good, well, then you say,

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15:17 1 "Okay, everything looks fine."

15:17 2 Q. We can agree that every hour those auditors spent on the
15:17 3 rig was one more hour than you, right?

15:17 4 A. Yes.

15:17 5 Q. So let's go to 2005. They also certify -- DNV also
15:17 6 certified the rig in 2005, didn't they?

15:17 7 A. They did.

15:18 8 MR. KINCHEN: Let's pull up TREN-44007-1. If we can
15:18 9 call out the top part.

15:18 10 BY MR. KINCHEN:

15:18 11 Q. This appears to be a safety management certificate of the
15:18 12 *Deepwater Horizon*, right?

15:18 13 A. Yes.

15:18 14 MR. KINCHEN: If we can go to the bottom, to the date
15:18 15 of issue.

15:18 16 THE WITNESS: I'm sorry, sir. March 23, 2005.

15:18 17 BY MR. KINCHEN:

15:18 18 Q. Right. Let's go to the middle where it says "This is to
15:18 19 certify."

15:18 20 In 2005, Det Norske Veritas concluded that the safety
15:19 21 management system of the *Deepwater Horizon* complied with the
15:19 22 ISM Code, didn't it?

15:19 23 A. Unfortunately, yes.

15:19 24 Q. You say "unfortunately" because you have a major
15:19 25 disagreement with Det Norske Veritas with respect to that

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15:19 1 conclusion, don't you?

15:19 2 A. I have reviewed the maintenance records, the training
15:19 3 records, which clearly show that everything was deplorable.

15:19 4 MR. KINCHEN: Let's go to 1777-1A.

15:19 5 BY MR. KINCHEN:

15:19 6 Q. We see here in the work papers that the auditor you
15:19 7 disagree with in 2005 is David McKay, correct?

15:19 8 A. That's correct.

15:19 9 Q. David McKay was subject to the same DNV guidelines.
15:19 10 Everything they had to do on the rig that we just discussed, he
15:19 11 was subject to that in 2005, just as the auditor was in 2007,
15:20 12 right?

15:20 13 A. That is correct.

15:20 14 MR. KINCHEN: Let's go to 1774-1 and move to 2002.

15:20 15 BY MR. KINCHEN:

15:20 16 Q. I want to be clear. 2002 is a year that you believe the
15:20 17 *Deepwater Horizon* safety management system was not in
15:20 18 compliance with the ISM Code, right?

15:20 19 A. Yes, due to the Section 5.2.

15:20 20 MR. KINCHEN: So let's look at 2002. Let's call up
15:20 21 the top.

15:20 22 BY MR. KINCHEN:

15:20 23 Q. This appears to be a safety management certificate of the
15:20 24 *Deepwater Horizon*, doesn't it?

15:20 25 A. Yes. Issued for the Republic of Panama.

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15:20 1 Q. If we go to the bottom, we can see that it was issued on
15:21 2 May 16, 2002. Do you see that?

15:21 3 A. I do.

15:21 4 Q. Let's go to one of the work papers, 5483-1A.

15:21 5 In 2002, the lead auditor of the rig audit was David
15:21 6 Larimer, correct?

15:21 7 A. Yes.

15:21 8 Q. This signature line brings up an interesting point. David
15:21 9 Larimer did not audit the rig by himself, did he?

15:21 10 A. No.

15:21 11 Q. He had a team member, didn't he?

15:21 12 A. Yes.

15:21 13 Q. That team member was Antony D'Souza?

15:21 14 A. Yes.

15:21 15 Q. You disagree with David Larimer, correct?

15:21 16 A. Yes.

15:21 17 Q. You disagree with Antony D'Souza, correct?

15:21 18 A. Yes.

15:21 19 Q. We should be clear. These audits aren't just signed and
15:22 20 presented to Transocean without receiving some sort of
15:22 21 verification by others at the internationally respected
15:22 22 organization of Det Norske Veritas, right?

15:22 23 A. That is true, but I think they go back to Norway.

15:22 24 Q. In this case, it was verified by Tony Teo, correct?

15:22 25 A. Yes.

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15:22 1 Q. You disagree with Tony Teo, don't you?

15:22 2 A. Yes. They still had a major nonconformity.

15:22 3 Q. Let's go back -- because I don't think I went over it,
15:22 4 let's go back to the conclusion of the 2002 safety management
15:22 5 certificate.

15:22 6 MR. KINCHEN: If we could pull up 1774-1. And bring
15:22 7 up the middle part.

15:22 8 BY MR. KINCHEN:

15:22 9 Q. The conclusion of those three gentlemen is that "this is
15:22 10 to certify that the safety management system of the ship has
15:22 11 been audited and that it complies with the requirements of the
15:22 12 ISM Code."

15:22 13 That was their conclusion, wasn't it?

15:23 14 A. That was.

15:23 15 Q. Like the document of compliances that we have looked at, a
15:23 16 recognized organization like Det Norske Veritas can suspend or
15:23 17 cancel a rig's safety management system, can't it?

15:23 18 A. It can, yes.

15:23 19 Q. You understand what happens when a safety management
15:23 20 certificate is withdrawn or canceled or suspended --

15:23 21 A. The vessel can't trade.

15:23 22 Q. I'm sorry?

15:23 23 A. The vessel cannot trade. I'm sorry.

15:23 24 Q. The vessel cannot trade.

15:23 25 That never happened in the case of the

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15:23 1 *Deepwater Horizon*, did it?

15:23 2 A. It did not.

15:23 3 Q. Every time the internationally respected organization of
15:23 4 Det Norske Veritas surveyed the *Deepwater Horizon*,
15:23 5 Det Norske Veritas determined that its safety management system
15:23 6 complied with the ISM Code, didn't it?

15:23 7 A. Unfortunately, yes.

15:24 8 Q. You have already mentioned, in response to some of my
15:24 9 questions, this Section 5.2 of the ISM Code. Indeed,
15:24 10 consistent with your report, Mr. Webster --

15:24 11 **MR. KINCHEN:** If we could pull up your report,
15:24 12 22700-7B.

15:24 13 **BY MR. KINCHEN:**

15:24 14 Q. Your position is that the safety management system should
15:24 15 have established unequivocally that the master had the
15:24 16 overriding authority and the responsibility to make all
15:24 17 decisions with respect to safety and pollution prevention.

15:24 18 Did I read that correctly?

15:24 19 A. You did, sir, yes.

15:24 20 Q. That's certainly still your position today, right?

15:24 21 A. It is, yes.

15:24 22 Q. That's basically -- not verbatim but basically a quote
15:24 23 from Section 5.2?

15:25 24 A. It is.

15:25 25 **MR. KINCHEN:** Let's pull up Section 5.2 of the ISM

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1 Code, if we could. I think we've got a call-out, 20047-4A.

2 **BY MR. KINCHEN:**

3 **Q.** Section 5.2 -- I won't read it to you, for the Court's
4 purposes, again, because the Court has seen it.

5 But essentially this is the overriding authority --
6 as you put it, the unequivocal statement that's required by the
7 ISM Code, correct?

8 **A.** That is correct.

9 **Q.** Now, Mr. Williams showed you the operations manual this
10 afternoon.

11 **A.** Yes.

12 **Q.** And he actually told you to look at a particular part of
13 Section 2 on page 47 of the manual, but he didn't show you the
14 whole page. And I want to show you what was left off earlier
15 this afternoon.

16 **MR. KINCHEN:** If we could -- actually, why don't we
17 pull up Section 2.1 and Section 5.2 of the ISM Code that we
18 have just talked about. Let's pull them up together, and we
19 have a call-out, I think, 2152A.

20 **BY MR. KINCHEN:**

21 **Q.** There at the bottom, you've got the call-out of
22 Section 5.2. Do you agree with that?

23 **A.** I do.

24 **Q.** Now, this is the -- up at the top this is the
25 *Deepwater Horizon* operations manual. You recognize the

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15:26 1 operations manual because you testified about it earlier today,
15:26 2 correct?

15:26 3 A. Correct.

15:26 4 Q. This is the top part of the page that wasn't shown, and
15:26 5 let's just read it. It says: "Responsibility and
15:26 6 Authority/Operations Support."

15:26 7 A. Correct.

15:26 8 Q. "In accordance with the ISM Code, the master has
15:27 9 overriding authority and responsibility to make decisions with
15:27 10 respect to safety and pollution prevention and to request all
15:27 11 internal company assistance as necessary."

15:27 12 Did I read that correctly?

15:27 13 A. You did, sir, yes.

15:27 14 Q. That is almost verbatim from Section 5.2 of the ISM Code,
15:27 15 isn't it?

15:27 16 A. I agree, it is.

15:27 17 Q. You didn't cite that section of the operations manual in
15:27 18 your report, did you, Mr. Webster?

15:27 19 A. I don't recall.

15:27 20 Q. In this issue of overriding authority, this Section 5.2 of
15:27 21 the ISM Code issue, it is a separate issue from the roles and
15:27 22 responsibilities from Section 14 of the MODU Code, isn't it, a
15:27 23 completely separate issue?

15:27 24 A. No. I believe it's a similar issue.

15:27 25 Q. Because when you conflate this issue of overriding

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1 authority in Section 5.2 of the ISM Code with the
2 person-in-charge issue of Section 14 of the MODU Code, what you
3 have is a conflict, as you yourself said today on the stand?

4 A. I don't know that it's a conflict. I think you will find
5 that the ISM Code is overriding. It's part of SOLAS. So it,
6 to my mind, is the overriding authority for any vessels sailing
7 on the ocean.

8 Q. To be clear, I am not suggesting to you in the least bit
9 that there is a conflict. The only time any conflict can at
10 all be conceived between these two codes is when you equal the
11 overriding authority issue with the person in charge issue,
12 right? And that's not appropriate, is it?

13 A. I don't think so, no.

14 Q. It's not appropriate to equate the person in charge with
15 this overriding authority issue?

16 A. No, I think it is, in some ways. It's the same -- the
17 person in charge and the captain can be the same person.

18 Q. In fact, before today, have you ever heard any authority
19 on either the ISM Code section or the MODU Code indicate that
20 there was a conflict between Section 14 of the MODU Code and
21 Section 5.2 of the ISM Code, before today on the stand with
22 you?

23 A. I don't believe I have, no. I mean, clearly, there's no
24 conflict with DNV, because they cited them for it. And even
25 the -- they cited them as late as 2009 in the annual audit.

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15:29 1 Q. Now, there is a good point that let's spend a little bit
15:29 2 of time talking about. Because there was a citation that dealt
15:30 3 exactly with Section 5.2, right?

15:30 4 A. That's correct.

15:30 5 Q. Let's go, if you would, to the 2007 audit of the
15:30 6 *Deepwater Horizon* by Det Norske Veritas.

15:30 7 A. I was talking about 2009, but that's fine.

15:30 8 Q. I was too. I misstated.

15:30 9 A. I think 2007 has the same statement on it too.

15:30 10 Q. It does not, but we will stick with 2009.

15:30 11 A. Okay.

15:30 12 Q. The issue in 2009, to use Det Norske Veritas' words, is
15:30 13 that there's an indication of the master's overriding authority
15:30 14 and responsibility, right?

15:30 15 MR. KINCHEN: Let's pull up 1768-3A.

15:35 16 BY MR. KINCHEN:

15:35 17 Q. It's an observation from 2009, correct?

15:31 18 A. Yeah. It should be a nonconformity.

15:31 19 Q. Well, that's my next question. You beat me to it. This
15:31 20 would be yet another of your major disagreements with
15:31 21 Det Norske Veritas, correct?

15:31 22 A. Yes. It was a nonconformity at one time. I don't know
15:31 23 why they decided it wasn't.

15:31 24 Q. You have indicated several times, of all of the many
15:31 25 things that Det Norske Veritas' auditors would need to look at,

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15:31 1 this is something they looked at in 2009, right? They looked
15:31 2 at the very issue of Section 5.2, didn't they?

15:31 3 A. Yes, because they realized it was an ongoing problem.

15:31 4 Q. In this case, unlike you, they considered it was an
15:31 5 observation, correct?

15:31 6 A. Yes. That's a violation of the code right there.

15:31 7 Q. Let's, while we are on here, jump a little bit out of
15:31 8 order and talk about this issue of observation. Because I
15:32 9 recall you indicating yesterday that an observation is almost
15:32 10 like a nonconformity. Do I have that right?

15:32 11 A. Yes, it is.

15:32 12 Q. So let's --

15:32 13 A. But it's not as strong as a nonconformity. I don't think
15:32 14 it has the same legal connotation.

15:32 15 Q. Let's go to the ISM Code, because it certainly defines
15:32 16 what an observation is, doesn't it?

15:32 17 A. I thought we were going to read No. 8 --

15:32 18 Q. Oh, we are. We are.

15:32 19 A. -- on the audit.

15:32 20 Q. But we mentioned observations and had a major disagreement
15:32 21 with DNV. So we're going to talk a little bit about
15:32 22 observations.

15:32 23 **MR. KINCHEN:** Let's pull up 20047-35C.

15:35 24 **BY MR. KINCHEN:**

15:35 25 Q. The observation, which you have indicated is almost like a

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1 nonconformity, is actually a statement of fact made during a
2 safety management audit and substantiated by objective
3 evidence, isn't it?

4 A. Yes.

5 Q. That's not my definition or yours; that's the ISM Code's
6 definition?

7 A. That's probably what it is, yes.

8 Q. But observations are important, aren't they? They are
9 meaningful?

10 A. Sure.

11 Q. So let's look at some other observations, before we get to
12 the Observation No. 8 that we just talked about and that you
13 wanted to go back to. Let's go to some other observations from
14 the 2009 Det Norske Veritas survey report.

15 **MR. KINCHEN:** If we could, let's pull up -- from that
16 page where 2008 was, let's pull up Observation No. 1. And
17 that's 1768-3B.

18 **BY MR. KINCHEN:**

19 Q. Now, here's a -- as you have indicated, observations being
20 important -- this is an observation where it was noted that:
21 "The progress on the merging of Transocean and GlobalSantaFe
22 policies, procedures, and positions within the combined
23 organization has been considerable."

24 Did I read that correctly?

25 A. You did.

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15:34 1 Q. "This observation also indicates that the company's
15:34 2 next-step process of controlled distribution of the management
15:34 3 system combined with the education and training and follow-up
15:34 4 reevaluation and incorporation of best practices has been
15:34 5 successful."

15:34 6 Did I read that part of the observation correctly?

15:34 7 A. You sure did.

15:34 8 Q. Finally, this observation which cites Section 1.2.2 of the
15:34 9 ISM Code states that the company is -- the company is
15:34 10 Transocean, correct?

15:34 11 A. Yes.

15:34 12 Q. "The company is to be commended, as statistics suggest
15:34 13 that the focus on safety and environmental protection has been
15:34 14 maintained during the period of change."

15:35 15 Did I read that part of the observation correctly?

15:35 16 A. You did. But obviously, these people were not given the
15:35 17 BP reports, the BP audits, the ModuSpec audits, which all
15:35 18 contradict exactly what that says.

15:35 19 MR. KINCHEN: Your Honor, my question was whether or
15:35 20 not I read it correctly. I would move to strike for
15:35 21 nonresponse.

15:35 22 THE COURT: Well, I think he answered your question.
15:35 23 He said you did, but then he had some explanation which he is
15:35 24 entitled to give. He answered your question.

15:35 25 MR. KINCHEN: Let's review Observation No. 6 from

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15:35 1 this same audit, this 2009 audit. And if we can go to 1768-3C.

15:35 2 **BY MR. KINCHEN:**

15:35 3 **Q.** "Initiatives within the QHSE department were noted as
15:35 4 follows: Fleet management guide containing relevant contact
15:35 5 information for each unit and development of standardized audit
15:36 6 reporting module within the company's new reporting tool, GMS.
15:36 7 These initiatives are to be commended."

15:36 8 Did I read that correctly?

15:36 9 **A.** You did.

15:36 10 **Q.** That cites Section 1.2.2.3 and Section 12.1 of the ISM
15:36 11 Code, doesn't it?

15:36 12 **A.** Sure. I don't think the man knew what he was writing.

15:36 13 **Q.** Again, a major disagreement to this trained ISM auditor?

15:36 14 **A.** Sir, an auditor is only as good as the perception of his
15:36 15 survey. It doesn't mean because he's an auditor that he's a
15:36 16 great inspector or he's an engineer or he knows what's going on
15:36 17 on the rig.

15:36 18 **Q.** And again, you just -- your last words, "the rig." This
15:36 19 would be an audit of the rig where the auditor actually went to
15:36 20 the rig, correct?

15:36 21 **A.** Yes.

15:36 22 **Q.** Something you never did?

15:36 23 **A.** I never did, no.

15:36 24 **Q.** Let's review Observation No. 7, and then we'll get to
15:37 25 No. 8. Observation No. 7, 1768-3B.

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15:37 1 "The clear agreement plan, agreement between
15:37 2 corporate management and local unit management on focus areas
15:37 3 and targets for safety and environmental performance is a good
15:37 4 practice and is to be commended."

15:37 5 Did I read that observation correctly?

15:37 6 A. You did. The same -- my same comments as before.

15:37 7 Q. This refers to the ISM Code, specifically Section 1.2.2.3,
15:37 8 doesn't it?

15:37 9 A. It does.

15:37 10 Q. Observation No. 8, and let's pull it up. 1768.

15:37 11 Now, this is the observation that you were talking
15:37 12 about yesterday, correct?

15:37 13 A. That's correct.

15:38 14 Q. Certainly, you don't have any qualms, do you, about --
15:38 15 with the auditor who actually made this particular finding
15:38 16 actually pointing this out, do you?

15:38 17 A. No. It should be pointed out on every audit. It should
15:38 18 be --

15:38 19 Q. A diligent auditor -- I'm sorry. I cut you off. Go
15:38 20 ahead.

15:38 21 A. It should be a major nonconformity. And these
15:38 22 certificates, in my opinion, should not have been issued.

15:38 23 Q. Nonetheless, this would be a diligent auditor who would
15:38 24 find this and point this out, correct?

15:38 25 A. Yes. But his office obviously isn't taking any notice of

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15:38 1 it.

15:38 2 Q. Mr. Webster, are you aware that the diligent auditor who
15:38 3 raised this issue was actually a Transocean internal auditor?

15:38 4 A. I was not.

15:38 5 Q. You were not aware of that?

15:38 6 A. No, sir.

15:38 7 Q. You didn't review the communications that led to this
15:38 8 observation?

15:38 9 A. I don't think so. I don't know. I don't remember,
15:38 10 there's so many thousands of documents.

15:38 11 Q. Okay. Now it cites -- the reason why we wanted to take a
15:38 12 look at it -- it cites Section 5.2, right?

15:39 13 A. Yes.

15:39 14 Q. And the focus of this particular section, this particular
15:39 15 observation, is the overriding authority, isn't it?

15:39 16 A. It is. Correct.

15:39 17 Q. So that fits. An observation about overriding authority,
15:39 18 and the citation is to Section 5.2, isn't it?

15:39 19 A. It does. It says: "There's no clear and absolute
15:39 20 indication of the master's overriding authority and
15:39 21 responsibility. The company is requested to address this."

15:39 22 I think that was ongoing for, what, seven years,
15:39 23 eight years?

15:39 24 Q. Now, that was an observation from an audit of the company.
15:39 25 This is an observation from a Document of Compliance, isn't it?

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15:39 1 A. Yes.

15:39 2 Q. Not of the *Deepwater Horizon*, is it?

15:39 3 A. That's correct.

15:39 4 Q. As we've just looked at -- we won't go over it again. But
15:39 5 we've got an operations practices manual for the

15:39 6 *Deepwater Horizon* unique to the *Deepwater Horizon*, or better

15:40 7 stated, a rig-specific document, the operations manual, that in

15:40 8 Section 2.1 quotes Section 5.2 almost verbatim, doesn't it?

15:40 9 A. It does. But as you saw already, there are so many
15:40 10 different ways they have written it in different documents, as
15:40 11 Mr. Williams put up. I mean, there's total confusion onboard
15:40 12 as to what -- who was in charge, who was not in charge.

15:40 13 I don't personally think there's any confusion in the
15:40 14 master's mind. He had to ask Mr. Harrell to EDS.

15:40 15 Q. There's absolutely no reference in this particular audit,
15:40 16 this particular observation, to *Deepwater Horizon* manuals, is
15:40 17 there?

15:40 18 A. No.

15:40 19 Q. Now, ultimately, since we've gone and looked at this
15:40 20 Observation No. 8 in the 2009 audit of the company, just to
15:41 21 circle back, at the end of the day, Det Norske Veritas
15:41 22 determined in 2009, after pointing this out, that the safety
15:41 23 management system complied with the ISM Code, didn't it?

15:41 24 A. It did, yes.

15:41 25 Q. It did so only after analyzing this very issue, right?

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15:41 1 A. Well, there were other issues there too. I mean, there's
15:41 2 a whole section on nonconformities, condition memoranda.
15:41 3 There's a discussion on the major nonconformity issued on the
15:41 4 Transocean driller. There's discussion of the flag state
15:41 5 requesting a follow-up audit.

15:41 6 Q. Fair enough. Busy, busy, busy audit, wasn't it?

15:41 7 A. I don't know about a busy audit. They found problems, I
15:41 8 mean major problems, in my opinion.

15:41 9 Q. But again, speaking about major, you have a major
15:41 10 disagreement with the ultimate conclusion of Det Norske Veritas
15:41 11 here, don't you?

15:42 12 A. I'm afraid I do, yes.

15:42 13 Q. Continuing with this issue of the conflict between the
15:42 14 MODU Code, the PIC issue with the MODU Code, and the overriding
15:42 15 authority issue with Section 5.2, we just looked at an
15:42 16 observation that dealt with overriding authority and cited
15:42 17 Section 5.2 of the ISM Code, correct?

15:42 18 A. We did, yes, sir.

15:42 19 Q. So let's go to the 2002 audit of the *Deepwater Horizon*.
15:42 20 And as you discussed yesterday, there were some nonconformities
15:42 21 noted by the auditor, correct?

15:42 22 A. I believe so, yes.

15:42 23 Q. I won't ask you to remember it.

15:42 24 MR. KINCHEN: We'll pull up 5483-4A, the finding
15:42 25 notes.

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15:35 1 BY MR. KINCHEN:

15:35 2 Q. At the very top it indicates: "Evidence found that
15:43 3 certain responsibilities and authorities were not fully defined
15:43 4 and documented."

15:43 5 Do you the see that?

15:43 6 A. I do, yes.

15:43 7 Q. There are several dashes, which reference issues with the
15:43 8 person in charge, right?

15:43 9 A. I'm sorry. I don't know where that is.

15:43 10 MR. KINCHEN: If we could, under the first dash,
15:43 11 second line. It is difficult to read.

15:43 12 And then also the second dash, if you can just
15:43 13 highlight that whole first line.

15:35 14 BY MR. KINCHEN:

15:35 15 Q. It states that: "The OIM is the person in charge."

15:43 16 A. That's correct.

15:43 17 Q. That's the issue right here with this particular
15:43 18 nonconformity, isn't it?

15:43 19 A. That is correct.

15:44 20 MR. KINCHEN: Now, if we can pull back and go to this
15:44 21 particular page and pull up the top part.

15:35 22 BY MR. KINCHEN:

15:35 23 Q. The ISM Code section that's referenced here is not
15:44 24 Section 5.2, is it?

15:44 25 A. No. I think it's 3.2.

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15:44 1 Q. 3.2. This particular issue relates to persons in charge,
15:44 2 right?

15:44 3 A. Correct.

15:44 4 Q. Again, person in charge, another phrase we have seen in
15:44 5 Section 14 of the MODU Code, right?

15:44 6 A. Correct.

15:44 7 MR. KINCHEN: Let's go back to 5483-4A. Let's just
15:44 8 take an example, and let's use the second dash.

15:35 9 BY MR. KINCHEN:

15:35 10 Q. DWH-HSE-001, Section 6, Subsection 3 states that "The OIM
15:45 11 is the person in charge."

15:45 12 Did I read that correctly?

15:45 13 A. You did, yes.

15:45 14 Q. At the end of the day, after this particular audit,
15:45 15 Det Norske Veritas concluded that the rig -- we are talking
15:45 16 about the rig here -- complied with the ISM Code, didn't it?

15:45 17 A. No, I don't believe it did.

15:45 18 Q. Well, let's go back to the --

15:45 19 A. It says -- before you take it off it says: "Master's job
15:45 20 description states the master's responsibility to assume the
15:45 21 required regulatory responsibility to effect control of the
15:45 22 vessel, with due regard to the crew, vessel, its contents, and
15:45 23 protection of the environment."

15:45 24 That's 5.2.2.

15:45 25 Q. But that's the master's job certification, isn't it?

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15:45 1 A. Yes.

15:45 2 Q. Right now, we are talking about the person in charge issue
15:46 3 related to the OIM that this particular nonconformity points
15:46 4 out, correct?

15:46 5 A. Correct.

15:46 6 Q. So my question again is: At the end of the day,
15:46 7 Det Norske Veritas, considering all these points, including the
15:46 8 one you just pointed out, determined that the safety management
15:46 9 system of the *Deepwater Horizon* complied with the ISM Code,
15:46 10 right?

15:46 11 A. It determined eventually, yes, I guess they did. But they
15:46 12 obviously didn't follow the code.

15:46 13 Q. Let's put that particular one in perspective. That
15:46 14 section, that language there in the emergency contingency
15:46 15 manual related to hurricanes, didn't it?

15:47 16 A. I believe it did, yes.

15:47 17 Q. Transocean removed that language from the current
15:47 18 incarnation of the manual, correct?

15:47 19 A. I don't remember. Sorry.

15:47 20 Q. Mr. Webster, did you take the time to look at the current
15:47 21 version of this manual to determine whether or not Transocean
15:47 22 responded to this particular nonconformity?

15:47 23 A. No, I don't recall.

15:47 24 That's the 2004 manual?

15:47 25 Q. That is a 2002 audit of the *Deepwater Horizon* we just

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15:47 1 looked at.

15:47 2 A. No, no. You said the manual, the operation manual. Did
15:47 3 you mean the 2004?

15:47 4 Q. Obviously -- I say "obviously." I shouldn't use that
15:47 5 word.

15:47 6 This was a 2002 audit that referred to a manual. So
15:48 7 not obviously, but the reference, would you agree, would be to
15:48 8 a manual that existed then?

15:48 9 A. Yeah, which was the 2002 manual.

15:48 10 Q. Right.

15:48 11 A. Okay.

15:48 12 Q. My question to you, which I think you have answered, is
15:48 13 whether or not you determined Transocean responded to that
15:48 14 nonconformity by removing that language?

15:48 15 A. I have seen that in there and I don't think that language
15:48 16 is in there, but I'm not sure.

15:48 17 Q. Okay. Let's move from the actual ISM Code audits to some
15:48 18 of your specific complaints in your report and in your
15:48 19 testimony related to the ISM Code.

15:48 20 One of the things that the ISM Code, you will agree,
15:48 21 requires for a company like Transocean is the designation of a
15:48 22 designated person ashore, right?

15:48 23 A. That is correct.

15:48 24 Q. It's your position that, at the time of the incident,
15:48 25 Transocean's designated person ashore was Gerald Canducci,

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15:49 1 right?

15:49 2 A. That is correct.

15:49 3 Q. Now, you're aware that Mr. Canducci had over 30 years of
15:49 4 experience in the drilling industry --

15:49 5 A. Yes.

15:49 6 Q. -- aren't you?

15:49 7 A. Yes. He was a subsea engineer.

15:49 8 Q. Before he moved to the beach?

15:49 9 A. Yes. But I think his training was subsea engineering. He
15:49 10 was never a master mariner. He was never a mate. He was never
15:49 11 a marine surveyor, never worked for any classification
15:49 12 societies. He was a driller.

15:49 13 Q. You bring up -- I'm not going to remember them all, but
15:49 14 you said he wasn't a driller?

15:49 15 A. Master mariner.

15:49 16 Q. Master mariner. Not a requirement of the ISM Code, is it,
15:49 17 for the designated person ashore?

15:50 18 A. My understanding is that, to be a DPA, one has to have a
15:50 19 maritime background, certainly to get the certification.

15:50 20 Q. You understand that both DNV -- we'll just stop with DNV
15:50 21 right now. One of the things it was charged to do every single
15:50 22 audit was to review the qualifications of the designated person
15:50 23 ashore, right?

15:50 24 A. Should do it, yes.

15:50 25 Q. Not one time did Det Norske Veritas point out any problems

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15:50 1 with Mr. Canducci or any designated person ashore for
15:50 2 Transocean, did they?

15:50 3 A. I'm not even sure they interviewed him, so no.

15:50 4 Q. Now, you have also criticized Mr. Canducci for not going
15:50 5 to the *Deepwater Horizon*, correct?

15:50 6 A. Absolutely, yes.

15:51 7 Q. Do you have any knowledge as to how long Mr. Canducci had
15:51 8 been a designated person ashore at the time of the incident?

15:51 9 A. I believe it was from November 2009.

15:51 10 Q. As a baseline, the ISM Code does not require the
15:51 11 designated person ashore to visit the rig, does it?

15:51 12 A. No, but it's good practice, good maritime practice, ship
15:51 13 management practice for that to happen.

15:51 14 Q. The DNV guidance for auditors doesn't even recommend that
15:51 15 observation of determining whether or not the designated person
15:51 16 ashore goes to the rig, does it?

15:51 17 A. I mean, that should come up during the interview when the
15:51 18 surveyor is interviewing the DPA to find out what his
15:51 19 background is.

15:51 20 Q. You bring up a good point. We don't know, but it very
15:52 21 well may have, right?

15:52 22 A. Could have, yes.

15:52 23 Q. At the end of the day, if it did, Det Norske Veritas had
15:52 24 no issue with the fact that Mr. Canducci had not gone out to
15:52 25 the rig, did they?

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15:52 1 A. True, if they had interviewed him.

15:52 2 Q. Now, another of your criticisms of Mr. Canducci is he
15:52 3 never worked with the flag state of the Marshall Islands. Do
15:52 4 you recall that?

15:52 5 A. Yes, sir, that is absolutely correct.

15:52 6 Q. You understand that Mr. Canducci was the designated person
15:52 7 ashore for the North American division, right?

15:52 8 A. Yes, sir, that's correct.

15:52 9 Q. You stated, I think in your testimony, that Jimmy Moore
15:52 10 was the corporate designated person ashore, correct?

15:52 11 A. That's what appears to be, yes.

15:52 12 Q. Certainly the ISM Code provides for a company having more
15:52 13 than one designated person ashore, correct?

15:53 14 A. I imagine it does. It's sort of unusual.

15:53 15 Q. You would agree that the ISM Code actually says the
15:53 16 company "should designate a person or persons ashore"?

15:53 17 A. Correct.

15:53 18 Q. As the corporate designated person, it was Mr. Moore, not
15:53 19 Mr. Canducci, who had the responsibility of communicating with
15:53 20 the flag state of the Marshall Islands. Are you aware of that?

15:53 21 A. That's the way they set it up, but I don't think that's
15:53 22 correct. Mr. Canducci was in charge of 12 rigs in the Gulf of
15:53 23 Mexico, so he was responsible for reporting to the senior most
15:53 24 levels of management and certainly had a responsibility to
15:53 25 report a problem with the Marshall Islands.

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1 I don't think he necessarily has to report to
2 Mr. Moore and Mr. Moore report to the Marshall Islands. I
3 don't see the purpose of that.

4 Q. But that's not the ISM Code standard; that's Geoff
5 Webster's standard, isn't it?

6 A. No, not at all. Every designated person I have ever
7 spoken to has direct authority to go to the flag state. There
8 isn't a chain of command within the DPs.

9 Q. Let's be clear. We are not talking about the authority.
10 We are talking about the responsibilities within Transocean;
11 and Transocean has a designated person ashore that communicates
12 with the flag state Marshall Islands, doesn't it?

13 A. I can't answer that.

14 Q. Did you review Mr. Canducci's deposition testimony?

15 A. I did.

16 Q. Did you see where he indicated that Jimmy Moore has the
17 responsibility to communicate with the flag state Marshall
18 Islands?

19 A. I have read that he did; but whether he had the
20 responsibility, I don't remember.

21 Q. Now, you also talk about Mr. Canducci's responsibility for
22 the practical implementation of the safety management system,
23 don't you?

24 A. I do.

25 Q. To be clear, you have levied extensive criticism against

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15:55 1 Mr. Canducci for not meeting that responsibility, haven't you?

15:55 2 A. I do.

15:55 3 Q. The entire administration of the management system
15:55 4 documentation, correct?

15:55 5 A. Correct.

15:55 6 Q. The planning and conduct of internal audits, right?

15:55 7 A. Correct.

15:55 8 Q. Acting as the sole conduit for contacts between the ship's
15:55 9 staff and, I think to use your words, the organization ashore,
15:55 10 right?

15:55 11 A. Correct.

15:55 12 Q. Let's go back to TREG-3163. There's our guidance for
15:55 13 auditors for the ISM Code. Let's go to page 18, and let's
15:55 14 review the second paragraph. I think we have a call-out,
15:55 15 3163-18A. I'm going to read -- only part of it is highlighted,
15:55 16 but I'm going to read the whole thing.

15:56 17 "It is commonly believed that the DP" -- that's
15:56 18 designated person, correct?

15:56 19 A. Yes, I'm sorry.

15:56 20 Q. -- "must be made responsible for" -- and here we go with
15:56 21 the things that you have just agreed to and represented to this
15:56 22 Court -- "for the entire administration of the management
15:56 23 system documentation."

15:56 24 That's No. 1, isn't it?

15:56 25 A. Correct.

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15:56 1 Q. -- "for the planning and conduct of internal audits."

15:56 2 That's the second thing you pointed out, isn't it?

15:56 3 A. Correct.

15:56 4 Q. -- "and must act as the sole conduit for all contacts
15:56 5 between the ships' staff and the organization ashore."

15:56 6 That's the third thing you pointed out, correct?

15:56 7 A. Yes, sir, that's correct.

15:56 8 Q. Det Norske Veritas says: "This is not the case."

15:56 9 Did I read that correctly?

15:56 10 A. I'm confused.

15:56 11 Q. Mr. Webster, did I read "This is not the case" correctly?

15:56 12 A. Oh, I'm sorry. I didn't see that. Yes, you did. I see
15:56 13 it.

15:56 14 Q. Det Norske Veritas goes further and says: "It is better
15:56 15 to think of the designated person as the person responsible for
15:57 16 ensuring that such processes are in place and operating as
15:57 17 required, a role that is more likely to be effective when
15:57 18 separated from the practical implementation."

15:57 19 Did I read that correctly?

15:57 20 A. Yes, sir, you did.

15:57 21 Q. Det Norske Veritas indicates that Mr. Canducci is actually
15:57 22 more likely to be effective when he is separated from the
15:57 23 practical implementation, doesn't it?

15:57 24 A. Yes.

15:57 25 Q. Det Norske Veritas says the three practical implementation

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1 responsibilities that you've just indicated you are holding
2 Mr. Canducci to and criticizing Mr. Canducci for should not be
3 the standard. That's Det Norske Veritas's position, isn't it?

4 A. That's their position; but it's certainly not the position
5 of most shipping companies, sir.

6 Q. And again, this isn't a disagreement you are having
7 because somebody perhaps didn't review every piece of
8 documentation. This is a disagreement that you have with the
9 international respected organization of Det Norske Veritas,
10 correct?

11 A. Yes, it is.

12 Q. Det Norske Veritas -- not you, Det Norske Veritas was the
13 body, the independent body, who provided the guidance to
14 Transocean, correct?

15 A. It did. But you see, I have to disagree with your
16 statements here because it says, "better to think of the DP as
17 the person responsible for ensuring that such processes are in
18 place."

19 In other words, administration, planning, conduct
20 internal audits. He is responsible for making sure this
21 happens. He doesn't necessarily have to be the guy that does
22 it.

23 Q. I think we may be changing the goalposts because I
24 specifically asked you about the three things that are listed
25 in that first sentence, and certainly I'm not going to quibble

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15:59 1 with you or argue about administration or things like that.

15:59 2 My only point is: The three points that you stated
15:59 3 you are holding Mr. Canducci responsible for related to the
15:59 4 practical implementation, Det Norske Veritas says, "Wrong
15:59 5 standard," doesn't it?

15:59 6 A. That's your position. Mine isn't. It says he is in
15:59 7 charge of the processes that are in place.

15:59 8 Q. Let's move on.

15:59 9 We've talked a lot about manuals. Let's move to what
15:59 10 you have indicated, Mr. Webster, normally addresses who's in
15:59 11 charge of the emergency situation. And let me just stop there.

15:59 12 Do you still agree, Mr. Webster, that a station bill
15:59 13 addresses the issue of who is in charge in an emergency
15:59 14 situation?

16:00 15 A. Yes, it should.

16:00 16 Q. It's required by the United States Coast Guard
16:00 17 regulations, correct?

16:00 18 A. Correct.

16:00 19 Q. Required by the MODU Code, right?

16:00 20 A. Correct.

16:00 21 Q. And it's required to be put in conspicuous places all
16:00 22 throughout the rig, right?

16:00 23 A. That is correct, on most deck levels.

16:00 24 Q. You say "most deck levels." Randy Ezell, senior
16:00 25 toolpusher, you heard him say it was in the helicopter waiting

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- 16:00 1 room right outside the galley?
- 16:00 2 A. Yes.
- 16:00 3 Q. You don't disagree with any of that?
- 16:00 4 A. Not at all.
- 16:00 5 Q. In the toolpusher's office, the OIM's office, the master's
16:00 6 office, you don't disagree with that, do you?
- 16:00 7 A. I do not.
- 16:00 8 Q. On the bridge, in the crew members' bedrooms?
- 16:00 9 A. Correct.
- 16:01 10 Q. Now, Mr. Webster, have you at this point reviewed, before
16:01 11 seeing it today, the *Deepwater Horizon* safety bill?
- 16:01 12 A. Station bill.
- 16:01 13 Q. Station bill.
- 16:01 14 A. Yes, I have it with me here, actually.
- 16:01 15 Q. Because that's not always been the case, is it?
- 16:01 16 A. What's not been the case? I'm sorry.
- 16:01 17 Q. That you have reviewed the station bill. When you
16:01 18 prepared your report, isn't it true that you had not reviewed
16:01 19 the *Deepwater Horizon* station bill?
- 16:01 20 A. I think I testified I couldn't remember; but I hadn't seen
16:01 21 it, I don't think.
- 16:01 22 Q. Okay. So you were reporting and testifying in the
16:01 23 deposition, commenting on the command structure of the
16:01 24 *Deepwater Horizon* during an emergency situation; but you
16:01 25 couldn't remember whether or not you had seen the

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16:01 1 *Deepwater Horizon* station bill?

16:01 2 A. No.

16:01 3 Q. Now, I don't want to go over the whole station bill again.
16:02 4 This Court has seen parts of it several times, but I do want to
16:02 5 pull out -- I want to skip the first part and go to the bottom
16:02 6 part. We have a call-out, 4603-1B.

16:02 7 You recognize this now as a listing of the fire and
16:02 8 emergency stations for the *Deepwater Horizon*?

16:02 9 A. Yeah. I see it, yes, sir.

16:02 10 Q. Under the "Command Group" for the bridge, the first
16:02 11 position at the top is what?

16:02 12 A. It says: "Master."

16:02 13 Q. The responsibilities of the master, according to the
16:02 14 station bill, is what?

16:02 15 A. Overall command, coordinate all emergency response
16:02 16 activities.

16:02 17 Q. Directly below the master is the offshore installation
16:02 18 manager?

16:02 19 A. Correct.

16:02 20 Q. The responsibilities of the offshore installation manager
16:02 21 are coordinate well control and drill floor response, correct?

16:03 22 A. That is correct.

16:03 23 Q. That's the way it should be, shouldn't it?

16:03 24 A. That's the way it should be; the way it wasn't, though.

16:03 25 Q. Well, you say, "the way it wasn't." You sat in this

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1 courtroom and you heard Randy Ezell sit in the same chair you
2 are sitting in and he told this Court that if he had any
3 question about the chain of command on the rig, he would look
4 to the station bill. Did you the hear him say that?

5 A. No, I didn't.

6 Q. You didn't hear him say that?

7 A. No. I wasn't here for the full time.

8 Q. Did anybody tell you that he said that?

9 A. No.

10 Q. So you didn't factor that statement in in your conclusions
11 about the *Deepwater Horizon's* chain of command, did you?

12 A. No, because the overwhelming evidence is the captain did
13 not have the overall command. It was not Transocean's policy,
14 sir.

15 Q. We are going to get there. But first, let's talk about an
16 entity we haven't heard much about; and that's the American
17 Bureau of Shipping. You're familiar with the American Bureau
18 of Shipping, correct?

19 A. Very much so, so yes.

20 Q. Referred to as ABS?

21 A. Correct.

22 Q. Now, ABS is one of those independent bodies that survey
23 rigs much like Det Norske Veritas, correct?

24 A. Yes, sir, that's correct.

25 Q. In the case of the *Deepwater Horizon*, they visited the rig

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16:04 1 more than 20 times over the five years before the incident,
16:04 2 correct?

16:04 3 A. That's correct, sir.

16:04 4 Q. They conducted annual inspections to ensure that the
16:04 5 *Deepwater Horizon* met all the requirements as a condition of
16:04 6 its classification as an A1 drilling unit, didn't they?

16:04 7 A. Yes, sir, they did.

16:04 8 Q. Like Det Norske Veritas and unlike you, they actually went
16:04 9 to the rig, right?

16:04 10 A. Yes.

16:04 11 Q. The American Bureau of Shipping was conducting these
16:05 12 inspections on behalf of the Marshall Islands, weren't they?

16:05 13 A. Yes, sir, they were.

16:05 14 Q. Each time the American Bureau of Shipping conducted one of
16:05 15 these inspections, the possibility certainly existed that they
16:05 16 could withdraw its classification, right?

16:05 17 A. Yes, they could.

16:05 18 Q. That would have put the *Deepwater Horizon* out of service,
16:05 19 right?

16:05 20 A. Yes, sir, it would have done it.

16:05 21 Q. That never happened, did it, Mr. Webster?

16:05 22 A. No. Unfortunately, it didn't. You see, under the ABS
16:05 23 rules, you have what's called a "Scope of Conditions of
16:05 24 Classification" and then Section 2 is actually called
16:05 25 "Suspension and Cancellation of Classification." It says --

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16:05 1 THE WITNESS: May I quote it, Your Honor?

16:05 2 THE COURT: Go ahead.

16:05 3 THE WITNESS: It says under "General," which is 2004:
16:05 4 "The continuance of the classification of any unit is
16:05 5 conditional upon the rule requirements for periodical damage
16:05 6 and other surveys being duly carried out. The committee
16:05 7 reserves the right to reconsider, withhold, or suspend or
16:05 8 cancel the class of any unit or any part of the machinery for
16:05 9 noncompliance with the rules for defects or damages which are
16:05 10 not reported to ABS."

16:05 11 None of these major items -- thrusters out of
16:06 12 use, watertight doors out of use, cranes which were useless,
16:06 13 spare parts missing, maintenance problems -- were obviously
16:06 14 never reported to ABS. Had they done so, sir, as they were
16:06 15 required by the class, then they would have had their
16:06 16 certificate suspended.

16:06 17 BY MR. KINCHEN:

16:06 18 Q. That's your position. Because you have no evidence --
16:06 19 well, let me ask you, have you talked to any of these ABS
16:06 20 auditors that went -- on the 20 times before the incident, have
16:06 21 you spoken with any of them and asked them about the
16:06 22 allegations that you're making right now?

16:06 23 A. No, sir. But if they had been given the ModuSpec report,
16:07 24 the BP reports, they would never have issued a class
16:07 25 certificate or allowed a UWILD.

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16:07 1 Q. Because you have a major disagreement with the American
16:07 2 Bureau of Shipping's conclusions, don't you?

16:07 3 A. Yes, because they were probably not given the truth.

16:07 4 Q. The *Deepwater Horizon* remained in class as of April 20,
16:07 5 2010, didn't it?

16:07 6 A. I think it did, yes.

16:07 7 Q. Let's look at what these safety inspections involved. The
16:07 8 most recent one occurred in December 2009, right?

16:07 9 A. Correct.

16:07 10 Q. American Bureau of Shipping prepared a report of safety
16:07 11 inspection as a result of its survey, right?

16:07 12 A. Correct.

16:07 13 Q. So let's take a look at it. We won't look at the whole
16:07 14 thing.

16:07 15 MR. KINCHEN: Let's pull up 51217-2. I believe this
16:07 16 is the first page of the report.

16:07 17 BY MR. KINCHEN:

16:07 18 Q. Do you recognize this as a report of safety inspection for
16:07 19 a MODU?

16:07 20 A. Yes. For the Republic of the Marshall Islands, I do.

16:07 21 Q. Conducted by the American Bureau of Shipping?

16:08 22 THE COURT: Excuse me one second. Let's stop.

16:08 23 (Discussion off the record.)

16:08 24 MR. KINCHEN: Let's look at 51217-2A call-out of this
16:08 25 page.

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16:08 1 BY MR. KINCHEN:

16:08 2 Q. The date of inspection is December 17, 2009, right?

16:08 3 A. Correct.

16:08 4 Q. This is one of those annual inspections that we have
16:08 5 talked about, correct?

16:08 6 A. Yes. I don't see where it mentions ABS, though, anywhere.
16:09 7 I'm sure it does, but I can't read it. It's too small for me.

16:09 8 Q. Let me help you out.

16:09 9 MR. KINCHEN: Let's go to 51217-4.

16:09 10 THE WITNESS: Okay. Yes, I see the stamp.

16:09 11 MR. KINCHEN: Let's just stay on this page and call
16:09 12 out some portions of this particular inspection.

16:09 13 BY MR. KINCHEN:

16:09 14 Q. 51217-4A, there at the top. One of the thing the ABS did
16:09 15 was held emergency drills, correct?

16:09 16 A. They did.

16:09 17 Q. They were satisfactory, right?

16:09 18 A. They were.

16:09 19 Q. And records were kept of those drills, correct?

16:09 20 A. That's what they say.

16:09 21 Q. And the condition of the fire-fighting equipment was good,
16:09 22 right?

16:09 23 A. They said "good," but we know it was bad.

16:09 24 Q. You say "we know." They were there, weren't they?

16:09 25 A. They were tasked to find out this, sir, but you had a fire

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16:09 1 main -- as we went through today, even the RMS the day before
16:10 2 the accident showed that the fire control system was defective.
16:10 3 Saltwater pumps were not working. I'm sorry, but what this guy
16:10 4 was doing on board, he must have been walking around with
16:10 5 blinkers.

16:10 6 Q. Another person that we have a major disagreement with; he
16:10 7 didn't know what he was doing, right?

16:10 8 A. I'm not saying he didn't know what he was doing, but he
16:10 9 didn't do a proper job; otherwise, he would have discovered all
16:10 10 the multitude of deficiencies that BP and ModuSpec and their
16:10 11 own crew found.

16:10 12 Q. He didn't do a proper job, did he?

16:10 13 A. No, he didn't.

16:10 14 Q. And he was on the rig, wasn't he?

16:10 15 A. Yes. He must have had blinkers on, sir.

16:10 16 Q. Understood.

16:10 17 Now let's go to 51217-4B, same page, No. 8: "Gas
16:10 18 detection and alarm comments. Spot-checked in association with
16:11 19 annual surveys."

16:11 20 Did I read that correctly?

16:11 21 A. You did.

16:11 22 Q. Let's go to line 10. There are some comments.

16:11 23 Let's see 51217-4C. And the highlighted portion
16:11 24 there says: "Overall condition of unit found clean and
16:11 25 acceptable."

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16:11 1 Did I read that correctly?

16:11 2 A. You did, yes.

16:11 3 Q. And the American Bureau of Shipping, as a result of this

16:11 4 annual inspection in December 2009, four months before the

16:11 5 incident, found no deficiencies as a result of their

16:11 6 inspection, correct?

16:11 7 A. I disagree. It says here: "Thruster Room 3 and 4:

16:11 8 Bilges found with oil. Both crane engine spaces found with oil

16:11 9 and unacceptable."

16:11 10 Q. My question was deficiencies with the ABS classification.

16:11 11 Let's go to 51217-1A. This is their conclusion, is

16:12 12 it not, Mr. Webster?

16:12 13 A. Unfortunately, yes, sir.

16:12 14 Q. I'll read the highlighted portion: "No deficiencies were

16:12 15 noted during the inspection."

16:12 16 Did I read that correctly?

16:12 17 A. Correct.

16:12 18 Q. "The ship was found to be in compliance with all

16:12 19 applicable safety, security, and environmental protection

16:12 20 requirements."

16:12 21 Did I read that correctly?

16:12 22 A. You did.

16:12 23 Q. You disagree with that conclusion?

16:12 24 A. I do, based upon the ModuSpec and the BP reports and the

16:12 25 RMS report the day before the incident. Yes, sir, it certainly

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16:12 1 contradicts those statements.

16:12 2 Q. And the fact that the inspector was walking around on the
16:12 3 rig with blinkers, right?

16:12 4 A. Probably.

16:12 5 Q. The last sentence: "The master and crew were cooperative
16:12 6 and professional in presenting the ship for inspection."

16:12 7 Did I read that correctly?

16:12 8 A. Yes, sir.

16:12 9 Q. And the reference to the master -- Mr. Webster, do you
16:12 10 recall who the master was that is referenced by the American
16:12 11 Bureau of Shipping as "cooperative and professional"?

16:13 12 A. Captain Kuchta.

16:13 13 Q. The *Deepwater Horizon* was current on all of its required
16:13 14 flag state statutory surveys, wasn't it?

16:13 15 A. It was.

16:13 16 Q. And its certifications, right?

16:13 17 A. Correct.

16:13 18 Q. It possessed all the requisite international Marshall
16:13 19 Islands and U.S.A. certificates of compliance, didn't it?

16:13 20 A. It did.

16:13 21 Q. The *Deepwater Horizon*, Mr. Webster, according to the
16:13 22 American Bureau of Shipping, was fit for service, wasn't it?

16:13 23 A. Yes, unfortunately.

16:13 24 Q. Well, someone else who spent some time reviewing these
16:13 25 documents, Jeff Wolfe -- do you recall him?

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16:13 1 A. I do, indeed.

16:13 2 Q. Jeff Wolfe agreed with the American Bureau of Shipping,
16:13 3 didn't he?

16:13 4 A. He obviously never read the ModuSpec reports, the BP
16:13 5 reports, the audits, the SMS. He would have been shocked, I
16:13 6 think, had he seen that.

16:13 7 Q. So it's your position that the reference materials and
16:14 8 reliance materials that Jeff Wolfe listed as relying upon them,
16:14 9 that, in fact, he did not lie and he misrepresented that to the
16:14 10 Court?

16:14 11 A. Oh, I'm not saying that.

16:14 12 Q. I want to be clear, because he did list every audit that
16:14 13 you just mentioned. Are you aware of that?

16:14 14 A. Well, if he did, he didn't read them.

16:14 15 MR. KINCHEN: Let's pull up Wolfe 3.

16:14 16 BY MR. KINCHEN:

16:14 17 Q. Mr. Wolfe's statement: "The *Deepwater Horizon* was fit for
16:14 18 service intended on April 20, 2010."

16:14 19 That's consistent with the American Bureau of
16:14 20 Shipping, isn't it?

16:14 21 A. It is.

16:14 22 MR. KINCHEN: That, for the record, is TREN-0 -- a
16:14 23 quote, Your Honor, from TREN-050003 at page 22 of Mr. Wolfe's
16:14 24 report.

25

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16:15 1 BY MR. KINCHEN:

16:15 2 Q. Now, we have heard a little about the United States
16:15 3 Coast Guard yesterday and today, but we haven't looked at any
16:15 4 of their inspections. And indeed, the United States
16:15 5 Coast Guard inspected the *Deepwater Horizon* every single year,
16:15 6 didn't it?

16:15 7 A. It did.

16:15 8 Q. As a result of its inspections, the United States
16:15 9 Coast Guard can -- is certainly not required to, but can issue
16:15 10 a certificate of compliance, correct?

16:15 11 A. Can.

16:15 12 Q. Sometimes referred to also as a letter of compliance,
16:15 13 correct?

16:15 14 A. That is correct.

16:15 15 Q. Now, much like Det Norske Veritas and the American Bureau
16:15 16 of Shipping, you, Mr. Webster, don't speak for the
16:15 17 U.S. Coast Guard, do you?

16:15 18 A. No, I do not.

16:15 19 Q. The U.S. Coast Guard inspected the *Deepwater Horizon* as
16:15 20 recently as July of 2009, correct?

16:15 21 A. Correct. Spent, I believe, about four hours on board.

16:16 22 Q. You said "spent." We are actually talking about multiple
16:16 23 auditors, correct?

16:16 24 A. There were several of them, I believe, yes.

16:16 25 Q. They looked at things like the structural integrity,

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16:16 1 correct?

16:16 2 A. Supposed to, yes.

16:16 3 Q. Well, you say "supposed to." Did you review the
16:16 4 deposition of Michael Odom?

16:16 5 A. I did, but I don't remember what he said.

16:16 6 Q. Mr. Odom was the last United States Coast Guard inspector
16:16 7 to be on the rig. Do you recall that?

16:16 8 A. I do.

16:16 9 Q. Do you recall him being asked and responding to a question
16:16 10 about the things that he looked at?

16:16 11 A. You know, I don't recall that. I'm sorry.

16:16 12 Q. Because you say "supposed to," let's just go ahead and
16:16 13 pull up MO-13A.

16:16 14 **MR. KINCHEN:** This, Your Honor, is the deposition of
16:16 15 Michael Odom. The page and line reference, 13/19, through
16:16 16 page 15, line 2.

16:16 17 **"QUESTION:** Okay. Would you tell us, to whatever
16:17 18 extent you remember, how the responsibility was divided
16:17 19 for the inspection."

16:17 20 **BY MR. KINCHEN:**

16:17 21 Q. Did I read the question correctly?

16:17 22 A. Say it again, please, because I was reading.

16:17 23 Q. Sure.

16:17 24 **"QUESTION:** Okay. Would you tell us, to whatever
16:17 25 extent you remember, how the responsibility was divided

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16:17 1 for the inspection."

16:17 2 Did I read that correctly?

16:17 3 A. You did, correct.

16:17 4 Q. Mr. Odom's response:

16:17 5 "ANSWER: If I recall correctly, Mr. Willimon was on

16:17 6 board with us as a trainee."

16:17 7 So we have not only the Coast Guard inspectors,

16:17 8 but they bring a trainee, correct?

16:17 9 A. Sure.

16:17 10 Q. (Reading):

16:17 11 "ANSWER: "It was him and Mr. Brown did a lot of the

16:17 12 documentation and paperwork associated with the exam."

16:17 13 Did I read that correctly?

16:17 14 A. You did.

16:17 15 Q. (Reading):

16:17 16 "ANSWER: I recall doing the deck walk, checking fire

16:17 17 stations, fire hoses, walking around the deck, looking for

16:17 18 intrinsically safe lighting, ventilation, ventilation

16:17 19 shutdowns, accommodation spaces, going over the helideck,

16:17 20 looking at the structural integrity of the vessel,

16:17 21 watertight integrity. Walked below decks, looking at

16:18 22 ladders, load line-type stuff. Did -- and also did crew

16:18 23 drills, abandon ship drills, fire drills, walked through

16:18 24 the galley area, looked at the fire-fighting systems in

16:18 25 the galley. And to the best of my recollection, that's

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16:18 1 what we did. Looked at the lifeboats, ran the lifeboats,
16:18 2 started them, looked inside them."

16:18 3 Did I read that correctly?

16:18 4 A. You did.

16:18 5 Q. My question, again is: One of the things that the
16:18 6 United States Coast Guard did in December of 2009 was to look
16:18 7 at the structural integrity of the vessel? Correct?

16:18 8 A. No.

16:18 9 Q. Is it your position that Mr. Odom is not being accurate?

16:18 10 A. Absolutely not. To check the structural integrity of that
16:18 11 huge rig would take you a couple days, sir.

16:18 12 Q. Well, again, Mr. Odom, did he not -- a representative of
16:18 13 the United States Coast Guard -- stated under oath that he
16:18 14 looked at the structural integrity?

16:18 15 A. He obviously did a cursory inspection. He just walked
16:18 16 around the main deck, probably looked at a few things.

16:19 17 MR. WILLIAMS: Your Honor, I'm sorry. I apologize
16:19 18 for interrupting.

16:19 19 Your Honor, I would like to invoke the rule of
16:19 20 completeness. Actually, if you read further down in that
16:19 21 deposition, the Coast Guard inspection officer acknowledges, I
16:19 22 think -- I didn't get much of a chance to look at it in the
16:19 23 inspection -- he agrees that the inspection was limited. I
16:19 24 would just like to complete the record.

16:19 25 THE COURT: You will get a chance to do that on

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16:19 1 redirect.

16:19 2 MR. WILLIAMS: Thank you.

16:19 3 BY MR. KINCHEN:

16:19 4 Q. To Mr. Williams' point, any inspection, limited or
16:19 5 otherwise -- and we have just seen what Mr. Odom says -- is
16:19 6 certainly a longer inspection of the rig than you did,
16:19 7 Mr. Webster, right?

16:19 8 A. That is correct physically. But looking at the records, I
16:19 9 spent hours upon hours going through the audits and all the
16:19 10 safety things and the BP stuff.

16:19 11 THE COURT: In fairness to this witness, it would be
16:19 12 pretty difficult for him to have inspected the vessel
16:19 13 afterwards, when it was sitting 5,000 feet underwater. So I
16:20 14 don't understand that question.

16:20 15 MR. KINCHEN: Certainly, Your Honor. I'm just
16:20 16 responding to his point that he is disagreeing with people who
16:20 17 actually saw the things.

16:20 18 THE COURT: But it's not fair to criticize him for
16:20 19 not inspecting the *Deepwater Horizon* after this occurred.

16:20 20 MR. KINCHEN: I will refrain from asking the question
16:20 21 again.

16:20 22 THE COURT: Okay.

16:20 23 BY MR. KINCHEN:

16:20 24 Q. Another of the things that they did, Mr. Webster, is, they
16:20 25 looked at the watertight integrity, correct?

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16:20 1 A. Can you go back up a little bit? Because I would like to
16:20 2 make some comments on what he did, if you don't mind.

16:20 3 Q. Sure.

16:20 4 A. First of all, they said, of course, they had a trainee.
16:20 5 He said he did a deck walk, checked fire stations, fire hoses.
16:20 6 Nowhere did he check the fire pumps to see if they were
16:20 7 working. That was in a very bad condition, by the way. The
16:20 8 piping was all rotted out.

16:20 9 He checks some ventilation, accommodation spaces.
16:20 10 That's fine.

16:20 11 Walked on the helideck. He looked at the watertight
16:21 12 integrity, while, again, he must have missed the watertight
16:21 13 doors that weren't closing.

16:21 14 Walked below decks, looked at ladders, load line-type
16:21 15 stuff -- well, that's -- there were watertight hatches, there
16:21 16 were louvers not closing, there were louvers rotted out.

16:21 17 And then they did a few drills, which is normal, a
16:21 18 few fire drills. He looked at the galley and the fire-fighting
16:21 19 stuff in the galley. And then he looked at the lifeboats.

16:21 20 That's not much as far as the integrity of a MODU
16:21 21 goes, sir.

16:21 22 Q. You're not suggesting, are you, that Mr. Odom and the
16:21 23 other inspectors were walking around the rig with blinkers on?
16:21 24 Are you?

16:21 25 A. No.

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16:21 1 Q. But they determined that the *Deepwater Horizon* had no
16:21 2 deficiencies, didn't they?

16:21 3 A. They did indeed.

16:21 4 MR. KINCHEN: Let's go to TREN-5571-3A.

16:22 5 BY MR. KINCHEN:

16:22 6 Q. There's the United States Coast Guard's activity summary
16:22 7 report. "Inspection results - Deficiencies, (none)." That's
16:22 8 what it says, right?

16:22 9 A. Yes, it does.

16:22 10 MR. KINCHEN: Let's go to the very first page at
16:22 11 5571, and let's call out the last -- the bottom of that page.

16:22 12 BY MR. KINCHEN:

16:22 13 Q. The very top of that call-out says: "This is to certify
16:22 14 that the ship has been examined and found to be in compliance
16:22 15 with all applicable U.S. and international marine safety and
16:22 16 environmental protection standards."

16:22 17 Did I read that correctly?

16:22 18 A. Yes, sir, you did.

16:22 19 Q. That's the United States Coast Guard's conclusion in 2009,
16:23 20 correct?

16:23 21 A. Correct.

16:23 22 Q. You disagree with that, don't you?

16:23 23 A. I do. Based upon the condition of the vessel at that
16:23 24 time, I vehemently do.

16:23 25 Q. You disagree with Mr. Odom, correct?

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16:23 1 A. No. I mean, I just read you what he did. He just did a
16:23 2 cursory inspection.

16:23 3 Q. As a result of that inspection, Mr. Odom signed a document
16:23 4 that certified that the ship was in compliance with all
16:23 5 applicable U.S. and international marine safety and
16:23 6 environmental protection standards.

16:23 7 Mr. Webster, would you have signed that document?

16:23 8 A. No. Based upon the condition of that vessel, absolutely
16:23 9 not.

16:23 10 Q. This is the notice, the certificate of compliance that was
16:23 11 provided by the Coast Guard to Transocean, right?

16:23 12 A. Correct.

16:23 13 Q. And the designated person ashore, right?

16:23 14 A. I hope so.

16:23 15 Q. Much like the other bodies that we talked about, if the
16:24 16 United States Coast Guard doesn't provide a certificate of
16:24 17 compliance, the rig is put out of service, correct?

16:24 18 A. That's correct.

16:24 19 Q. That never happened for the *Deepwater Horizon*, did it?

16:24 20 A. It did not.

16:24 21 Q. They inspected it in 2009, 2008, 2007, and every year,
16:24 22 didn't they?

16:24 23 A. They did.

16:24 24 Q. Every year, the conclusion that we just read -- and I
16:24 25 won't read it again -- that was the same conclusion that the

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16:24 1 United States Coast Guard reached every single year, right?

16:24 2 A. Unfortunately, it was, yes.

16:24 3 Q. Now, sometimes the United States Coast Guard inspectors
16:24 4 provide notes during their inspections, don't they? They note
16:24 5 things that they see?

16:24 6 A. Yes.

16:24 7 Q. Page 8 of this document that we were just looking at,
16:24 8 5571-8A from the Coast Guard Certificate of Compliance. This
16:25 9 is from a follow-up audit dated October 15, 2008, right?

16:25 10 A. I see that, yes.

16:25 11 Q. The notation in 2008 by the United States Coast Guard
16:25 12 inspector is that the overall rig was in excellent condition.

16:25 13 Did I read that correctly?

16:25 14 A. You did.

16:25 15 Q. You disagree with that United States Coast Guard auditor,
16:25 16 don't you?

16:25 17 A. Absolutely.

16:25 18 Q. Let's go to 55 -- just to be clear, 2005 was a year that
16:25 19 you believe that the vessel was unseaworthy, correct?

16:25 20 A. Correct.

16:25 21 Q. Let's go to 5585-1A.

16:26 22 Here, we have another activity summary report for the
16:26 23 *Deepwater Horizon*, correct?

16:26 24 A. Correct.

16:26 25 Q. You see the things that were inspected: Stability,

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- 16:26 1 inspected satisfactory, correct?
- 16:26 2 A. That's what it said.
- 16:26 3 Q. Pollution prevention response, inspected satisfactory,
16:26 4 correct?
- 16:26 5 A. Yes.
- 16:26 6 Q. Personnel, inspected satisfactory, correct?
- 16:26 7 A. Yes.
- 16:26 8 Q. Operations management, inspected satisfactory, correct?
- 16:26 9 A. Correct.
- 16:26 10 Q. Navigation, inspected satisfactory, right?
- 16:26 11 A. Correct.
- 16:26 12 Q. Life saving, inspected satisfactory, right?
- 16:26 13 A. Correct.
- 16:26 14 Q. Fire fighting, inspected satisfactory, right?
- 16:26 15 A. Yes.
- 16:26 16 Q. Engineering, inspected satisfactory, right?
- 16:26 17 A. Correct.
- 16:26 18 Q. Electrical, inspected satisfactory, correct?
- 16:26 19 A. Correct.
- 16:26 20 Q. Documentation, inspected satisfactory, right?
- 16:26 21 A. Correct.
- 16:26 22 Q. Deck/cargo, inspected satisfactory, correct?
- 16:26 23 A. Yes.
- 16:26 24 Q. Construction/loading, inspected satisfactory, right?
- 16:26 25 A. Correct.

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16:26 1 Q. Communications, inspected satisfactory, correct?

16:27 2 A. Correct.

16:27 3 Q. Accommodations/occupational safety, inspected
16:27 4 satisfactory, correct?

16:27 5 A. That's what it says, sir, yes.

16:27 6 Q. Let's go to 5585-2B, the same document. There's a
16:27 7 narrative summary for the 2005 audit, correct?

16:27 8 A. Say that again. I'm sorry.

16:27 9 Q. It's a narrative summary for the 2005 audit, correct?

16:27 10 A. That's correct.

16:27 11 Q. The last paragraph says: "The MODU is in very good
16:27 12 condition. Good crew participation. Inspection complete and
16:27 13 issued new certificate of compliance."

16:27 14 Correct?

16:27 15 A. Correct.

16:27 16 Q. "The MODU is in very good condition." You disagree with
16:27 17 the United States Coast Guard's conclusion, don't you?

16:28 18 A. Not just me, sir. The ModuSpec, the BP audits all
16:28 19 disagreed also.

16:28 20 Q. Det Norske Veritas didn't disagree, did they?

16:28 21 A. No.

16:28 22 Q. American Bureau of Shipping didn't disagree, did they?

16:28 23 A. No, they did not.

16:28 24 Q. Jeff Wolfe didn't disagree, did he?

16:28 25 A. He did not; but they never read all the deficiencies, I'm

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1 quite sure. Had they read and been given those deficiencies,
2 those audits, I'm quite sure things would have been different.

3 Q. Let's go to 2006, 5586-1A.

4 Here, we have another activity summary report for the
5 *Deepwater Horizon*, correct?

6 A. Correct.

7 Q. We see the date there of August 11, 2006, correct?

8 A. Yes, sir, I see it.

9 Q. The inspection results of this 2006 audit by the
10 United States Coast Guard was "No deficiencies," correct?

11 A. That is correct.

12 Q. Let's go to 5586-2A. We see there references to two
13 inspectors, Lt. Sohl and Lt. Hoppe. Did I read that correctly?

14 A. You did.

15 Q. There at the bottom it says: The MODU was found fit for
16 route and service - endorsed certificate of compliance.

17 Did I read that correctly?

18 A. You did.

19 Q. You disagree with that conclusion, don't you?

20 A. Absolutely, based upon the condition of the rig, as I have
21 already said before.

22 Q. Let's jump ahead to 2007. Let's go to 5590-1A.

23 Now, here is another certificate of compliance.

24 MR. KINCHEN: And let's pull up the -- if we do 1A,
25 you may have a call-up for it. If not, let's just pull up the

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16:29 1 top. There's 1A.

16:29 2 **BY MR. KINCHEN:**

16:29 3 **Q.** This is -- I believe this is the -- this is 2007. So once
16:30 4 again, same auditor as in 2009. This is Mr. Odom, correct, who
16:30 5 is the officer in charge of this particular audit, right?

16:30 6 **A.** That's what it looks like, yes.

16:30 7 **Q.** Here again, Mr. Odom is certifying that the ship has been
16:30 8 examined and found to be in compliance with all applicable U.S.
16:30 9 and International Marine Safety and Environmental Protection
16:30 10 standards, correct?

16:30 11 **A.** That is correct.

16:30 12 **Q.** You disagree with Mr. Odom's conclusion in 2007, don't
16:30 13 you?

16:30 14 **A.** Absolutely.

16:30 15 **Q.** Let's go to 5590-2A. This is the same document, the
16:30 16 second page, Mr. Webster.

16:30 17 And it appears that the notation that's highlighted
16:30 18 is a notation for the 2008 inspection, annual inspection by the
16:31 19 United States Coast Guard, correct?

16:31 20 **A.** Yes, October 2008.

16:31 21 **Q.** The conclusion is: "No 835s issued, no worklist items."

16:31 22 Did I read that correctly?

16:31 23 **A.** You did.

16:31 24 **Q.** And the date is October 15, 2008, correct?

16:31 25 **A.** Correct.

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16:31 1 Q. Let's move on and talk about ModuSpec. ModuSpec is an
16:31 2 inspector of rigs worldwide, aren't they?

16:31 3 A. Yes, sir, they are.

16:31 4 Q. In 2010, Transocean voluntarily hired ModuSpec to
16:31 5 determine the condition of the *Deepwater Horizon*, correct?

16:31 6 A. Yes, sir, they did.

16:32 7 Q. It was for purposes of its upcoming special periodic
16:32 8 survey, right?

16:32 9 A. That is correct.

16:32 10 Q. That inspection occurred essentially days before the
16:32 11 incident, right?

16:32 12 A. Yes, sir.

16:32 13 Q. They sent four auditors to the rig, right?

16:32 14 A. They did.

16:32 15 Q. Those auditors spent 12 days on the rig?

16:32 16 A. Correct.

16:32 17 Q. It was an intrusive survey, was it not?

16:32 18 A. Good survey.

16:32 19 Q. And as with the ABS and DNV and the United States
16:32 20 Coast Guard, you don't speak for ModuSpec, do you?

16:32 21 A. No, I do not.

16:32 22 Q. ModuSpec has an equipment rating system that measures the
16:32 23 condition of an individual rig, don't they?

16:32 24 A. They do.

16:32 25 Q. It's called an MER rating system, right?

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16:32 1 A. Yes, it is.

16:32 2 Q. That rating compares the inspection results of an
16:32 3 individual rig with the industry average for that particular
16:32 4 rig both worldwide and in a specific area, right?

16:32 5 A. I believe that's how it works, yes.

16:33 6 Q. In 2010, that specific area would be the Gulf of Mexico,
16:33 7 correct?

16:33 8 A. Correct.

16:33 9 Q. Let's go to 71-7A. And this is actually an explanation of
16:33 10 the rating system from the 2005 report because you mentioned
16:33 11 yesterday at length the 2005 ModuSpec report, correct?

16:33 12 A. I did.

16:33 13 Q. It says that "The ModuSpec equipment rating is a unique
16:33 14 system to: measure the condition of an individual rig."

16:33 15 You agree with that, don't you?

16:33 16 A. I do.

16:33 17 Q. "Compare the inspection results of an individual rig with
16:33 18 the industry average for this particular type of rig worldwide
16:33 19 or in a specific area."

16:33 20 You agree with that, don't you?

16:33 21 A. Yes, sir.

16:33 22 Q. "The MER rating visualizes the strengths and weaknesses of
16:33 23 an individual rig."

16:33 24 You agree with that, right?

16:33 25 A. I do, absolutely.

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16:33 1 Q. "The MER rating is a benchmark for the safety and
16:33 2 maintenance standards of an individual rig against other rigs
16:34 3 or against the results of previous inspections."

16:34 4 You agree with that, right?

16:34 5 A. Yes, sir.

16:34 6 Q. "The MER is used as a risk analysis tool to proactively
16:34 7 prevent accidents and downtime."

16:34 8 You agree with that, correct?

16:34 9 A. I do.

16:34 10 Q. The last point I will make here, it says: "The added
16:34 11 value of the MER system is that it visualizes and measures the
16:34 12 present condition of a rig and its equipment."

16:34 13 You agree with that, don't you?

16:34 14 A. I do.

16:34 15 Q. Now, the MER provides detailed results and critical
16:34 16 ratings, doesn't it?

16:34 17 A. Yes.

16:34 18 Q. Let's go to the same document, 71-8A, the next page. And
16:34 19 let's call out two of the charts.

16:35 20 Chart 3 is "Detailed MER Results." You're familiar
16:35 21 with that chart, right?

16:35 22 A. I am.

16:35 23 Q. It indicates how the rig is rated from a maintenance and
16:35 24 safety quality point of view, in comparison with an industry
16:35 25 average for this type of rig for each individual section of the

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16:35 1 inspection, doesn't it?

16:35 2 A. It does.

16:35 3 Q. It also has a detailed critical rating, right?

16:35 4 A. Yes, sir.

16:35 5 Q. That chart shows the percentage of critical
16:35 6 nonconformances identified for each section of the inspection
16:35 7 program in comparison with the industry average, doesn't it?

16:35 8 A. It does, correct.

16:35 9 Q. "This chart is an important indication of the risk to
16:35 10 encounter a fatality or serious accident on the rig and the
16:35 11 possibility of environmental damage caused by the rig."

16:35 12 Doesn't it?

16:35 13 A. Yes, sir.

16:36 14 Q. In the case of the critical rating, the lower the rating,
16:36 15 the better, right?

16:36 16 A. That's correct.

16:36 17 Q. Let's stick with this document and let's take a look at
16:36 18 the MER ratings for 2005 for the *Deepwater Horizon*, and that's
16:36 19 this first chart indicating how a rig is rated from a
16:36 20 maintenance and safety quality point of view.

16:36 21 Let's go to 71-12A. Here are the detailed MER
16:36 22 results.

16:36 23 Now, as a starting point, it's clear that the well
16:36 24 control equipment, which would include the BOP, which is at
16:36 25 subsea at the time, they were unable to audit that, correct?

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16:36 1 A. Correct.

16:36 2 Q. So let's look at the other items in this detailed MER. As
16:36 3 you can see, the dark colored part of the photograph represents
16:37 4 the *Deepwater Horizon*, correct?

16:37 5 A. Yes.

16:37 6 Q. The clear column represents the semisubmersibles in the
16:37 7 Gulf of Mexico, right?

16:37 8 A. Yes.

16:37 9 Q. The detailed MER rating for the *Deepwater Horizon* for
16:37 10 drilling equipment in 2005 was 95 percent, right?

16:37 11 A. Correct.

16:37 12 Q. The average for a similar rig in the Gulf of Mexico was
16:37 13 87 percent, right?

16:37 14 A. Correct.

16:37 15 Q. *Deepwater Horizon* has a better, more favorable MER rating,
16:37 16 doesn't it?

16:37 17 A. Correct.

16:37 18 Q. And let's move to the mud system.

16:37 19 The *Deepwater Horizon's* rating, the MER rating which
16:37 20 we have just talked about, was 96 percent for the Gulf of
16:37 21 Mexico -- I mean, for the *Deepwater Horizon*, correct?

16:37 22 A. Correct.

16:37 23 Q. As compared to the rest of the industry in the Gulf of
16:37 24 Mexico, which was 86 percent, right?

16:37 25 A. Correct.

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16:37 1 Q. Moving to the marine equipment, the rating for the
16:37 2 *Deepwater Horizon* in 2005 was 99 percent, correct?

16:38 3 A. Correct.

16:38 4 Q. As compared to the rest of the industry in the Gulf of
16:38 5 Mexico, which is 93 percent, right?

16:38 6 A. Right.

16:38 7 Q. Power plant, the next category, the *Deepwater Horizon's*
16:38 8 MER rating for 2005 was 97 percent, correct?

16:38 9 A. Correct.

16:38 10 Q. The rest of the industry in the Gulf of Mexico for similar
16:38 11 rigs was 95 percent, correct?

16:38 12 A. Yes.

16:38 13 Q. Electrical equipment, the *Deepwater Horizon's* rating in
16:38 14 2005 was 95 percent, correct?

16:38 15 A. Correct.

16:38 16 Q. The rating for the rest of the industry in the Gulf of
16:38 17 Mexico for electrical equipment was 86 percent, right?

16:38 18 A. Correct.

16:38 19 Q. Safety. In 2005, the *Deepwater Horizon's* MER rating was
16:38 20 95 percent, correct?

16:38 21 A. Correct.

16:38 22 Q. The rest of the industry -- I'm sorry. Safety was
16:39 23 99 percent, correct?

16:39 24 A. Sorry, yes.

16:39 25 Q. We both missed it.

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16:39 1 The rest of the industry in the Gulf of Mexico was
16:39 2 98 percent, right?

16:39 3 A. Correct.

16:39 4 Q. Maintenance system, the *Deepwater Horizon's* rating was
16:39 5 90 percent, correct?

16:39 6 A. Correct.

16:39 7 Q. The rest of the industry was 86 percent, right?

16:39 8 A. That's correct.

16:39 9 Q. Spare parts, the *Deepwater Horizon's* rating was
16:39 10 100 percent, right?

16:39 11 A. That's what it says there.

16:39 12 Q. The rest of the industry was 83 percent?

16:39 13 A. That's what it says. It's not correct, but that's what it
16:39 14 says.

16:39 15 Just a clarification, this was 2005, was it?

16:39 16 Q. This is 2005.

16:39 17 A. Yes. Thank you, sir.

16:39 18 Q. Just for clarification, 2005 was the year that you have
16:39 19 indicated the *Deepwater Horizon* was unseaworthy, right?

16:39 20 A. Yes, based upon, again, the surveys for BP, the reports we
16:39 21 have read, all the deficiencies, etc.

16:39 22 Q. Right. So in every single category, ModuSpec's MER rating
16:40 23 rates the *Deepwater Horizon* as better than the rest of the
16:40 24 industry, every category, right?

16:40 25 A. That's what it looks like, yes.

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16:40 1 Q. Mr. Webster, is it your position that the majority of rigs
16:40 2 in the Gulf of Mexico in 2005 were unseaworthy?

16:40 3 A. No.

16:40 4 Q. Now, you're aware that for 2010 -- ModuSpec's lead
16:40 5 auditor, Allen Schneider, testified under oath?

16:40 6 A. Yes.

16:40 7 Q. And he indicated that the *Deepwater Horizon* had a
16:40 8 favorable MER rating in 2010. Do you recall his sworn
16:40 9 statement?

16:40 10 A. I don't but, I mean, I have done my own audit, which I
16:40 11 would like to talk about in a minute.

16:40 12 Q. You're going to have an opportunity probably, but I'm not
16:40 13 going to ask you about it.

16:41 14 Let's go to Mr. Schneider's deposition since you
16:41 15 can't recall. And let's go to 417, AS-417A.

16:41 16 For the record, this is page 417, line 23 through
16:41 17 page 418, line 6.

16:41 18 "QUESTION: Is it fair to say that, as a result of
16:41 19 this MER rating, the *Horizon* had a favorable MER rating?
16:41 20 Or how would you quantify the rating as a whole when you
16:41 21 look at the totality of all areas and all groups?

16:41 22 "ANSWER: Yes, I would say that."

16:41 23 Did I read it correctly?

16:41 24 A. You did.

16:41 25 Q. Mr. Webster, is it your position that the majority of rigs

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1 in the Gulf of Mexico in 2010 were unseaworthy?

2 A. Not at all. But on this one, just as a matter of
3 interest --

4 THE WITNESS: May I read this, Your Honor?

5 THE COURT: Go ahead.

6 THE WITNESS: This is from the ModuSpec report and
7 it's quite shocking of what they reported and I would like to
8 just make a brief list of them.

9 It says: The condition of the port and
10 starboard Liebherr Pedestal cranes had the following problems:
11 "Recommendations: The engines need replacing.

12 "Replace all three whip line sheaves located at
13 the boom tent.

14 "Replace or rework the main block on both cranes
15 and have recertified.

16 "Replace all main block sheaves in boom on both
17 cranes as needed. Install new walkway on boom on new walkway
18 on inside of boom and add a small platform around the winch
19 mounted on the booms.

20 "Rework or replace all winches on both cranes.

21 "The knuckle boom crane needed overhauling.

22 "No. 2 azimuth thruster was out of order, the
23 motor was burnt up.

24 "All the No. 8 thrusters needed servicing and
25 the thrusters were getting water into the oil of the lower gear

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16:43 1 units, due to prop seals leaking. This has been going on for
16:43 2 some time now and will continue to get worse.

16:43 3 No. 8 thruster was leaking hydraulic oil around
16:43 4 the inside shaft and was in need of urgently being overhauled.

16:43 5 "The BOP ram bodies and annular bonnets were not
16:43 6 certified and were overdue overhaul by five years.

16:43 7 "The BOP panels and the toolpusher's panel and
16:43 8 the one on the bridge were malfunctioning.

16:43 9 "Driller's control panel air purge system
16:43 10 malfunctioning."

16:43 11 The rig was equipped with six Wartsila 18V32
16:43 12 engines. The engines required the injectors changed to meet
16:43 13 the EPA emission requirements. Several of the water jacket
16:43 14 cooling sensors disconnected. Rig saver air dampers shut off,
16:43 15 not tested.

16:43 16 Hydril diverter system was malfunctioning and
16:43 17 when switching from the trip tanks over to the shakers, the
16:43 18 proximity switching on the trip tank valve did not register and
16:44 19 the trip tank light stayed on. The date of last manufacturer's
16:44 20 certification was July 5, 2000, beyond the five yearly
16:44 21 inspection and recertification.

16:44 22 "The portable gas detection units for checking
16:44 23 the gas detection alarms were not working, so these units could
16:44 24 not have been regularly tested.

16:44 25 "The ballast system was found to be in a bad

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16:44 1 condition, with leaking pumps and corroded pipelines which
16:44 2 needed replacing. All the ballast pumps in all the thruster
16:44 3 rooms needed replacing."

16:44 4 **MR. KINCHEN:** Your Honor, I would just object as
16:44 5 nonresponsive.

16:44 6 **THE COURT:** How long does this list go on for,
16:44 7 Mr. Webster?

16:44 8 **THE WITNESS:** About another 10 items, Your Honor.

16:44 9 **THE COURT:** Go ahead and finish.

16:44 10 **THE WITNESS:** All right. Quickly: "Bilge pumps in
16:44 11 thruster" --

16:44 12 **THE COURT:** No, you can't read it too quickly for the
16:44 13 court reporter.

16:44 14 **THE WITNESS:** Bilge pumps in each thrust room failed
16:44 15 to pick up suction.

16:44 16 Saltwater lines and related equipment were in
16:44 17 really bad condition. Four saltwater cooling pumps for the
16:45 18 engines were out of order.

16:45 19 Steel escape ladders below the rig on all four
16:45 20 columns were rusted out . . .

16:45 21 Watertight hatch covers for vents on port and
16:45 22 starboard side of the rig in bad condition.

16:45 23 Electric cable trays corroded.

16:45 24 Aircraft warning lights not working.

16:45 25 Several 10-mile lights not working.

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16:45 1 Dreco derrick on the grating crown was corroded
16:45 2 badly.

16:45 3 Riser recoil system not functioning.

16:45 4 Purge air system on the drilling BOP panel not
16:45 5 working.

16:45 6 BOP crane not certified.

16:45 7 Severe problems with the heating and ventilation
16:45 8 system.

16:45 9 No mushroom vents on the deck fire screens.

16:45 10 No ABS-approved hazardous area drawing on the
16:45 11 rig at the time of the assessment.

16:45 12 Two of the watertight hydraulic doors out of
16:45 13 service.

16:45 14 Fix foam pump system in the space between the
16:45 15 roof, the bridge, and inside the helideck, corroded out.

16:45 16 Freshwater piping in bad condition and was due
16:45 17 to corroded piping. Replace all freshwater piping and valves
16:45 18 as needed."

16:45 19 That's just part of it.

16:45 20 **BY MR. KINCHEN:**

16:46 21 **Q.** It is just part of it because it's a 112-page report,
16:46 22 isn't it?

16:46 23 **A.** It is. And these are pretty serious deficiencies, sir.

16:46 24 **Q.** A very intrusive survey, wasn't it?

16:46 25 **A.** Yes.

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16:46 1 Q. In the MER rating, ModuSpec's conclusion is that the
16:46 2 *Deepwater Horizon* compared favorably in 2010 to the rest of the
16:46 3 industry, correct?

16:46 4 A. That's what they said.

16:46 5 Q. You disagree with ModuSpec, don't you, sir?

16:46 6 A. I do, sir. This rig was, clearly from this list,
16:46 7 unseaworthy.

16:46 8 Q. ModuSpec's list, correct?

16:46 9 A. Yes.

16:46 10 Q. Now, let's move from ModuSpec to BP. You cite the
16:46 11 September 2009 BP audit in your report, correct?

16:47 12 A. Correct.

16:47 13 Q. You went over some of the findings, and you actually used
16:47 14 the word "shocking" yesterday when you were describing the BP
16:47 15 audit findings.

16:47 16 A. Yes.

16:47 17 Q. Now, did you determine Transocean's resolution of those
16:47 18 audit items from the BP 2009 audit?

16:47 19 A. Yes.

16:47 20 Q. Because certainly, BP monitored Transocean's resolution of
16:47 21 those audit items, didn't they?

16:47 22 A. Yes, sir, they did.

16:47 23 Q. Indeed -- and I think this was mentioned -- the rig was
16:47 24 held out of service at BP's request for a period of time in
16:47 25 2009 directly after the audit, right?

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16:47 1 A. Correct.

16:47 2 Q. The request was made September 16, 2009, correct?

16:47 3 A. That is correct.

16:48 4 Q. Ultimately, Transocean responded to and resolved those
16:48 5 items that BP requested be resolved before the rig be put back
16:48 6 in service, correct?

16:48 7 A. I think it was like six or eight items, yes, sir.

16:48 8 Q. Within seven days, Mr. Webster, correct?

16:48 9 A. That's correct.

16:48 10 Q. BP agreed that because of Transocean's response, drilling
16:48 11 operations could continue, correct?

16:48 12 A. Correct.

16:48 13 Q. Indeed, drilling did commence, right?

16:48 14 A. It did.

16:48 15 Q. Once the vessel was placed back in service, Transocean
16:48 16 continued closing out audit items at a rigorous pace, correct?

16:48 17 A. No.

16:48 18 **MR. KINCHEN:** Let's pull up 1377-1A.

16:55 19 **BY MR. KINCHEN:**

16:55 20 Q. This is an e-mail on October 5, 2009 from Angel Rodriguez,
16:49 21 correct?

16:49 22 A. Correct.

16:49 23 Q. Angel Rodriguez was BP's marine operations lead involved
16:49 24 in the audit, correct?

16:49 25 A. I believe so, yes.

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16:49 1 Q. Mr. Rodriguez indicates: "John, I wanted to mention that
16:49 2 the *DW Horizon* crew have done a good job in completing the
16:49 3 action items on this list."

16:49 4 Did I read that correctly?

16:49 5 A. Yes.

16:49 6 MR. KINCHEN: Let's go to NW328-A. This is
16:49 7 Mr. Norman Wong's deposition testimony, page 328, lines 14
16:49 8 through 8.

16:55 9 BY MR. KINCHEN:

16:49 10 Q. Mr. Wong was manager of BP's rig audit group, correct?

16:49 11 A. That's correct, in Aberdeen.

16:49 12 Q. The question is:

16:49 13 "QUESTION: It is true, is it not, sir, that the
16:49 14 Transocean *Deepwater Horizon* began rigorously closing out
16:49 15 audit findings during the month following the
16:49 16 September 2009 audit?

16:49 17 "ANSWER: Yes, that's true."

16:50 18 Did I read that correctly?

16:50 19 A. You did.

16:50 20 MR. KINCHEN: Let's go to 1379-1A.

16:55 21 BY MR. KINCHEN:

16:55 22 Q. This is an e-mail, again from Angel Rodriguez, the BP
16:50 23 marine operations lead involved in the audit. And one of the
16:50 24 things he indicates on October 20, 2009, to his peers is: "As
16:50 25 you can see, the *Horizon's* crew has been rigorously closing out

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16:50 1 the findings."

16:50 2 Did I read that correctly?

16:50 3 A. That's correct.

16:50 4 Q. Does this sound like an audit group that was fed up with
16:50 5 the *Deepwater Horizon*, as you indicated earlier today?

16:50 6 A. Well, these letters are not saying anything about that. I
16:50 7 mean, the point was there were 390 jobs with 3,545 man-hours.
16:50 8 But that takes quite a while to close out, sir. And in fact,
16:50 9 by April 19, 2010, they hadn't been closed out. There were
16:51 10 still 2,761 man-hours of work left. I don't call that rigorous
16:51 11 repairs.

16:51 12 Q. So again, you disagree with that phrase that BP is using
16:51 13 to describe its monitoring of the 2009 audit, correct?

16:51 14 A. This particular item. They must be talking about the
16:51 15 items that were set aside so they could go back to work.

16:51 16 MR. KINCHEN: Let's go to 1837-1A.

16:55 17 BY MR. KINCHEN:

16:55 18 Q. Here's Mr. Angel Rodriguez again, all the way now in
16:51 19 February, February 22, 2010, correct?

16:51 20 A. That's what it says.

16:51 21 Q. BP's marine operation lead involved in the audit, and it's
16:51 22 to Paul Johnson. Paul is the rig manager, correct?

16:51 23 A. Correct.

16:51 24 Q. "Paul, please pass on to the crew of the *Horizon* our
16:51 25 thanks in their hard work in completing a great deal of the rig

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16:52 1 audit findings."

16:52 2 Did I read that correctly?

16:52 3 A. That's correct.

16:52 4 Q. You disagree with Angel Rodriguez?

16:52 5 A. Sir, all I have is the records of the rig the day before
16:52 6 it sank, and there were 222 maintenance items overdue, total
16:52 7 estimated time to fix them, 2,761 hours. Maintenance tasks
16:52 8 overdue were six. There were 30 -- more than 216 days. There
16:52 9 were 115 additional jobs waiting parts. High-priority jobs
16:52 10 waiting parts, 76.

16:52 11 Q. You're not suggesting that BP's marine operations lead
16:52 12 involved in the audit didn't have all those spreadsheets
16:52 13 related to the audits that we just looked at, that you looked
16:52 14 at with Mr. Williams, in front of him.

16:52 15 You're not suggesting that he didn't have access to
16:53 16 the audit spreadsheets, are you?

16:53 17 A. No, he had access to the audit; but I'm not sure he had
16:53 18 access to the RMS reports. Because it says quite a few times,
16:53 19 and I think Mr. Williams said, they weren't producing those RMS
16:53 20 reports to the BP personnel on board.

16:53 21 **MR. KINCHEN:** Let's go to 1832-1A.

16:55 22 **BY MR. KINCHEN:**

16:55 23 Q. Now we move all the way to the end of March, March 30,
16:53 24 2010, less than a month before the incident, correct?

16:53 25 A. That's correct.

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16:53 1 Q. The subject is: "*Deepwater Horizon's* rig audit close-out
16:53 2 report status."

16:53 3 The point that I have highlighted is: "I want to
16:53 4 mention that the *Horizon's* crew completed 63 out of 70 findings
16:53 5 in a five-month period, which is commendable."

16:53 6 Did I read that correctly?

16:53 7 A. Right.

16:53 8 Q. You disagree with Mr. Rodriguez, don't you?

16:53 9 A. Well, there were 390 items as of September 17, 2009. They
16:54 10 have only done 63 out of 390.

16:54 11 Q. I'm going to talk about that 319 in a bit.

16:54 12 MR. KINCHEN: Let's go to AROD-181-A. It's a
16:54 13 call-out of the deposition of Angel Rodriguez. And it's
16:54 14 page 81, lines 9 through 24.

16:55 15 BY MR. KINCHEN:

16:55 16 Q. (Reading):

16:54 17 "QUESTION: Would it be fair to say, Mr. Rodriguez,
16:54 18 that you were satisfied that those seven items, though
16:54 19 unresolved, had a sufficient action plan to get them taken
16:54 20 care of?

16:54 21 "ANSWER: Yes."

16:54 22 Is that what Mr. Rodriguez said?

16:54 23 A. That's right, but they weren't -- they were unresolved. I
16:54 24 hadn't seen that before. I find that interesting.

16:54 25 Q. (Reading):

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16:54 1 "QUESTION: Okay. And would it also be fair to say
16:54 2 that you were satisfied that those issues, though
16:54 3 unresolved, didn't mean the rig was going to be unsafe or
16:55 4 unseaworthy?

16:55 5 "ANSWER: No."

16:55 6 Did I read that correctly?

16:55 7 A. You did.

16:55 8 Q. So you just made a comment about the seven items that
16:55 9 weren't resolved. You understand that BP's marine operations
16:55 10 lead, Angel Rodriguez, indicated that those seven items did not
16:55 11 make the rig unseaworthy or unsafe.

16:55 12 Did you understand that testimony?

16:55 13 A. I did, yes.

16:55 14 Q. Do you agree with that testimony, that conclusion by
16:55 15 Mr. Rodriguez?

16:55 16 A. I would like to see what those seven items are.

16:55 17 Q. In fact, you don't know what those seven items are, do
16:55 18 you?

16:55 19 A. No. And I've looked, and we've never been able to find
16:55 20 them. And that's -- by the way, since my deposition I've been
16:55 21 looking for those seven items.

16:55 22 Q. So it's your testimony all the documents that you have
16:55 23 been reviewing, all the documents that certainly are exhibits
16:55 24 in this case and will be testified to by other witnesses later,
16:55 25 that there was no indication as to what those seven items were?

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16:55 1 A. Not that I could find, no.

16:55 2 Q. Again, that's the review that you did to prepare for your
16:56 3 report and your testimony before the --

16:56 4 A. That's correct.

16:56 5 Q. One last issue with respect to that ISM Code. You have
16:56 6 testified that dry-docking of a DP MODU is required by the
16:56 7 ISM Code, correct?

16:56 8 A. Correct.

16:56 9 Q. You observed that the *Deepwater Horizon*, as you testified
16:56 10 here today, operated for nine years without a single
16:56 11 dry-docking, right?

16:56 12 A. Absolutely. Correct, sir.

16:56 13 Q. You called that, at least in your report and I think even
16:56 14 today, reckless and inexcusable, right?

16:56 15 A. Absolutely, yes. Still my opinion.

16:56 16 Q. I want to make sure I understand your basis. It's
16:56 17 because, according to you, Section 1.6 of the MODU Code
16:56 18 requires that each MODU have a minimum of two dry-dock surveys
16:57 19 during a five-year period, right?

16:57 20 A. That is correct.

16:57 21 Q. Now, I think you have indicated here today -- not in your
16:57 22 report, but today -- that if you turn the page, there is an
16:57 23 additional section that provides for an underwater inspection
16:57 24 in lieu of a dry-dock survey, correct?

16:57 25 A. There is.

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16:57 1 Q. It's called a UWILD. You've referred to it today as a
16:57 2 UWILD, right?

16:57 3 A. That is correct, sir, yes.

16:57 4 Q. That section states --

16:57 5 MR. KINCHEN: And we'll pull up 50428-14A.

16:55 6 BY MR. KINCHEN:

16:57 7 Q. That: "An administration may allow underwater inspections
16:57 8 in lieu of a dry-dock survey provided that they are satisfied
16:57 9 that such an inspection is equivalent to a dry-dock survey."

16:57 10 Did I read that correctly?

16:57 11 A. You did.

16:57 12 Q. And the *Deepwater Horizon* underwent two UWILDs over the
16:58 13 past four years before the incident, right?

16:58 14 A. It did, correct.

16:58 15 MR. KINCHEN: Pull up 3074-11A, an ABS survey status
16:58 16 report.

16:58 17 THE WITNESS: I would like to add something, though,
16:58 18 to the IMO Code, 2009 code, which you didn't show.

16:58 19 Section 1.6.6.3 states: "Should an incident
16:58 20 occur or a defect be discovered, which affects the safety of
16:58 21 the unit or the efficiency or completeness of the structure,
16:58 22 equipment, fittings, arrangements or materials, the person in
16:58 23 charge or the owner of the unit should report the incident or
16:58 24 defect at the earliest opportunity to the administration."

16:58 25 Clearly not done in this case.

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16:55 1 BY MR. KINCHEN:

16:58 2 Q. Well, as we've talked about, the Marshall Islands is
16:58 3 certainly not going to allow Transocean to indicate that it's
16:58 4 performed a UWILD and everything is good. They won't take
16:59 5 Transocean's word for it, will they?

16:59 6 A. No, they won't.

16:59 7 Q. In fact, as we see here in this ABS survey manager survey
16:59 8 status, the American Bureau of Shipping, not Transocean,
16:59 9 conducted the UWILD, correct?

16:59 10 A. They did.

16:59 11 Q. It was the American Bureau of Shipping, that same body
16:59 12 that went to the rig 20 times over the past five years before
16:59 13 the incident, it was that body that conducted the UWILD,
16:59 14 correct?

16:59 15 A. Yes. Now, they also produced a document called
16:59 16 Dry-Docking Survey dated 11-13 September 2009.

16:59 17 And it says quite clearly in Section 14: "For
16:59 18 underwater inspections in lieu of dry-docking survey,
16:59 19 associated with special survey, means are to be provided to
16:59 20 permit the opening of all sea valves for internal examination."

16:59 21 It also says: "Underwater inspections in lieu of
16:59 22 dry-docking survey may not be acceptable where there is a
17:00 23 record of abnormal deterioration or damage to the underwater
17:00 24 structure or where damage affecting the fitness of the unit is
17:00 25 found."

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17:00 1 There were records, sir, and they were not produced
17:00 2 to ABS. That's a violation of class. And the UWILD should
17:00 3 never have been performed had the surveyor been produced the
17:00 4 records on the thrusters, the watertight doors, the seawater
17:00 5 system, the fire main system. They are major deficiencies,
17:00 6 sir.

17:00 7 Q. Mr. Webster, one of the things that you have just
17:00 8 indicated that the American Bureau of Shipping would be charged
17:00 9 to do would be to review those records. And you don't think
17:00 10 that the American Bureau of Shipping would assume that there
17:00 11 have been no audits of the *Deepwater Horizon*, do you?

17:00 12 A. No, I wouldn't.

17:00 13 Q. Of course not. So they would expect to review audits with
17:00 14 respect to the safety management system, audits with respect to
17:01 15 the operator of the rig, because that's what operators of the
17:01 16 rig do, right? They audit?

17:01 17 A. They would be expected to see the audits for the ISM, not
17:01 18 necessarily third-party audits, because they may not be aware
17:01 19 of third-party audits such as ModuSpec or the other company
17:01 20 that was there, West.

17:01 21 Q. So it's your position with respect to all of these
17:01 22 different audits, is that you, Geoff Webster, unlike Jeff
17:01 23 Wolfe, unlike ABS, unlike DNV, unlike the U.S. Coast Guard, you
17:01 24 had special access that apparently Mr. Wolfe didn't have, for
17:01 25 example?

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17:01 1 A. No. When I go on a rig and I see a deplorable condition,
17:01 2 I'm going to start digging. That's what the rules say, sir, in
17:01 3 the classification rules. If you find defective items, go
17:01 4 deeper and keep going deeper. How they missed all the defects,
17:01 5 God only knows.

17:01 6 Q. There's the point. You're talking about what you would do
17:02 7 as a surveyor. You would dig deeper, right?

17:02 8 A. Yes, and so should a good, competent marine surveyor.

17:02 9 Q. It's your point that the trained ISM auditors, in 2005 and
17:02 10 2007 and in 2002 on the rig, did not do their job by digging
17:02 11 deeper, right?

17:02 12 A. Obviously not. They didn't find these deficiencies.

17:02 13 Q. It's your position that the United States Coast Guard
17:02 14 inspectors, in 2002, in 2003, in 2004, in 2005, 2006, 2007,
17:02 15 2008, and 2009, did not do their jobs and dig deeper, right?

17:02 16 A. Unfortunately, the Coast Guard goes on board for a couple
17:02 17 of hours and does a cursory inspection, as we saw from what
17:02 18 Mr. Odom said.

17:02 19 Q. We can say, though -- we can agree, at least, that in
17:02 20 2010, ModuSpec did do their job, right? You just have gone
17:02 21 over an entire list. So it's your position ModuSpec did their
17:03 22 job in 2010, right?

17:03 23 A. Yes.

17:03 24 Q. They just came up with an MER rating that you disagree
17:03 25 with, right?

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17:03 1 A. Based upon those deficiencies, absolutely. I mean, the
17:03 2 rig was clearly unseaworthy, based upon that list.

17:03 3 Now, what ModuSpec does, I can't say. I mean, how
17:03 4 they came up with that, those figures, I really don't
17:03 5 understand.

17:03 6 Q. You don't know?

17:03 7 A. I do know. I read the report.

17:03 8 Q. I just thought you said you can't say.

17:03 9 A. Well, I can't say why they rated it so high when it was
17:03 10 clearly in a deplorable condition.

17:03 11 Q. You have a major disagreement with ModuSpec on that?

17:03 12 A. I do.

17:03 13 Q. Let's go to the 2009 UWILD, and that's 50326-1A.

17:03 14 As we see here in 2009, the American Bureau of
17:03 15 Shipping, not Transocean, conducted a UWILD, correct?

17:04 16 A. They did, yes.

17:04 17 Q. You'll agree that under the ABS rules -- and certainly,
17:04 18 this rig was classified under the ABS rules, right?

17:04 19 A. Yes.

17:04 20 Q. Under the ABS rules of building and classifications, a rig
17:04 21 like the *Deepwater Horizon* can go more than 20 years before
17:04 22 dry-docking, correct?

17:04 23 A. I doubt it.

17:04 24 Q. You say you doubt it. I'm talking about the ABS rules of
17:04 25 building and classification. You're familiar with them, right?

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17:04 1 A. Yes. Every five years they are required to dry-dock two
17:04 2 times.

17:04 3 Q. It's your position that the ABS rules do not allow for a
17:04 4 rig to conduct UWILDs for more than 20 years?

17:04 5 A. Oh, it's possible.

17:04 6 Q. Well, let's --

17:04 7 A. But I mean, they have to report the deficiencies as
17:04 8 required under the classification regulations. I don't see how
17:05 9 you could run a MODU for 20 years without problems.

17:05 10 Number one, the propeller shafts, you know, they have
17:05 11 to be renewed every five years. The shafts wear out. There
17:05 12 was oil in the water.

17:05 13 That's one of the things that ABS didn't do, by the
17:05 14 way. Under the terms of the UWILD, they are supposed to review
17:05 15 the oil analyses and determine if there's water in the oil.
17:05 16 They obviously didn't do that.

17:05 17 Q. You would agree that, under the ABS rules, that a special
17:05 18 survey period is five years, correct?

17:05 19 A. I would.

17:05 20 Q. If we pull up -- I'm sorry?

17:05 21 A. No, I didn't say anything.

17:05 22 Q. If we pull up 50432-25A -- and these are the ABS rules for
17:05 23 building and classification.

17:05 24 Section 1.9 indicates, if we go to the last
17:06 25 paragraph -- and I think this is the point that's consistent

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17:06 1 with the code we just looked at -- starts out "For units."

17:06 2 "For units operating in salt water less than six
17:06 3 months each year, the maximum interval is not to exceed three
17:06 4 years. For units operating in freshwater, the interval between
17:06 5 dry-docking surveys is not to exceed five years."

17:06 6 Did I read that correctly?

17:06 7 A. That is correct.

17:06 8 Q. Now, if we go to Section 1.9.1 and it says: "Underwater
17:06 9 Inspection in Lieu of Dry-Docking Survey."

17:06 10 These are the ABS rules now?

17:06 11 A. Correct.

17:06 12 Q. And certainly since the *Deepwater Horizon* was classed by
17:06 13 the ABS, the *Deepwater Horizon* is subject to these rules,
17:06 14 right?

17:06 15 A. Correct.

17:06 16 Q. Section 1.9.1 indicates: "Underwater inspection by diver
17:06 17 equivalent to a dry-docking survey may be carried out at each
17:06 18 dry-docking survey up to and including Special Survey No. 4."

17:06 19 Did I read that correctly?

17:07 20 A. You did.

17:07 21 Q. Special Survey No. 1 is five years?

17:07 22 A. Yes.

17:07 23 Q. Special Survey No. 2 is 10 years?

17:07 24 A. Yes.

17:07 25 Q. Special Survey No. 3 is 15 years?

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17:07 1 A. Yes.

17:07 2 Q. And Special Survey No. 4 is 20 years, right?

17:07 3 A. Correct.

17:07 4 Q. So I will ask the question again. I know you indicated
17:07 5 you were familiar with the ABS rules. But the ABS rules allow
17:07 6 for UWILDs to occur all the way up to and in excess of 20 years
17:07 7 before dry-docking can occur, right?

17:07 8 A. Yes. Providing the regulations under ABS Underwater
17:07 9 Inspection in Lieu of dry-docking, UWILD, this is the guide for
17:07 10 the classification notation, April 2007.

17:07 11 It says quite clearly under Limitations: "Underwater
17:07 12 Inspection in Lieu of Dry-Docking (UWILD) may be restricted or
17:07 13 limited where there is a record or indication of abnormal
17:07 14 deterioration, existing recommendations, or damage to
17:07 15 underwater body, rudder, or propeller."

17:07 16 It also says: "UWILD may not be applicable if there
17:07 17 are outstanding recommendations for repairs to propeller,
17:08 18 rudder, stern frame, underwater structure, or sea valves."

17:08 19 Clearly we know from the records that this vessel had
17:08 20 serious problems, particularly with the thrusters leaking
17:08 21 water, watertight doors, seawater systems, on and on and on,
17:08 22 which were not reported to them. Therefore, a UWILD should not
17:08 23 have taken place. And certainly you can't run a UWILD up
17:08 24 20 years without having some mechanical problems, especially
17:08 25 with a MODU. Now, with another type of vessel that doesn't

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17:08 1 have such a stringent operation, it's possible; but I have
17:08 2 never heard of it.

17:08 3 Q. The ABS rules of classification disagree with you because
17:08 4 they say you can, right?

17:08 5 A. Provided there are no problems with the vessel, no
17:08 6 malfunctions, no deterioration.

17:08 7 Q. Indeed, just now you were reading from the ABS rules,
17:08 8 right?

17:08 9 A. Yes.

17:08 10 Q. The ABS is the body who was charged with conducting that
17:09 11 UWILD, correct?

17:09 12 A. Yes.

17:09 13 Q. So we can assume they're certainly familiar with their own
17:09 14 rules that provide the requirements that must exist before a
17:09 15 UWILD can occur. Can we agree on that?

17:09 16 A. Yes.

17:09 17 Q. Jeff Wolfe agreed with the American Bureau of Shipping as
17:09 18 to UWILD requirements, didn't he?

17:09 19 A. I believe he did.

17:09 20 Q. Let's go to Wolfe 27.

17:09 21 Mr. Wolfe states: "Under relevant ABS requirements,
17:09 22 the satisfactory completion of a UWILD may serve as an adequate
17:09 23 substitute for conventional dry-docking for periods of up to
17:09 24 20 years or longer."

17:09 25 Do I read that correctly?

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17:09 1 A. You do.

17:09 2 Q. That is, for the record, TRES-50381 at page 13,
17:09 3 Mr. Wolfe's report.

17:09 4 Let's move on to another area of your report, an area
17:10 5 you have touched on both today and a little bit yesterday, and
17:10 6 that's alarms. You have referred to it as -- the fire and gas
17:10 7 alarm system on the *Deepwater Horizon* as IACS, correct?

17:10 8 A. Correct.

17:10 9 Q. And IACS, as you've indicated, stands for integrated
17:10 10 automatic control system, right?

17:10 11 A. No, alarm and control system.

17:10 12 Q. You're exactly right. You're the expert; I'm not.

17:10 13 You have titled that section of your report as
17:10 14 "Kongsberg Simrad" because that's the company who designed the
17:10 15 system, right?

17:10 16 A. Correct, and maintained it.

17:10 17 Q. I would like to first start with the general alarm, if we
17:10 18 can. And it's your understanding that the general alarm was
17:10 19 configured for manual activation, right?

17:10 20 A. That is correct.

17:10 21 Q. Meaning that it required human intervention before it
17:10 22 would sound, correct?

17:10 23 A. That is correct, sir, yes.

17:10 24 Q. Let's start by talking about the design of the system.

17:10 25 Mr. Webster, will you agree that the system was

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17:11 1 actually designed by Kongsberg so that the general alarm could
17:11 2 be operated in manual or automatic mode?

17:11 3 A. Yes.

17:11 4 Q. Now, it's your position that Transocean should have put
17:11 5 the general alarm in automatic mode, right?

17:11 6 A. Yes, after a certain period, two-minute warning.

17:11 7 Q. Now, that's your position; but you will agree that the
17:11 8 United States Coast Guard certainly provides that that is not
17:11 9 required?

17:11 10 A. I disagree with that.

17:11 11 Q. Let's --

17:11 12 A. I have NVIC 2-89 right here, sir.

17:11 13 Q. Let's let everybody take a look at it as we go through it.
17:11 14 You can read from yours, and I will read from the one on the
17:11 15 screen. It is 1119-2A.

17:11 16 In Section 5.2 is the -- I won't go over the
17:12 17 beginning part that indicates the subject matter because we
17:12 18 will both agree that it applies to DP MODUs like the
17:12 19 *Deepwater Horizon*, right?

17:12 20 A. It does, but it also applies to merchant ships.

17:12 21 Q. Certainly, but we are --

17:12 22 A. It's sort of a generic writeup.

17:12 23 Q. In Section 5.2, the highlighted portion indicates: "The
17:12 24 general alarm is intended to be sounded only after a deliberate
17:12 25 decision by a member of the crew."

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17:12 1 Did I read that correctly?

17:12 2 A. You did.

17:12 3 Q. Do you agree with that statement?

17:12 4 A. The statement I agree with, yes.

17:12 5 Q. "This position is consistent with SOLAS Chapter 11-2,
17:12 6 Regulation 13.1.14."

17:12 7 You agree with that, correct?

17:12 8 A. I do.

17:12 9 Q. The general alarm must only be initiated manually and is
17:12 10 intended to be sounded by the person on watch or other
17:12 11 responsible member of the crew only after the determination has
17:12 12 been made that an emergency situation exists which warrants
17:13 13 mustering the crew and parameters [verbatim] (if any).

17:13 14 Did I read that correctly?

17:13 15 A. You did.

17:13 16 Q. The United States Coast Guard doesn't say the general
17:13 17 alarm may only be initiated manually --

17:13 18 A. You didn't finish reading the sentence --

17:13 19 Q. I'm going to get there. We are doing it a sentence at a
17:13 20 time. So bear with me.

17:13 21 A. No, you didn't -- you skipped it.

17:13 22 Q. If I skipped something, I didn't mean it, but let's --
17:13 23 I'll read the sentence over again. Okay?

17:13 24 We are talking about the sentence "The general
17:13 25 alarm."

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17:13 1 A. Right.

17:13 2 Q. If I skipped a line, it was not intentional.

17:13 3 "The general alarm must only be initiated manually
17:13 4 and is intended to be sounded by the person on watch or other
17:13 5 responsible member of the crew only after the determination has
17:13 6 been made that an emergency situation exists which warrants
17:13 7 mustering the crew and passengers (if any)."

17:13 8 Did I read the whole sentence?

17:13 9 A. Yes.

17:14 10 Q. The United States Coast Guard doesn't say the general
17:14 11 alarm "must." The United States -- it doesn't say "may"; it
17:14 12 says "must," right?

17:14 13 A. It does; but SOLAS says, sir: "SOLAS permits the general
17:14 14 alarm to be sounded automatically by a safety monitoring
17:14 15 system, such as a fire detection and alarm system, if an
17:14 16 initiating fire alarm is not acknowledged within a reasonable
17:14 17 time (two minutes). This is permitted for spaces other than
17:14 18 passenger spaces."

17:14 19 This vessel was built under the IMO MODU Code, not
17:14 20 necessarily the United States Coast Guard Code.

17:14 21 Q. The last sentence -- I was going to get there, but you
17:14 22 read it. That's fine.

17:14 23 Permit. We can agree that "permit" is not a
17:14 24 mandate, correct?

17:14 25 A. That's correct.

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17:14 1 Q. It's your position that the *Deepwater Horizon* should have
17:14 2 configured the general alarm based on what SOLAS permits,
17:15 3 correct?

17:15 4 A. Yes.

17:15 5 Q. But the United States Coast Guard doesn't require that,
17:15 6 does it?

17:15 7 A. Not the way it's written there, no.

17:15 8 Q. So Transocean's configuration of the general alarm -- I
17:15 9 think we are in agreement about what that configuration is --
17:15 10 that configuration is consistent with the United States
17:15 11 Coast Guard regulations, isn't it?

17:15 12 A. It is, but not with SOLAS.

17:15 13 Q. Okay. Well, again, you say "not with SOLAS." Let's nail
17:15 14 this down.

17:15 15 We agree that SOLAS permits this alternative method,
17:15 16 correct?

17:15 17 A. Yes. It says that it is to alarm after two minutes, which
17:15 18 I believe that's how the original general alarm was designed on
17:15 19 the *Deepwater Horizon*.

17:15 20 Q. Now, let's cover two things. We have already talked about
17:15 21 Kongsberg's design, that it initially was designed to allow for
17:16 22 both manual and automatic. And I asked if you agreed with that
17:16 23 and you said yes. Do you still agree with it?

17:16 24 A. I still do.

17:16 25 Q. So back to the point about SOLAS, because I thought I

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17:16 1 heard you say that -- when I asked if it was consistent with
17:16 2 the United States Coast Guard regulations -- I may have
17:16 3 misheard -- I thought you said, "Yes, but not SOLAS." And
17:16 4 that's what I want to talk about.

17:16 5 Would you agree that with respect to SOLAS, there's
17:16 6 not a mandate by SOLAS; it essentially just permits this
17:16 7 alternative method?

17:16 8 A. Yes, but it does not say you cannot do it. And, I mean,
17:16 9 good practice is to do -- is to have an automated general
17:16 10 alarm, especially on a rig with gas.

17:16 11 Q. Transocean's configuration is not only consistent with the
17:16 12 United States Coast Guard but it doesn't violate SOLAS, does
17:16 13 it?

17:16 14 A. No.

17:17 15 Q. Certainly Jeff Wolfe agreed with the Coast Guard's
17:17 16 position, didn't he?

17:17 17 A. He did. He is an ex-Coast Guard guy, so I would expect
17:17 18 that.

17:17 19 Q. Mr. Wolfe had eight years total as chief MSO in
17:17 20 New Orleans, didn't he?

17:17 21 A. He did.

17:17 22 **MR. KINCHEN:** Let's pull up Wolfe 4.

17:17 23 **BY MR. KINCHEN:**

17:17 24 Q. "The *Deepwater Horizon's* fire and gas detection and alarm
17:17 25 system was designed, installed, and maintained in accordance

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17:17 1 with relevant rules, engineering principles of hierarchy, and
17:17 2 common industry practices."

17:17 3 That's what Mr. Wolfe said, right?

17:17 4 A. He did. He was wrong.

17:17 5 Q. Mr. Wolfe was wrong about, according to you, the
17:17 6 interpretation of the United States Coast Guard regulations
17:17 7 that he spent 30 years at, eight years as chief of the marine
17:17 8 surveying office in New Orleans?

17:17 9 A. Yeah, but he wasn't a practical person, if you read his
17:17 10 résumé. I don't want to talk bad about the man, but I don't
17:18 11 think he was practical and I don't think he had been on rigs,
17:18 12 and he certainly wasn't an engineer that had served much time
17:18 13 on board rigs.

17:18 14 So, I mean, he has talked about the alarm system and
17:18 15 the fire and gas detection system. You heard yesterday and
17:18 16 today going through with Mr. Williams, that right from the
17:18 17 get-go they were inhibiting alarms. They weren't maintaining
17:18 18 the alarms. They were switching them off. It's documented,
17:18 19 sir. I'm not making this up.

17:18 20 Q. Well, let's --

17:18 21 **MR. KINCHEN:** For the record, pull that up, because I
17:18 22 need to provide the Court the citation. It's TRES-50003 at
17:18 23 page 27, statement from Mr. Wolfe as an officer of the
17:18 24 Coast Guard.

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17:18 1 BY MR. KINCHEN:

17:18 2 Q. You have never been a U.S. Coast Guard surveyor, have you?

17:18 3 A. No, I haven't. I have been on board ships when the
17:18 4 Coast Guard have boarded for a survey, yes, many times.

17:19 5 Q. Now, you were talking about the alarm system. You say
17:19 6 it's been documented, and let's go to the most recent
17:19 7 documentation of the alarm system. Because I agree it's been
17:19 8 documented; and you would agree that intrusive survey that we
17:19 9 have talked about today, the 2010 ModuSpec survey, included an
17:19 10 inspection of the fire detection system?

17:19 11 A. Correct.

17:19 12 Q. It included an inspection and audit of the gas detection
17:19 13 system, didn't it?

17:19 14 A. It did.

17:19 15 MR. KINCHEN: Let's pull up 88-91A.

17:19 16 BY MR. KINCHEN:

17:19 17 Q. This is their conclusion, ModuSpec's conclusion, based
17:19 18 upon its 2010 audit regarding the fire detection system,
17:19 19 correct?

17:19 20 A. Yes.

17:19 21 Q. I have highlighted here: "A status check via the VMS
17:20 22 system found no detectors inhibited or any in alarm."

17:20 23 Did I read that correctly?

17:20 24 A. Yes.

17:20 25 Q. "No detectors" --

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17:20 1 A. Yes.

17:20 2 Q. -- "inhibited." Do you agree with that?

17:20 3 A. I guess that's what they found.

17:20 4 Q. Next, they indicate: "A review of maintenance history
17:20 5 showed records being up-to-date and good comments being made in
17:20 6 the work order notes. The equipment was in good condition."

17:20 7 That's ModuSpec's conclusion in 2010, correct?

17:20 8 A. That is correct.

17:20 9 Q. Do you agree with ModuSpec?

17:20 10 A. I can't agree. I mean, they could have gone in the
17:20 11 computer on the IACS and enabled them while they were on board.

17:20 12 Q. They were there for 12 days, correct?

17:20 13 A. Yes. History shows that it's an ongoing problem. There
17:20 14 were a lack of spare parts. I mean . . .

17:20 15 Q. Indeed, history is what they looked at. I won't repeat
17:20 16 the whole sentence; but the second highlighted sentence
17:21 17 indicates a review of maintenance history, correct?

17:21 18 A. Yes.

17:21 19 Q. Let's take a look at 88-93A, gas detection system.

17:21 20 The highlighted point made here is that: "There were
17:21 21 no detectors either in fault or inhibited condition other than
17:21 22 the units being serviced."

17:21 23 Did I read that correctly?

17:21 24 A. Yes, you did.

17:21 25 Q. Now, Mr. Webster, you have surveyed yourself DP MODUs in

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17:21 1 your career, right?

17:21 2 A. I have.

17:21 3 Q. And isn't it correct that you don't recall the
17:22 4 configuration of the general alarms for any of those DP MODUs?
17:22 5 Correct?

17:22 6 A. That is absolutely true.

17:22 7 Q. And you were -- I'm sorry. I cut you off.

17:22 8 A. No, that's true.

17:22 9 Q. You were there for, in part, to determine whether or not
17:22 10 those DP MODUs were seaworthy, correct?

17:22 11 A. Correct.

17:22 12 Q. As far as you know, all of these rigs that you surveyed
17:22 13 yourself may have had a general alarm system that was
17:22 14 configured exactly like the *Deepwater Horizon*, correct?

17:22 15 A. It's possible, yes, sir.

17:22 16 Q. Before we leave the issue of general alarms, you state in
17:22 17 your report --

17:22 18 **MR. KINCHEN:** If we can pull that up, 22700-12B.

17:22 19 **BY MR. KINCHEN:**

17:22 20 Q. -- that the general alarm never sounded.

17:22 21 A. Correct.

17:22 22 Q. Is that still your position?

17:22 23 A. Well, I think -- my position is I don't know because
17:22 24 Andrea Fleytas said she pressed it, it didn't work. And then
17:23 25 Mr. Keplinger supposedly pressed it. There are statements from

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17:23 1 other crew members that they didn't hear it, Daun Winslow, I
17:23 2 believe. So I can't honestly state whether I know it or not.
17:23 3 There's too much conflicting evidence.

17:23 4 Q. Now, at the time you submitted your report that was going
17:23 5 to go to this Court, you didn't indicate that you didn't know,
17:23 6 right? You indicated that they never sounded, correct?

17:23 7 A. That's what I read.

17:23 8 Q. Is there any way for this Court to know which of your
17:23 9 statements in your report that you state as a conclusion are
17:23 10 things that you don't actually know?

17:23 11 A. I don't think so, no. I was under the impression, when I
17:23 12 wrote my report, that the alarm had not been sounded.

17:23 13 Since then I have read Ms. Fleytas' statement that
17:23 14 she gave to Transocean, and she says it was pressed. So --
17:24 15 Daun Winslow said he never heard it. So that's what I went on.

17:24 16 Q. Mr. Webster, you understand the Coast Guard took
17:24 17 statements from crew members aboard the rig?

17:24 18 A. I did.

17:24 19 Q. They took those directly after the incident, right?

17:24 20 A. I do.

17:24 21 Q. You understand that some of those crew members directly
17:24 22 commented on the existence of alarms, right?

17:24 23 A. I don't want to comment on it because I'm not allowed to
17:24 24 talk about the JIT, so --

17:24 25 Q. Let's be clear about this. These are statements that were

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17:24 1 taken by the Coast Guard directly after the incident, well
17:24 2 before there was any convening of a JIT. This is part of their
17:24 3 incident process when an incident occurs. You understand that,
17:24 4 don't you?

17:24 5 A. I do.

17:24 6 Q. Did you review those statements?

17:24 7 A. I don't recall.

17:24 8 Q. These are statements of practically every crew member
17:25 9 regarding the events that occurred that night, and you don't
17:25 10 recall whether or not you reviewed them?

17:25 11 A. No, I don't. I just remember Daun Winslow saying he never
17:25 12 heard it.

17:25 13 Q. To be clear, the question to Mr. Winslow related to before
17:25 14 the explosion, correct?

17:25 15 A. I believe so.

17:25 16 Q. So he certainly didn't indicate that he never heard them,
17:25 17 right?

17:25 18 A. That was not my impression.

17:25 19 Q. Let's take a look at TRES-50417-1A. This is a statement
17:25 20 from Jonathan Kersey, a crew member.

17:25 21 Do you recall Mr. Kersey's name?

17:25 22 A. Frankly, no.

17:25 23 Q. This is dated the day after, April 21, 2010, right?

17:25 24 A. Yes.

17:25 25 Q. Certainly the event occurred in the late hours of

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17:25 1 April 20, correct?

17:25 2 A. Yes.

17:25 3 Q. He states that "the general alarm was sounded. Following
17:26 4 the alarm, an explosion took place."

17:26 5 That's what he says, correct?

17:26 6 A. Yes.

17:26 7 Q. You didn't consider that in preparing your report, did
17:26 8 you?

17:26 9 A. I didn't see that report.

17:26 10 MR. KINCHEN: Let's go to 50418-1A.

17:26 11 BY MR. KINCHEN:

17:26 12 Q. This is a statement from Leo Lindner. Do you recall that
17:26 13 name?

17:26 14 A. No, I do not.

17:26 15 Q. Dated also the day after the incident, correct?

17:26 16 A. Correct.

17:26 17 Q. He indicates that the general alarm went off. Do you see
17:26 18 that?

17:26 19 A. I do.

17:26 20 Q. You didn't include that in preparing your report, did you?

17:26 21 A. No. But, I mean, to press the general alarm after the
17:26 22 explosion is a bit too late, isn't it? It should have been
17:26 23 pressed way before that, as soon as they saw the gas and mud
17:26 24 spewing over.

17:26 25 Q. In your --

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17:26 1 A. It would have maybe saved some people's lives.

17:26 2 Excuse me, sir. It may have saved some people's
17:26 3 lives if they had pressed the general alarm as soon as they saw
17:26 4 the gas spewing onto the rig. To press it afterwards, when the
17:26 5 engine blew up, the noise, the fire and everything else, I
17:27 6 don't see any point, any use to it.

17:27 7 Q. But again, the distinction you're making now is different
17:27 8 from the statement in your report, correct?

17:27 9 A. In what way?

17:27 10 Q. You don't indicate any distinction before or after the
17:27 11 explosions when you state in your report that the general alarm
17:27 12 never sounded?

17:27 13 A. No, I don't.

17:27 14 Q. I am not going to take up the Court's time. I will
17:27 15 represent to you that I have 24 more statements that indicate
17:27 16 that the general alarm went off.

17:27 17 If you would have reviewed those statements, would
17:27 18 that have caused you to take a different position than the one
17:27 19 you took in your report and indicate you no longer actually
17:27 20 believe?

17:27 21 A. I, more likely than not, would have taken the position I
17:27 22 just told you, that they pressed the general alarm too late,
17:27 23 after the explosion. So yes, it would have changed my opinion,
17:27 24 whether it rang or not.

17:27 25 Q. Mr. Webster, let's move from the general alarms to the

17:28 1 emergency shutdown system.

17:28 2 **THE COURT:** Mr. Kinchen, if you are moving to another
17:28 3 subject, this might be a good time -- we are going to break at
17:28 4 5:30.

17:28 5 **MR. KINCHEN:** It's a perfect time, Your Honor.

17:28 6 **THE COURT:** I'm not trying to interrupt you.

17:28 7 **MR. KINCHEN:** Not at all.

17:28 8 **THE COURT:** Unless you can finish the next subject in
17:28 9 a minute or two, which I doubt, we'd just as soon break right
17:28 10 here. It's just about 5:30.

17:28 11 Before everyone gets up and leaves, remember
17:28 12 Judge Shushan is coming over in a couple minutes to get with
17:28 13 counsel to marshal the exhibits.

17:28 14 It's my understanding -- well, Mr. Webster, you
17:28 15 will have to return Monday morning.

17:28 16 **THE WITNESS:** Yes, sir.

17:28 17 **THE COURT:** Whenever we finish Mr. Webster, the next
17:28 18 witness is still -- Transocean still plans to call Mr. Barnhill
17:28 19 next?

17:28 20 **MR. MILLER:** Yes, Your Honor.

17:28 21 **THE COURT:** After him -- I'm probably getting overly
17:28 22 optimistic here. But after him -- I know Mr. Newman is coming
17:29 23 Tuesday morning. If we have time on Monday for another
17:29 24 witness, who would that be in between the two of them?

17:29 25 **MR. BRIAN:** It will probably be, then, David Young, I

17:29 1 think, Your Honor. It was going to be Mr. Childs, but I think
17:29 2 Mr. Young is a little bit shorter and less complicated.

17:29 3 Mr. Barnhill -- given that we are continuing
17:29 4 with Mr. Webster, I suspect Mr. Barnhill will take the rest of
17:29 5 Monday.

17:29 6 **THE COURT:** He may well.

17:29 7 Mr. Young, you said?

17:29 8 **MR. BRIAN:** David Young. But I suspect --

17:29 9 **THE COURT:** Is he an expert or a fact witness?

17:29 10 **MR. BRIAN:** A fact witness, Your Honor.

17:29 11 But I anticipate it will probably just be
17:29 12 Mr. Webster and Mr. Barnhill. Tuesday morning would be
17:29 13 Mr. Newman.

17:29 14 **MR. LANGAN:** Your Honor, this may be overly
17:29 15 optimistic. I don't know if Transocean is going to complete
17:29 16 its case between now and Thursday. But if they do, I guess
17:29 17 Halliburton would be up next.

17:29 18 We have not heard -- it would be nice to hear
17:29 19 from Halliburton who their first witness or two might be. I
17:29 20 have had some conversations with Mr. Godwin. That information
17:29 21 has not emerged yet. But before we leave for the weekend, if
17:29 22 at least we could get that marker out there.

17:29 23 **THE COURT:** Can we get that by tomorrow, Mr. Godwin,
17:30 24 a good faith list of who will be your first several witnesses,
17:30 25 your first week's witnesses?

17:30 1 **MR. GODWIN:** Yes, Your Honor.

17:30 2 I did tell Andy, when we talked about it, that
17:30 3 my goal was to have it to him by tomorrow, Monday at the
17:30 4 latest. But I will do it by the end of the day tomorrow,
17:30 5 Your Honor, the first week of witnesses. We will circulate it
17:30 6 tomorrow by the close of business.

17:30 7 **THE COURT:** That will be fine.

17:30 8 **MR. GODWIN:** Thank you, Judge.

17:30 9 **MR. LANGAN:** Thank you, Your Honor.

17:30 10 Thanks, Mr. Godwin.

17:30 11 **THE COURT:** Anybody have anything else?

17:30 12 All right. Have a good weekend, and stick
17:30 13 around for Judge Shushan, those of you who need to be here for
17:30 14 that.

17:30 15 **THE DEPUTY CLERK:** All rise.

17:30 16 (Recess.)

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17:30 1 (The following proceedings were held before
17:30 2 The Honorable Sally Shushan.)

17:38 3 **THE COURT:** The real brains behind the marshaling
17:39 4 operation is Regina. Does everybody agree with that? Let's
17:39 5 have a round of applause.

17:39 6 Regina, seriously, thank you for all your hard
17:39 7 work on it. It makes these conferences go very quickly, so I'm
17:39 8 very appreciative.

17:39 9 Let's do a couple of housekeeping matters.
17:39 10 First up, I understand that the United States wants to admit
17:39 11 three additional bundles. That is Geoff Boughton, Robert
17:39 12 Florence, and Robert Turlak. Is there any objection?

17:39 13 **MR. LANGAN:** Your Honor, Andy Langan for BP. I just
17:39 14 want to make sure we have an opportunity to cross-designate and
17:39 15 file objections. I assume this is still in process. I'm not
17:39 16 sure if they are done or not; but if they are not, we certainly
17:39 17 want the opportunity to respond.

17:39 18 **THE COURT:** I assumed these were bundles.

17:40 19 **MR. HERMAN:** I think they are done.

17:40 20 **MR. O'ROURKE:** They're done. They were done a year
17:40 21 ago, objections, exhibits, the whole works.

17:40 22 **MR. LANGAN:** Then we are good.

17:40 23 **MR. O'ROURKE:** Let's move them in.

17:40 24 **THE COURT:** I think they're good. They're bundles.

17:40 25 **MR. BRIAN:** Your Honor, Brad Brian for Transocean.

17:40 1 May I ask who they are being admitted against?

17:40 2 **MR. HERMAN:** Everyone.

17:40 3 **MR. BRIAN:** Since we have settled with the Department
17:40 4 of Justice . . .

17:40 5 **THE COURT:** Then, obviously, the DOJ is not admitting
17:40 6 it as to TO. Is that correct?

17:40 7 **MR. O'ROURKE:** That is incorrect.

17:40 8 **THE COURT:** That is incorrect?

17:40 9 **MR. O'ROURKE:** We have settled the first claim only
17:40 10 against Transocean but not our second.

17:40 11 We are moving these in against BP predominantly,
17:40 12 but I'm not going to say we are not moving anything in there
17:40 13 against Transocean.

17:40 14 **THE COURT:** Okay.

17:40 15 **MR. HERMAN:** We'll cross-move against everyone just
17:40 16 for --

17:40 17 **MR. O'ROURKE:** Transocean's counterdesignations and
17:40 18 BP's, they're in the bundles, and their objections also.

17:40 19 **THE COURT:** I appreciate your cross-designation,
17:40 20 Mr. Herman. Thank you.

17:40 21 **MR. IRPINO:** For the record, the Boughton, Florence,
17:40 22 and Turlak depo bundles are in my hand. I can give them to
17:40 23 Stephanie. We received them directly from inData.

17:40 24 **THE COURT:** That's good. Those will be admitted.

17:41 25 Relative to video clips, as I understand it, the

17:41 1 video clips for Hayward and Lacy were in fact used in lieu of
17:41 2 live testimony but have not been formally introduced. Do I
17:41 3 have a motion to go ahead and introduce those at this time?

17:41 4 **MR. IRPINO:** Yes, Your Honor. PSC moves to have
17:41 5 those introduced.

17:41 6 **THE COURT:** Those will be admitted.

17:41 7 Let me remind everyone, please, of the
17:41 8 8:00 deadline for providing all other parties with your
17:41 9 demonstratives. There's been a little hiccup in that. That
17:41 10 will happen, but for the most part, please try to comply with
17:41 11 that deadline.

17:41 12 On demonstratives -- and I will cover this at
17:41 13 the work group meeting tomorrow -- some parties are taking
17:41 14 other parties' demonstratives and rebranding them to be their
17:42 15 own demonstratives, which is fine and dandy. If you want to
17:42 16 use a demonstrative, pick it up. Try, though, not to rebrand
17:42 17 it, because that will be creating duplicates that don't need to
17:42 18 exist. So we would appreciate your doing that. If you want to
17:42 19 use it -- no one will use it against you if you use a PSC
17:42 20 demonstrative, for example.

17:42 21 Any other housekeeping matters we should take up
17:42 22 before we get to the actual marshaling?

17:42 23 **MR. HERMAN:** We just wanted to put on the record -- I
17:42 24 don't know if you want me to read all these out or just provide
17:42 25 the list. But we covered briefly in court -- we want to offer,

17:42 1 file, and introduce formally for the record the Fifth Amendment
17:42 2 witnesses' depositions for whom we have sought adverse
17:42 3 inferences. I've got a list of those, or I can read them out.

17:43 4 **THE COURT:** Why don't you go ahead and read those out
17:43 5 so everybody will be advised of who we're talking about.

17:43 6 **MR. HERMAN:** Steven Bertone, Andrea Fleytas, Mark
17:43 7 Hafle, Christopher Haire, Jimmy Harrell, Caleb Holloway, James
17:43 8 Ingram, Robert Kaluza, Curt Kuchta, Brian Morel, Micah Sandell,
17:43 9 Alan Seraile, and Cathleenia Willis.

17:43 10 Apparently there were bundles created, but they
17:43 11 are all under consideration with Judge Barbier as to whether he
17:43 12 will or will not make certain adverse inferences.

17:43 13 **MR. O'ROURKE:** Excuse me, Mr. Herman.

17:43 14 **MR. HERMAN:** Are there others too?

17:43 15 (Discussion off the record.)

17:43 16 **MR. LANGAN:** Your Honor, we had this conversation
17:43 17 with Judge Barbier earlier today. I guess we understand
17:44 18 there's a need to identify these, but we also understand that
17:44 19 Your Honor put in a process to brief and have Judge Barbier
17:44 20 decide the "5A" inferences. We just don't see the need to
17:44 21 spread these of record, the actual depositions themselves,
17:44 22 unless and until there's actually been findings of adverse
17:44 23 inference. I don't see that point.

17:44 24 I think Judge Barbier said he was going to take
17:44 25 another look at that.

17:44 1 MR. HERMAN: What's the issue? You don't want us to
17:44 2 post them on the website?

17:44 3 MR. LANGAN: That's one issue.

17:44 4 MR. HERMAN: Is that the bottom line?

17:44 5 MR. LANGAN: That's one of the bottom lines.

17:44 6 MR. HERMAN: Does the Court want us not to post them?

17:44 7 THE COURT: Why don't we hold off on posting them for
17:44 8 the time being. I do want to speak to Judge Barbier. I'm not
17:44 9 monitoring the proceedings, so I'm not really real-time with
17:44 10 you guys, which is good. Why don't we hold off on introduction
17:44 11 into evidence formally and posting them on the website until I
17:44 12 have the opportunity to discuss it.

17:44 13 MR. LANGAN: Thank you, Your Honor.

17:44 14 THE COURT: Good enough. We all know who we are
17:44 15 talking about now. That's helpful.

17:45 16 Mr. Brian.

17:45 17 MR. BRIAN: Your Honor, you issued an order -- I
17:45 18 think it was yesterday -- about marking of call-outs for
17:45 19 exhibits, which we appreciate. Your order is consistent with
17:45 20 but slightly different than the practice at least that, we as
17:45 21 Transocean, have been using.

17:45 22 What we have done is we have marked -- let's
17:45 23 take your example of TRES-1229.3.1. We have done 1229-3 for
17:45 24 page 3 and with an A or a B to indicate the first call-out or
17:45 25 the second call-out. We are happy to conform with your system,

17:45 1 but we would ask if we could do that going forward, as opposed
17:45 2 to retroactively.

17:45 3 **THE COURT:** Absolutely. And let me be clear. This
17:45 4 is not a retroactive order. Nobody needs to redo anything,
17:45 5 because I think we've have sorted it out and I think we have it
17:45 6 straight; but going forward, if you could follow this policy.
17:45 7 I'm going to discuss this a little bit further at tomorrow
17:45 8 morning's work group conference because this could be read to
17:46 9 presume that everybody has pre-prepared their call-outs. So we
17:46 10 have to talk about what happens when you just want to call it
17:46 11 out as things happen on the fly. So we will cover that
17:46 12 tomorrow, but it's definitely prospective in nature.

17:46 13 **MR. IRPINO:** Thank you, Your Honor. Anthony Irpino.

17:46 14 I did speak with Carter, and one of the things
17:46 15 that we agreed to, as long as it's okay with the Court, is --
17:46 16 Transocean does a mark with a dash instead of a dot -- that we
17:46 17 are fine with that in terms of what gets shown on the screen
17:46 18 but that the list we will submit with you -- Transocean is okay
17:46 19 with just putting a dot into the actual list, but the exhibits
17:46 20 themselves, we told them it would be fine to continue going
17:46 21 with the dash.

17:46 22 **MR. BRIAN:** We appreciate that because we paid a
17:46 23 vendor a lot of money for that dash.

17:46 24 **THE COURT:** Look, guys, if you all can agree to
17:46 25 something, it's fine; but we just want to get on the same page

17:47 1 so that we don't create headaches for Regina --

17:47 2 **MR. BRIAN:** The other issue, Your Honor --

17:47 3 **MR. HERMAN:** -- and Judge Barbier.

17:47 4 **MR. BRIAN:** You will recall that, last week, BP's
17:47 5 counsel sent you an e-mail suggesting a protocol by which a
17:47 6 party would reserve the right to then offer the entire exhibit.

17:47 7 I know Judge Barbier much prefers to get the
17:47 8 call-outs so he can focus on what the parties think is really
17:47 9 relevant. But for the record, there are some exhibits that we
17:47 10 are all reserving the right to offer. I think over the weekend
17:47 11 we intend to go back and look at those exhibits where we may
17:47 12 want to offer the full exhibit for the record. We will try to
17:47 13 do that as early as possible.

17:47 14 **THE COURT:** I'm aware of that. We have been thinking
17:47 15 about how we are going to handle that. I think we will take
17:47 16 that up at the work group meeting. If we don't get it resolved
17:47 17 by agreement tomorrow, we will certainly get it resolved next
17:47 18 week.

17:47 19 **MR. BRIAN:** Thank you, Your Honor.

17:47 20 **THE COURT:** No question that we need to figure out
17:47 21 how we are going to do that.

17:47 22 **MR. HERMAN:** Steve Herman.

17:47 23 Just for the Court's information, after we had
17:48 24 that discussion along those lines last week, we sent out an
17:48 25 e-mail. I think that most parties, based on the e-mail traffic

17:48 1 I have seen, have been fairly receptive to the idea that there
17:48 2 would probably be however many -- there may be disagreement
17:48 3 about the number or what the exhibits are, but that there
17:48 4 probably is some set of exhibits that may be a little bit
17:48 5 voluminous but everybody considers or most everybody considers
17:48 6 fairly essential to the case. Pretty much everybody is going
17:48 7 to want the entirety in the record, to the extent that's
17:48 8 acceptable to the Court.

17:48 9 **THE COURT:** Just so you know what my current thinking
17:48 10 is -- and it's always subject to change -- is that on our
17:48 11 closing marshaling day -- we are not going to have a document,
17:48 12 but on our closing marshaling day, we could consider taking
17:48 13 those documents that you are sure you want to introduce in full
17:48 14 and introducing those at the end of the evidence so it doesn't
17:48 15 clutter Judge Barbier's review as we go.

17:49 16 **MR. BRIAN:** That's fine, Your Honor.

17:49 17 **THE COURT:** It's not decided yet. That's what I --

17:49 18 **MR. BRIAN:** I know that I and some other counsel are
17:49 19 getting pressure from the legal scholars on our team to put the
17:49 20 entire --

17:49 21 **THE COURT:** Are there some legal scholars on this?

17:49 22 **MR. BRIAN:** Not among us, but others in the
17:49 23 background --

17:49 24 **THE COURT:** I see.

17:49 25 **MR. BRIAN:** -- who think we need to introduce the

17:49 1 full exhibits in some cases. We're going to take a look at
17:49 2 that.

17:49 3 **THE COURT:** Everybody keep in mind, no document dump.
17:49 4 We are not going to take 2 million documents into evidence.

17:49 5 Okay. What else?

17:49 6 **MR. REGAN:** Good afternoon, Your Honor. Matt Regan
17:49 7 on behalf of BP.

17:49 8 This may be an issue you want to take up
17:49 9 tomorrow morning, but just in case you want to talk about it
17:49 10 today, we received an e-mail from Jenny Martinez, on behalf of
17:49 11 Mr. Godwin, with respect to a new discovery of some cement.

17:49 12 It's BP's position that time is of the essence
17:49 13 in terms of when we are going to learn the scope of the
17:49 14 investigation that was alluded to in that e-mail, particularly
17:49 15 given the fact that we have witnesses coming up as early as
17:49 16 Tuesday and the fact that we would like to put a filing in as
17:50 17 to potential relief based on this discovery. The problem we
17:50 18 have right now is we don't know what's there, so it's hard for
17:50 19 us to fashion or frame what relief we would be seeking. So at
17:50 20 this point, we are just asking for a schedule to be set as to
17:50 21 when we might receive more information so that we can respond
17:50 22 to it and so that we have clarity, particularly before we get
17:50 23 to as early as Tuesday morning when one of the witnesses may be
17:50 24 here.

17:50 25 **THE COURT:** Good. I appreciate your pointing that

17:50 1 out. I was planning on taking the topic up in the morning.

17:50 2 **MR. REGAN:** Very good.

17:50 3 **THE COURT:** Jenny, why don't you plan on telling us
17:50 4 tomorrow what you think the schedule is that you can make; or
17:50 5 if you are prepared to do so now, that's fine.

17:50 6 **MS. MARTINEZ:** Actually, I'm not, Your Honor. As Don
17:50 7 Godwin represented to the Court today, we are currently
17:50 8 investigating it. The issue got to our attention just a few
17:50 9 days ago. However, we will be prepared tomorrow to present
17:50 10 what we believe would be a good faith time line on completing
17:50 11 our investigation.

17:50 12 **THE COURT:** Understanding that Tuesday is a hot day.

17:50 13 **MS. MARTINEZ:** Yes.

17:50 14 **MR. REGAN:** Your Honor, we may put a letter in
17:51 15 tonight with some of the thoughts that we have in mind,
17:51 16 information we need to know. We will be prepared to talk about
17:51 17 it tomorrow. Thank you, Your Honor.

17:51 18 **THE COURT:** I will be happy to do that. Thanks a
17:51 19 lot.

17:51 20 Any other housekeeping matters -- other than let
17:51 21 me remind you that, at this point, all Stephanie needs to be
17:51 22 presented to her during the course of the trial, since we've
17:51 23 decided that exhibits aren't going to her at this point, are
17:51 24 the thumb drives of deposition testimony that was presented in
17:51 25 lieu of live testimony.

17:51 1 Some of you are very kindly giving her other
17:51 2 flash drives containing other material. We are going to have a
17:51 3 flash drive drawing at the end of the proceedings. But if you
17:51 4 want to save on thumb drives, what she is looking for is
17:51 5 labeled thumb drives with deposition testimony presented in
17:51 6 lieu of live.

17:52 7 Have I got that right, Stephanie?

17:52 8 **THE DEPUTY CLERK:** Yes.

17:52 9 **THE COURT:** Thank you.

17:52 10 **MR. BRIAN:** Your Honor, would you mind if some of us
17:52 11 left and went back to the office?

17:52 12 **THE COURT:** Not at all. All I'm doing now is getting
17:52 13 to the actual list. We are going to get them admitted and then
17:52 14 we are going home. See y'all later.

17:52 15 **MR. HERMAN:** Steve Herman for the plaintiffs.

17:52 16 We have another couple lists that the Court is
17:52 17 familiar with. This one is a little bit more voluminous. I
17:52 18 can read it off or just hand it around, give it to Stephanie.

17:52 19 As the Court will recall, we wanted, for the
17:52 20 protection of the record, the ability to conditionally
17:52 21 introduce a number of bundles of witnesses that are unavailable
17:52 22 to us, but they are on other parties' will-call lists. We
17:52 23 assume that they will testify. So we just want to have on the
17:52 24 record their bundles in for the purpose of any directed verdict
17:52 25 motions.

17:52 1 I think you asked me not to actually bring them
17:52 2 and submit them to the Court. We just wanted to put on the
17:53 3 record that, before we rest, they are offered, filed, and
17:53 4 introduced for those purposes. I have a list which I can
17:53 5 provide or I can read.

17:53 6 **THE COURT:** I think everybody knows about this. We
17:53 7 have been talking about this for quite some time. If you will
17:53 8 make sure everybody gets a copy of the list this evening.

17:53 9 **MR. HERMAN:** Sure.

17:53 10 **THE COURT:** We are going to go ahead and
17:53 11 conditionally admit that list and the deposition bundles of
17:53 12 those people. When and if they are called, you will withdraw
17:53 13 the tender.

17:53 14 **MR. HERMAN:** Right.

17:53 15 Now, there's one exception to that that was
17:53 16 addressed this morning. And I frankly don't think there was an
17:53 17 objection to it. Within that larger group, some of the
17:53 18 depositions -- it looks like 11 of them -- were 30(b)(6)
17:53 19 depositions, and so they are not really subject to the
17:53 20 availability rule. We would offer, file, and introduce those
17:53 21 bundles for not conditionally, just offer, file, and introduce
17:53 22 them. I guess we will arrange for inData to provide the
17:54 23 bundles to the Court. I have a list of those.

17:54 24 **THE COURT:** That would be fine. Unless there's an
17:54 25 objection to that -- oops, I think Carter has an objection to

17:54 1 those.

17:54 2 **MR. CARTER WILLIAMS:** Your Honor, Transocean has a
17:54 3 limited objection to that, which is, three of the bundles that
17:54 4 we understand are on this list --

17:54 5 **MR. HERMAN:** Here's the list.

17:54 6 **MR. CARTER WILLIAMS:** -- are Bill Ambrose, Larry
17:54 7 McMahan. Those are the only two I see. They were both -- they
17:54 8 testified both as 30(b)(6) witnesses as well as in their
17:54 9 individual capacity as fact witnesses in the same deposition.

17:54 10 **THE COURT:** Correct.

17:54 11 **MR. CARTER WILLIAMS:** They are also both live
17:54 12 witnesses that are coming to testify on behalf of Transocean.

17:54 13 So our issue is, if the bundles go in as-is,
17:54 14 then we are getting fact testimony in a deposition bundle that
17:54 15 sort of treats them differently than any other witness who is
17:54 16 appearing live.

17:55 17 So what we would ask for with those two
17:55 18 witnesses is that we would have a chance to indicate what
17:55 19 testimony we believe is fact testimony that should not go in in
17:55 20 the bundle; leave the 30(b)(6) testimony, if that's what the
17:55 21 plaintiffs want to do.

17:55 22 **MR. HERMAN:** I think that makes sense.

17:55 23 **THE COURT:** Sure.

17:55 24 **MR. LANGAN:** We join with that, Your Honor. We know
17:55 25 Rule 32 allows 30(b)(6) to come in, availability or not. But

17:55 1 Mr. Williams' point is well taken.

17:55 2 **MR. HERMAN:** We might have some disagreement about to
17:55 3 what extent it's 30(b)(6), but we agree with the general
17:55 4 principle. They'll be conditionally tendered for the fact
17:55 5 witness part, the individual fact witness part; and it would be
17:55 6 unconditionally tendered for the 30(b)(6) part, whatever that
17:55 7 is.

17:55 8 **THE COURT:** Presuming we can agree to that.

17:55 9 **MR. O'ROURKE:** At least in theory, they should have
17:55 10 objected at the time and objected during the bundling process.

17:55 11 **MR. CARTER WILLIAMS:** Just on the last point, I think
17:55 12 what Mr. Herman said this morning is that he was going to raise
17:55 13 this issue at the marshaling conference.

17:55 14 **THE COURT:** Look, we couldn't anticipate at the time
17:56 15 what might or might not happen and what might or might not be
17:56 16 on the will-call/may-call list, etc. So, Steve, I appreciate
17:56 17 you pointing that out, but no go.

17:56 18 Relative to those two depositions, let's
17:56 19 conditionally admit them as to fact; let's admit them as to
17:56 20 their 30(b)(6) testimony; and let's think about how we are
17:56 21 going to try to agree to that.

17:56 22 **MR. HERMAN:** Finally, I think we took care of
17:56 23 Boughton, Florence, and Turlak.

17:56 24 Michael Williams, we were also going to submit
17:56 25 his bundle. I think we have that.

17:56 1 I don't know what the status is, but we've also
17:56 2 been talking about Richard Coronado.

17:56 3 **THE COURT:** I need to rule on that tomorrow at the
17:56 4 work group conference. That's on the agenda.

17:56 5 So Mr. Williams' is admitted unless there is an
17:56 6 objection. Good enough.

17:57 7 **MR. CARTER WILLIAMS:** Your Honor, one more bundle
17:57 8 issue --

17:57 9 **THE COURT:** Okay.

17:57 10 **MR. CARTER WILLIAMS:** -- if you want to deal with all
17:57 11 that now.

17:57 12 **THE COURT:** Sure. Why not.

17:57 13 **MR. CARTER WILLIAMS:** Transocean's case will likely
17:57 14 begin on Monday. We have a list of 26 deposition bundles that
17:57 15 we will offer into evidence. I think the process we
17:57 16 established last Friday was we distribute that today, give
17:57 17 people time to make confidentiality redactions, and then
17:57 18 formally enter them next week. I can give you a copy of the
17:57 19 list; I can read it into the record; I can send it out by
17:57 20 e-mail. Whatever --

17:57 21 **THE COURT:** Why don't you send it out by e-mail, and
17:57 22 everybody will have the heads-up.

17:57 23 Is that good enough, Mark?

17:57 24 **MR. NOMELLINI:** Yes. In that regard -- Your Honor
17:57 25 already ordered this, but just kind of a reminder that all the

17:57 1 depositions that were discussed today are going to be subject
17:57 2 to a confidentiality process before they go live. Your Honor
17:57 3 set a period for that. So nothing that was discussed today is
17:57 4 going live right away.

17:57 5 **THE COURT:** Right. Good enough.

17:57 6 Anthony?

17:57 7 **MR. IRPINO:** The preliminary matter is taken care of,
17:58 8 Your Honor.

17:58 9 **THE COURT:** Okay.

17:58 10 **MR. IRPINO:** We have two different marshaling lists
17:58 11 for the Court that are the final lists. The first is the final
17:58 12 list of exhibits and demonstrative call-outs relative to the
17:58 13 March 7 marshaling conference. I have copies of those here.
17:58 14 They have been sent around to all parties. We have a final
17:58 15 approval by all parties. We would like to offer and file that
17:58 16 into the record.

17:58 17 **THE COURT:** Okay. That list is final. I appreciate
17:58 18 everyone's hard work on that. That will be admitted.

17:58 19 **MR. IRPINO:** Secondly, Your Honor, we have our final
17:58 20 list of exhibits, demonstratives, and call-outs. It's titled
17:58 21 "Final Admit List for March 14, 2013 Marshaling Conference."
17:58 22 That has been sent around and approved by all parties. We
17:58 23 would like to offer, file, and introduce that.

17:58 24 **THE COURT:** Good. Thank you again on that one. Good
17:58 25 job. No last-minute modifications. So thank you all. We will

17:59 1 only have one list next week. That will be good.

17:59 2 **MR. IRPINO:** Yes.

17:59 3 **THE COURT:** Thank you very much.

17:59 4 Yes?

17:59 5 **MR. THOMPSON:** I just wanted to let everybody know we
17:59 6 have copies of the four bundles that we gave to the Court
17:59 7 today, Mike Williams, and the three new ones for today. Come
17:59 8 by and get copies of those.

17:59 9 **THE COURT:** Thank you much.

17:59 10 (Proceedings adjourned.)

17:59 11 * * *

12 **CERTIFICATE**

13 I, Toni Doyle Tusa, CCR, FCRR, Official Court
14 Reporter for the United States District Court, Eastern District
15 of Louisiana, do hereby certify that the foregoing is a true
16 and correct transcript, to the best of my ability and
17 understanding, from the record of the proceedings in the
18 above-entitled matter.

19
20
21 *s/ Toni Doyle Tusa*
22 Toni Doyle Tusa, CCR, FCRR
23 Official Court Reporter
24
25

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