

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 U.S. Coast Guard Marine Board Investigation ICO the sinking of SS El Faro held in

2 Jacksonville, Florida held

3 19 February 2016

4 Volume 4

5 **CAPT Neubauer:** Good morning. This hearing will come to order. Today is February
6 19th, 2016 and the time is 9 a.m. We're continuing at the Prime F. Osborn Convention
7 Center, Jacksonville, Florida. I am Captain Jason Neubauer, of the United States Coast
8 Guard, Chief of the Coast Guard Office of Investigations and analysis, Washington D.C.
9 I'm the Chairman of the Coast Guard Marine Board of Investigation and the presiding
10 officer over these proceedings. The Commandant of the Coast Guard has convened
11 this board under the authority of Title 46, United States Code, Section 6301 and Title 46
12 Code of Federal Regulations Part IV to investigate the circumstances surrounding the
13 sinking of the SS El Faro with the loss of 33 lives on October 1st, 2015 while transiting
14 east of the Bahamas. I am conducting the investigation under the rules in 46 C.F.R.
15 Part IV. The investigation will determine as closely as possible the factors that
16 contributed to the incident so that proper recommendations for the prevention of similar
17 casualties may be made; whether there is evidence that any act of misconduct,
18 inattention to duty, negligence or willful violation of the law on the part of any licensed or
19 certificated personnel contributed to the casualty; and whether there is evidence that
20 any Coast Guard personnel or any representative or employee of any other
21 Government agency or any other person caused or contributed to the casualty. I have
22 previously determined that the following organizations or individuals are parties in
23 interest to the investigation. Tote Incorporated, ABS, Herbert Engineering Corporation

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 and Mrs. Teresa Davidson as next of kin for Captain Michael Davidson, Master of the
2 SS El Faro. These parties have a direct interest in the investigation and have
3 demonstrated the potential for contributing significantly to the completeness of the
4 investigation or otherwise enhancing the safety of life and property at sea through
5 participation as party in interest. All parties in interest have a statutory right to employ
6 counsel to represent them, to cross-examine witnesses and have witnesses called on
7 their behalf.

8 I will examine all witnesses at this formal hearing under oath or affirmation and
9 witnesses will be subject to Federal laws and penalties governing false official
10 statements. Witnesses who are not parties in interest will be excluded from the hearing
11 room when not testifying. Witnesses who are not parties in interest may be advised by
12 their counsel concerning their rights. However, such counsel may not examine or
13 cross-examine other witnesses or otherwise participate.

14 These proceedings are open to the public and to the media. I ask for the
15 cooperation of all persons present to minimize any disruptive influence on the
16 proceedings in general and on the witnesses in particular. Please turn your cell phones
17 or other electronic devices off or to silent or vibrate mode. Please also minimize entry
18 and departure the hearing room during testimony. Flash photography will only be
19 permitted during this opening statement and during recess periods. The members of
20 the press are welcome and an area has been set aside for your use during the
21 proceedings. The news media may question witnesses concerning the testimony that
22 they have given after I have released them from these proceedings. I ask that such
23 interviews be conducted outside of this room. Since the date of the casualty the

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 National Transportation Safety Board and Coast Guard have conducted substantial
2 evidence collection activities and some of that previously collected evidence will be
3 considered during these hearings. Should any person have or believe that he or she
4 has information not brought forward, but which might be of direct significance, that
5 person is urged to bring that information to my attention by emailing elfaro@uscg.mil.

6 The Coast Guard relies on strong partnerships to execute its missions. And this Marine
7 Board of Investigation is no exception. The NTSB provided a representative for this
8 hearing. Mr. Tom Roth-Roffy, also seated to my left is the Investigator in Charge for the
9 NTSB investigation. Mr. Roth-Roffy, would you like to make a brief statement?

10 **Mr. Roth-Roffy:** Good morning Captain. Good Morning, I am Thomas Roth-Roffy,
11 Investigator in Charge for the National Transportation Safety Board's investigation of
12 this hearing, correction, this accident. The NTSB has joined this hearing to avoid
13 duplicating the development of facts. Nevertheless, I do wish to point out that this does
14 not preclude the NTSB from developing additional information separately from this
15 proceeding if that becomes necessary. At the conclusion of these hearings the NTSB
16 will analyze the facts of this accident and determine a probable cause independently of
17 the Coast Guard. Issue a separate report of the NTSB's findings and if appropriate
18 issue recommendations to correct safety problems discovered during the investigation.
19 Thank you.

20 **CAPT Neubauer:** Thank you. We will now hear testimony from Mr. Jim Fiskier-
21 Andersen, Port Engineer, Tote Services Incorporated. Mr. Fiskier-Andersen, please
22 come forward to the witness table and Lieutenant Commander Yemma will administer
23 your oath and ask you some preliminary questions.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **LCDR Yemma:** Could you please raise your right hand. A false statement given to an
2 agency of the United States is punishable by a fine and or imprisonment under 18
3 United States Code section 1001, knowing this do you solemnly swear that the
4 testimony you're about to give will be the truth, the whole truth and nothing but the truth,
5 so help you God?

6 **WIT:** Yes I do.

7 **LCDR Yemma:** Thank you, you can be seated. Sir, can you please state your full
8 name for the record and spell your last?

9 **WIT:** Jim Fisker-Andersen, last name is spelled F-I-S-K-E-R- Andersen, A-N-D-E-R-S-
10 E-N.

11 **LCDR Yemma:** Thank you, sir. And counsel can you also state your name and spell
12 your last for the record?

13 **Counsel:** Luke Reid, K&L Gates, last name spelled, R-E-I-D.

14 **LCDR Yemma:** Mr. Fisker-Andersen, can you please state your current employment
15 and your position with them?

16 **WIT:** I work for Tote Services as Director of Ship Management.

17 **LCDR Yemma:** And what are some of your general responsibilities in that position?

18 **WIT:** To support the ships to operate safely.

19 **LCDR Yemma:** And can you please describe some of your prior relevant work
20 experience?

21 **WIT:** I'm a 1990 graduate of California Maritime Academy. Bachelors of Science and
22 Marine Engineering Technology. I sailed for 5 years on my license. And I've worked in
23 shipboard management for 20 years. More recently before I worked for the Tote

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 organization I worked for a major cruise line in the positions of, for 3 years as a
2 technical superintendent. And the following 4 years as a marine safety compliance,
3 Manager of marine safety compliance. I joined Totem Ocean in 2008 as a Port
4 Engineer where I was the Port Engineer for the North Star for 4 years. I was promoted
5 to Director for the Marine and Terminal Operations in 2013. At the end of 2013 the
6 company reorganized and in January of 2014 I became a Port Engineer for Tote
7 Services and I relocated to Jacksonville, Florida. January 1st of 2015 I was promoted to
8 Director of Ship Management for Tote Services.

9 **LCDR Yemma:** And do you currently hold any licenses or professional certifications?

10 **WIT:** I'm a licensed First Assistant Engineer steam motor unlimited, that's a current
11 license.

12 **LCDR Yemma:** Thank you, sir. Mr. Fawcett will have questions for you.

13 **Mr. Fawcett:** Good morning Mr. Fisker-Andersen.

14 **WIT:** Good morning.

15 **Mr. Fawcett:** All the questions I'm about to ask you will relate to the time period before
16 the loss of the El Faro and her crew unless I otherwise state that. If you would like to
17 take a break at any time, please let us know, we can arrange for that. I'm going to take
18 you through some broad topic areas as we examine the events that took place for the El
19 Faro. The first will be a broad overview of your job and previous jobs you might have
20 held within the Tote organization. We're going to look at operations, your relationship to
21 crewing issues and finally the previous and the accident voyages of the El Faro. So the
22 scheme for asking your questions, asking questions of you will be I will ask questions on
23 behalf of the Coast Guard along with my colleagues. We will then turn our attention to

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 the NTSB, follow up with parties in interest and then the Coast Guard will return for
2 each topic area as we move through the line of questioning. So the first topic area I
3 would like to explore is just an overview of your position at Tote. So could you set the
4 stage for us, where you were and what you were doing as the El Faro sat out on the
5 accident voyage in late September?

6 **WIT:** I was in San Francisco dry dock attending to, as an owner's representative to the
7 Isla Bella.

8 **Mr. Fawcett:** And what were you doing there?

9 **WIT:** We were, I was supervising some repair work that the delivery shipyard was
10 responsible for with the main propeller shafting.

11 **Mr. Fawcett:** So since the accident have you had a chance to review the events
12 leading up to the sinking of the El Faro?

13 **WIT:** To some degree, yes.

14 **Mr. Fawcett:** So could you describe your day to day activities as Director of Ship
15 Management?

16 **WIT:** We're very proactively involved with supporting the ships to safely operate in
17 regards to maintenance.

18 **Mr. Fawcett:** Can you elaborate on that a little more? I mean which, what areas in
19 particularly – in particular do you focus your attentions on?

20 **WIT:** Primarily in regards to ship maintenance, sir.

21 **Mr. Fawcett:** In what, sir?

22 **WIT:** Primarily in regards to ship maintenance.

23 **Mr. Fawcett:** And who do you report to?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Phil Morrell.

2 **Mr. Fawcett:** And his position?

3 **WIT:** Vice President.

4 **Mr. Fawcett:** Of?

5 **WIT:** Of Technical Operations.

6 **Mr. Fawcett:** And who reports directly to you?

7 **WIT:** The Port Engineers.

8 **Mr. Fawcett:** So in your day to day activities in the months leading up to the loss of the
9 El Faro, how much time did you devote to the El Faro and the El Yunque?

10 **WIT:** A considerable amount of time.

11 **Mr. Fawcett:** How much time did you devote to new construction activities? Could you
12 give me an example of the percentages?

13 **WIT:** I devoted a considerable amount of time to the El Faro and the El Yunque.

14 **Mr. Fawcett:** So when did you depart Jacksonville to go out to the dry dock activities
15 for the Isla Bella?

16 **WIT:** Two weeks prior.

17 **Mr. Fawcett:** And were you out there the whole time?

18 **WIT:** Yes.

19 **Mr. Fawcett:** And when did you return to the Jacksonville area?

20 **WIT:** Wednesday, the day before the loss of the ship, I was flying back.

21 **Mr. Fawcett:** So for your job as Director of Ship Maintenance, you had mentioned that
22 you had been involved with safety and compliance for cruise ship industry. Could you
23 elaborate in what the details of that job were?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** I was trained in marine investigation. And auditing and we did that for the fleet of
2 major cruise ships.

3 **Mr. Fawcett:** Has that expertise ever been drawn upon to assist in the auditing process
4 for the El Faro?

5 **WIT:** No.

6 **Mr. Fawcett:** How about the El Yunque?

7 **WIT:** No.

8 **Mr. Fawcett:** So who – what Port Engineer report – which Port Engineers work directly
9 for you?

10 **WIT:** Tim Neeson, Bill Weinbecker and more recently, well at that time it was just those
11 two.

12 **Mr. Fawcett:** So could you tell me ----

13 **WIT:** And, and Darryl Swigs and Bill Taylor in Tacoma.

14 **Mr. Fawcett:** Okay. So you, in addition to managing the Port Engineers for the El Faro
15 and the El Yunque you mentioned Tacoma. What do those individuals do out there?

16 **WIT:** They're Port Engineers for the North Star and the Midnight Sun.

17 **Mr. Fawcett:** So in addition to looking after some aspects of new construction
18 activities, you also divide your time as Director of Ship Management looking at two
19 ships on the East Coast and two ships on the West Coast?

20 **WIT:** That's correct.

21 **Mr. Fawcett:** Those, Jacksonville compared to the Pacific Northwest vessels could you
22 give me an example of how much time you devote to the Jacksonville ships versus the
23 time you devote to the ships operating out of Tacoma?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** My primary focus is on the Jacksonville ships.

2 **Mr. Fawcett:** So could you elaborate on the role, Mr. Neeson is the Port Engineer for
3 the El Faro and the El Yunque, is that correct?

4 **WIT:** That's correct. Uh for the El Faro at the time.

5 **Mr. Fawcett:** So who was the Port Engineer for the El Yunque?

6 **WIT:** Umm, that, umm, that's Bill Weinbecker. I'm sorry I'm just trying to frame the time
7 frames correctly.

8 **Mr. Fawcett:** Yeah I understand, thank you. So how did you – how often did you
9 evaluate the performance of Mr. Neeson and Mr. Weinbecker in the performance of
10 their duties as Port Engineers?

11 **WIT:** Uh, there's an annual process for that, but I've only held this position as Director
12 for this year. So that's just once.

13 **Mr. Fawcett:** So previous to this time frame you, not this time frame but the accident
14 time frame, you had served as a Port Engineer?

15 **WIT:** That's correct.

16 **Mr. Fawcett:** Could you elaborate on the duties of a Port Engineer?

17 **WIT:** Sure. We, as I was trained as a Port Engineer with Tote we verily closely attend
18 the vessels from the time that the ship arrives to the time that the ship departs, we're
19 with the ship. We're attentive to service engineers which are arranged and
20 maintenance which is being performed with supporting contractors. And in close touch
21 with the Chief Engineer, Captain, Chief Mate for any maintenance support that they may
22 require to safely operate. Prior to arrival at either Tacoma or a Jacksonville port a
23 maintenance port – technical operation plans are put out as a, really more as a mirror

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 back to the ships saying, yes we've got everything lined up, here's who's lined up to
2 attend to the ship, here's you can expect to see, the times you will see them and what
3 we expect to happen during your port call. We're very proactive supporting the ships in
4 many ways above and beyond the minimum requirements.

5 **Mr. Fawcett:** So how much of your time is devoted to supporting the engineering
6 operations aboard the ships?

7 **WIT:** Uh that's, well that's our primary focus is the engineering and maintenance in
8 general on the ship.

9 **Mr. Fawcett:** Who do you call upon to provide support for nautical operations?

10 **WIT:** Could you be more specific of what nautical operations are?

11 **Mr. Fawcett:** For example ensuring that charts are corrected and up to date. To make
12 sure that the vessels have the proper publications aboard. That their navigation
13 equipment, weather instruments and so forth are properly operating.

14 **WIT:** In regards to charts and publications, those are ordered through our procurement
15 system and that's all computer based. And those would generally be tracked on board
16 as far as what they're required to have and whether the currency of those are. The
17 charts are maintained by the Second Mates on board. And additional publications or
18 updated charts, new charts are ordered through our computer based procurement
19 system. In regards to bridge maintenance specifically, in 2014 after when I was in
20 Jacksonville we – I chose to raise the bar on where our maintenance levels were in
21 regards to the bridge electronic equipment. I met with a local vendor, Radio Holland
22 and had a very detailed discussion about what we were required in regards to support,
23 what my expectations were and where we needed to be in terms of reliable operation.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 And I took that from our – my experience in working with Tacoma where we had a
2 dedicated person who was attending to the ships in regards to electronics and I found it
3 to be very, very effective and very, very thorough. And so on each of the ships in
4 Jacksonville there was probably, I'm estimating four weeks of continuing attendance
5 recording things like the hours on the magnetrons, inspecting gear boxes on radars,
6 looking at the conditions of the gear in the masts and really taking a thorough overview
7 above, and this above and beyond what would be required for the radio survey, which is
8 done annually for class. And so you know through that we have a very close
9 relationship with Radio Holland and they have been very regular in attendance on the
10 ships in regards to the bridge electronics and we have had no interruptions in that
11 reliable service that I'm aware of. So it's been a very effective maintenance program
12 specifically to that.

13 **Mr. Fawcett:** So who within Tote verifies the accuracy of those type of reports? In
14 other words who would receive the Radio Holland report, analyze it and determine if
15 there are any discrepancies that need to be corrected?

16 **WIT:** Those would go to the Port Engineer and those would also go to the ship. A copy
17 was left with the ship for every attendance and then another formal report was issued to
18 the Port Engineer.

19 **Mr. Fawcett:** So yesterday Mr. Baird, or the day before yesterday, Mr. Baird reported
20 that from his perspective as the Second Mate the anemometer didn't work which is
21 required to be tied into the VDR, how would you know that ashore?

22 **WIT:** That would have been communicated by an email or verbally as the Port
23 Engineer attends every week.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Fawcett:** So what's your understanding of who the Master of the El Faro reported
2 to?

3 **WIT:** Uh ----

4 **Mr. Fawcett:** Within Tote.

5 **WIT:** You know the Master is the Master of the ship. And the ship operates somewhat
6 autonomously. The Master is reporting to multiple people for different things. He would
7 – he could address issues of safety to the Designated Person. He would address
8 issues of HR issues to Director of Human Resources. And he would address issues of
9 technical operations concern to the Vice President of Operations. Or his direct reports
10 which would be including myself.

11 **Mr. Fawcett:** So on board ship the Chief Mate reports directly to the Master.

12 **WIT:** That's correct.

13 **Mr. Fawcett:** Shore side who would be the direct report from the Master to a shore side
14 person, who would that be?

15 **WIT:** I'm confused. Can you say that again?

16 **Mr. Fawcett:** In other words there's a direct line of reporting between the Chief Mate
17 and the Master.

18 **WIT:** That's correct.

19 **Mr. Fawcett:** It's undeniably clear.

20 **WIT:** That's correct.

21 **Mr. Fawcett:** Who ashore does the Master report to?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** The Master operates autonomously. There's multiple lines of responsibility.

2 There's multiple lines of people he can address issues to, but the Master is the Master
3 of the ship.

4 **Mr. Fawcett:** Do you expect the Masters to be evaluated for competency?

5 **WIT:** That's required every year.

6 **Mr. Fawcett:** And have you evaluated Captain Davidson in your position as Port
7 Engineer?

8 **WIT:** No.

9 **Mr. Fawcett:** Has Mr. Neeson conducted an evaluation of a Master?

10 **WIT:** Yes.

11 **Mr. Fawcett:** Was it formalized from the standpoint that Captain Davidson signed it and
12 somebody higher than Mr. Neeson signed it?

13 **WIT:** I don't believe so, no.

14 **Mr. Fawcett:** So the formal process would be that the Captain is expected to be
15 evaluated annually?

16 **WIT:** Correct.

17 **Mr. Fawcett:** And what would the next highest level after the Port Engineer who would
18 actually sign and approve or comment on the evaluation?

19 **WIT:** Well, to speak specifically this is the time frame, this is 2015, is that correct?

20 **Mr. Fawcett:** This is pre-accident.

21 **WIT:** Pre-accident. So the Port Engineer would write the evaluation and that would
22 come to me, Director of Ship Management for additional input, comment. Then it would

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 go to Vice President Phil Morrell for comment and then circle back to HR and then back
2 to the Captain for signature.

3 **Mr. Fawcett:** So Captain Lofffield and then in the testimony we've received, Captain
4 Davidson did not receive annual evaluations. Can you speak to why that might not
5 have happened?

6 **WIT:** I don't know.

7 **Mr. Fawcett:** Is there a process to review the administrative paperwork within the
8 company to assure that it's accurately and effectively done?

9 **WIT:** That would be an HR function. I can't speak to that.

10 **Mr. Fawcett:** So with your extensive duties when you're on vacation, who's the
11 designated alternate that fills in for you?

12 **WIT:** For day to day support to the ships that's the Port Engineers. And that's the
13 majority of the support that the ships will require. Phil Morrell and I work very, very
14 closely, he's the Vice President and we cover for each other. I make sure I'm not going
15 to take an extended vacation the same time as Phil. Does that – does that answer your
16 question?

17 **Mr. Fawcett:** Thank you. So who's the – who's the nautical expert within Tote Services
18 that can handle any type of shore side support providing nautical expertise for the ships
19 that you have out there?

20 **WIT:** Well the Captain's the primary nautical expert.

21 **Mr. Fawcett:** But ashore?

22 **WIT:** The Captain's the primary nautical expert. We have a Captain in Tote, that's
23 Captain John Lawrence. But the Captains themselves are the nautical experts. You

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 know and it's not just themselves, we have a bridge resource management system,
2 which it's a team that, you know organized to handle nautical operations. So it's – the
3 Captain isn't out there by himself. There's – he has a whole supporting officer, licensed
4 officer team as part of the bridge team that are in assistance to that nautical – those
5 nautical operations.

6 **Mr. Fawcett:** So if the Captain radioed ashore and said I've had containers shift off the
7 ship, lashing failed, who would they turn to for the sort of effective nautical seamanship
8 to stabilize that problem?

9 **WIT:** Uh he could reach out – he would be reaching out to the Designated Person and
10 then we would stand up our support team. We have an emergency call list and if the
11 Designated Person doesn't answer then it would be the next person in line on that
12 emergency response manual.

13 **Mr. Fawcett:** So just to get your perspective, if I talked about the life boats and the life
14 rafts and issues with them, would you view that as a mechanical problem, a safety
15 problem, a nautical operations problem?

16 **WIT:** Can you be more specific to a problem, sir?

17 **Mr. Fawcett:** Well let's say for example there's an issue with hydrostatic releases,
18 whether they arrived on the ship or didn't arrive or needed to be rebuilt, or they're at
19 their expiration point, how does that work within Tote?

20 **WIT:** We never rebuild our hydrostatic releases, we replace them.

21 **Mr. Fawcett:** So who would manage that issue within Tote?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Those would be supplied through our procurement program, through our AMOS
2 procurement. And then those would be installed by the ship's crew unless it was a
3 maintenance period where additional contractors are attending to those.

4 **Mr. Fawcett:** So in the summer of this year there were some issues with wastage on
5 the davits and the davit support plates, deckage around the, on board the El Yunque.
6 Was that issue – did the safety side of the house get involved with that problem?

7 **WIT:** I believe they were aware of it, but we had that – we had those issues, it was
8 maintenance issue. But we had – in order to safely continue to operate we worked very
9 closely with the Coast Guard and American Bureau of Shipping that while we were
10 providing that maintenance we had sufficient life raft capacity so that the ship was never
11 operated in an unsafe condition. Furthermore, as those – as those test were completed
12 we did full load tests on those davits and boats to ensure that they were safe to operate.

13 **Mr. Fawcett:** So do you know if during that process there was an engagement with
14 Captain Lawrence so that perhaps that issue would be examined on other vessels
15 throughout the fleet to see if there was a similar condition that existed?

16 **WIT:** Uh, when it – I believe the – I believe it came up on the El Yunque. We looked at
17 the El Faro after that to make sure that there wasn't an issue.

18 **Mr. Fawcett:** Did you look at the ships of the Pacific Northwest fleet?

19 **WIT:** Umm, I don't recall.

20 **Mr. Fawcett:** Circling back to evaluations. Not only having conducting them yourself
21 but supervised the person that performs those evaluations, how could you or Mr.

22 Neeson evaluate the functions of a Master as it relates to nautical operations?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Sir, we don't – we don't work in a vacuum. We have a very open office
2 environment. I'm within just a few short steps of Mr. Lawrence's desk through a waist
3 high cubicles so I can see Admiral Greene's desk from my – from around the corner
4 from my desk. So we – so there's a lot of day to day engagement at all levels
5 throughout our organization. So while Mr. Neeson who is the in, you know in port very
6 regularly in contact with the ship's officers, and not just the Captain, Chief Mate, Chief
7 Engineer, who are also resources for providing feedback, you know when it reaches my
8 level, you know I'm not just going to do that myself. Obviously I have other resources
9 that I can reach out to for that feedback.

10 **Mr. Fawcett:** But how would the Port Engineer do it? Where's the Port Engineer's
11 office?

12 **WIT:** The Port Engineer's office is out on the terminal.

13 **Mr. Fawcett:** Okay. So how would he be able to work to that collegial environment
14 where everybody's working side by side?

15 **WIT:** He's on the ship. He gets the direct feedback from everybody on the ship.

16 **Mr. Fawcett:** So he would get feedback from them about the capabilities of the Master
17 and handling the ship at sea?

18 **WIT:** You know the Mates and the Engineers they're sailors, they all talk. We get
19 feedback every time we step on the ship. But these are regularly attended to ships, sir.
20 We have a very close relationship with all the crew members. And we speak up with
21 them.

22 **Mr. Fawcett:** So you would say that as a Port Engineer you have a very good, I mean
23 I'm not trying to put words in your mouth, I guess I'm asking a question, a very good

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 capability to assess the qualifications of shipboard personnel, especially the officers you
2 spoke about?

3 **WIT:** At a certain level the Port Engineer is certainly able to make an assessment.

4 He's able to do that with the regular feedback that he gets from multiple sources. And
5 that's true at my level as well, sir.

6 **Mr. Fawcett:** Thank you very much. I pass my questions over to Commander
7 Denning.

8 **CDR Denning:** Good morning, sir. Just one quick follow up on the evaluation side. If
9 you could turn to Exhibit 52 please. This document is an evaluation of Captain
10 Davidson dated, it's signed by Mr. Neeson on the 2nd of October 2014. My question is
11 in the block below Mr. Neeson's there's a spot for a tech manager. Who – I don't see
12 that particular position on the org chart, I wonder if you could help us clarify who should
13 be signing these evaluations, who would fill the title tech manager there? And then the
14 same question for the block below it, senior officer.

15 **WIT:** Well in 2014 I was a Port Engineer. So that would have been – that would have
16 gone to Mr. Morrell.

17 **CDR Denning:** And then what about the next block, senior officer? Is it formalized who
18 signs which block? It seems like a general form that would be the same for all
19 shipboard officers maybe. So I don't see correspondence ----

20 **WIT:** Which part are you referring to, sir?

21 **CDR Denning:** The block that says tech manager. It just doesn't appear on the org
22 chart, I'm just trying to understand the process.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** That would be – that would be who I was reporting to at the time who was Vice
2 President.

3 **CDR Denning:** And then what about, same question for senior officer?

4 **WIT:** That's the evaluating senior officer, that would have been Captain Davidson.

5 **CDR Denning:** Okay. That's the actual evaluated officer where he would sign?

6 **WIT:** That's correct. He would have an opportunity to comment back on that.

7 **CDR Denning:** I understand, thank you.

8 **CAPT Neubauer:** Commander Odom.

9 **CDR Odom:** Good morning.

10 **WIT:** Good morning.

11 **CDR Odom:** So you briefly mentioned the acronym AMOS, could you explain to us
12 what that is?

13 **WIT:** Asset Management Operating System. It's one of the major shipboard
14 maintenance and safe operating software's that are out there. Very similar in function to
15 ABS's NS5.

16 **CDR Odom:** And within the asset management operating system, what authorities or
17 what is your role with monitoring the activities within that?

18 **WIT:** Umm, I may be at a time be asked to look at an order and add my approval to that
19 order. But that's primarily how I would be involved in it.

20 **CAPT Neubauer:** Commander could you speak into the microphone more clearly?

21 **CDR Odom:** Thank you.

22 **CAPT Neubauer:** Mr. Roth-Roffy.

23 **Mr. Roth-Roffy:** Tom Roth-Roffy, NTSB, good morning Mr. Fisker-Andersen.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Good morning.

2 **Mr. Roth-Roffy:** Sir, when you started with Tote you mentioned you were a Port
3 Engineer. Did you say which vessel you were a Port Engineer of?

4 **WIT:** For the North Star.

5 **Mr. Roth-Roffy:** Which is now what?

6 **WIT:** That's the North Star. It operates from Tacoma to Alaska. It's a roll-on roll-off
7 ship, diesel electric powered.

8 **Mr. Roth-Roffy:** And were you a Port Engineer of the two vessels in Jacksonville?

9 **WIT:** I was a Port Engineer for the El Yunque the first year I arrived here.

10 **Mr. Roth-Roffy:** Sir, are you able to say in general terms what your view is of the
11 condition of the machinery on the El Faro and the El Yunque around the time of the
12 accident?

13 **WIT:** The machinery on both ships was uh, was in very good condition. And it was at
14 the time of the accident current on all of our ABS inspections, Coast Guard inspections
15 and certainly we uh – it was well attended to by a very skilled and experienced crew.

16 **Mr. Roth-Roffy:** And do you have an opinion on which vessel was in better condition,
17 the El Yunque or the El Faro?

18 **WIT:** Umm, I think they were in – I would say in generally in equal condition. One of
19 the ships that we had operating here previously, the El Morro, we retired because it was
20 not in as good steel condition. It was going to require additional – additional steel
21 replacement that did not – it was not no longer cost effective to make that reinvestment.

22 But the El Faro and El Yunque are in fine shape, sir.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Roth-Roffy:** Can you tell me generally and specifically about the reliability of the El
2 Faro in the months and years before the accident?

3 **WIT:** Those steam plants are very reliable. They're a very proven marine plant. The
4 design has been around for 50 years. Very similar to the training ship that I sailed on
5 when I was a cadet as far as the plant goes. Very reliable.

6 **Mr. Roth-Roffy:** Do you have any statistics to quantify the reliability of the vessel?

7 **WIT:** Umm, we never missed any sailings. We were always able to safely operate.

8 **Mr. Roth-Roffy:** Can you tell me what the level of maintenance required in the vessels,
9 how that has changed over the past years in terms of level of effort and costs perhaps?

10 **WIT:** Sir, I can only speak to the time that I've been involved with the ships and it's
11 been a couple of years. And I would say it's been flat line, the same. We haven't cut
12 back maintenance at all if that's what you're curious about.

13 **Mr. Roth-Roffy:** Yes, you've cut back or has there been some mechanical issues that
14 have required additional expenditures?

15 **WIT:** I can't think of anything specifically. There's always maintenance on an old ship.
16 It's ongoing. We're always fixing things and that's – it's – and one of the things I took
17 with me from the cruise industry is that you don't put off your work until the yard period
18 because you'll never get it all done. So we have a continuous maintenance being
19 conducted on the ships. We're – every opportunity we have, we have teams on board
20 to support those maintenance programs.

21 **Mr. Roth-Roffy:** Given that the El Faro and the El Yunque were about 40 years old, do
22 you have an assessment of the requirements of old vessels as opposed to newer

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 vessels? For example do certain things tend to fail at a greater rate or require more
2 maintenance as the vessel ages?

3 **WIT:** I would say as a – to the extent which I was involved with these two ships for the
4 last several years, umm we've had to pay probably a greater attention to steel
5 maintenance, but that was, or excuse me, steel gauging and that was done prior to both
6 dry docks. But steel preservation is with something that we were very attentive to on
7 our Alaska ships as well. We had a steel deck preservation program which I was very
8 actively involved in.

9 **Mr. Roth-Roffy:** Now I would like to ask you specifically about particular systems on
10 board the vessel, mechanical systems.

11 **WIT:** I'll do my best.

12 **Mr. Roth-Roffy:** Starting first with the boilers. Tell me about the, in your tenure with
13 the company what you know about the operating condition, the maintenance history of
14 the boilers speaking of the main propulsion steam boilers.

15 **WIT:** Well to the best of my knowledge the boilers were in good condition and operating
16 reliably. Speaking specifically to the El Faro we did have a survey that we conducted
17 prior to and in preparation for an upcoming dry docking which was scheduled for, and I
18 apologize I don't have the date at my fingertips, but it was some weeks or a month or so
19 after the casualty. And so those – those – that survey was conducted in order to make
20 a work list and prepare materials for what was going to be required during that out of
21 service period. And there was some maintenance that was going to have to been on
22 the boilers.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Roth-Roffy:** There was maintenance that had to be done, but what were the
2 findings of the person who conducted the survey or inspection? Did he have any
3 concerns about the condition of the boilers?

4 **WIT:** Umm, you know I, I know just off the top of my head I know we had to do work to
5 the corbels and the burner throats and the economizers. That's what I can recall off the
6 top of my head.

7 **Mr. Roth-Roffy:** Did he have any recommendations for immediate or urgent
8 maintenance or repairs to the boilers?

9 **WIT:** I don't recall anything referred to anything urgent or immediate, no, sir. That
10 would have been certainly one would have – we would have gotten right after if that was
11 the case.

12 **Mr. Roth-Roffy:** And does the company have a practice of bringing in an external or
13 outside boiler surveyor to do condition surveys of the main boilers?

14 **WIT:** Well that – those surveys were done by an outside boiler contractor. It was
15 Walashek.

16 **Mr. Roth-Roffy:** But does the company have a program to periodically do that?

17 **WIT:** Yeah, prior to every dry dock we make sure that we're taking a look at what we
18 need to prepare for, for the dry docks.

19 **Mr. Roth-Roffy:** So ----

20 **WIT:** Boiler maintenance is something that you, it's ongoing.

21 **Mr. Roth-Roffy:** And the frequency of dry docks, sir?

22 **WIT:** Umm every 2 to 3 years.

1 **Mr. Roth-Roffy:** Do you recall if there's ever been instances of complete loss of the
2 boiler, the steam system while the vessel was underway that resulted in a, we call it a
3 blackout?

4 **WIT:** I have no recollection of that specific incident.

5 **Mr. Roth-Roffy:** Okay. I would like to now turn to the main propulsion turbine.

6 **WIT:** Sir.

7 **Mr. Roth-Roffy:** Another component in the main propulsion system. Can you tell me
8 generally and whatever extent that you can about the history, the operating history of
9 the main turbines and the propulsion system?

10 **WIT:** Uh, all I can speak to specifically would be the inspections that were done as
11 required by class. And then we have additional service which we do above class and
12 that was the high speed couplings between the reduction gear and the turbines require
13 periodic cleaning so that they move freely. That's about the extent of what I can speak
14 to off the top of my head.

15 **Mr. Roth-Roffy:** And do you have any recollection or knowledge of a loss of the main
16 turbines or the main propulsion system while the vessel was underway at sea?

17 **WIT:** Umm, one of the ships had a shutdown, well the Chief Engineer shut it down. It
18 was the El Faro on departure from San Juan, Puerto Rico.

19 **Mr. Roth-Roffy:** And could you please provide the details of that incident?

20 **WIT:** Sure. An unlicensed crew member on instruction from the Engineering Officer,
21 watch officer, was instructed to open up a salt water line that fed the lube oil cooler.
22 That was a green painted valve and instead he closed the lube oil line that came out of

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 the cooler which was yellow painted valve. And they lost the level in the head tank and
2 the Chief Engineer secured that turbine when he saw the oil level dropping.

3 **Mr. Roth-Roffy:** Would the main turbine have tripped out on loss of pressure oil other
4 than the ----

5 **WIT:** I believe it would have eventually, but to the best of my knowledge it was the
6 Chief Engineer who secured the turbine, there was no damage to it.

7 **Mr. Roth-Roffy:** Sir, do you have knowledge of the historical problems with the torque
8 tube arrangement on the main shaft, propulsion shaft?

9 **WIT:** No direct knowledge, sir.

10 **Mr. Roth-Roffy:** Are you familiar with that arrangement, I believe it's external to the
11 ship's hull?

12 **WIT:** I'm familiar with it.

13 **Mr. Roth-Roffy:** On that pump ----

14 **WIT:** I'm familiar. I'm familiar with it, yes.

15 **Mr. Roth-Roffy:** Yes, please, sir, could you describe how that works and it's a little bit
16 unusual for some ships or perhaps I'm mistaking.

17 **WIT:** Yeah, the ----

18 **Mr. Roth-Roffy:** The torque tube arrangement.

19 **WIT:** Out of the ship's hull there's a flange, a flange on the end of the propeller shaft.
20 And that's where the torque tube begins, the torque tube is just an extension of the shaft
21 essentially and that goes to the tail shaft piece which is a – it runs through the strut
22 which holds the propellers on the other side of the strut. So it's just an intermediate
23 shaft piece.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Roth-Roffy:** And you're not aware of any historical problems with these torque
2 tubes on any of the vessels?

3 **WIT:** Not that I'm aware of on our ships. I think there was a – I heard a story and that's
4 all that I can speak to. I don't know any direct knowledge or history or anything of those
5 things. We did closely inspect them. Class was very attentive to those torque tubes
6 when we were in dry dock. We looked at the radiuses and crack checked everything,
7 made sure there was no issues.

8 **Mr. Roth-Roffy:** Could you please describe the contractual arrangement between your
9 company, TSI and Tote Maritime Puerto Rico as it relates to the maintenance, those
10 costs and if there are any reimbursable expenses in that area?

11 **WIT:** That's all paid by Tote Maritime. We do everything that's required and then we
12 just code the invoices and send it right over and they pay it.

13 **Mr. Roth-Roffy:** So all the operating and maintenance costs are paid directly by Tote
14 Maritime?

15 **WIT:** That's correct. To the best of my knowledge that's how it works. I'm not on the
16 finance side, but functionally that's how I see it work.

17 **Mr. Roth-Roffy:** Commander Odom asked you about the AMOS which is a
18 preventative maintenance program. Could you describe how that works please, sir, on
19 shipboard?

20 **WIT:** Sure. The different components and parts of the ship are listed in that, in the
21 structure of the program. Parts are listed under those components and so you can log
22 maintenance against those components. Work orders are part of the program that are
23 generated periodically on a schedule for – to prompt the crew to attend to different jobs.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Roth-Roffy:** Different jobs meaning preventative type jobs?

2 **WIT:** Preventative maintenance, yeah. In addition to that we do thermographic
3 surveys. We do vibration analysis. We do oil analysis. So we do our best to try to stay
4 on top of anything that might be coming before it's an issue. And I believe that's
5 contributed to our reliable operation of plants.

6 **Mr. Roth-Roffy:** And those programs that you just mentioned, the thermo-imaging,
7 vibration, lube oil, what's the frequency on those types of inspections?

8 **WIT:** I believe annually.

9 **Mr. Roth-Roffy:** And who on board the vessel oversees the preventative maintenance
10 program?

11 **WIT:** The Captain ultimately.

12 **Mr. Roth-Roffy:** And below him would be who?

13 **WIT:** Chief Engineer and the Chief Mate with their respective departments.

14 **Mr. Roth-Roffy:** And who on shore side if anybody oversees the completion of the
15 preventative maintenance requirements for the vessel?

16 **WIT:** Umm, that would be through audits we would catch any issues that might be
17 some oversights. Class as well.

18 **Mr. Roth-Roffy:** Okay. Please describe the audit process that would be used to catch
19 these sorts of uh ----

20 **WIT:** I haven't been directly involved in the audit process, sir.

21 **Mr. Roth-Roffy:** Can you tell me about the most recent internal and external audits and
22 the results of those related to the mechanical condition of the vessel? Were there any
23 findings?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** This is regard to which ship?

2 **Mr. Roth-Roffy:** Specifically the El Faro, sir.

3 **WIT:** I can't speak to those details, sir, I don't recall any.

4 **Mr. Roth-Roffy:** Do you recall if there were any non-conformities or significant
5 observations from the most recent audits?

6 **WIT:** Umm, to the best of my recollection the – if the El Faro specifically, and the El
7 Yunque if that time period had very clean – clean results.

8 **Mr. Roth-Roffy:** In response to the evaluation question from Mr. Fawcett, you
9 hesitated and were not quite sure on how to answer it because perhaps the situation
10 has changed now since you were involved in it more recently. Could you describe if it's
11 been changed and how it's been changed?

12 **WIT:** Well you know I had to think about which position I was holding at the time and
13 which year you were referring to. So in 2014 I was a Port Engineer, in 2015 I the
14 Director of Ship Management. And I believe there was a reference to oversight of
15 completion of the El Faro's evaluations in 2014, so.

16 **Mr. Roth-Roffy:** Okay. So the evaluation program is still the same as it was in 2015?

17 **WIT:** The evaluation program for my involvement was different between the two years
18 because in 2014 I was a Port Engineer ----

19 **Mr. Roth-Roffy:** Because of you position.

20 **WIT:** Yeah, because of my position.

21 **Mr. Roth-Roffy:** Sir, that's all I have at this time. Thank you.

22 **WIT:** Thank you.

23 **CAPT Neubauer:** Mr. Kucharski.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Kucharski:** Thank you Captain. And good morning Mr. Fisker-Andersen.

2 **WIT:** Good morning.

3 **Mr. Kucharski:** My questions are fairly general at this point just to make sure that I
4 have the right person that I'm asking the questions of. But as a follow on to Mr. Roth-
5 Roffy's question about audits of the vessel and findings, and you said you couldn't
6 speak to that as far as who?

7 **WIT:** Not off the top of my head.

8 **Mr. Kucharski:** Do you know who we could speak to that audits the vessels as to
9 engineering functions?

10 **WIT:** For internal audits it would be the Designated Person or one of his direct reports.

11 **Mr. Kucharski:** Captain Lawrence?

12 **WIT:** Yes.

13 **Mr. Kucharski:** Thank you on that. Would you please turn to Exhibit 6, 32 and it's your
14 job description, just the very first line. Or if you could care to state first, it says that, – it
15 states "ensuring all commercial vessels are in compliance with all regulatory
16 requirements." Would you say that's a fair assessment or a correct statement?

17 **WIT:** What page was that?

18 **Mr. Kucharski:** Exhibit 6, page 32. I think it's the very first line under your description.

19 **WIT:** Okay. So what's the question?

20 **Mr. Kucharski:** The question is, would the cargo securing manual, trim and stability
21 booklet, the lashing manual for the vessel would this fall under your purview or?

22 **WIT:** Could we break that down to each individual item that you listed?

23 **Mr. Kucharski:** Okay start with the cargo securing manual.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Umm, I have never, well which ships are talking about?

2 **Mr. Kucharski:** The El Faro.

3 **WIT:** I haven't had anything to do with the cargo securing manual on the El Faro.

4 **Mr. Kucharski:** Trim and stability booklet?

5 **WIT:** I have had nothing to do with the trim and stability booklet.

6 **Mr. Kucharski:** And those are class approved regulatory items?

7 **WIT:** That's correct. Those have been approved for a long time.

8 **Mr. Kucharski:** And the lashing manual?

9 **WIT:** I don't have anything to do with that.

10 **Mr. Kucharski:** Do you know who would in your organization?

11 **WIT:** You know that was – that would be, uh I know Don Matthews and Ron Rodriguez
12 have copies of those in their offices. And they've been approved for a long time. If I
13 was asked I might provide assistance to them. If any revisions need to be run through
14 class because we're much more close with ABS than those guys are, but as far as the
15 use of those manuals I haven't had anything to do with it since I've been down in
16 Jacksonville. They've been long standing approved documents.

17 **Mr. Kucharski:** Mr. Rodriguez and Mr. Matthews, are they part of Tote Services Inc.,
18 your organization?

19 **WIT:** They actually work directly for Tote Maritime. Tote Maritime Puerto Rico, excuse
20 me.

21 **Mr. Kucharski:** Thank you. Back to AMOS, would you also consider that a planned
22 maintenance system?

23 **WIT:** Yes.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Kucharski:** Does – is it class approved?

2 **WIT:** I believe so, but I don't know. I haven't seen the document.

3 **Mr. Kucharski:** Does it also capture unscheduled maintenance and unplanned
4 maintenance?

5 **WIT:** Yes it does.

6 **Mr. Kucharski:** Is all the bridge equipment captured in AMOS? All the bridge
7 equipment?

8 **WIT:** Umm, I don't know.

9 **Mr. Kucharski:** If it's not captured in AMOS do you capture it somewhere else, the
10 bridge equipment?

11 **WIT:** That's through our very proactive and engaged relationship we have with Radio
12 Holland that we attend to those. That's – bridge electronics requires constant
13 maintenance and if you rely on a program to tell you when you need to check something
14 you're heading for a failure. That you need very regular attendance and attention on
15 bridge electronics as I'm sure you know.

16 **Mr. Kucharski:** Is there other equipment on the bridge besides bridge electronics?

17 **WIT:** You have your steering system.

18 **Mr. Kucharski:** And would Radio Holland also take care of that?

19 **WIT:** Uh, no we had another service engineer, Sperry Service that would attend to that.

20 **Mr. Kucharski:** Thank you, thank you for those answers. Please take a look at Exhibit
21 6 again, page 39 this time. It's the Port Engineer's duties.

22 **WIT:** Is there a specific part of the page you would like me to reference?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Kucharski:** Yes, and I'll start you off there, sorry about that. But my first question
2 is would you consider the Chief Engineer a technical expert for engineering aboard your
3 vessels? The Chief Engineer.

4 **WIT:** We're not referencing this?

5 **Mr. Kucharski:** Not yet.

6 **WIT:** The Chief Engineer is the closest person on board for day to day feedback on the
7 condition of the machinery. But he also requires support from others in order to get that
8 level of uh, of uh comfort level with his plant. That's why we have additional support
9 regularly attending the ships.

10 **Mr. Kucharski:** Supporting the Chief Engineer?

11 **WIT:** And the ship in general.

12 **Mr. Kucharski:** So would you consider the Chief Engineer a technical expert on board
13 your ships for engineering type things?

14 **WIT:** He's uh, he is a technical – a technical authority on board the ship. But he
15 requires support. You can't put everything on the Chief Engineer, he requires support.

16 **Mr. Kucharski:** And your department, specifically deals mostly with engineering, is that
17 correct?

18 **WIT:** Well we deal with maintenance on the whole ship.

19 **Mr. Kucharski:** You have oversight of the Port Engineers, yes?

20 **WIT:** That's correct.

21 **Mr. Kucharski:** Okay. Now Exhibit 6, page 39 please. Specifically this is the Port
22 Engineer, essential duties and responsibilities, first paragraph about midway down
23 which the sentence starts, "monitors".

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Okay.

2 **Mr. Kucharski:** And just so I can read it for the record, “monitors and advises vessel’s
3 senior officers in order to maintain operational capabilities of the vessel.” You see that
4 statement?

5 **WIT:** Yeah I see it.

6 **Mr. Kucharski:** Could you tell me the Port Engineer of the vessel’s senior officers who
7 he advises, he or she, advises to?

8 **WIT:** Can you restate the question?

9 **Mr. Kucharski:** Could you tell us who the Port Engineer, of the senior officers on the
10 vessel, who he or she advises to?

11 **CAPT Neubauer:** Sir, I’m not sure I understand the question.

12 **Mr. Kucharski:** I’m just trying to determine who on the vessel, the senior vessel’s
13 person officers, it says here monitors and advises vessel’s senior officers. So who does
14 he, the Port Engineer monitor or advise of the vessel’s senior officers.

15 **WIT:** Sir, the Port Engineer works very closely with the Captain, Chief Engineer and
16 Chief Mate on a weekly basis. And it’s an informational exchange on a regular basis.

17 **Mr. Kucharski:** So the Port Engineer would be advising the Master, is that – so I
18 understand that correctly?

19 **WIT:** If the Chief Engineer, excuse me, if the Port Engineer throughout the day had
20 come across something that – in his – in his interactions with the Chief Engineer or the
21 Chief Mate, he certainly would be sharing that with the Captain. We don’t operate in a
22 vacuum, we’re a team.

23 **Mr. Kucharski:** Is there anyone on the nautical side that has that same collateral duty?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Umm, not on as a regular basis as the Port Engineer. The Port Engineer is on
2 board every week.

3 **Mr. Kucharski:** Thank you for your answers, thank you. Before the El Faro sinking,
4 were you aware of any instances or incidents where any Tote vessels lost propulsion in
5 any heavy weather?

6 **WIT:** None that I can recall.

7 **Mr. Kucharski:** How about after the incident? Were you made of any incidents where
8 a Tote vessel lost propulsion?

9 **WIT:** From heavy weather?

10 **Mr. Kucharski:** Yes, sir.

11 **WIT:** None that I can recall.

12 **Mr. Kucharski:** No further questions. Thank you.

13 **CAPT Neubauer:** Thank you. Does Tote have any questions?

14 **Tote Inc:** No questions.

15 **CAPT Neubauer:** Thank you. Can you check your microphone?

16 **Tote Inc:** No questions.

17 **CAPT Neubauer:** Does ABS have any questions?

18 **ABS:** No questions.

19 **CAPT Neubauer:** Does Mrs. Davidson have any questions?

20 **Ms. Davidson:** Yes I have a few, thank you. Sir, can you turn to Exhibit 52 for me?

21 **WIT:** We have it in front of us.

22 **Ms. Davidson:** Sir, that's the 2014 evaluation for Captain Michael Davidson, correct?

23 **WIT:** That's correct.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Ms. Davidson:** And there's a grading process, a number process from 1 to 5, correct?

2 **WIT:** That's correct.

3 **Ms. Davidson:** 1 being poor and 5 being exceptional?

4 **WIT:** That's correct.

5 **Ms. Davidson:** 4 being very good?

6 **WIT:** That's correct.

7 **Ms. Davidson:** And there's also an instruction that if you wanted to grade someone
8 between very good and exceptional you can use decimal points, correct?

9 **WIT:** That's correct.

10 **Ms. Davidson:** With respect to the evaluation of Michael Davidson for safety
11 awareness and vessel safety record, what was his score?

12 **WIT:** 5, exceptional.

13 **Ms. Davidson:** With respect to administration what was his score?

14 **WIT:** 5, exceptional.

15 **Ms. Davidson:** With respect to cargo familiarity what was his score?

16 **WIT:** 5, exceptional.

17 **Ms. Davidson:** With situational judgment what was his score?

18 **WIT:** 5, exceptional.

19 **Ms. Davidson:** With respect to responsibility what was his score?

20 **WIT:** 5, exceptional.

21 **Ms. Davidson:** With respect to communication skills what was his score?

22 **WIT:** 5, exceptional.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Ms. Davidson:** With respect to overall competence and decision making what was his
2 score?

3 **WIT:** 5, exceptional.

4 **Ms. Davidson:** With respect to leadership what was his score?

5 **WIT:** 5, exceptional.

6 **Ms. Davidson:** With respect to initiative what was his score?

7 **WIT:** 5, exceptional.

8 **Ms. Davidson:** With respect to cooperation with customer and regulatory agency what
9 was his score?

10 **WIT:** 5, exceptional.

11 **Ms. Davidson:** In fact all of his scores were exceptional, correct?

12 **WIT:** That's correct.

13 **Ms. Davidson:** And what was Tim Neeson's comments about the Captain?

14 **WIT:** Captain Davidson handles all aspects of the Master's position with
15 professionalism. He handles a diversified and unpredictable crew quite well.

16 **Ms. Davidson:** Thank you. No further questions.

17 **CAPT Neubauer:** Sir, if we could keep that evaluation open. Are there any missing
18 scores on that evaluation?

19 **WIT:** It looks like item 3 is missing.

20 **CAPT Neubauer:** And what's the title for that evaluation criteria?

21 **WIT:** Cooperation with technical manager.

22 **CAPT Neubauer:** Is that a criteria that Masters would normally be evaluated on?

23 **WIT:** It's on the form.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CAPT Neubauer:** Sir, did you ever see this preliminary evaluation prior to the accident
2 voyage?

3 **WIT:** This one?

4 **CAPT Neubauer:** Yes, sir.

5 **WIT:** Yes.

6 **CAPT Neubauer:** Is there a reason that you didn't finalize the evaluation prior to the
7 accident?

8 **WIT:** As Port Engineers we forward them on to the office to Human Resources.

9 **CAPT Neubauer:** Thank you. HEC do you have any questions for the witness?

10 **HEC:** No questions.

11 **CAPT Neubauer:** Good morning Mr. Fisker-Andersen, before I start my questioning I
12 want to apologize, when I introduced you I used your old title as Port Engineer, not the
13 Director.

14 **WIT:** That's okay.

15 **Tote Inc:** Captain if I may, Captain. We have one follow up question on that exhibit
16 that you were just working on.

17 **CAPT Neubauer:** Yes, sir.

18 **Tote Inc:** Would this be a good time?

19 **CAPT Neubauer:** Uh yes, please.

20 **Tote Inc:** Mr. Neeson if you could look at that, sorry, Mr. Fisker-Andersen if you could
21 look at the blank you were just asked about, a blank section that he was not graded, do
22 you see that one? Top right corner.

23 **WIT:** Correct.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Tote Inc:** Tell me again what that category says.

2 **WIT:** Cooperation with technical manager.

3 **Tote Inc:** If you could look down at the bottom of the form, had the technical manager
4 yet seen this form?

5 **WIT:** Apparently not, sir.

6 **Tote Inc:** Okay. So is it your understanding that the technical manager who had not
7 yet seen the form would be the person to fill in that blank?

8 **WIT:** I believe so. I believe that's correct.

9 **Tote Inc:** Thank you.

10 **CAPT Neubauer:** Thank you. Sir, I would like to talk about the maintenance of the life
11 boat davits on the El Yunque to start. Did you mention that when the maintenance was
12 done that ABS or the Coast Guard was in attendance?

13 **WIT:** Yeah, I believe it was both in attendance. But primarily ABS.

14 **CAPT Neubauer:** Sir, is it your has it ----

15 **WIT:** It was either, I'm sorry. Go ahead.

16 **CAPT Neubauer:** Has it been your experience that ABS and the Coast Guard both
17 attend surveys on your vessels for the El Yunque and the El Faro when that type of
18 maintenance is done?

19 **WIT:** For that kind of maintenance it's quite regular for the Coast Guard to be involved
20 when you're talking about life saving equipment. But I honestly don't remember if the
21 Coast Guard was in attendance or not.

22 **CAPT Neubauer:** Sir, did you say that a test was done after the maintenance was
23 completed?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** I wasn't there, but I was told that a test was done.

2 **CAPT Neubauer:** Are you aware of any davit maintenance on the El Faro?

3 **WIT:** Uh, in our follow up, uh evaluations after we were prompted for the El Yunque
4 maintenance issue on those davits, I believe there was some clutches that required
5 replacement after we had a service engineer evaluate the condition of the maintenance.
6 And that's – that's why we added additional rafts just in case they were – additional
7 issues that were – that were found that we needed to attend to.

8 **CAPT Neubauer:** Do you know when that maintenance was completed?

9 **WIT:** In rough time frames I believe it was in the summer time.

10 **CAPT Neubauer:** Just to make sure, the davit maintenance for the El Faro?

11 **WIT:** I believe it was completed in the summer time. Off the top of my head.

12 **CAPT Neubauer:** Yes, sir, understand. Talking about, I would like to talk about GM
13 margin and the policy for – that the company has for what types of margin should be
14 included prior to sailing. Do you know what that margin is, sir?

15 **WIT:** I'm not part of that process, sir.

16 **CAPT Neubauer:** Okay. At this time recommend that we take a 10 minute recess and
17 we'll reconvene at 1030.

18 *The hearing recessed at 1019, 19 February 2016*

19 *The hearing was called to order at 1033, 19 February 2016*

20 **CAPT Neubauer:** Sir, we're going to open a new line of questioning at this time on
21 operations.

22 **WIT:** Could I clarify something that we discussed before the break?

23 **CAPT Neubauer:** Yes, sir.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** We were referring to the completion date of the life boat davit service and I have
2 the service report with me, it's actually Exhibit number 74.

3 **CAPT Neubauer:** Yes, sir.

4 **WIT:** And the completion date and the final test date for that service as referenced in
5 the exhibit is 9 – 9/29 of 2015. Specific to the question that I was able – that I wasn't
6 able to come up with a specific date for you.

7 **CAPT Neubauer:** Yes, sir, understand. Are you familiar with that servicing that
8 occurred, sir?

9 **WIT:** Only second hand.

10 **CAPT Neubauer:** Okay. At this time I'm going to open up a new line of questions
11 regarding operations. Mr. Fawcett.

12 **Mr. Fawcett:** Sir, I would like to turn your attention to the general topic of operations for
13 the El Faro and perhaps for the El Yunque. So the boiler issues that were identified in
14 the Walashek report, what was the plan to deal with those issues?

15 **WIT:** The issues that were identified, since I'm not a boiler expert we discussed with
16 other folks as well for their feedback, and the plan was, in general, we were going to
17 attend to those, all those issues in dry dock.

18 **Mr. Fawcett:** And where would that dry dock have taken place?

19 **WIT:** Grand Bahama shipyard.

20 **Mr. Fawcett:** Were you aware of the change of plans to perform that type of work in a
21 yard in the Pacific Northwest?

22 **WIT:** No.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Fawcett:** If they had changed the dry docking to, and we're talking about the pre-
2 accident time frame, if they had planned to shift the repairs to the boiler to a yard in the
3 Pacific Northwest would that have increased the risk to the vessel?

4 **WIT:** Sir, I don't know of any plans to shift the – shift the dry docking. I was going down
5 the road together with the Port Engineer we're going to dry dock it in Grand Bahamas.

6 **Mr. Fawcett:** Okay. But from your position as Ship Management, if they had shifted
7 the dry docking to a Pacific Northwest Yard, would that have increased the risk to the
8 vessel? With the boiler issues that had been identified.

9 **WIT:** We may have taken another look specifically at each issue identified. You're –
10 this is very hypothetical what you're saying.

11 **Mr. Fawcett:** So were there any issues, mechanical issues with the strut or the strut
12 bearings for the propeller shaft?

13 **WIT:** On the El Faro?

14 **Mr. Fawcett:** Correct.

15 **WIT:** We were receiving lube oil analysis reports with an elevated tin level in them.

16 **Mr. Fawcett:** What would be the consequences, the potential consequences of
17 elevated tin levels in that lube oil for the strut bearing?

18 **WIT:** Well it's – an elevated tin level is an indication of wear. So it's an indication and a
19 prompting for us on the technical side that we – we better pay attention and attend to
20 our dry dock plans and make plans to take a look at that.

21 **Mr. Fawcett:** So we heard testimony yesterday that there was an issue related to the
22 bottom coating on the El Yunque which resulted in what Captain Lofffield described as a

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 series of draft markings on the starboard side that weren't clear and concise. Did the El
2 Faro have the same under body coating?

3 **WIT:** Sir, in dry dock we spent over \$400,000 to completely sand blast the bottom of
4 both ships and apply new silicone hull coatings.

5 **Mr. Fawcett:** So they had the same type of coating?

6 **WIT:** Yeah, it's the latest technology of environmentally friendly silicone antifouling.

7 **Mr. Fawcett:** And when was the last dry docking coating and sand blasting conducted
8 for the El Faro?

9 **WIT:** December 2013.

10 **Mr. Fawcett:** Did – were the draft marks accurately marked on the hull? Was there a
11 survey done to see if the draft markings were correct and proper?

12 **WIT:** Sir, all the underwater required coatings were reapplied.

13 **Mr. Fawcett:** No for the draft markings in particular.

14 **WIT:** To the best of my knowledge, sir, they were all applied in accordance with class
15 requirements.

16 **Mr. Fawcett:** I would like you to turn your attention if you would, sir, to Exhibit 5, page
17 1. What you're going to look at is an email from you to Phil Morrell date January 30th,
18 2015 and it discusses about Mr. Neeson aboard the El Faro with ABS.

19 **Tote Inc:** Could you repeat the page number?

20 **Mr. Fawcett:** Yes, I'm sorry. Exhibit 5, page 1. Do you see that?

21 **WIT:** I see it.

22 **Mr. Fawcett:** Okay. So in there they had ABS aboard with the Port Engineer. Was Mr.
23 Neeson a Port Engineer at the time?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** That's correct.

2 **Mr. Fawcett:** And so there were minor steel repairs that were being repaired, is that
3 correct?

4 **WIT:** That's my understanding.

5 **Mr. Fawcett:** And Tim asked the Captain to be ensure that the crew took care of those
6 repairs as they were relatively minor and well within their capabilities. The next line is
7 when ABS returned these repairs were still not completed. Is that correct?

8 **WIT:** That's my understanding.

9 **Mr. Fawcett:** And the next line is this did not reflect well upon our ship or operation. So
10 that issue that's discussed in there, what type of issue is that? Is that a safety issue, is
11 that a repair issue, regulatory oversight issue? I mean how would you classify the fact
12 that the repairs weren't done as instructed and that ABS had to come back to take a
13 look at the repairs at a later time?

14 **WIT:** Umm, I would say it's a maintenance oversight.

15 **Mr. Fawcett:** Okay. So it's a maintenance oversight issue, how would you provide
16 feedback, because you wrote it, to management that throughout the fleet, not just the EI
17 Faro, but that situation for example the fact that the repairs aren't completed when
18 instructed and to the satisfaction of the Port Engineer, how is that communicated to the
19 fleet so that fleet wide that problem is eradicated or reduced?

20 **WIT:** Can you restate the question, sir?

21 **Mr. Fawcett:** Yeah, in other words, here's a problem on board the ship, the repairs
22 weren't done as specified, it involved class and oversight. So how do you as the
23 Director of Ship Management and the author of that email see that is communicated to

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 management so that problem goes away, not only on the El Faro, but on the El Yunque
2 and the ships in the Pacific Northwest?

3 **WIT:** This was a problem very specific to one incident on the El Faro, sir.

4 **CAPT Neubauer:** Mr. Fawcett I have one follow up question on this topic. Do you
5 know if ABS was notified that the repair was not made as stated to the ABS surveyor
6 previously?

7 **WIT:** I don't know.

8 **Tote Inc:** Captain, may I ask a question at this point that would be, over here Captain.

9 **CAPT Neubauer:** Yes, sir.

10 **Tote Inc:** Thank you. Mr. Fisker-Andersen do you know how big the holes were or the
11 pitting or whatever the issue was that was of concern here?

12 **WIT:** I don't. It was described to be as minor.

13 **Tote Inc:** Thank you.

14 **CAPT Neubauer:** Sir, could you identify yourself for the record please?

15 **Tote Inc:** I'm sorry, Jeff King, K&L Gates for Tote.

16 **CAPT Neubauer:** Thank you. Mr. Fawcett please continue.

17 **Mr. Fawcett:** Thank you Captain. Do you know if the Director of Safety got involved
18 with this issue or the Designated Person ashore? I mean it doesn't indicate that in the
19 email, but.

20 **WIT:** I don't believe so, sir.

21 **Mr. Fawcett:** Would you classify this in some manner as a safety issue?

22 **WIT:** At the time I regarded it as maintenance and management issue.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Fawcett:** So on the accident voyage and prior to the accident voyage there was an
2 ongoing conversion work taking place on the El Faro. And it was supervised by a Chief
3 Engineer during the course of that work. Who supervised that Chief Engineer or that –
4 let's call him the on board project leader?

5 **WIT:** The on board project leader was one of our former Chief Engineers.

6 **Mr. Fawcett:** And who supervised his work?

7 **WIT:** Umm, the weekly project management was attended to in detail by the Port
8 Engineer. I was on copy on a lot of those communications.

9 **Mr. Fawcett:** Did you participate in meetings regarding the upcoming conversion work?
10 Like prior to the riding crews being actually engaged in that work and boarding the
11 vessel, did you participate in planning meetings related to the conversion work?

12 **WIT:** Yes I did.

13 **Mr. Fawcett:** Did the topic come up that the Polish riding gang wouldn't have complete
14 fluency both written and spoken word of the English language?

15 **WIT:** Sir, we've used that contractor on numerous occasions. Let me say several
16 occasions and found their work to be very skilled and excellent. They – in order to
17 facilitate work together with them, at least one of the individuals was very fluent in
18 English. And many of them often times understood very well English. Our first
19 exposure in work with them was when I was the Port Engineer of the North Star and we
20 installed HI-FOG systems on both of the ships. That was a quarter million dollar
21 investment on each ship to upgrade those ships. And they were the recommended
22 OEM installer by Marioff, that was our first introduction to that organization and found

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 them to be very, very highly skilled workers and very diligent and a good service
2 partner.

3 **Mr. Fawcett:** Do you recall if the safety department participated in those meetings?

4 **WIT:** Umm.

5 **Tote Inc:** Which meetings?

6 **WIT:** Which meetings are you referring to?

7 **Mr. Fawcett:** The planning meetings for the Polish riding crew.

8 **WIT:** We're all part of safety. It's always – that's always a consideration.

9 **Mr. Fawcett:** But specifically the safety department?

10 **WIT:** If you're referring to John Lawrence, John Lawrence was not a part of those
11 meetings?

12 **Mr. Fawcett:** Or Mr. Peterson?

13 **WIT:** No.

14 **Mr. Fawcett:** So you've worked as a Port Engineer, you've worked around the terminal,
15 how important is the role of the Chief Mate to the security of operations for ships at sea
16 that carry the containerized cargo and the roll-on roll-off cargo such as the El Faro?

17 **WIT:** Well the Chief Mate runs the deck. He has direct oversight over the – over
18 everything down there.

19 **Mr. Fawcett:** So are they also critical to the loading and stability of the vessel prior to
20 departure?

21 **WIT:** Chief Mate – I'm not involved in that process, sir. But what I know of the Chief
22 Mate's role is he's checking the stability.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Fawcett:** So did Mr. Neeson, and I'm going to quote from it, but I'm not going to
2 ask you to, but on Exhibit 5 page 54, it's an email and once again I apologize it's
3 redacted because I was going to display it, but I'm not. Mr. Mathias the project leader
4 aboard the El Faro sends an email ashore to Tim Neeson where he says quote, "we're
5 on our third new Chief Mate this month and he's still trying to find the messdeck so I
6 didn't even bother to ask him". Did you ever have a conversation with Mr. Neeson
7 regarding this?

8 **WIT:** I don't recall. I don't believe I was copied on this email.

9 **Mr. Fawcett:** Okay. Well that's what I'm saying, did you ever have a conversation? In
10 other words Mr. Neeson reports to you. So I'm just wondering ----

11 **WIT:** That's correct.

12 **Mr. Fawcett:** If he had a conversation with you about the subject?

13 **WIT:** I don't recall.

14 **CAPT Neubauer:** Mr. Fawcett I have a follow on question on this topic. Sir, was the
15 Master of the El Faro ever consulted during the process of planning the Polish riding
16 gang work?

17 **WIT:** Consulted for feedback?

18 **CAPT Neubauer:** Yes, sir.

19 **WIT:** After the crew was on board and all the feedback that I got from everybody was
20 that they were very good.

21 **CAPT Neubauer:** Sir, my question is, does the Master have any say in the riding gang
22 work that will be performed on the vessel?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** The Master at any time can – can uh, can intervene if he feels there’s an unsafe
2 situation. And he or any number of individuals, anyone can put a stop work on a
3 situation that they don’t feel is safe.

4 **CAPT Neubauer:** Yes, sir. But during – before the work is planned and performed
5 does the Master have any input on external operations that will occur pre-voyage?

6 **WIT:** I wasn’t involved in any – I don’t recall any conversations. That doesn’t mean it
7 didn’t happen, I just don’t recall any.

8 **CAPT Neubauer:** Yes, sir. Do you know who would inform the Master, pre-voyage of
9 external operations like the Polish riding gang that would be occurring?

10 **WIT:** You know early on in the process if there was going to be anyone who is
11 attending the ship we always copy the Master so he’s aware of things going on.

12 **CAPT Neubauer:** Would that – are you talking about the day of the voyage, sir?

13 **WIT:** No, we – I don’t recall when – when or if he was brought into the loop.

14 **CAPT Neubauer:** Thank you. Mr. Fawcett.

15 **Mr. Fawcett:** Thank you Captain. Do you know if the Master ever reviewed the scope
16 of work for the conversion work so he was aware of what activities were going to take
17 place on his vessel?

18 **WIT:** I don’t recall

19 **Mr. Fawcett:** We’ll go – we’ll talk about the accident voyage and other voyages of the
20 El Faro in the final section topic area. But I want to talk to you about your involvement
21 with the movement of Tote cargo with tugs and barges. Could you speak to that?

22 **WIT:** We’ve run on, I say we, Tote Services, Tote Maritime – Tote Maritime contracted
23 tugs and barges starting in December, January, January 2015 in order to infill the

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 needed extra capacity with the pulling out of Horizon Line from the trade. I was involved
2 with pre-hire surveys for several of the pieces of equipment. The equipment that was
3 loaded on those, I mean the cargo was Tote Maritime cargo, but all of those tugs
4 operated under their own safety management systems. All of those operators had their
5 own safety management systems.

6 **Mr. Fawcett:** So when you said equipment, just for my benefit, could you explain ----

7 **WIT:** Cargo.

8 **Mr. Fawcett:** What?

9 **WIT:** Cargo. It was our cargo on those barges. The Tote Maritime and Longshoreman
10 loaded the cargo on those barges and the tugs provided service delivering those barges
11 between Jacksonville and San Juan, Puerto Rico under their safety management
12 systems.

13 **Mr. Fawcett:** At any time did Tote Services dictate modifications to equipment, towing
14 equipment, repairs to those vessels or modifications to the barges themselves?

15 **WIT:** Can you speak, can you break that question down in pieces?

16 **Mr. Fawcett:** All right. Let's talk about the tugs and their towing apparatus. Did at any
17 time Tote provide or require or, for example, the towing wires, the towing chains, the
18 bridals, did you get involved with that?

19 **WIT:** We had a surveyor was very experienced in towing perform a pre-hire survey and
20 he had a very detailed list of recommendations that the tug operators were asked to
21 perform in order to ensure that – that the cargo would be safe in their hands. Umm,
22 several of the barges he either recommended that we add additional tow chain and we
23 did that prior to putting them into service.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Fawcett:** Were there ever any speed restrictions that Tote applied to the towage of
2 barges under contract? And I'm not sure exact – exactly the contractual relationship,
3 but did you ever indicate a towing speed for barges?

4 **WIT:** I did ask the tug operators, I believe in an email to limit the towing speed on an
5 empty barge to 10 knots to prevent damage to the bottom of the barge.

6 **Mr. Fawcett:** What time frame was that, do you recall?

7 **WIT:** I don't recall.

8 **Mr. Fawcett:** I mean do you have an idea of what month?

9 **WIT:** I'm sorry, I don't remember.

10 **Mr. Fawcett:** Why would you do that?

11 **WIT:** There was a story that I heard of a similar class barge that upon delivery on a trip
12 up the Northwest sustained bottom damage from towing too fast. And I wanted to
13 prevent that. Because as charters we would have been responsible for that damage.

14 **Mr. Fawcett:** How did – how did the company involved with the towing report to you
15 that they were complying with your speed dictated?

16 **WIT:** We had – we had daily noon reports from the tugs.

17 **Mr. Fawcett:** Did they ever talk about speeds in excess of that 10 knot towage and
18 give an explanation which you received?

19 **WIT:** I recall on one occasion there was a note that they were in the Gulf Stream
20 getting pushed.

21 **Mr. Fawcett:** So they were exceeding that speed restriction?

22 **WIT:** Well over the ground yes, but not through the water. And I believe it was minor.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Fawcett:** Okay. Can you turn your attention to Exhibit 4, page 63? You should be
2 looking at an email from you to a series of individuals including Admiral Greene, Don
3 Matthews, Mr. Weinbecker, talking about storm avoidance. Do you see that?

4 **WIT:** Give me a chance to read it.

5 **Mr. Fawcett:** Sir. And – and it was actually from Smith Marine to you and then you
6 replied. Correction to that.

7 **WIT:** Okay. What's the question, sir?

8 **Mr. Fawcett:** Well I note that you respond to an individual named Latham and could
9 you read that aloud please?

10 **WIT:** My response?

11 **Mr. Fawcett:** Yes please.

12 **WIT:** Latham, safe routing, excuse me. Safe passage and storm avoidance is higher
13 priority than the schedule. I'm sure all prefer to have one or two hide-out options in
14 case the storm turns. For routing, we defer to your teams experience in this case.

15 **Mr. Fawcett:** And below that the original message that Latham Smith sends to you,
16 down at the bottom the last line he says, we want input from you as it is your schedule
17 at risk. Is that typical of what you expected from the tug operators regarding the
18 schedule?

19 **WIT:** I view that as a customer service notification.

20 **Mr. Fawcett:** So this is a back and forth that took place in late August approximately a
21 month before the storm voyage. And we've talked about the use of the alternate route
22 through the Old Bahama Channel that the El Faro took and the subsequent somewhat
23 delayed arrival into San Juan, which included Captain of the Port measures that may

1 have influenced the delay in arrival. Also the distance of the route. That route was a,
2 based on the information that I have of the El Faro, a deviation from routine. And the
3 question I have is did the Tote management team sit down and assess the effects of
4 Tropical Storm Erika and Hurricane Danny on their operation and apply lessons learned
5 to future operations?

6 **WIT:** Uh, in reference to Erika and Danny, those were both bearing down on our ports
7 of call. Erika was bearing down on San Juan and Danny was bearing down on San
8 Juan. And then bearing down on Jacksonville. So those hurricanes would have directly
9 affected not only our port operations, but our ships if we had scheduled a ship to be in
10 port those days. Those hurricanes were forecasted to be out as much of a week
11 bearing down on our two ports. And so obviously they had a significant amount of
12 attention in the ports, significant amount of attention in the news media, and obviously
13 we had to pay close attention to what we were planning for bringing our ships in.
14 Because those were – we don't want to bring a ship in and have a – in the middle of an
15 operation and the ports closing. We have to work very closely with the restrictions of
16 that may be placed in the ports. And obviously what's going to be happening if there's a
17 hurricane bearing down on that port. Because you have nowhere to run. A port is –
18 you can't run from a hurricane. And in contrast, since we're talking about hurricanes,
19 you know Joaquin was – as recently as several days before the incident a tropical
20 depression heading to the North Atlantic.

21 **Mr. Fawcett:** Okay. Just focusing our attention on Danny and Erika, weren't they also
22 in effect bearing down on your ships?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Our ships operate in those areas. Our ships operate through the Bahama
2 Channel and straight across.

3 **Mr. Fawcett:** So was there a risk assessment conducted following that for the
4 shipboard operations that took place during those two storms?

5 **WIT:** I recall seeing copies, and recall some communications on heavy weather
6 preparedness and reminders on that.

7 **Mr. Fawcett:** Has Tote conducted table top exercises that you're aware of?

8 **WIT:** I was involved in a large scale table top exercise while I was in Tacoma. And I
9 believe there was a large scale exercise aboard the El Faro while she was in the layup
10 status here in Jacksonville.

11 **Mr. Fawcett:** Have there every conducted table top exercises to examine the
12 effectiveness of a hurricane plan and integrating the hurricane plan for shipping
13 operations at sea?

14 **WIT:** I wasn't involved in the El Faro table top exercise, so I don't know if that was
15 involved in that or not.

16 **Mr. Fawcett:** Could you explain looking at critical life saving equipment who's
17 responsible for that equipment from a Tote Services perspective?

18 **WIT:** The ships are keeping track of the life saving equipment and we're obviously very
19 closely supporting of their requirement.

20 **Mr. Fawcett:** So you're saying that the ship is responsible for that equipment?

21 **WIT:** The Master's responsible.

22 **Mr. Fawcett:** In the case of the El Yunque that had some wastage in its davit
23 equipment, who discovered that equipment wastage?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** There was actually several fold individuals who – who identified that. A senior
2 U.S. Coast Guard inspector in San Juan who I have a great deal of respect for, I believe
3 – I don't recall if it was in the COI, but it was in the summer time. Came aboard and I
4 wasn't there, but as described to me by Mr. Neeson he came aboard and went straight
5 to the securing points for the life boat wires and was – really wanted to see the condition
6 of those securing points. And as described to me it was based on his experience that
7 on an older vessel that would be a critical failure point. So I believe it was an 835 or it
8 could have been a class or permanent, I don't recall at this time, but he ensured that we
9 were going to inspect those. And I believe within the next two weeks we opened those
10 up and discovered when they were beaten there was some corrosion there that would
11 have been otherwise hidden by a shackle. So I have to credit the experience and
12 diligence of a senior United States Coast Guard inspector in San Juan for identifying
13 that. An otherwise hidden – hidden issue.

14 **Mr. Fawcett:** Why wouldn't that be discovered through the typical routine maintenance
15 of that equipment or through drills, launching, examination, and on board checklists?

16 **WIT:** Well it was hidden below a shackle and it was corrosion that wasn't easily
17 identified without really – really beating on it to break it out of the steel. And it was the
18 bitter end, it was where the wire was secured to the drum and it was an area that
19 doesn't get painted because the shackle is in the way of that fixture point on the
20 apparatus. That was the beginning point of where the survey started and where the
21 issue was identified.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Fawcett:** When you worked for the cruise ship industry, were you able at any time
2 from your desktop workstation or so forth to know where one of your vessels were if you
3 went to some kind of desktop app, excuse me, desktop application?

4 **WIT:** No.

5 **Mr. Fawcett:** They didn't have that provision?

6 **WIT:** No.

7 **Mr. Fawcett:** Have you looked on, while you worked at Tote, on their computer to find
8 a location of one of the Tote vessels, prior to the accident?

9 **WIT:** Umm, quite regularly when, especially when I'm either acting as – when I was a
10 Port Engineer or if I'm filling in for one of the Port Engineers it's quite normal for me to
11 look at marine traffic or ship finder just to ensure the tug boats are coming in on time.
12 And I'll also look for other traffic in the channel to ensure that we're not going to be
13 getting ourselves into a schedule problem.

14 **Mr. Fawcett:** Have you ever, during the course of the time leading up to the accident,
15 examine the position of a vessel that you were concerned about, and by that I mean
16 either working for Tote or cruise ship something like that, and compared it to the graphic
17 position of a hurricane or the predicted course of a hurricane to see if that vessel might
18 be impacted by an impending hurricane or other tropical storm?

19 **WIT:** Not that I can recall.

20 **Mr. Fawcett:** Thank you very much.

21 **CAPT Neubauer:** Commander Denning.

22 **CDR Denning:** I don't have any further questions on this line.

23 **CAPT Neubauer:** Commander Odom.

1 **CDR Odom:** Do you, going back to that AMOS, do you guys have any like monthly or
2 weekly meeting to discuss items that are overdue that are generated from that system
3 that you participate in?

4 **WIT:** No.

5 **CDR Odom:** Does – at your level you don't, or it doesn't happen in your organization?

6 **WIT:** Maintenance is a weekly discussion on board the ships between the Port
7 Engineer and the senior officers. And any supporting requirements that they may have,
8 either immediately which obviously we're going to attend to immediately, or in the next
9 week or coming weeks. That's part of our ongoing discussions and planning.

10 **CDR Odom:** So when it comes to the actual authority over maintenance and making a
11 decision to defer an item that needs to be repaired or is scheduled and is not going to
12 meet that schedule, who makes the decision that you're going to defer the maintenance
13 to a later date?

14 **WIT:** You know from my experience with the cruise industry and other areas of the
15 industry and my time at Tote, deferring maintenance is never something that's, you
16 know something desirable. If you start deferring maintenance it gets away from you.
17 You always want to stay on top of things that are coming up. And that's not our policy
18 to defer maintenance. We always attend to what needs to be done.

19 **CDR Odom:** So if a critical piece of equipment needed a part and a decision need to
20 be made as to whether or not the vessel was going to sail or be held to the dock, or
21 you're willing to allow it to sail in a particular condition, how would that risk analysis be
22 performed and how would that decision be made?

23 **WIT:** What piece of equipment are you referring to, sir?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CDR Odom:** For example, let's say the Walashek survey report which identified a
2 number of things in the boiler that were in a state that you guys made the decision to
3 wait until the shipyard to address them. So how is that decision ----

4 **WIT:** If there was anything that was identified in that report that required immediate
5 service, we would have done it immediately.

6 **CDR Odom:** Okay. So do you review those reports and surveys? Do they come up to
7 your level in the organization?

8 **WIT:** I reviewed that report. And I also – I'm not a boiler expert, so I sought the advice
9 of others with more experience than I do.

10 **CDR Odom:** Can you take a look at Exhibit 12 please? You said you received this
11 report and you reviewed it. Can you read the section entitle burner throat?

12 **WIT:** Burner throats have deteriorated severely especially between number 1 and 3
13 burners. Cracking and loss of material plus heavy buildup of fuel is present on all three
14 throats.

15 **CDR Odom:** So when you read something like that, who makes the decision that that
16 can wait until the shipyard period to, I mean obviously you have to be concerned with
17 words like severely, deteriorated, and you guys decide to wait until the shipyard to
18 address that, who made that decision?

19 **WIT:** Well that was – that was discussed with the Port Engineer. We reached out to
20 several individuals. One of our Chief Engineers is a superintendent, actually its
21 vacation time, is a superintendent for Walashek, we asked for his input. And I believe
22 one of our former Port Engineers we reviewed it with him. And Vice President of Marine
23 Operations was also involved in the discussion on issues of this report.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CDR Odom:** But when it comes to the actual decision and the authority to make the
2 decision, who makes that decision that we're going to wait until the shipyard period to
3 address it? What individual has that authority in the company?

4 **WIT:** It's not our normal practice to defer any maintenance. And this was a survey
5 report for work which we – for planned maintenance. This isn't a – there's nothing here
6 that's a – when I say it's based on feedback from experts that I received feedback from.
7 There's nothing – there aren't any show stoppers in here. This is all work that's normal
8 boiler maintenance that, yeah some of it needs to be attended to, but there's nothing
9 that's identified in here, as it was explained to me, that's a no sail. If it was we wouldn't
10 have left the dock.

11 **CDR Odom:** So who made that decision that there's nothing in here? Who in the
12 company had the authority to make the decision that there's nothing in here that needs
13 to be discussed with ABS or the no sail that you said item? Who would be the individual
14 that would make that decision?

15 **WIT:** In this case it was all of us on the engineering side.

16 **CDR Odom:** Okay, thank you. Did you review the scope of work that was submitted in
17 Exhibit 53? For the Alaska service retrofit. Is this something that you would have
18 looked at and read and understood?

19 **WIT:** I should have some familiarity with it.

20 **CDR Odom:** Would you look at page 20 of the report please? Would you read the first
21 item under Section F entitled miscellaneous engine room items?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Verify all pipe hangers, snubbers, and supports for the main steam system in the
2 engine room are in good order to take the increased pounding in Alaska service. Many
3 hangers are currently loose or broken.

4 **CDR Odom:** So again going back looking at something like this, was this addressed,
5 had this been addressed prior to the voyage or was this something that the Polish gang
6 had already repaired, do you know of that? Or was this still an outstanding item that
7 was waiting for the shipyard?

8 **WIT:** I don't know.

9 **CDR Odom:** You don't know. Okay.

10 **CAPT Neubauer:** Commander Odom, have we confirmed that this is work that the
11 Polish riding gang was working on?

12 **CDR Odom:** This is the survey report that was provided to them for the scope of work
13 for the Alaska retrofit.

14 **CAPT Neubauer:** Okay, thank you.

15 **CDR Odom:** The primary focus of the Polish gang.

16 **CAPT Neubauer:** Thank you.

17 **CDR Odom:** Sorry. And I guess that leads to my question, is this something that they
18 were addressing, had it been addressed, or was this something that was going to wait
19 until the shipyard to be addressed? So you would not ----

20 **WIT:** I don't know.

21 **CDR Odom:** Not know that, okay.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** The primary issues that were being worked on were the installation of the
2 additional winches, control panels for those winches and the cabling to supply power to
3 those winches.

4 **CDR Odom:** With the install – installation of the cable links was there any running the
5 cable through any watertight bulkheads or any compromise of any watertight integrity of
6 the vessel with the need to run those cables?

7 **WIT:** I don't know.

8 **CDR Odom:** You don't know. Are you familiar with the alternate compliance program
9 that your vessel's inspected under?

10 **WIT:** I have a working knowledge of it.

11 **CDR Odom:** A working knowledge of it. And with your working knowledge of it, would
12 you say it's effective, is it working for your vessel or do you understand the scope of
13 what program provides?

14 **WIT:** I understand what I look to ABS towards and what the Coast Guard provides in
15 oversight.

16 **CDR Odom:** Do you think it's been effective in providing oversight for your vessel?

17 **WIT:** I'm comfortable with the level of oversight.

18 **CDR Odom:** Thank you.

19 **CAPT Neubauer:** Sir, I have one follow up question in regards to the conversion work
20 for the El Faro. Do you know if the conversion work was communicated to ABS?

21 **WIT:** We were – ABS was aware of the work that we were doing. Drawings were being
22 developed for specific items and being submitted as required for specific components of
23 the conversion. Some of the conversion was installing of originally installed equipment

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 on existing foundations. When a new foundation was required to be constructed
2 Herbert Engineering was assisting us with those new foundations and providing
3 submission to ABS on our behalf.

4 **CAPT Neubauer:** Was any of the work – were those plans approved by ABS?

5 **WIT:** I don't know how far along the approval process was.

6 **CAPT Neubauer:** Was ABS aware that work had started on board the El Faro?

7 **WIT:** Yes.

8 **CAPT Neubauer:** Did ABS give approval for the work to be done underway?

9 **WIT:** I don't recall.

10 **CAPT Neubauer:** Do you know if the Coast Guard was aware of the conversion work
11 going on, sir?

12 **WIT:** I don't think we involved the Coast Guard up at this point. But you know I want
13 you to be – I want to be clear on this, the level of this conversion work. Conversion is a
14 pretty strong term for what we're doing. We're outfitting originally installed winches.
15 We're hanging control panels which are not going to require a detailed drawing. And
16 like I said in very common cases to a point where we had stopped the foundations were
17 already existing. So this is – this was in large part installing a lot of originally installed
18 equipment on the ship.

19 **CAPT Neubauer:** Sir. At this time I'm going to ask Mr. Roth-Roffy if he has any
20 questions.

21 **Mr. Roth-Roffy:** Yes, sir. Thank you Captain. Tom Roth-Roffy, NTSB. I would like to
22 return again to the boiler inspection survey program. Do you know if the boilers are
23 covered in the shipboard preventative maintenance program, the AMOS program?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** I don't recall.

2 **Mr. Roth-Roffy:** And you mentioned previously that the company has a policy to do
3 boiler inspections by an outside contractor before the shipyard period.

4 **WIT:** That's correct. And you know, both the American Bureau of Shipping and the
5 Coast Guard have, in my experience, both been involved with boiler inspections. So in
6 regards to the specific testing of the boiler, that would be done by ABS and generally
7 the Coast Guard would want to follow up with some of those tests as well. Those would
8 be done in conjunction with regular surveys.

9 **Mr. Roth-Roffy:** I'm sorry, those last couple of words?

10 **WIT:** Those would be done in conjunction with regular surveys.

11 **Mr. Roth-Roffy:** Okay. So the regular surveys, you mentioned testing, but you're
12 referring to a detailed examination of the boilers, surveying of the boilers as done by
13 regulatory authorities?

14 **WIT:** As well as contractors. We, excuse me, we inspect the boilers prior to an out of
15 service period so we can prepare for it. We also prepare for those out of service
16 periods with a full set of boiler valves that are inspected and tested under pressure and
17 heat. And safety valves which are pop tested, certified and sealed by class so that
18 we're ready to replace anything that we need to that comes up during the survey.

19 **Mr. Roth-Roffy:** Sir, do you know when the planned dry docking and repair period was
20 to be held for the El Faro?

21 **WIT:** It was October or November, I don't recall the exact dates.

22 **Mr. Roth-Roffy:** And by that time had the work package already been prepared and
23 sent out for proposals at the time of the accident?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** I believe Grand Bahamas had the package.

2 **Mr. Roth-Roffy:** So the boiler work, was that already in the repair package or was that
3 going to be addendum?

4 **WIT:** That was subcontractor work.

5 **Mr. Roth-Roffy:** Was it your practice to do a detailed examination of the boiler before a
6 dry docking period? I believe you've already stated that.

7 **WIT:** Yes it was.

8 **Mr. Roth-Roffy:** When was that survey normally done in preparation for the dry dock?

9 **WIT:** Some months prior. With adequate time to gather required materials.

10 **Mr. Roth-Roffy:** Okay. Could you please refer to Exhibit 011? This exhibit is a email
11 from Mr. Neeson to yourself and Mr. Weinbecker and then you subsequently forwarded
12 it to Mr. Phil Morrell. Go ahead and interpret it.

13 **WIT:** What was the survey, or I'm sorry, what was the question again, sir?

14 **Mr. Roth-Roffy:** I've not posed the question yet.

15 **WIT:** Okay.

16 **Mr. Roth-Roffy:** I just wanted you – bring your attention to it.

17 **WIT:** Sure.

18 **Mr. Roth-Roffy:** I see you're reading it. Are you ready to ----

19 **WIT:** Well I want to point out that it was Mr. Neeson, was the one that forwarded the
20 email.

21 **Mr. Roth-Roffy:** I see. So you were copied on Mr. Neeson's email?

22 **WIT:** That's correct.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Roth-Roffy:** My question is, it refers to a port boiler inspection and cleaning on
2 7/11/15 and the starboard on 7/25/15. Those – that work was done by ship's force, or
3 was that a third party contractor?

4 **WIT:** I believe that was the ship's force.

5 **Mr. Roth-Roffy:** Further down in the email it says "I recommend to have Walashek
6 complete a boiler survey to determine the scope of the work that needs to be done,
7 completed in the shipyard. With short time frame permitted in the yard and amount of
8 work that needs to be completed the survey should be completed as soon as possible."
9 So it seems to me that perhaps the normal plans, surveys of the boilers before dry
10 docking had not been completed up to this time. And the date of the email was July
11 29th, 2015.

12 **WIT:** Okay. And your question, sir?

13 **Mr. Roth-Roffy:** Fair assessment that you had mentioned that it was a company
14 practice to do periodic – to do boiler surveys in advance of dry docking that they would
15 be done some months before, and this email was recommending ----

16 **WIT:** Well this is – this is a notation from, excuse me, from the Chief Engineer
17 recommending that we have some additional survey, we completed that survey.

18 **Mr. Roth-Roffy:** Additional surveys or ----

19 **WIT:** Well ----

20 **Mr. Roth-Roffy:** Or initial surveys?

21 **WIT:** Above and beyond what his assessment is.

22 **Mr. Roth-Roffy:** And sir, please refer to the following Exhibit number 12. This is an
23 inspection report by Walashek boiler company. And it says that there's an inspection

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 performed on the starboard boiler during the voyage of September 11th of '14, 2015. My
2 question, sir, was a survey of a port boiler also done in anticipation of the work to be
3 performed during the dry docking period?

4 **WIT:** I don't recall if a port one was done.

5 **Mr. Roth-Roffy:** Do you know if a survey was intended or planned to be done before
6 dry docking?

7 **WIT:** I don't know. I know at one point they were going to extrapolate the findings and
8 the planning based on one boiler's inspection and apply it to the other one. But I don't
9 know if there was a second boiler inspection done. I stand corrected there was another
10 boiler inspection done.

11 **Mr. Roth-Roffy:** Please sir, do you have a date of that port boiler inspection? I'm
12 referring of course to the interior of the port boiler. It appears to me they were
13 inspecting exterior of port and starboard.

14 **WIT:** Where are you referring to, sir?

15 **Mr. Roth-Roffy:** No just the header of the report says it's an inspection of the starboard
16 boiler and further down it says port and starboard exterior. I do not see any reference to
17 a port boiler interior inspection.

18 **CAPT Neubauer:** Sir, would you like a minute just to read over the document?

19 **WIT:** Yes please. Yes please.

20 **CAPT Neubauer:** Take as long as you need to.

21 **WIT:** After further review of the document it appears that this was the interior of the
22 starboard boiler was inspected. And those findings applied to the port boiler for

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 planning purposes. And I would like to emphasize that this report and this survey was
2 initiated for planning purposes.

3 **Mr. Roth-Roffy:** Planning purposes for the starboard boiler. What about the port
4 boiler?

5 **WIT:** For work that was upcoming that we needed, we knew we needed to complete
6 during the out of service period.

7 **Mr. Roth-Roffy:** And I just would like you to refer to the third paragraph again, same
8 paragraph that Commander Odom referred you to is the front wall tubes recommended
9 to be renewed. Was it planned that those front wall tubes were to be removed during
10 the upcoming dry docking schedule?

11 **WIT:** To the best of my knowledge, I don't know the details of that.

12 **Mr. Roth-Roffy:** Sir, who would know the details of the planned work or the projected
13 work on the boilers?

14 **WIT:** The Port Engineer might have more details on that.

15 **Mr. Roth-Roffy:** Sir, thank you. Sir, could you refer to Exhibit 017 please? I
16 understand this is a 2007 ABS letter, I'm going to give you a chance to look at that,
17 perhaps we're going to have another break or not, but are you familiar with this
18 document and the implications of this survey work and this finding that is presented to –
19 by ABS to the ship operator?

20 **CAPT Neubauer:** Sir, would you like additional time? We can take a recess here.

21 **WIT:** Yes please, let's take a break.

22 **CAPT Neubauer:** The hearing will now recess and we'll reconvene at 1145.

23

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 *The hearing recessed at 1138, 19 February 2016*

2 *The hearing was called to order at 1149, 19 February 2016*

3 **CAPT Neubauer:** The hearing is now back in session. Mr. Roth-Roffy can you
4 continue. Yes, sir?

5 **WIT:** I would like to clarify one point for the record, sir.

6 **CAPT Neubauer:** Yes, sir.

7 **WIT:** That's the – the port boiler was inspected by the ship's crew in July. And it was,
8 and the starboard boiler as well. It was based on that inspection. So they were both
9 inspected. That additional guidance and survey inspection was requested. So they
10 were both inspected.

11 **CAPT Neubauer:** And sir, just for the record, those inspections were ship, or Tote
12 initiated?

13 **WIT:** That's correct.

14 **CAPT Neubauer:** Thank you. Mr. Roth-Roffy.

15 **Mr. Roth-Roffy:** Yes, sir. And just for further clarification those two inspections you
16 just referred to were performed by shipboard personnel rather than outside experts, is
17 that correct?

18 **WIT:** That's correct.

19 **Mr. Roth-Roffy:** Thank you. And furthermore the port boiler was the only boiler
20 subjected to interior, I'm sorry, the starboard boiler subjected to interior inspection by an
21 outside expert?

22 **WIT:** I would have to look back at the report again.

23 **Mr. Roth-Roffy:** That's Exhibit 12.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Well the starboard was inspected and those findings apply to the port boiler.

2 **Mr. Roth-Roffy:** Thank you. So returning to Exhibit 017. And you've had an
3 opportunity to review this information in this letter.

4 **WIT:** Yes, thank you. This is, you know from 2007. So this is long before my
5 involvement with the ships. I have seen and referred to the lower section of this when
6 we did the gaugings in the summer of 2013, and this was criteria that was applied to the
7 thickness gaugings for those surveys. That's the lower portion of that letter.

8 **Mr. Roth-Roffy:** And just generally, sir, the purpose of this whole exchange refers to
9 an April 2007 from a vessel and this return letter also April 2007 and from ABS is in
10 response to an operator level, I guess from Tote requesting something. Can you just
11 generally describe what this is in reference to and the purpose of this deck plate
12 thickness reassessment?

13 **WIT:** This is a scantling reassessment.

14 **Mr. Roth-Roffy:** And sir, what is the purpose of a scantling reassessment?

15 **WIT:** Uh I'm not a Naval Architect. But my working knowledge of a scantling
16 reassessment is a recognition of additional steel above which is required. So to
17 allowance for additional thickness reduction.

18 **Mr. Roth-Roffy:** And what does that, what is the end result or purpose of this
19 reassessment? What is trying to get accomplished here?

20 **WIT:** It's a recognition of the overbuilt condition of the ship.

21 **Mr. Roth-Roffy:** And a recognition for what purpose?

22 **WIT:** For further refining what repairs are required.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Roth-Roffy:** Okay. Thank you very much. That's all the questions I have.

2 Captain.

3 **CAPT Neubauer:** Mr. Kucharski?

4 **Mr. Kucharski:** Not on this topic Captain.

5 **CAPT Neubauer:** Does Tote have any questions?

6 **Tote Inc:** Mr. Fisker-Andersen you were asked about Exhibit 63, could you turn to that
7 please? I'm sorry, Exhibit 4, page 63. Okay. And it says the safe passage and storm
8 avoidance is higher priority than schedule. Is it Tote's policy that safety if more
9 important than the ship's schedule?

10 **WIT:** Absolutely, yes.

11 **Tote Inc:** And are you just restating what Tote's policy is there in that email?

12 **WIT:** Absolutely.

13 **Tote Inc:** And is that still Tote's policy?

14 **WIT:** Yes it is.

15 **Tote Inc:** No further questions.

16 **CAPT Neubauer:** Does ABS have any questions?

17 **ABS:** No questions.

18 **CAPT Neubauer:** Does Mrs. Davidson have any questions?

19 **Ms. Davidson:** No questions.

20 **CAPT Neubauer:** Does HEC have any questions?

21 **HEC:** No questions.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CAPT Neubauer:** Mr. Fisker-Andersen are – would you like to take a break, I think we
2 have one more round of questions? Can we do that ahead of lunch, sir? We're at
3 1156.

4 **WIT:** I'm okay to keep going.

5 **CAPT Neubauer:** Yes, sir. I anticipate we'll be about another half an hour.

6 **WIT:** Okay.

7 **CAPT Neubauer:** Mr. Fawcett can you open the next line of questioning and
8 consolidate the two remaining groups?

9 **Mr. Fawcett:** Yes, sir, Captain. Those two topic areas being consolidated is your
10 relationship involving crewing issues, coupled with the accident voyage and previous
11 voyages of the El Faro. So do you know if the safety department gets involved with
12 crewing decisions for the El Faro?

13 **WIT:** I don't know.

14 **Mr. Fawcett:** Ms. Clark, how long has she been involved with crewing operations from
15 your knowledge?

16 **WIT:** Longer than I've been here. More than 7 years.

17 **Mr. Fawcett:** You consider her a highly effective crewing manager?

18 **WIT:** Yes I do.

19 **Mr. Fawcett:** So yesterday we heard testimony from Captain Lofffield about the fact
20 that he walked the deck to check the cargo, the ongoing work on board and he made it
21 a regular practice as the Master of the ships that he was in command of. And my
22 following questions relate to that specific leadership concept. So if you'll turn your

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 attention to exhibit 5, page 14, this is from you on July 8th to Phil Morrell regarding the
2 candidacy of Captain Davidson.

3 **CAPT Neubauer:** Can you clarify the year please Mr. Fawcett?

4 **Mr. Fawcett:** Yes, it was this year, sir.

5 **CAPT Neubauer:** 2015?

6 **Mr. Fawcett:** Yes, sir. Or excuse me, I'm sorry, 2015. Have you had a chance to look
7 at that?

8 **WIT:** I'm reviewing it now.

9 **Mr. Fawcett:** Does that refer to Captain Davidson?

10 **WIT:** Yes, sir.

11 **Mr. Fawcett:** It says and I quote, "he's stateroom Captain, I'm not sure he knows what
12 a deck looks like period. Least engaged of all four Captains in the deck operation." So
13 why did you make that assessment?

14 **WIT:** Sir, that was confidential email.

15 **Mr. Fawcett:** I'll pause here while Commander Bray may think about that issue of
16 confidentiality.

17 **CAPT Neubauer:** Can you describe the basis for that request, sir?

18 **WIT:** You know I sent that email in a confidential basis, I'm not objecting to it being part
19 of the process.

20 **CAPT Neubauer:** Sir, the board finds the assessment of Captain Davidson's
21 performance as pertinent to the investigation. If you have thoughts on his performance
22 at that time the board would like to hear those, sir.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Tote Inc:** Sir, Mr. Fisker-Andersen is not objecting to the use or the discussion of the
2 email. He was just mentioning that, the fact that it was a confidential email to give
3 context to that.

4 **CAPT Neubauer:** Yes, sir, I understand it's a sensitive subject, but I think it is
5 important to your thoughts on the Master's ability and his – the way he performed his
6 duties, sir.

7 **WIT:** Okay.

8 **Mr. Fawcett:** So continuing my line of questioning, how did you make that
9 assessment?

10 **WIT:** Based on feedback from other officers on board.

11 **Mr. Fawcett:** And is that a negative assessment in terms of vessel operation?

12 **WIT:** It's really a matter of style.

13 **Mr. Fawcett:** Were there any corrective actions that you recommended on the basis of
14 that email to enhance or improve the particular performance of Captain Davidson
15 related to being out on deck and being more involved?

16 **WIT:** Sir, Captain Davidson had a different style than I prefer as a Ship Manager. But
17 he was a very effective Captain.

18 **Mr. Fawcett:** So in May of 2015 I turn your attention to Exhibit 5, page 4. This is an
19 email from Ms. Clark to Mr. Kondracki regarding Captain Davidson. And I realize you
20 weren't copied on this.

21 **WIT:** That's correct, I'm not copied on it.

22 **Mr. Fawcett:** Take a moment if you would just to look over the general topic areas.
23 This was dated May 26th, 2015, subject Marlin crewing.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Sir, again, I wasn't copied on this message.

2 **Mr. Fawcett:** Okay. But the topics, the broad topic areas in there discuss one of the
3 areas that's discussed is that he had not been making rounds on the deck and cargo
4 spaces and then it talks about the difficulty of being able to identify that issue. It says,
5 this becomes something that is very hard to prove when the vessel is at sea. So my
6 question is, as far as Tote, Tote knows this is going on and you made an assessment in
7 July that the very same situation existed and I'm coupling that with a scarcity of
8 evaluations for the Master.

9 **CAPT Neubauer:** Mr. Fawcett I want to clarify. Did you ever have knowledge of this
10 email prior to the accident voyage, sir?

11 **WIT:** No, sir.

12 **Mr. Fawcett:** Uh, ----

13 **Tote Inc:** Sir, I object to asking about an email that he wasn't even copied on and has
14 not even seen until he's at the hearing.

15 **Mr. Fawcett:** I can restate, sir.

16 **CAPT Neubauer:** Okay. Can you restate the question?

17 **Mr. Fawcett:** Yes, sir. Thank you. I will restate the question. Your assessment of
18 Captain Davidson as being least engaged in deck operations of all four Masters, when
19 did you make that assessment? When did that – when did you realize that was the
20 case, sir?

21 **WIT:** I don't recall the exact time frame. And as I said, it's a matter of style.

22 **Mr. Fawcett:** As a matter of style, is it important that a Master closely supervise the
23 performance of a new Chief Mate?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Ms. Davidson:** Sir, we're here on a fact finding mission. You have evidence from your
2 data collection about how the crew thought about Captain Davidson, and you've taken
3 emails and little snippets of those who haven't served aboard a ship with him and
4 creating an atmosphere which is unjust and I object to it.

5 **CAPT Neubauer:** Sir, is your objection based on that this – that Mr. Fisker-Andersen
6 was not copied on this email and did not have knowledge of it?

7 **Ms. Davidson:** My objection is that the topic, which was discussed with Admiral
8 Greene in detail where you evaluated the email of Melissa Clark, you evaluated the
9 email from Mr. Fisker-Andersen, and they had a committee and he was fully vetted in
10 the interview process for the LNG's and he was on the short list. And now you're taking
11 this email which has already been discounted by executive with sea going experience
12 and creating sound bites and an atmosphere that's unjust. Because you have in your
13 data collection over the last couple of months, comments made by those who sailed
14 with him who thought he was one of the finest officers they ever sailed with. And if this
15 is a fact finding mission, let's get to the facts and not innuendo and supposition.

16 **CAPT Neubauer:** Your objection's noted sir. Mr. Fawcett let's stop discussing this
17 email with this witness as he was not copied on it.

18 **Mr. Fawcett:** Yes, sir, Captain.

19 **CAPT Neubauer:** Mr. Fisker-Andersen I do have a follow up question on the email that
20 you drafted in regards to Captain Davidson. You mentioned that you made your
21 assessment based on input you had received from officers. Now I assume that means
22 licensed merchant mariners?

23 **WIT:** That's correct.

1 **CAPT Neubauer:** Can you describe the level of the merchant mariners you were
2 receiving that type of input from?

3 **WIT:** Chief Engineer.

4 **CAPT Neubauer:** Was that the only – was it only the engineers that you received that
5 information from, sir?

6 **WIT:** That’s the only conversation I can reflect upon.

7 **CAPT Neubauer:** Thank you.

8 **Mr. Fawcett:** I would like to turn my attention now to weather information and the pre-
9 voyages and the accident voyage itself. Turning to Exhibit 4, page 101. There is an
10 email that you discussed, a response to the Master of the El Faro on 9/30/2015. The
11 subject line is El Faro vessel update Hurricane Joaquin.

12 **WIT:** I have it in front of me.

13 **Mr. Fawcett:** Okay. In that you said “Captain Mike, diversion request heads up
14 through Old Bahama Channel, understood and authorized. Thank you, kind regards.”
15 You were out at the West Coast at the time.

16 **WIT:** Point of correction. I said thank you for the heads up.

17 **Mr. Fawcett:** Okay. You were out at the West ----

18 **WIT:** That’s important.

19 **Mr. Fawcett:** Understand. You were out at the West Coast at the time?

20 **WIT:** That’s correct. I was traveling.

21 **Mr. Fawcett:** And what were you doing specifically?

22 **WIT:** I was traveling back from San Francisco.

23 **Mr. Fawcett:** Did anyone else from Tote respond to that email from Captain Davidson?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Not that I'm aware of.

2 **Mr. Fawcett:** Why did you take the time to respond to that email?

3 **WIT:** Because there was an unanswered question that I didn't want to leave open
4 ended.

5 **Mr. Fawcett:** And you used the term authorized. Why did you use that term?

6 **WIT:** I wanted to make sure that the Captain, and the term is misleading, and I wouldn't
7 have chosen the same word again, but my intent was to provide, a clear – a clear
8 response to him that absolutely you go where you need to go. Because the question
9 was I would like to transit the Old Bahama Channel and return North bound leg. Later
10 in the email he says "I will wait for your reply before transiting the Old Bahama
11 Channel." And this is addressed to John Lawrence as well as others and includes the
12 terminal manager in Jacksonville. So I wanted to make sure it was 100 percent clear to
13 Captain Davidson that any diversion that he wants to make is certainly acceptable. He
14 doesn't need my authorization.

15 **Mr. Fawcett:** So in your opinion, was the system of communication between Captain
16 Davidson and shore side managers for support of nautical operations effective?

17 **WIT:** That's a stretch.

18 **Mr. Fawcett:** Well I mean a nautical operation is a diversion for a storm, he sent a
19 message and no one ashore answered him until eventually, approximately how many
20 hours later did you answer him?

21 **WIT:** I can't tell. It was sometime later. I didn't want the email to go unanswered.

22 **Mr. Fawcett:** Where was Captain Lawrence at the time?

23 **WIT:** I don't know.

1 **Mr. Fawcett:** So in your time at Tote Services Inc. or Totem, have you ever seen
2 examples of where ships have asked, let me rephrase the question. Have you ever
3 seen any time where Tote has given speed or course changes, permission for speed or
4 course changes?

5 **WIT:** Never.

6 **Mr. Fawcett:** So do you monitor noon reports?

7 **WIT:** Yes I do.

8 **Mr. Fawcett:** How about departure and arrival messages?

9 **WIT:** Yes I do.

10 **Mr. Fawcett:** Who at Tote is responsible for doing that? Who's directly responsible?

11 **WIT:** That's communicated to a good number of individuals.

12 **Mr. Fawcett:** And the direct, the person directly responsible would be who?

13 **WIT:** Well many of us in the operation side are paying very close attention to both the
14 departure messages and the noon reports. If I don't – if I don't – if a noon report doesn't
15 come in I expect a phone call from Phil Morrell, where's the ship, I don't see a noon – I
16 don't see a departure message. And I'll say they haven't left, or they left last night, I
17 don't know why a message didn't go out, I'll call the ship. We're all paying attention.

18 **Mr. Fawcett:** So why didn't anybody answer that message?

19 **WIT:** I can't speak for anybody else. I can only speak for myself.

20 **Mr. Fawcett:** On August 23rd there was a string of emails back and forth related to
21 Danny and Erika and I turn your attention to page 4, page 35. And the subject is
22 Hurricane Danny and then it says El Yunque and El Faro and it's an exchange that

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 takes place between Mr. Morrell I believe and yourself and other people are copied, or
2 correction on that, Admiral Greene appears to be. Is that correct?

3 **WIT:** That's correct.

4 **Mr. Fawcett:** So in there they said that the El Yunque, or the El Faro and El Yunque
5 are both receiving applied weather updates for avoidance recommendations. Where
6 did you get that information from?

7 **WIT:** Well I would like to start out by saying that's an incorrect statement.

8 Recommendations is not, they aren't receiving recommendations. They are receiving
9 weather updates for avoidance, period, would be a more correct statement or would be
10 a correct statement. There's no course recommendation or routing recommendation
11 from applied weather technologies.

12 **Mr. Fawcett:** There's none, or there's none available?

13 **WIT:** We were not using a recommendation from applied weather technologies.

14 **Mr. Fawcett:** But they have that option available?

15 **WIT:** I don't know.

16 **Mr. Fawcett:** That's all the questions I have. Thank you very much for your patience,
17 sir.

18 **CAPT Neubauer:** Commander Denning.

19 **CDR Denning:** I don't have any follow up questions at this time.

20 **CAPT Neubauer:** Commander Odom.

21 **CDR Odom:** Sir, I have a follow on question from the last section, if that's okay. So
22 you had stated to the Captain when he asked you a question about the Alaska retrofit
23 that was going on and had talked about it not being a conversion and not stating it that

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 way. I would like to ask you in 2006 the El Faro went through an inclining stability
2 review and the equipment was not on board at that time. So my question is, is how
3 were they accounting for the additional weight of it being brought on board for the
4 retrofit with the Alaska conversion? Was that discussed with anybody or was it
5 reviewed?

6 **WIT:** Sir, I wasn't involved in 2006, stability incline.

7 **CDR Odom:** But for, the point is for the equipment that was being brought on board for
8 the retrofit, how was that being accounted for? How was the additional weight being
9 accounted for? Was stability discussed with that weight that was being added to the
10 ship? Did ABS do a preliminary stability for weight changes with regards to that
11 equipment that was being brought on?

12 **WIT:** Not that I'm aware of. This equipment was fairly small and light weight, relatively.
13 So we're not talking about a significant amount of gear being brought to the ship.

14 **CDR Odom:** Was that ever discussed with ABS or Coast Guard as far as the weight
15 change, accounting for it? Regardless of the weight, I mean was it ever a topic of
16 discussion or reviewed from that respect, discounted as being insignificant?

17 **WIT:** Not with ABS or the Coast Guard I don't believe. I don't recall.

18 **CDR Odom:** Thank you.

19 **CAPT Neubauer:** Mr. Roth-Roffy.

20 **Mr. Roth-Roffy:** No sir, no further questions.

21 **CAPT Neubauer:** Mr. Kucharski.

22 **Mr. Kucharski:** Yes Captain I have a few more questions. On the weather routing
23 email that you looked at before from September 30th, and Captain Davidson asked for

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 your authorization. Just a quick follow on question on that. Have you or anyone in your
2 team, or have you seen anybody at Tote, shore side, plot any positions on a chart with
3 the ships and hurricanes, have you ever looked at an electronic one, or paper or
4 anything like that? Have you ever seen?

5 **WIT:** For the ship's position?

6 **Mr. Kucharski:** Yeah, ship's position. When you get a message like this there are
7 other tropical storm messages that come out. Have you seen that at Tote?

8 **WIT:** I was traveling the day I got that message.

9 **Mr. Kucharski:** How about any of the other, Erika or any of that? Have you seen or
10 anybody in your team plotted positions or?

11 **WIT:** We were looking very closely at both Danny and Erika. Specifically because they
12 were both bearing down on our two ports of call. Erika bearing down on San Juan,
13 Puerto Rico, which we have ships in twice a week. And we also have barges with our
14 cargo on board running into those ports. And then Danny which was going to pass right
15 over Puerto Rico and then head towards Jacksonville, as all the forecasts up to a week
16 out were forecasting. So we were paying very close attention to both of those
17 hurricanes, specifically for those reasons.

18 **Mr. Kucharski:** Thank you for that, but that's not really what I was looking for. The
19 actual plotting of the ships on a chart, either electronically or on paper and then putting
20 the hurricane position on there. Have you ever seen any of that?

21 **WIT:** No it's a two and a half day transit between ports, and it's a blink of an eye
22 between when you get a departure message and you get an arrival message. It's very
23 routine, we pay very close attention to the arrivals and departures. But the dots in

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 between, we rely on the skill and experience of the Masters on board the ships to pay
2 close attention to that. Obviously we're copied on diversion plans so that we can make
3 operational changes and adjustments on the arrival side.

4 **Mr. Kucharski:** Okay. Thank you for that answer. Would you look at Exhibit 6, page
5 18? It doesn't relate to you, but I ask this question of Mr. Peterson yesterday and I think
6 it flowed by the ISM or the safety management system and it appeared like it flowed to –
7 the responsibility was to Captain Lawrence, but Mr. Peterson said that's no longer the
8 responsibility. So page 18, it's about midway in the page and it says assist marine op –
9 yes, assists marine operations. The full text says, it's only one sentence, assist marine
10 operations, government and commercial and coordinates with Port Engineers and
11 ensuring that the cargo gear and deck equipment are properly prepared.

12 **WIT:** Okay.

13 **Mr. Kucharski:** Is – does that fall under your responsibility now? Mr. Peterson said it
14 was no longer under his.

15 **WIT:** Uh, that gear is inspected by, visual inspection by our cargo loading person at the
16 terminal. And there's also, I believe an inspection program for the pins in between the
17 containers, those are regulated and inspected by an outside contractor. So those
18 inspections are being conducted under, actually it's Tote Maritime side that's taking care
19 of it, but it's the cargo team that's ensuring that gets done.

20 **Mr. Kucharski:** So the actual repairs to buttons and the D rings, does that fall to the
21 Port Engineers to make sure that that's taken care of? Or who actually takes care of it?

22 **WIT:** I haven't been involved in those directly. There's ongoing maintenance to the D
23 rings and the buttons.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Kucharski:** Who would I ask that question as far as repairs to them, would it be a
2 Port Engineer? Who would it be?

3 **WIT:** Yeah, you can try.

4 **Mr. Kucharski:** One other question along that line, Exhibit 40, page 18. It's entitled log
5 for maintenance and cargo securing equipment. Have you ever seen that form before?

6 **WIT:** No, sir.

7 **Mr. Kucharski:** It resides within the cargo securing manual, would that be a question
8 for Tote Maritime?

9 **WIT:** Yes, please. That's Don Matthews are going to answer these questions. Or Ron
10 Rodriguez too.

11 **Mr. Kucharski:** Is there any diagram or plan that you're aware of fixed cargo securing
12 points on the ship?

13 **WIT:** I don't get involved in the cargo loading.

14 **Mr. Kucharski:** Have you or anyone in your department had any involvement with the
15 system called the rapid response damage assessment?

16 **WIT:** My colleague Bill Weinbecker was directly engaged with that response following
17 and during the El Faro incident. He was the most qualified to directly engage with them
18 because he's also a Naval Architect and he was very closely involved in working with
19 the team on the ABS side running stability calculations on possible conditions the ship
20 might have been in and encountered. And the possible outcomes of those – of those
21 conditions.

22 **Mr. Kucharski:** Before the El Faro sinking did you have any involvement? Were you
23 aware of that system?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** I wasn't involved with it.

2 **Mr. Kucharski:** Thank you. No further questions.

3 **CAPT Neubauer:** Does Tote have any questions?

4 **Tote Inc:** Yes we do. Captain.

5 **CAPT Neubauer:** Yes, sir.

6 **Tote Inc:** Mr. Fisker-Andersen you were asked some questions about Exhibit 4, page
7 101. This is the email from Captain Davidson on September 30 where he informs Tote
8 that he plans to take the Old Bahama Channel on return voyage. Do you have that in
9 front of you?

10 **WIT:** I have it in front of me now.

11 **Tote Inc:** Okay, thank you. You were asked some questions about the passage of
12 time between Captain Davidson's original email and your response, do you recall those
13 questions?

14 **WIT:** Yes.

15 **Tote Inc:** Where were you exactly when you saw this email?

16 **WIT:** I was in between dropping off a rental car and boarding a plane in San Francisco
17 airport.

18 **Tote Inc:** Okay. So you were about to experience a several hour lack of email access?

19 **WIT:** That's correct.

20 **Tote Inc:** Okay. This email is dated September 30, where was the El Faro on
21 September 30, which was she headed?

22 **WIT:** She was headed South bound towards San Juan.

23 **Tote Inc:** And when would she have started her North bound voyage?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** She's a Tuesday departure, so she would have been in San Juan on Friday. And
2 Friday night she would have departed San Juan for, back to Jacksonville.

3 **Tote Inc:** So that is October 2nd, correct, if I have my calendar correct?

4 **WIT:** I would have to look at a calendar, but that sounds correct.

5 **Tote Inc:** Okay. So he is suggesting a return voyage out that is going to occur a few
6 days after he sent this email, correct?

7 **WIT:** That's correct.

8 **Tote Inc:** Thank you.

9 **CAPT Neubauer:** Sir, can you identify yourself when you – for the last question and
10 the new question please?

11 **Tote Inc:** Sir, I'm sorry. Jeff King, K&L Gates for Tote.

12 **Tote Inc:** Luke Reid asking the question for Tote. Mr. Fisker-Andersen you've been
13 asked about a couple of emails about responding to the Captain's request or decision to
14 change his course. And I would you to turn to Exhibit 4, page 41. And that's an email
15 from Captain Davidson to a number of people similar to the email we've been
16 discussing. And that's on August 25th, 2015, is it not?

17 **WIT:** That's correct.

18 **Tote Inc:** And can you just describe or paraphrase what the email message is from
19 Captain Davidson?

20 **WIT:** He's going to transit the Old Bahama Channel in route to San Juan, Puerto Rico.

21 **Tote Inc:** And does he provide additional information about that transit?

22 **WIT:** "Although this route does add an additional 160 nautical miles, I'm confident that it
23 offers a safer sea passage."

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Tote Inc:** Okay. And did you respond to that email?

2 **WIT:** Yes I did. And I said “thanks Captain Mike, good plan, stay safe.”

3 **Tote Inc:** And in responding in that email in that way, were you essentially just carrying
4 out Tote policy that the Captain makes decisions with regard to the weather?

5 **WIT:** That’s correct.

6 **Tote Inc:** And you’re aware that in fact the law precludes you from actually interfering
7 with the vessels, with the Master’s safe navigation at sea, isn’t that correct?

8 **WIT:** That’s correct.

9 **Tote Inc:** No further questions.

10 **CAPT Neubauer:** ABS do you have any questions?

11 **ABS:** No questions.

12 **CAPT Neubauer:** Mrs. Davidson do you have any questions?

13 **Ms. Davidson:** Just a few Captain, thank you. Sir, is your duties and responsibilities
14 when you hear a negative comment about a crew member you want to pass that off to
15 your boss, correct?

16 **CAPT Neubauer:** Sir, could you repeat the question, we’re having trouble on this side,
17 sir.

18 **Ms. Davidson:** As part of your duties and responsibilities is it important for you to pass
19 off a negative comment made by an officer to your boss, Phil Morrell?

20 **WIT:** Yes.

21 **Ms. Davidson:** And is that part of the culture of Tote to have an open dialogue with
22 within the company?

23 **WIT:** Absolutely, yes.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Ms. Davidson:** And there was a rumor that you heard back in July 2015 about Captain
2 Davidson not going on deck, is that correct?

3 **WIT:** That's correct.

4 **Ms. Davidson:** And that was – you took that into consideration in the vetting process
5 when considering him for the LNG vessels, correct?

6 **WIT:** That's correct.

7 **Ms. Davidson:** And he was still on the very short list of Captains to serve on those
8 LNG ships, correct?

9 **WIT:** Yes he was.

10 **Ms. Davidson:** And I now want to go back to the August 25th, 2015 email that Mr. Reid
11 showed you where Captain Mike Davidson is reporting to you about taking the Old
12 Bahama Channel. And your response to him was not thanks, it was thanks Captain
13 Mike period, good plan period, stay safe period, correct?

14 **WIT:** That's correct.

15 **Ms. Davidson:** It was cordial in nature, correct?

16 **WIT:** Absolutely.

17 **Ms. Davidson:** Thank you. No further questions.

18 **CAPT Neubauer:** HEC do you have any questions?

19 **HEC:** No questions.

20 **CAPT Neubauer:** Sir, I just have one follow up thread of questions on related to what
21 types of boiler maintenance could be conducted underway on the El Faro and how that
22 process was worked with the local OCMI, Officer in Charge of Marine Inspection with

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 the Coast Guard? Can you provide some details on when you would conduct boiler
2 maintenance underway and the process for doing so, sir?

3 **WIT:** Umm, we would, when required to do a boiler cleaning, we would plan that work
4 for the departure from San Juan because we have an extra day built into our schedule
5 and it's an easy run on one boiler most or all the way. And we will notify the local –
6 local Coast Guard advising them we plan to leave on one boiler and we don't depart
7 under those conditions without receiving an acknowledgement of response from the
8 local Coast Guard office.

9 **CAPT Neubauer:** Is that process ever conducted from the Jacksonville to San Juan
10 route?

11 **WIT:** No, it's, we always do it North bound.

12 **CAPT Neubauer:** And does the Coast Guard require any safety requirements when
13 you depart the port with one boiler?

14 **WIT:** We go with an additional tug.

15 **CAPT Neubauer:** With an additional one tug?

16 **WIT:** Yeah.

17 **CAPT Neubauer:** Do you know how many times in the – during – over the course of
18 2015 that the vessel departed and did that process with the Coast Guard?

19 **WIT:** You know I would have to, I would have to guess. It was routine for us, and if I
20 had to guess I would say several times in 2015.

21 **CAPT Neubauer:** Sir.

22 **WIT:** So it was based on the, how dirty the boiler was.

23 **CAPT Neubauer:** Yes, sir. Was it always routine maintenance on the boiler?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** To my knowledge, yes.

2 **CAPT Neubauer:** Thank you. Are there any follow up questions. Mr. Fawcett.

3 **Mr. Fawcett:** Yes, sir. I would like to turn your attention back to Exhibit 5, page 14.

4 This is an email from you to Phil Morrell that took place on July 8th, 2015 at 5:5 – 2:55
5 p.m. and it's in response to the email, subject confidential Master candidate. Uh

6 correction on the time, the time is 5:20 p.m., it's at the bottom. It's the response from

7 Mr. Morrell to you. It says quote, needless to say I'm not happy about this message, but

8 we just have to work through it. So based on the message where we were talking about

9 that confidential assessment you made, my question is, what plan – what plan did you

10 all come up with to provide any corrective action where Mr. Morrell is not happy about

11 the message?

12 **WIT:** Mr. Fawcett, Mr. Fawcett this is speaking to a matter of style. I think maybe

13 overstated as far as the strength of the message.

14 **Mr. Fawcett:** Thank you.

15 **CAPT Neubauer:** Are there any additional follow up questions?

16 **Ms. Davidson:** Yes, Captain.

17 **CAPT Neubauer:** Yes, sir.

18 **Ms. Davidson:** Sir, Mr. Fawcett just used the term, your confidential assessment. Did

19 you make a confidential assessment or were you passing along a comment made by

20 the Chief Engineer?

21 **WIT:** I was passing along a message that I had received from a Chief Engineer. That's

22 correct.

23 **Ms. Davidson:** Thank you.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CAPT Neubauer:** Are there any last follow up questions? Mr. Fisker-Andersen, we are
2 now complete with your testimony for today. However I anticipate that you may be
3 recalled to provide additional testimony at a later date. Therefore I am not releasing you
4 from your testimony at this time and you remain under oath. Please do not discuss your
5 testimony or this case with anyone other than your counsel, the NTSB or members of
6 this Coast Guard Marine Board Investigation. If you have any questions about this, you
7 may contact my legal advisor, Commander Jeff Bray. Thank you for your testimony, sir.

8 **WIT:** Thank you.

9 **CAPT Neubauer:** At this time, oh, before we recess, do any of the parties in interest
10 have concerns with the testimony provided by Mr. Fisker-Andersen today?

11 **Ms. Davidson:** No, sir.

12 **ABS:** No, sir.

13 **HEC:** No, sir.

14 **CAPT Neubauer:** At this time the hearing will recess and reconvene at 1:30.

15 *The hearing recessed at 1239, 19 February 2016*

16 *The hearing was called to order at 1334, 19 February 2016*

17 **CAPT Neubauer:** The hearing is now back in session. We will now hear testimony
18 from Mr. Alejandro Berrios. Mr. Berrios, please come forward to the witness table and
19 Lieutenant Commander Yemma will administer your oath and ask you some preliminary
20 questions.

21 **LCDR Yemma:** Please your right hand, sir. A false statement given to an agency of
22 the United States is punishable by a fine and or imprisonment under 18 United States

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 Code section 1001, knowing this do you solemnly swear that the testimony you're about
2 to give will be the truth, the whole truth and nothing but the truth, so help you God?

3 **WIT:** Yes.

4 **LCDR Yemma:** Be seated. Sir, can you please start by stating your full name and
5 spelling the last for the record?

6 **WIT:** Alejandro B-E-R-R-I-O-S.

7 **LCDR Yemma:** Thank you. And counsel?

8 **Counsel:** Robert Birthisel, from Hamilton Miller and Birthisel, B-I-R-T-H-I-S-E-L.

9 **LCDR Yemma:** Mr. Berrios can you please state your current employment and your
10 position please?

11 **WIT:** Second Officer aboard Isla Bella on Tote Maritime.

12 **LCDR Yemma:** And what are some of your responsibilities in that position?

13 **WIT:** Navigating Officer, cargo officer while we are in port during my work hours, and
14 vessel security officer.

15 **LCDR Yemma:** And can you also describe some of your prior relevant work
16 experiences?

17 **WIT:** 2011 worked for New York Marine Transportation on a tug and barge. 2012 to
18 2013 worked on a container ship for Sealift Inc. 2013 till the present work for Sea Star
19 line, and now known as Tote Maritime.

20 **LCDR Yemma:** And can you also state your highest level of education completed
21 please?

22 **WIT:** Bachelor of Science in Marine Transportation.

23 **LCDR Yemma:** And do you hold any licenses or professional certifications?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** U.S. Coast Guard Second Officer unlimited tonnage oceans.

2 **LCDR Yemma:** Thank you Mr. Berrios, Commander Denning will ask some questions.

3 **CDR Denning:** Good afternoon Mr. Berrios, how are you?

4 **WIT:** Good afternoon.

5 **CDR Denning:** You spent most of your time in the past year or so on the El Faro as
6 Third Mate, is that correct?

7 **WIT:** Correct.

8 **CDR Denning:** Can you describe for us the primary roles and responsibilities of a Third
9 Mate?

10 **WIT:** To stand a navigational watch 8 to 12. Cargo ops while in port during 8 to –
11 during 6 to 12. And in charge of the safety inspections.

12 **CDR Denning:** And do you want to expand on that, you sounded like you weren't quite
13 finished?

14 **WIT:** No that's all.

15 **CDR Denning:** I want to focus on that role first. I've asked your attorney to pull up
16 Exhibit 71, and I'll give everyone else a little bit of time to pull that exhibit up. We're
17 going to focus on that exhibit for the first portion of these questions. Just so everyone
18 knows, for a lot of the other witnesses we've been breaking it into multiple topic areas.
19 For this particular witness it's going to be just one, just one session and then we'll go
20 around. I don't have multiple sessions. Has everyone had an opportunity to bring up
21 the Exhibit 71? That particular document is the cargo ship safety equipment certificate.
22 And I'm just going to go through, we're not going to go through all 30 pages of it. But
23 the ones that are most relevant to a Third Mates duties. I'm just going to go through

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 and have you validate for us what your experiences were, what you observed on board
2 the El Faro. Page 1, the first thing I would like to discuss is life boats. One life boat on
3 each side. Can you tell me as Third Mate, as a safety officer, how often you inspected
4 the life boats and what that inspection entailed?

5 **WIT:** On a weekly basis with a visual inspection. On a monthly basis we did an
6 inspection of inventory.

7 **CDR Denning:** So the weekly inspection you described it as what?

8 **WIT:** Visual inspection.

9 **CDR Denning:** Visual inspection. Can you go into a little bit more detail for us on what
10 that visual inspection entails?

11 **WIT:** It entails that everything looks in place. That the oars are in place, bucket, bilge
12 pump. Anything that looks out of order by a visual inspection.

13 **CDR Denning:** And then any of the inspections that you conduct, was anything out of
14 order with either of the life boats?

15 **WIT:** Yes, one time.

16 **CDR Denning:** Could you expand on that for us?

17 **WIT:** Yes. One time I came back to the ship and one of the life boats had the ball for
18 the bilge was a little bit worn out. And the other life boat had the ball missing for the
19 bilge.

20 **CDR Denning:** And how was that issue addressed?

21 **WIT:** Right away I replaced the ball for the bilge that was damaged and the other one
22 was put in order.

23 **CDR Denning:** So you conducted the repairs yourself?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Correct.

2 **CDR Denning:** Did anyone else on board have to review, did anyone else review the
3 work and just make sure that it was completed? How was the process on board as far
4 as overseeing the work?

5 **WIT:** Well the process is if you find something out of place you fix it right away. And if
6 you can't fix it right away you make a plan for it and pass the word through the chain of
7 command so everybody is in loop.

8 **CDR Denning:** Did you have any problems affecting those repairs?

9 **WIT:** No.

10 **CDR Denning:** So in your assessment were the life boats in good working order as of
11 the last time you departed the vessel?

12 **WIT:** Correct.

13 **CDR Denning:** Did your visual inspections include the life boat davits?

14 **WIT:** Yes.

15 **CDR Denning:** Did you note any problems or concerns with the davits themselves?

16 **WIT:** No.

17 **CDR Denning:** Any corro – did you look for corrosion?

18 **WIT:** Yes.

19 **CDR Denning:** How about the winch motors. Are those exercised during fire and boat
20 drills?

21 **WIT:** Every week.

22 **CDR Denning:** And were there ever any concerns noted on the winches?

23 **WIT:** No.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CDR Denning:** Did they always work properly?

2 **WIT:** Yes.

3 **CDR Denning:** We discussed during the last witness that some of the winch motors for
4 the life boat davits were overhauled recently. Did you observe anything that would have
5 led to the need to overhaul those motors?

6 **WIT:** No.

7 **CDR Denning:** So back to the document, one of the items listed here is life rafts, we're
8 going to talk about that a little bit later on another page. So I'm going to move on to the
9 life buoys. It says on page 16 that they're all on the weather decks. Did you inspect
10 those as part of your safety duties?

11 **WIT:** Yes.

12 **CDR Denning:** And were there any issues noted with those, with that particular
13 equipment?

14 **WIT:** No.

15 **CDR Denning:** Next item on the list is life jackets. Did you inspect those as part of
16 your duties?

17 **WIT:** Yes.

18 **CDR Denning:** Where were those stowed?

19 **WIT:** At each cabin room, the bow, engine room and bridge. And we had also a room
20 for extra life jackets at the crew deck.

21 **CDR Denning:** Is this the particular – would you use this particular document as you
22 conducted your safety inspections, or was there a separate checklist that you would
23 utilize?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Separate checklist.

2 **CDR Denning:** Something that's maintained on board?

3 **WIT:** Correct.

4 **CDR Denning:** Were copies of that sent shore side or was it all maintained on board?

5 **WIT:** To my knowledge kept on board.

6 **CDR Denning:** Next item on the list is emergent suits, it states on the certificate that
7 there were 46 on board, does that sound accurate based on your recollection?

8 **WIT:** I would have to look up in the records. Perhaps a little bit more than that.

9 **CDR Denning:** Where were those stowed on board?

10 **WIT:** Each cabin, the bow, and in the engine room. And we had spares at the same
11 room the ----

12 **CDR Denning:** The spares were kept where, I'm sorry.

13 **WIT:** At the same room as the life jackets by the crew deck.

14 **CDR Denning:** By the which deck?

15 **WIT:** Crew.

16 **CDR Denning:** Crew deck.

17 **WIT:** Yeah.

18 **CDR Denning:** Is that external to the ship, that particular room?

19 **WIT:** No that's internal.

20 **CDR Denning:** Is that room locked?

21 **WIT:** Yes.

22 **CDR Denning:** So that's where spares are kept?

23 **WIT:** Yes.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CDR Denning:** And that's in addition to the ones that are stored in the staterooms, and
2 the bow and the engine room?

3 **WIT:** Correct.

4 **CDR Denning:** And that's the case for both life jackets and survival suits?

5 **WIT:** Correct.

6 **CDR Denning:** If you could turn to page 8 please. There's a diagram, we're still on the
7 same exhibit, page 8 of that exhibit. There's a diagram towards the middle of the page,
8 paragraph 2.3 that illustrates the location of life rafts. It shows one on each side of the
9 house and one on the port bow. Is that your recollection of the location of the life rafts?

10 **WIT:** That's correct.

11 **CDR Denning:** Were there any additional life rafts on board besides these which is the
12 minimum required? Were there any additional?

13 **WIT:** I got off the ship in July, the end of July and there were not additional. But then
14 later I came on September 19th through the September 22nd as a Second Officer and I
15 did notice that we had extra life rafts on board.

16 **CDR Denning:** How many extra?

17 **WIT:** I can recollect two extras.

18 **CDR Denning:** And how were – how were – tell us how the life rafts are secured to the
19 vessel.

20 **WIT:** They have their own cradle.

21 **CDR Denning:** And can you describe for us the hydrostatic releases and everything
22 that you would inspect during your safety inspections?

1 **WIT:** Yes. They were inspected and we kept a record of the expiration date on the
2 hydrostatic release. And check all – every component of it to make sure it's in good
3 shape.

4 **CDR Denning:** Did you ever note any deficiencies that needed to be addressed?

5 **WIT:** One time I saw one of the hydrostatic release when I – one of the visual
6 inspections weekly, I noticed that the hydrostatic release had been activated. And you
7 couldn't tell unless you actually worked around it to check it.

8 **CDR Denning:** And describe for us what you saw that led you to believe that it had
9 been activated.

10 **WIT:** If I had a picture it would be easier for me to describe it, but the hydrostatic
11 release, if it looks something like this for example, it has a line that goes in and goes out
12 and that section that goes in and out is blocked by plastic. And when I inspected them I
13 moved that line, when I pulled it out it was already cut. And when the hydrostatic
14 release activates, is that's what it does, it cuts the line through.

15 **CDR Denning:** So the line had already been separated?

16 **WIT:** Correct. But you couldn't tell if you didn't put your hands on it. So that was
17 addressed immediately and we replaced the hydrostatic release.

18 **CDR Denning:** How long did that – how did it take to get a replacement?

19 **WIT:** We have one in stock.

20 **CDR Denning:** You had it in stock. Did you conduct those – that replacement yourself
21 as well?

22 **WIT:** Yes.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CDR Denning:** So this particular certificate that we've been referring to goes on to
2 discuss firefighting equipment. We're not going to go down and list all the firefighting
3 equipment that you inspected, but did you know anything unusual or out of the ordinary
4 for those?

5 **WIT:** No.

6 **CDR Denning:** Did you inspect the EPIRB?

7 **WIT:** Yes.

8 **CDR Denning:** And deficiencies noted with the EPIRB?

9 **WIT:** No.

10 **CDR Denning:** How many EPIRB's were carried on board?

11 **WIT:** One.

12 **CDR Denning:** Did you inspect flares?

13 **WIT:** Yes.

14 **CDR Denning:** And deficiencies noted there?

15 **WIT:** No.

16 **CDR Denning:** That's all we're going to reference on that particular document. Is there
17 anything else that you would like to say as far as your safety inspections, anything that I
18 didn't necessarily ask you?

19 **WIT:** No.

20 **CDR Denning:** You stated in the beginning that your duties in port were 6 hour cargo
21 watch. Can you describe those responsibilities a little bit for us?

22 **WIT:** In port I did 6 and 6. And we were in charge of the vessel in all respects meaning
23 of doing security rounds looking for any exposure to fire, flooding, watching the cargo

1 was being discharged and loaded as planned. Communicate all times with the Chief
2 Mate, as the Chief Mate on the cargo ops, checking lines. And at this time I can't think
3 about anything else.

4 **CDR Denning:** Did you check lashing of the cargo, once the cargo is loaded, was one
5 of your responsibilities checking lashing?

6 **WIT:** Yes.

7 **CDR Denning:** Did you ever notice any – anything of concern as you check the lash –
8 who conducted, who actually lashed the cargo? Let's start there.

9 **WIT:** The stevedores lashed the cargo and we supervised them and made sure that
10 they comply with what Chief Mate requested.

11 **CDR Denning:** What kind of request would the Chief Mate ask of the stevedores?

12 **WIT:** That every twist lock is locked and every bar is tight. We checked every bar,
13 lashing bar on the containers that they were tight and not loose. That on the ro-ro deck
14 the chains were in place for the containers. Lashing for the cars, if the cars were in
15 parking that had stoppers at the tires.

16 **CDR Denning:** Did you ever notice any – anything that had to be addressed, any
17 deficiencies with, you know things loose or any other issues with the lashing?

18 **WIT:** Yes.

19 **CDR Denning:** Can you describe that for us please?

20 **WIT:** On security rounds watching for cargo ops at the end of the cargo I have found
21 one twist lock open, or two or three. Maybe a chain on the ro-ro deck a little bit loose
22 and that has been addressed to the foreman and be taken care of. That's part of our
23 regular routine at cargo ops. To go around and make sure everything is locked down.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CDR Denning:** Did you ever notice any broken lashing equipment?

2 **WIT:** There was some broken equipment that we had a section just to stow them out,
3 get them out of the ship.

4 **CDR Denning:** Which equipment was broken?

5 **WIT:** I remember the chain, to lock up the chains, some of them were not working or
6 making a good tight and those were taken out. The Chief Mate would walk on deck and
7 mark them or made them watch and mark them with chalk and separated them to take
8 them out of service.

9 **CDR Denning:** Was that a frequent occurrence?

10 **WIT:** No, it was not a frequent occurrence, but we always looked for anything that was
11 not working just to take it out of place. We kept a good watch for that.

12 **CDR Denning:** Did you have any interaction with the cargo fans, the cargo hold fans
13 and ventilation?

14 **WIT:** Yes.

15 **CDR Denning:** Tell us about what you did with that equipment.

16 **WIT:** During cargo ops as we opened the watertight doors we turned on the fans. And
17 at the end of cargo ops as we close the doors we shut down the fans.

18 **CDR Denning:** Did you also adjust the position of the dampers?

19 **WIT:** No.

20 **CDR Denning:** Those always stayed open?

21 **WIT:** Correct.

22 **CDR Denning:** Did they stay open once you got underway commonly?

23 **WIT:** Correct.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CDR Denning:** Tell us about your typical duties as a Third Mate preparing to get
2 underway.

3 **WIT:** Checking the lashing, salinity.

4 **CDR Denning:** Tell us a little bit more about that, salinity and how you check that.

5 **WIT:** We had a bucket with the hydrometer by the stern and by the end of cargo ops,
6 either the Third Mate, Second Mate or Chief Mate whoever was available nearby
7 dunked the bucket over the side with a lanyard, grab the water and pull it up on deck,
8 get the hydrometer inside and pull it and then just watch as the hydrometer floats and
9 get the number from there.

10 **CDR Denning:** And what did you do with that information once you had it?

11 **WIT:** If the Chief Mate wasn't nearby I would radio the information right away.

12 **CDR Denning:** You provided that information to the Chief Mate?

13 **WIT:** Yeah over the radio.

14 **CDR Denning:** So if you would continue with your prior to departure duties and routine.

15 **WIT:** Yes. At that time if it happens to be that I was doing the salinity and probably
16 heading up to the bridge for pre-departure gear test. I would just head to the bridge and
17 follow the checklist of 16 – 16a, 16b from TSI.

18 **CDR Denning:** The checklist of what I'm sorry? Is that a checklist number?

19 **WIT:** That's a checklist that we have on the bridge for pre-departure.

20 **CDR Denning:** What was the number on that again?

21 **WIT:** If I recollect correct its 16a and 16b

22 **CDR Denning:** And that checklist is part of the safety management system?

23 **WIT:** Correct.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CDR Denning:** Tell us a little bit, just what you can recall, you don't have the checklist
2 in front of you, but just some of the items that you recall from that checklist.

3 **WIT:** Yes. Steering gear test, rudder angle indicators, EOT, gyro error on every unit on
4 the ship, meaning including radar. Bridge wing repeaters, they were lined up with the
5 master gyro. Doing the departure test for the GMDSS entire unit including NAVTEX.

6 **CDR Denning:** So all the communication equipment that's included in the GMDSS?

7 **WIT:** Correct. We kept a record on the bridge of the printout. Tune the radars.

8 **CDR Denning:** Tune the radars you said?

9 **WIT:** Yes. Mostly that was done at the end of cargo ops when we had the cranes clear
10 the vessel. Test the whistle of the vessel, general alarm. Pull out the charts for the
11 outbound leg. Verify the latest weather information.

12 **CDR Denning:** How did you do that?

13 **WIT:** Online.

14 **CDR Denning:** Online?

15 **WIT:** Online or the latest SAT C message printout.

16 **CDR Denning:** When you say online could you describe that a little bit more? You
17 would connect to the internet?

18 **WIT:** Correct. Connect to the internet access to different websites like NOAA.

19 **CDR Denning:** You would check the NOAA website among others?

20 **WIT:** Yes. Check the NAVTEX for any Notice to Mariners that came off last night.
21 Tune the radios in Channel 16, 13, 14.

22 **CDR Denning:** That's okay. I think we can go on, we can go back and refer to the
23 checklist. You've said quite a bit off the top of your head and I appreciate that.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 Regarding the verification of the weather. Is that on the checklist or is that something
2 that you just did because you could?

3 **WIT:** To my recollect ----

4 **CDR Denning:** In other words – in other words the reason I’m asking this question is,
5 this was when you were on board you’re stating what you did. The last time you were
6 on board as Third Mate you got off on the 22nd of September, about a week before this
7 last voyage, correct?

8 **WIT:** Excuse me, can you say that again?

9 **CDR Denning:** So ----

10 **WIT:** I got off ----

11 **CDR Denning:** In other words you weren’t on board for the accident voyage is what I’m
12 getting at. So I’m trying to understand if verification of the weather, was it on the
13 checklist or was it just something you did of your own initiative?

14 **WIT:** To the best of my knowledge was on the checklist.

15 **CDR Denning:** You believe it was on the checklist?

16 **WIT:** Yes.

17 **CDR Denning:** Did you discuss, as Third Mate did you discuss the voyage plan with the
18 Master at that point? Or did you stay – did the checklist only include equipment and
19 things of that nature?

20 **WIT:** The checklist included that the voyage plan was signed and approved by the
21 Master.

22 **CDR Denning:** And did you discuss, did you typically discuss the weather forecast that
23 you would get online with the Master at that time?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Yes.

2 **CDR Denning:** Anything else you would like to add as far as pre-departure?

3 **WIT:** Yes test the engine ahead and astern.

4 **CDR Denning:** Did you ever notice any issues with any of things that you just
5 mentioned as far as pre-departure including engine test? Were there – was there any –
6 ever anything of concern to you?

7 **WIT:** No, to the best of my knowledge every equipment on the bridge was working.

8 **CDR Denning:** Tell us about your typical duties underway.

9 **WIT:** Underway my work duties divided into navigational watch on the bridge. And my
10 safety inspections routine. Under ----

11 **CDR Denning:** Those ----

12 **WIT:** Just to break it up underway on the bridge my work was to keep the vessel safe.
13 And follow the standing orders or night orders. Plot the vessel's position on the chart by
14 all available means. Monitor the weather, monitor traffic and inform the Master of
15 anything that could happen if it was out of normal. Or the standing orders, night orders
16 stated.

17 **CDR Denning:** So those were your duties while on watch, navigation watch, correct?

18 **WIT:** Correct.

19 **CDR Denning:** Tell us about your day work duties. You mentioned the safety
20 inspections that you did. Beyond that what else did you do during your day work?

21 **WIT:** Day work I mainly dedicated to the safety inspections. To cover all the checklist
22 that I needed to complete on a monthly basis, weekly, or quarterly basis.

23 **CDR Denning:** Tell us about training and drills conducted on board.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Training and drills were conducted weekly and were taken very seriously.

2 **CDR Denning:** Can you talk to us a little bit specifically about abandon ship drills?

3 **WIT:** Yes. Every week before getting into port in San Juan we had a fire and boat drill
4 followed by an abandoned ship drill. After the drill we always went to the crew mess to
5 have a debrief.

6 **CDR Denning:** Can you describe the abandon ship drills for us in some level of detail?

7 **WIT:** Yes. The Captain of the vessel sound the general alarm and the ship's whistle for
8 more than 7 seconds. I take that back. That's general – I take that back. Thinking of
9 something else. The Captain will sound the whistle at least 7 or more short blasts
10 followed by a prolonged blast on the ship's whistle and from there we will break and go
11 to our muster stations designated by the station bill. And muster the crew at every
12 individual station, communicate with the Master. Once the crew was completed, the
13 muster list, after that we proceeded under the Captain's orders to lower the boat to the
14 embarkation deck. And we lowered each boat to the embarkation deck. We rotated as
15 cross training with crew members of directing the lowering of the boat. And I took part
16 on boat number 2 instructing different crew members on how to lower the boat under
17 the Chief Mate's supervision to the embarkation deck. Once the boat was on the
18 embarkation deck we informed the Master by UHF and then we would recover the life
19 boat from the embarkation deck testing the limit switches and secure the boat under the
20 Master's command.

21 **CDR Denning:** As you lowered the boats to the embarkation deck during these weekly
22 drills, were there ever any mechanical issues with the davits or any other issues noted?

23 **WIT:** No.

1 **CDR Denning:** Did the Polish riding gangs, were they on board while you were on
2 board?

3 **WIT:** Yes.

4 **CDR Denning:** How did they participate in the abandoned ship drills?

5 **WIT:** They mustered at the Captain's, at the wheelhouse, with the Captain.

6 **CDR Denning:** Was that on the watch quarter and station bill? Was that their location?

7 **WIT:** To the best of my knowledge.

8 **CDR Denning:** Did you communicate with them typically while you were underway?

9 **WIT:** No.

10 **CDR Denning:** So you wouldn't have a sense for their – did you know from speaking
11 with anyone else their proficiency with the English language?

12 **WIT:** No.

13 **CDR Denning:** Going back to the bridge and your navigation duties, tell us how you
14 received weather information on the ship through Bon Voyage system?

15 **WIT:** Okay. Through Bon Voyage we received some emails that brought a packet
16 inside the email to the Captain's office and then the Captain forwarded it to the bridge.
17 We receive it on an email on that email based on Outlook. And have title weather, etc.
18 And we would open it up, open the file and automatically the file will open Bon Voyage
19 on the computer screen and we'll download it and show you on the upper right hand
20 side of the screen how it's downloading the file. And it will just load up and present the
21 forecast on Bon Voyage.

22 **CDR Denning:** Let me double check on thing that you just said. You said that the
23 email data packet would go directly to the Master and he had to forward it to the bridge

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 computer. I just want to make sure we're clear on this for the El Faro. When Captain
2 Lofffield testified yesterday he stated that a separate email on the El Yunque went to the
3 Master's computer as well as to the bridge computer. Is it different on the El Faro and it
4 only goes to the Master's computer and then has to be forwarded?

5 **WIT:** Okay. So let me take that back because I was speaking based on word, I haven't
6 read a document where it states how this actually works. But that was my
7 understanding.

8 **CDR Denning:** So as you're on the bridge, let's say you're on watch and the data
9 package comes in and it's your turn, it's your time to review the BVS data. The email
10 came from who? Directly from the BVS system or did it come from the Master?
11 Because it would tell you on the mail, correct?

12 **WIT:** Correct. If I recall it came from the Master.

13 **CDR Denning:** So you don't recall seeing any emails directly from BVS?

14 **WIT:** Correct.

15 **CAPT Neubauer:** Commander Denning I would like to ask one follow up question.

16 **CDR Denning:** Certainly.

17 **CAPT Neubauer:** Sir, was there ever an occasion when you had to obtain the weather
18 when the Master was not available when you were standing watch?

19 **WIT:** The weather come through SAT C on a constant basis. So I don't understand the
20 question, sorry.

21 **CAPT Neubauer:** Was there ever an occasion when you received the weather late
22 because the Master did not forward you the information in a timely manner?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Okay I understand your question. There were times that I might receive a
2 weather that might have been – might have a date of 2 hours, on the Bon Voyage when
3 you open it up in Outlook it will show you before you open up and download the file, it
4 would show you the date and I believe it was the time on it as well and I did cross check
5 the time between that that time from Bon Voyage versus the email that came to the
6 computer and maybe I saw 2 hours difference.

7 **CAPT Neubauer:** Thank you.

8 **Tote Inc:** Can we take a break? A quick break.

9 **CAPT Neubauer:** Yes. Let's take a 5 minute recess and come back at 2:16

10 *The hearing recessed at 1411, 19 February 2016*

11 *The hearing was called to order at 1417, 19 February 2016*

12 **CAPT Neubauer:** The hearing is now back in session. Commander Denning, can you
13 continue on your line of questioning please?

14 **CDR Denning:** Yes, sir. So we were speaking about the Bon Voyage system. Can
15 you tell us once you received the information on the bridge, what information does that
16 provide to you?

17 **WIT:** That provide the forecast and it will show off or overlay based on map, not a
18 chart. And it would show you a big area covering most of the Atlantic Ocean including
19 the Caribbean and the East Coast, maybe up to West Coast of the United States. It
20 covered a pretty big area data. And you had access to everything. All the forecasts
21 that you can imagine from the temperature of the sea, air temperature, ISO bars,
22 clouds, rain, waves, swell, current. It would show you difference in cold fronts. It would
23 show you pretty much everything that you can find online.

1 **CDR Denning:** Did it allow you to zoom in? You mentioned a large area. Could you
2 zoom in wherever you would like to see?

3 **WIT:** Correct.

4 **CDR Denning:** Did the data package have a time stamp on it? Did it indicate to you
5 how old the data was that you were looking at?

6 **WIT:** Yes. I believe like I mentioned earlier. The email that came up to the bridge had
7 the date and time of the actual email, email from Bon Voyage. And I think that's why I
8 came up in my mind about that the email comes to the Captain's computer and then
9 gets forwarded as you asked before.

10 **CDR Denning:** So you described the date and time of the email. Once it's loaded into
11 the Bon Voyage system the bridge on the ship – the computer on the bridge of the ship,
12 was there an indication on the screen as you're looking at the data that would tell you
13 this is today's data, this is 6 hour old data, or this is last week's data? If you were just
14 looking at it at the display?

15 **WIT:** I don't recall.

16 **CDR Denning:** What's the frequency that the ship receives the email? Is it every 2
17 hours, every 12 hours? How often do you receive the data package?

18 **WIT:** The data package I didn't quite have a scheduled time for it. It came maybe twice
19 per watch or one time per watch.

20 **CDR Denning:** You don't recall if it's set to go every 4 hours?

21 **WIT:** No. It came to the bridge at different times and I don't recall what was the
22 scheduled time frame to come to the ship.

1 **CDR Denning:** Was there any procedure on board that told bridge watch standers how
2 often to check the computer to see if a new data package had arrived?

3 **WIT:** I don't recall.

4 **CDR Denning:** Do you recall if the computer on the bridge would alert you when a new
5 email package came? Or would it depend on when you decided to check for the data,
6 for new data?

7 **WIT:** We constantly check the email because that's how we can get the update on Bon
8 Voyage. Or any emails that we wanted to read from the Chief Mate or Captain that
9 were sent up. So we constantly check the email on Outlook.

10 **CDR Denning:** Did you do anything more with the Bon Voyage system personally
11 other than pull the data package and display it and then utilize that data? Did you go
12 into the settings of the Bon Voyage system and try – and ever adjust the settings?

13 **WIT:** No. I never tried to adjust the internal settings other than accessing different
14 features from the program.

15 **CDR Denning:** Are you aware of any adjustments that you can make on board
16 regarding the frequency of the data package? Can you set it to come more frequently
17 than whatever it was?

18 **WIT:** Not at the time. I did learn aboard Isla Bella I happened to be present on the
19 bridge when they installed the Bon Voyage and they were following through the
20 programming, on the installation it came up to the question of how frequently they
21 wanted to receive the data. So I happened to be near by and they asked me my
22 opinion and I asked them to put the most frequent times as possible. And if I recall
23 correctly it's every 3 hours, every 3 or 4 hours the maximum time that you can receive it.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CDR Denning:** Did you recall seeing any settings that would allow you to receive more
2 frequent tropical climate updates? For example when the National Weather Service
3 would release its updates, could set the system to automatically send you a data
4 package as soon as an update came out from the National Weather Service?

5 **WIT:** I don't recall.

6 **CDR Denning:** How were you trained on board regarding the use of BVS?

7 **WIT:** I trained myself and we shared information between one mate to another
8 including the Master.

9 **CDR Denning:** Is there anything else about the BVS system that you think we should
10 know?

11 **WIT:** No.

12 **CDR Denning:** Tell us how you measured or observed the wind on board the El Faro?

13 **WIT:** Visually and with the wind vane.

14 **CDR Denning:** Tell us about the visual observation first.

15 **WIT:** Looking at the white caps, bubble trails, smoke from the stack, clouds, for
16 example cloud stream.

17 **CDR Denning:** The same with the sea state. How would you estimate the wave
18 height?

19 **WIT:** The wave height was estimated visually just looking at the actual swell. From
20 experience walking on deck from a closer distance to the actual wave and then walking
21 up to the bridge and looking at the difference, training, my eyes I'm judging the height of
22 the wave and comparing it to the mariner's handbook.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CDR Denning:** You mentioned the wind vane. Was that working while you were on
2 board?

3 **WIT:** It was working and it had an offset?

4 **CDR Denning:** Had a what?

5 **WIT:** An offset.

6 **CDR Denning:** An offset?

7 **WIT:** Yes.

8 **CDR Denning:** Tell us about that.

9 **WIT:** At times I come out to the bridge wing and looked at the actual wind vane
10 direction when it was on the bow and compare it to the reading on the display. And
11 most of the time it has an offset to port and maximum 20 degrees.

12 **CDR Denning:** So you would have an offset as much as 20 degrees at times?

13 **WIT:** Yes.

14 **CDR Denning:** What about the anemometer, did that work as well?

15 **WIT:** Yes. That worked.

16 **CDR Denning:** But you chose to use visual observation instead?

17 **WIT:** Both.

18 **CDR Denning:** Would you validate the information?

19 **WIT:** Yes, yes cross checking.

20 **CDR Denning:** On board El Faro did you participate in testing of bilge alarms?

21 **WIT:** Yes.

22 **CDR Denning:** Can you tell us about that process?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Yes. I assisted the Chief Mate, it was a Chief Mate inspection on a monthly
2 basis. And during cargo ops as we finished discharging the ro-ro decks we used that
3 opportunity to test all of the bilge alarms on the cargo holds. And that was in place with
4 communication, two UHF radios and the engineer on watch.

5 **CDR Denning:** Tell us the process of testing the bilge alarms, how did you accomplish
6 that?

7 **WIT:** Yes. The bilge alarm at the cargo holds near the rose box has a pipe and has a
8 ball that can rise and lower on the same pipe that will trigger the alarm. And it's a
9 floating ball if water will come and get to that level to trigger it. So on the testing we hold
10 that ball and actually physically lift it to activate the alarm. That alarm will sound on the
11 engine room and the engineer on watch and myself, you know I was doing that test at
12 the time would communicate to confirm that the actual alarm itself sounded for the
13 correct location.

14 **CDR Denning:** So I would like you to focus your mind on the number 3 hold. Do you
15 recall if there was a bilge alarm on both the port side and the starboard side or just one
16 side?

17 **WIT:** Correct. And I would like to in to that every cargo hold had two bilge alarms.

18 **CDR Denning:** So including number 3?

19 **WIT:** Correct. And I can say this because I tested various times it happened, it
20 coincide me doing cargo ops and the Chief Mate requested it to be tested.

21 **CDR Denning:** There's a passageway on board that they call the bowling alley, are
22 you familiar with that?

23 **WIT:** Say again?

1 **CDR Denning:** They call it the bowling alley, that's kind of a slang term for it. It's a
2 passageway that would lead from the engine room fore and aft. Down, I think it's down,
3 I believe it's down on the 3 deck, maybe 4th deck.

4 **WIT:** That you can go back and forth?

5 **CDR Denning:** Are you familiar with that passageway or the ----

6 **WIT:** I'm trying to remember pretty much with the entire ship, but that terminology
7 doesn't come right out to my mind right now.

8 **CAPT Neubauer:** Can you rephrase the location you're referring to Commander?

9 **CDR Denning:** I'm trying to envision the layout and perhaps I could ask Commander
10 Odom help me describe this a little bit better.

11 **CDR Odom:** On the, I believe it's on the 3 deck there is a watertight hatch that goes
12 from the cargo hold into the engine room and then there's a long passage that goes with
13 another aft hatch that goes from the engine room into the number 5 hold where you can
14 access the steering gear compartment in the number 5 hold. He's referring to that
15 passageway with the two watertight doors at each end fore and aft entering the cargo
16 hold from the engine room. Are you familiar with that?

17 **WIT:** Yes.

18 **CDR Denning:** So the question regarding that passageway, how often did you find
19 yourself in that passageway while you were underway?

20 **WIT:** Maybe 5 time to 2 times per month.

21 **CDR Denning:** When you were in those passageways were the doors typically kept
22 opened or closed?

1 **WIT:** The watertight doors were kept closed and the access to cargo hold number 5, if I
2 understand correctly like you mentioned has access to the engine room, you can
3 access to the engine room through door number 2 and that door was closed, the
4 watertight door, the used door. It had a smaller hatch in the center for crew to go in and
5 out. That door during daytime when I was on deck between 13 and 1700 if I had to do
6 an inspection down in the engine room that door was open.

7 **CDR Denning:** Do you have any reason that you can think of why that door would
8 have been left open?

9 **WIT:** Yes. Because in a daily basis working at sea on a ship there was a lot of traffic of
10 crew going in and out to access the engine room. And the freeboard allowed it in a
11 safely manner. The only time I would go that the hatches needed to be secured if we
12 expected heavy weather.

13 **CDR Denning:** So if you expected heavy weather those doors would be secured?

14 **WIT:** Correct.

15 **CDR Denning:** What about other watertight openings such as any watertight doors and
16 scuttles throughout the ship? Were they typically left opened or closed and how did that
17 change during heavy weather?

18 **WIT:** Yes. Every time before we took departure those were closed. And I know this for
19 a fact because either I closed them myself, but most of the time by the Bosun. Because
20 as my pre-departure checklist the watertight doors integrity that needed to be closed
21 were on the checklist 16a. And as the Bosun did his round while pre-departure for stow
22 away and contraband search he was closing the scuttles. That was his routine job.
23 And we would communicate through the radio when he called up. That was routine.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CDR Denning:** How was bridge resource management and inter cooperation among
2 different crew members while you were on board? Were there any barriers to
3 communication? How well did people work together?

4 **WIT:** To my knowledge very good. It was very good communication we maintained all
5 the time through cargo ops, navigation, etc.

6 **CDR Denning:** You were at time, we've looked at the crew list, the crew list over the
7 past year or so, there were times you were on board along with Captain Davidson and
8 Second Mate Randolph who were both on the accident voyage. How was their
9 communication with one another while you were on board? Did you find it a free flow of
10 communication or how was their relationship?

11 **WIT:** I found it normal same as every other crew member. In fact I do recall when
12 before I went to do deck work, meaning my safety inspections between 13 and 1700
13 most of the time I used to go out to the bridge to grab a cup of coffee and I'd meet the
14 Captain and Randolph up on the bridge and they will just be having a normal
15 conversation, laughing, etc.

16 **CDR Denning:** Did you observe them discussing routes at times and which route
17 would be the most safe route to take?

18 **WIT:** No, not with Captain Davidson. I don't recall sailing with Captain Davidson
19 through heavy weather. I think my experience with him has been good weather.

20 **CDR Denning:** So you always took the most economical direct route? There was
21 never a need for a discussion about which route to take?

22 **WIT:** Correct. Not with Captain Davidson.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CDR Denning:** How would you describe, this is my final question, how would you
2 describe Captain Davidson's leadership style?

3 **WIT:** Very good.

4 **CDR Denning:** You never had any issues with his leadership style? His
5 communication on board, was it always sufficient from your perspective?

6 **WIT:** Yeah. For most of the time.

7 **CDR Denning:** Most of the time?

8 **WIT:** Yes. About 95 percent of the time I thought he had a very good leadership.

9 **CDR Denning:** Is there any concerns with his leadership style that you think may have
10 caused an unsafe atmosphere on board? In regards to voyage planning,
11 communication? Just specific to voyage planning.

12 **WIT:** No, never.

13 **CDR Denning:** Navigation, weather?

14 **WIT:** Never.

15 **CDR Denning:** Thank you. That's all my questions. I'm going to pass it to Mr.
16 Fawcett.

17 **Mr. Fawcett:** Hello Mr. Berrios I have just a few questions for you, sir.

18 **WIT:** Hi.

19 **Mr. Fawcett:** When you left the El Faro were all the life rafts properly stored in their
20 cradles and connected to serviceable hydrostatic releases?

21 **WIT:** Three of them that were required on board they were on the cradles with the
22 hydrostatic release. And the two that I remember, extra ones, were not. Were just on
23 the embarkation deck of the life boat just tied off to a rail.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Fawcett:** So from your vantage point as mate who had shipped on the El Faro for a
2 period of time, did you ever observe instances where you felt that commercial pressure
3 to maintain a schedule influenced the direction of the ship in any way?

4 **WIT:** Never.

5 **Mr. Fawcett:** Did any crew member ever complain about fatigue?

6 **WIT:** Never.

7 **Mr. Fawcett:** You're familiar with the concept of bridge resource management?

8 **WIT:** Yes.

9 **Mr. Fawcett:** Could you describe how Captain Davidson practiced bridge resource
10 management aboard El Faro?

11 **WIT:** Very effectively.

12 **Mr. Fawcett:** Did he ever call a group meeting of ship's officers to talk about the risk
13 associated with the voyage ahead?

14 **WIT:** What do you mean with the voyage ahead?

15 **Mr. Fawcett:** Well you're getting ready, were you aboard for the voyage where they
16 deviated from their normal route?

17 **WIT:** No, all the sea time I spent with Sea Star Line I never took the alternate routes.

18 **Mr. Fawcett:** Okay. Did you ever witness all the bridge officers gathering together to
19 talk about a voyage?

20 **WIT:** No. Not with Captain Davidson.

21 **Mr. Fawcett:** Had you seen it practiced by other Masters?

22 **WIT:** I saw it with Captain Eric Axelsson when we were in hurricane season that there
23 was a system out there that could threaten and we discussed it in and monitored it but

1 with Captain Davidson I never had that weather or any system that could have
2 threatened.

3 **Mr. Fawcett:** Did you ever get together as a bridge team to talk about – were you
4 aware of the Hurricane Danny safety alert?

5 **WIT:** I don't recall if I was on board by that time. I would have to look at my records. I
6 don't recall.

7 **Mr. Fawcett:** Okay. So that alert came out on August 20th and it discussed
8 preparations for, you know vessels to be ready for the upcoming hurricane season. It
9 talked about being the first season of the Atlantic, hurricane season. Do you recall
10 seeing that in the bridge binder where safety alerts were supposed to be located?

11 **WIT:** When you mention August 20th, what year was that?

12 **Mr. Fawcett:** Uh last year.

13 **WIT:** I wasn't on board on August 20th.

14 **Mr. Fawcett:** Yes, but ----

15 **CAPT Neubauer:** I recommend that we show the witness the exhibit and see if he saw
16 that on the subsequent voyage.

17 **Mr. Fawcett:** Thank you, sir. Just a moment, sir, I call your attention to that exhibit,
18 one second. That's Exhibit 45, sir, 045.

19 **WIT:** No.

20 **Mr. Fawcett:** When you returned to go on board the ship for your last voyage aboard
21 the ship, was Captain Davidson the Master?

22 **WIT:** Correct.

1 **Mr. Fawcett:** Did he talk to you when you returned to the ship, you had been off you
2 know, things could have changed? For example, that safety alert had been placed in
3 the binder aboard the ship. Did he sit down and familiarize you with any changes
4 aboard the ship so you knew how to handle and conduct your duties once you came
5 aboard?

6 **WIT:** No.

7 **Mr. Fawcett:** Briefly describe your turnover with your relief when you came aboard.

8 **WIT:** We will discuss the turnover notes and go through all the Third Mate inspection
9 that we had to do throughout the month, quarterly or yearly basis. And gave each other
10 an update of where we stand throughout that month. If we were for example changing
11 over at the beginning of the month perhaps there were only three inspections out of 10
12 that needed to be done, so we would discuss that on our track record, excel sheet so
13 we can follow. And if there was something outstanding we will let each other know so
14 we can follow up. Pretty much give each other a pretty good overview of the present
15 situation based on Third Mate inspections and an overview if anything changed out of
16 normal. So we will communicate that.

17 **Mr. Fawcett:** I just have a couple more questions related to drills and training. So what
18 were the shipboard procedures for when the abandoned ship drill commenced? What
19 were the procedures for bringing safety equipment to the boats such as the EPIRB and
20 other equipment?

21 **WIT:** Yes. The EPIRB was assigned to life boat number 2. I take that back, life boat
22 number 1. And the SARTs, we had one SARTs per boat that was located on the bridge.
23 And three VHF life boat radios. And they were either simulated to bring down to the

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 boats or actually physically brought down. The way how we did it was whoever was in
2 charge of issuing you a boat will assign a crew member to go to the bridge to gather
3 that equipment and bring it down to the boat.

4 **Mr. Fawcett:** So when you said simulated, under Captain Davidson's leadership did
5 you see instances where the full complement of available safety equipment, and I'm not
6 talking about all of the survival suits and so forth, but the typical abandoned ship
7 equipment that you use in the Caribbean was actually brought to the boat and put at the
8 location for abandoned ship?

9 **WIT:** Yes.

10 **Mr. Fawcett:** The debriefs that were conducted after the abandoned ship drills, did
11 Captain Davidson attend those on a regular basis?

12 **WIT:** Can you define regular basis?

13 **Mr. Fawcett:** Well, all right. Did he always attend the debriefs at the conclusion of the
14 abandoned ship drill?

15 **WIT:** Not all the time.

16 **Mr. Fawcett:** Can you give half the time, or can you give me?

17 **WIT:** 20 percent of the time.

18 **Mr. Fawcett:** And my final questions, I have two more questions. Did you ever attend
19 a safety meeting or drill while Captain Davidson was in command where they discussed
20 lowering the boats or deploying the rafts in conditions where the ship was listing,
21 damaged, or in adverse weather?

22 **WIT:** I don't recall.

23 **Mr. Fawcett:** Have you ever been aboard during an internal audit?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** I believe so.

2 **Mr. Fawcett:** Do you recall who conducted that audit? And I'm talking about the El
3 Faro.

4 **WIT:** I understand it was in El Faro that John Lawrence the Designated Person ashore
5 visited us and conducted an audit.

6 **Mr. Fawcett:** Can you explain how – what type of audit that was?

7 **WIT:** I recall pertain to myself when I met him that he asked me questions similar of
8 what you're asking about what are my duties as a Third Mate and how I do my
9 inspections, how I kept record from them. How I operate the cargo ops or bridge watch.
10 Those types of questions. That's what I recall done in port.

11 **Mr. Fawcett:** Do you have any idea how long he talked to you?

12 **WIT:** Half an hour to 45 minutes.

13 **Mr. Fawcett:** And do you recall just, you may not know this, but how long that entire
14 audit took place?

15 **WIT:** I don't know because I was doing cargo ops. I do remember that. And I can't
16 recall if I just got off watch or not. So I don't know exactly what time he got on board
17 and commenced conducting his audit.

18 **Mr. Fawcett:** Thank you very much, Mr. Berrios. You've been very helpful.

19 **CAPT Neubauer:** Commander Odom.

20 **CDR Odom:** Thank you. So when you – in relation to drills when you did the drills, did
21 the crew show up with all their survival suits at the drill? Was it routine for them to bring
22 it with them?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** We alternated. I recall times where we all brought the immersion suits to the
2 embarkation deck and other times we only brought the life jackets.

3 **CDR Odom:** When you brought the immersion suits did you, did anybody ever practice
4 or do a demonstration for donning them?

5 **WIT:** Yes. On a routinely basis in every quarter as per the Third Mate inspection
6 sheets, that was one of them to be conducted.

7 **CDR Odom:** Did you have a relationship with any of the junior engineers on board,
8 friendship? Did you know any of them?

9 **WIT:** What do you mean about knowing them?

10 **CDR Odom:** Did you have a professional relationship with any of the junior engineers?
11 Did you discuss things with them as far as conditions in the engine room or anything?

12 **WIT:** We had plenty of communication between the engineers that were on watch. And
13 off watch we sat down for breakfast, lunch or dinner and we all had a normal
14 conversation. And we discussed things like, for example if the engineer that took that 8
15 to 12 watch will discuss about how we're going to do the arrival, about slow down. We
16 talked things out of the work schedule where I will give advanced notice of 1 hour, give
17 heads up of ETA, things like that, yes. And what RPM they would like to be at. Things
18 like that, yes. To answer your question, yes.

19 **CDR Odom:** So in those conversations did you ever have a conversation about any
20 substandard conditions in the engine room with equipment not working properly or, you
21 know a casualty of any type that they were working on?

22 **WIT:** No.

23 **CDR Odom:** Or dealing with?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** No.

2 **CDR Odom:** Thank you very much.

3 **CAPT Neubauer:** Mr. Roth-Roffy.

4 **Mr. Roth-Roffy:** No questions, sir. But Mr. Kucharski.

5 **Mr. Kucharski:** Captain. Mr. Berrios. Good afternoon. Can you give us an idea how
6 much time, total on the PONCE class vessels you spent? Was it only the El Faro that
7 you were on?

8 **WIT:** No I sailed on the El Morro and El Yunque.

9 **Mr. Kucharski:** El Yunque?

10 **WIT:** Correct.

11 **Mr. Kucharski:** As Third Mate?

12 **WIT:** I sailed a total of 9 days including Third Mate, Second Mate.

13 **Mr. Kucharski:** 9 days on El Yunque?

14 **WIT:** That was, yes.

15 **Mr. Kucharski:** And the last time you sailed on the El Faro as Third Mate was in July
16 28th, that's when you got off the ship?

17 **WIT:** That's correct.

18 **Mr. Kucharski:** And then you sailed for 2 days as Second Mate and got off the 22nd of
19 September?

20 **WIT:** I joined the 19th and got off the 22nd of September, 2015.

21 **Mr. Kucharski:** And stated about the anemometer, was it working on the 22nd of
22 September when you got off the vessel?

23 **WIT:** That's correct.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Kucharski:** And what Masters did you sail with on the PONCE class vessels?

2 **WIT:** Say that again?

3 **Mr. Kucharski:** What different Captains, what Masters on the PONCE class vessels?

4 **WIT:** When you mean the PONCE class vessels you mean steam ship El Morro?

5 **Mr. Kucharski:** El Yunque, El Morro and El Faro.

6 **WIT:** Understood. I sailed with Eric Axelsson and Mike Davidson.

7 **Mr. Kucharski:** And they were on the El Morro, or El Yunque also?

8 **WIT:** Thank you for asking. They were on steam ship El Morro, steam ship El Faro and
9 when I sailed in steam ship El Yunque I sailed with Mike Richie.

10 **Mr. Kucharski:** So those are the 3 Captain, 3 different Captains?

11 **WIT:** Correct.

12 **Mr. Kucharski:** Thank you. And when you were on the El Faro, what was the highest
13 wind speed you observed by anemometer?

14 **WIT:** Force 7

15 **Mr. Kucharski:** Force 7, can you give me an idea of knots?

16 **WIT:** 33 knots.

17 **Mr. Kucharski:** 33.

18 **WIT:** Correct.

19 **Mr. Kucharski:** And that was the highest wind speed?

20 **WIT:** Yes.

21 **Mr. Kucharski:** Was that at day or night?

22 **WIT:** That was day and night.

23 **Mr. Kucharski:** It was day time?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Both, day and night.

2 **Mr. Kucharski:** And were you able to estimate, you mentioned that you could estimate
3 wind speed by looking out and looking at the wave, or the bubble if you will and things
4 like that. How did you do that at night?

5 **WIT:** Well at night I just base on the anemometer and the wind vane.

6 **Mr. Kucharski:** Okay, thank you for that clarification. Did you ever take drafts on the
7 vessel?

8 **WIT:** Yes.

9 **Mr. Kucharski:** Did you take them on the off shore side of the vessel?

10 **WIT:** No.

11 **Mr. Kucharski:** Were they ever taken on the off shore side of the vessel?

12 **WIT:** Yes.

13 **Mr. Kucharski:** Did you observe anybody taking the off shore drafts?

14 **WIT:** No physically, but when there's some UHF radios when drafts were taken on the
15 off shore.

16 **Mr. Kucharski:** And do you know how they did that?

17 **WIT:** No.

18 **Mr. Kucharski:** You mentioned there were balls or floats on both sides of the bilge
19 alarms in number 3 hold.

20 **WIT:** Correct.

21 **Mr. Kucharski:** Where were they physically located?

22 **WIT:** They were, on each cargo hold on the aft end, and this is going to be a guess, but
23 about 20 feet from the outside bulkhead.

1 **Mr. Kucharski:** So they were towards the outboard bulkheads?

2 **WIT:** Correct.

3 **Mr. Kucharski:** You stated the, I believe the watertight doors were closed in heavy
4 weather?

5 **WIT:** Correct.

6 **Mr. Kucharski:** Was the heaviest weather on the El Faro that you were on was during
7 that 33 knots of wind?

8 **WIT:** Yes.

9 **Mr. Kucharski:** Did you physically go out there and see them closed?

10 **WIT:** I don't recall being out on deck, no.

11 **Mr. Kucharski:** But during better weather you went out on deck to make rounds and
12 you could see some of the doors opened?

13 **WIT:** Between 13 and 17 which I was on deck I can testify yes.

14 **Mr. Kucharski:** Was there a station bill assignment for anyone to take the EPIRB from
15 its outboard storage location on the El Faro?

16 **WIT:** Not to my knowledge.

17 **Mr. Kucharski:** I'm sorry?

18 **WIT:** Not to my knowledge.

19 **Mr. Kucharski:** You mentioned the practicing of good BRM by Captain Davidson,
20 bridge resource management. What assignments were made by Captain Davidson?

21 **WIT:** He will delegate for example on an in bound or out bound he will discuss with the
22 Mate on the watch the plan for the out bound. Who will for example who will take care
23 of the 10 centimeter radar, who will take care of the 3 centimeter radar? Who's going to

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 answer VHF calls? Which binoculars are we going to share, which ones are we not?
2 Which ones are we going to let the pilot use? We discussed if we have new AB on
3 board that we need to pay more attention to the AB, to always remind each other to
4 check the rudder angle indicator. To plot the position when the position was plotted he
5 will cover me on the EOT. Who will make coffee for the pilot? And who will take care of
6 paperwork for example for the pilot card for the pilot will sign it off.

7 **Mr. Kucharski:** I'm sorry.

8 **WIT:** What?

9 **Mr. Kucharski:** I'm sorry, were you finished?

10 **WIT:** Yes.

11 **Mr. Kucharski:** Was there any other person besides you and the pilot on the bridge
12 and the Captain Davidson when those assign – did he make an assignment to the pilot?

13 **WIT:** No, but he always had a Master exchange done and he always discussed traffic
14 and the plans of tug boats, plan of getting off or docking. How to use the tug boats,
15 where they were going to be placed, etc.

16 **Mr. Kucharski:** Did he ever bring another Mate on the bridge to assist in the navigation
17 to bridge – during bridge resource management?

18 **WIT:** I'm trying to remember here because I can't recall exactly, but I do know in fact
19 that he enforced that if we would have two officers on watch that we will log bridge
20 watch 2. And in fact, I don't know if he requested to have two persons on the bridge,
21 but I do recall being on the bridge not during my watch and participating on bridge
22 watch 2. I take that back. That was a bridge watch 3 including the Master.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Kucharski:** Okay, thank you. And the – you mentioned there was a 20 degree
2 offset in what was the anemometer or the wind vane direction and to what you
3 observed.

4 **WIT:** Correct.

5 **Mr. Kucharski:** Was that consistent to 360 degrees?

6 **WIT:** Correct.

7 **Mr. Kucharski:** Did the El Faro typically have any list leaving the dock at Jacksonville?

8 **WIT:** No more than 1 degree. I don't recall more than 1 degree. For average ½ degree
9 and perhaps even keel. Between ½ a degree and even keel, that's where we left the
10 dock.

11 **Mr. Kucharski:** Was there a side that the list generally was?

12 **WIT:** No.

13 **Mr. Kucharski:** You mentioned you were on board when Captain Lawrence made
14 some of his audits on board the vessel?

15 **WIT:** That's correct.

16 **Mr. Kucharski:** Did he do any spot checks to see if any of the required duties were
17 actually effective?

18 **WIT:** I don't know.

19 **Mr. Kucharski:** I'm sorry?

20 **WIT:** Can you ask that again?

21 **Mr. Kucharski:** In other words did he just ask you questions or did he go and see if
22 positions were plotted on a chart, or look at the sailing directions, or look at the coast

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 pilots or anything like to see if the charts were kept up or did he actually check any of
2 that?

3 **WIT:** I don't recall.

4 **Mr. Kucharski:** Thank you. No further questions.

5 **CAPT Neubauer:** Does Tote have any questions?

6 **Tote Inc:** No, sir.

7 **CAPT Neubauer:** Does ABS have any questions?

8 **ABS:** No questions?

9 **CAPT Neubauer:** Does Mrs. Davidson have any questions?

10 **Ms. Davidson:** I have one question, maybe two, thank you. Sir, on the station bill what
11 is the station bill?

12 **WIT:** A station bill shows the duties assigned to each crew member or riding crew
13 member on board on emergencies including abandoned ship, fire.

14 **Ms. Davidson:** And the drills that you did they were all done at sea, correct?

15 **WIT:** No.

16 **Ms. Davidson:** How many of those drills were done at sea?

17 **WIT:** 90 percent.

18 **Ms. Davidson:** And on the station bill where is the Captain's position?

19 **WIT:** Bridge.

20 **Ms. Davidson:** Thank you, sir. I have no further questions.

21 **WIT:** And I just want to add to that. It was on the bridge but he was assigned to life
22 boat number 1.

23 **Ms. Davidson:** Thank you.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CAPT Neubauer:** Good afternoon, Mr. Berrios.

2 **WIT:** Good afternoon.

3 **CAPT Neubauer:** Sir, I just have a few follow up questions from your earlier testimony.

4 **WIT:** Yes.

5 **CAPT Neubauer:** Did you personally ever attempt to take the outboard draft from a
6 position on the El Faro?

7 **WIT:** Yes.

8 **CAPT Neubauer:** Were you able to obtain a draft from a position on the vessel?

9 **WIT:** Yes.

10 **CAPT Neubauer:** Sir, who normally provided the safety orientations for new crew
11 members on the El Faro?

12 **WIT:** For the deck officers who would share them between the Chief Mate and myself.
13 I do recall doing a lot of them for the deck officers and the deck side unlicensed.

14 **CAPT Neubauer:** Do you know if the Chief Mate provided a safety orientation for the
15 Polish workers on board the El Faro?

16 **WIT:** I don't know. And the reason is because I wasn't on board when they joined the
17 vessel. I think that's the reason why I don't know.

18 **CAPT Neubauer:** Just to make sure, you were not on board when the Polish riding
19 gang embarked the vessel, is that correct, sir?

20 **WIT:** Correct. That's what I recall.

21 **CAPT Neubauer:** Sir, going back to the 22nd of September, you mentioned there were
22 extra life rafts on board the El Faro at the time.

23 **WIT:** Correct.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CAPT Neubauer:** Did you ever understand why those extra life rafts were on board?

2 **WIT:** Because the annual due date was due, if I remember correctly it was due the
3 month or two after I got off in July. And they brought those on board. Now I don't know
4 exactly why we kept the ones that we had on board, if they were loaners or not I don't
5 know the details of it.

6 **CAPT Neubauer:** Just to make sure I understand, sir. The extra life rafts were brought
7 on board because the life rafts that were already in place were overdue for servicing, is
8 that correct?

9 **WIT:** It was coming up. When I got off in July 22nd, they were not due yet, but the date
10 was coming up.

11 **CAPT Neubauer:** Was it your understanding that during a voyage the date would
12 expire and the other life rafts would serve as a substitute for those rafts?

13 **WIT:** No I recall that the, when I got on board the 19th, I recall that the lift rafts that were
14 in the cradle were the new ones. And the ones that were on the rail were the old ones.

15 **CAPT Neubauer:** Thank you for that clarification, sir. One last question. On the
16 weather vane angle, how long was the offset in place to your knowledge?

17 **WIT:** I can't recall.

18 **CAPT Neubauer:** Do you remember it always being in place while you were on board
19 the El Faro?

20 **WIT:** No.

21 **CAPT Neubauer:** Did you ever raise the issue to a senior officer that the wind vane
22 was incorrect?

23 **WIT:** Yes.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CAPT Neubauer:** Who did you raise that issue to?

2 **WIT:** I believe the Second Mate.

3 **CAPT Neubauer:** Do you remember which Second Mate that would be?

4 **WIT:** I believe it was Charlie Baird and I remember exactly, but I know for a fact that we
5 discussed it. That was discussed and everybody knew about it.

6 **CAPT Neubauer:** It was your understanding that all of the officers on board had an
7 idea to correct for that offset?

8 **WIT:** Yes.

9 **CAPT Neubauer:** Are there any further questions for Mr. Berrios at this time?

10 **Tote Inc:** May I ask a follow up question?

11 **CAPT Neubauer:** Yes, sir.

12 **Tote Inc:** Mr. Berrios, with regard to people who would come aboard the vessel like
13 riding crew, for examples the cowboys that would come aboard, what was Captain
14 Davidson's policy with regard to instructing them on the safety issues aboard the vessel
15 and what they needed to do during abandoned ship and so forth?

16 **WIT:** Yes. Both Captain Davidson and Eric Axelsson request that every crew member
17 follow the station bill and muster for a station bill. And for a fact I do remember a
18 cowboy that got on board in Jacksonville and I was the designated officer to do his
19 indoctrination, I did his full indoctrination and I clearly showed him his station bill. Both
20 on different bulkheads his cabin and I advised him as we were heading South bound to
21 Puerto Rico when we have the drill that he had to show up to the drill. And in fact when
22 we were doing our muster list being taken on life boat number 1, number 2, bridge and
23 engine room, when we did that the cowboy was missing. So we had a practice if

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 somebody was missing on a boat drill or was late we turned the drill into a real situation
2 of missing person, missing crew member and we hunt them. That was very strictly
3 done by Captain Davidson and Eric Axelsson. And I was part of the search and the first
4 place I looked was his room, I knocked on his door several times and called for his
5 name. I can't recall his name right now and he didn't answer. So kept bouncing on the
6 door and asked different crew members who were searching the vessel and eventually I
7 made a decision to go in the room and I went in the room and he was sleeping awake,
8 sleeping half awake. And after that that was addressed with the Captain and that's
9 pretty much it.

10 **Tote Inc:** Okay. So it was Captain Davidson's policy though that he took the
11 indoctrination of these people who were new on board the vessel to instruct them on
12 safety measures and if they didn't show up where they were supposed to it was your job
13 to go find them?

14 **WIT:** That's correct. But it wasn't directly my job to go find them. It was actually the job
15 of the drill, well not a drill on a real situation on how to hunt for a crew member, missing
16 crew member. Is either he fell asleep and never woke up or is he missing because he
17 fall overboard. We actually took it seriously to the point that we are actually missing a
18 person. That – this is a distress. And that's how strictly we took it.

19 **Tote Inc:** Thank you. No further questions.

20 **CAPT Neubauer:** Are there any further questions. Mr. Kucharski.

21 **Mr. Kucharski:** I would like to follow on, the riding crew their abandon ship station was
22 to come onto the bridge.

23 **WIT:** That's correct.

1 **Mr. Kucharski:** Were they ever excused from coming to any of the drills? Did they
2 have to come every drill to the bridge?

3 **WIT:** Every drill.

4 **Mr. Kucharski:** Thank you. I asked you earlier about taking off shore drafts, did you
5 ever take any off shore drafts?

6 **WIT:** I remember upon reflection on that, I remember that one time I did.

7 **Mr. Kucharski:** Just once?

8 **WIT:** Yeah, just once.

9 **Mr. Kucharski:** Where did you take that from?

10 **WIT:** I took that from the pilot ladder that was rigged, we took bunkers that time in
11 Jacksonville and I just went on the pilot ladder and look over the side. I can't recall if it
12 was before the bunker barge came or afterwards.

13 **Mr. Kucharski:** So you stood at the pilot ladder location and you looked over the side?

14 **WIT:** Yes.

15 **Mr. Kucharski:** You mentioned turnover notes. Did you have turnover notes for your
16 relief?

17 **WIT:** Yes.

18 **Mr. Kucharski:** Was that a standard practice on the vessel to have turnover notes?

19 **WIT:** Yes.

20 **Mr. Kucharski:** Was it a requirement that the Captains have turnover notes?

21 **WIT:** I don't know.

22 **Mr. Kucharski:** Do you know if that practice was for all of the officers, essentially the
23 deck officers to have turnover notes?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Yes.

2 **Mr. Kucharski:** No further questions. Thank you.

3 **CAPT Neubauer:** Are there any further questions?

4 **Tote Inc:** No, sir.

5 **ABS:** No questions.

6 **CAPT Neubauer:** Mr. Berrios, we are now complete with your testimony for today.

7 However I anticipate that you may be recalled to provide additional testimony at a later

8 date. Therefore I am not releasing you from your testimony at this time and you remain

9 under oath. Please do not discuss your testimony or this case with anyone other than

10 your counsel, the NTSB or members of this Coast Guard Marine Board Investigation. If

11 you have any questions about this, you may contact my legal advisor, Commander Jeff

12 Bray. And I thank you for your testimony, sir.

13 **WIT:** Thank you.

14 **CAPT Neubauer:** At this time do any parties in interest have concerns with the

15 testimony provided by Mr. Berrios?

16 **Tote Inc:** No, sir.

17 **Ms. Davidson:** No, sir.

18 **ABS:** No, sir.

19 **HEC:** No, sir.

20 **CAPT Neubauer:** The hearing will now take a 15 minute recess and reconvene 3:30.

21 *The hearing recessed at 1513, 19 February 2016*

22 *The hearing was called to order at 1531, 19 February 2016*

23

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CAPT Neubauer:** The hearing is now back in session. We will now hear testimony
2 from Mr. Tony Callaway with PORTUS. Mr. Callaway please come forward to the
3 witness table and Lieutenant Commander Yemma will administer your oath and ask you
4 some preliminary questions.

5 **LCDR Yemma:** Sir, please raise your right hand. A false statement given to an agency
6 of the United States is punishable by a fine and or imprisonment under 18 United States
7 Code section 1001, knowing this do you solemnly swear that the testimony you're about
8 to give will be the truth, the whole truth and nothing but the truth, so help you God?

9 **WIT:** Yes, sir.

10 **LCDR Yemma:** Thank you, you can be seated. Sir, can you please start by stating
11 your full name and spelling your last name for the record?

12 **WIT:** Anthony James C-A-L-L-A-W-A-Y.

13 **LCDR Yemma:** And please move the microphone a little closer, it needs to be right by
14 you. Counsel can you also state your name and spell your last for the record please?

15 **Counsel:** Yes, sir. Robert Dees, D-E-E-S.

16 **LCDR Yemma:** Mr. Callaway, can you please state where you're currently employed
17 and what your position is?

18 **WIT:** PORTUS Services, vessel of supervisor.

19 **LCDR Yemma:** What are some of you general responsibilities in that position?

20 **WIT:** Uh, the responsibilities are to supervise the gangs working the ship. Basically
21 that's just about it. I supervise gangs, give daily safety briefs. I'm not directly involved
22 with any of the planning right now with the vessel. But mostly right now it's supervision
23 of the gangs.

1 **LCDR Yemma:** Okay, thank you. Can you describe some of your prior relevant work
2 experience please?

3 **WIT:** In 2006 I was promoted to Vessel Foreman. Foreman's responsibilities are the
4 same thing, supervision of the gangs, distributing to where they're going to work out.
5 Different – different people go different parts of the ships obviously. Walk around,
6 obviously make sure everybody's working in a safe manner. Monitor radio, make sure
7 everything's moving. Monitor production. And just make sure it's getting done.

8 **LCDR Yemma:** What's your highest level of education completed?

9 **WIT:** High school.

10 **LCDR Yemma:** And do you currently hold any professional licenses or certifications?

11 **WIT:** No, sir.

12 **LCDR Yemma:** Thank you. The board will have some questions for you now.

13 **CDR Denning:** Good morning, sir. I would you to start by describing for us the
14 relationship between PORTUS and TSI, Tote Services and then also the relationship
15 between PORTUS and Tote Maritime Puerto Rico. How are – how do – who do you
16 work for? How does PORTUS interact with those two organizations?

17 **WIT:** I'm not 100 percent sure of the complete interaction. PORTUS is a stevedore
18 company, we load the ship and Tote is a shipping company. They receive the cargo.

19 **CDR Denning:** So could you go into a little bit more detail for us on the role of a
20 stevedore? How do they load the ship, what all does that entail?

21 **WIT:** Everything that has to do with anything with loading the ship. The ro-ro decks,
22 the PORTUS employees are the ones putting the cargo on the ship, securing it. Our
23 crane operators are the ones picking the containers and putting them up on top of the

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 lo-lo decks. Our employees are the ones securing that cargo on top as well. Our truck
2 drivers are in the trucks bringing the loads to the ship.

3 **CDR Denning:** So you load all various types of cargo, the smaller vehicles that would
4 go below decks, the trucks – the trailers on chassis that are taken on by truck, the
5 containers that are loaded on deck, on the main deck, and you secure, your folks
6 secure all of that cargo using various types of lashings?

7 **WIT:** Yes.

8 **CDR Denning:** Which vessels particularly are you the vessel foreman for?

9 **WIT:** All of them.

10 **CDR Denning:** How many – how many is that? Can you name the vessels for us?

11 **WIT:** El, uh, El Yunque, Isla Bella and Perla Del Caribe. El Yunque was the last
12 voyage yesterday.

13 **CDR Denning:** So all of the Tote Maritime Puerto Rico vessels?

14 **WIT:** Yes, sir.

15 **CDR Denning:** Do you handle any other vessels from any other companies?

16 **WIT:** No, sir.

17 **CDR Denning:** And you of course did handle the El Faro on its final voyage?

18 **WIT:** Yes, sir.

19 **CDR Denning:** How frequently do those vessels come to port in Jacksonville?

20 **WIT:** Uh once a week each.

21 **CDR Denning:** So as foreman what are your – describe your typical day.

22 **WIT:** Typical day is start out with a safety brief. We have a 15 minute safety brief in the
23 morning. We will talk about what's going on throughout the day, talk about any dangers

1 associated with it. Anything that's come up as far as MARSEC, anything's happened on
2 the port. Anything security we need to discuss that needs to be passed on to the
3 employees. At that point we will begin the operation loading the cargo, unloading the
4 cargo I mean. Most of the time it's a two day deal. So the beginning of the first day will
5 be discharge, load back very minimal, the second day is to finish it. And that's just
6 about it.

7 **CDR Denning:** And who do you work for? Who's your supervisor?

8 **WIT:** My supervisor is Brad Bishop.

9 **CDR Denning:** And he's with PORTUS?

10 **WIT:** Yes, sir.

11 **CDR Denning:** Do you spend – how much – how much percentage of your day is
12 spent onboard the vessel versus back in the office?

13 **WIT:** About 50/50.

14 **CDR Denning:** About 50/50. And who works for you on the vessel? Who do you
15 supervise?

16 **WIT:** We have on the lo-lo gangs outside on the deck, each crane is assigned a header
17 or a lead man, we call them headers. On the ro-ro deck each deck is assigned a
18 header as well.

19 **CDR Denning:** And how many stevedores total are on board the vessel working,
20 working on, you know, how many people are driving the trucks? How many are working
21 on the lashings? How many people within the PORTUS organization are typically on
22 board the vessel at any given time?

23 **WIT:** Typically right now we're right at 100 men total loading the ship.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CDR Denning:** Do you have specific profiles for lashing different – different cargo is
2 required to be lashed in various ways. I’m going to put that on hold for just now. As we
3 go around Mr. Kucharski has a lot of very detailed for you on that, so I’m going to table
4 that for now. But related to that, does the vessel ever ask your PORTUS workers for
5 additional lashings on any particular voyage for things such as weather?

6 **WIT:** Umm, in heavy weather lashing thing usually is only directly related to heavy
7 equipment like excavators or movers and stuff like that.

8 **CDR Denning:** So sort of non-standard cargo?

9 **WIT:** Yes, sir.

10 **CDR Denning:** So your various type – your most common types of cargo are vehicles,
11 small vehicles like cars, trucks – trailers on chassis?

12 **WIT:** The most common cargo is cars and trailers.

13 **CDR Denning:** And so you’re talking about when they ask for extra lashings it typically
14 for non – the types of cargo that are not the most common, say you know a sail boat or
15 something of that nature?

16 **WIT:** Boat, excavators.

17 **CDR Denning:** Got you. And who would make that request of you to add additional
18 lashings for that type, that non-standard type cargo?

19 **WIT:** The crew members.

20 **CDR Denning:** So that would be the mates?

21 **WIT:** Yes.

22 **CDR Denning:** Any particular mate, would it have to be the Chief Mate, or it could be
23 any mate on watch?

1 **WIT:** The first one that gets to me.

2 **CDR Denning:** Were there ever any issues complying with their request?

3 **WIT:** No, sir.

4 **CDR Denning:** Tell me about the condition of the lashing equipment itself. Did you,
5 you know, tell us the different types of lashing equipment in general?

6 **WIT:** The up deck lo-lo lashing is pretty standard, you've got a rod, a turn buckle. The
7 ro-ro decks has two different types of lashing which is the chain with a binder and then
8 most of the boats are done with 2 inch ratchet straps. Cars get a 1 inch ratchet, not a
9 ratchet but a flip type binder strap. Most of it is just chain and strap.

10 **CDR Denning:** What about Roloc boxes?

11 **WIT:** The Roloc is chain as well.

12 **CDR Denning:** Do you ever experience any concerns with any of the lashing
13 equipment? Does it ever break? Do you ever see damaged ----

14 **WIT:** Most of the time if I ever see any broken lashing it's because somebody to take
15 one off of a trailer or missed it when they were unlashing, like ones up underneath and
16 a truck will take off with it and bust it. And then that's immediately put out of service.
17 The crew member immediately takes it, puts it in a barrel, marks it and it's immediately
18 taken out of service.

19 **CDR Denning:** Are you aware of any, besides that where you noticed the damage
20 occur, as it occurs, are you aware of any lashing inspection regime?

21 **WIT:** No, sir.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CDR Denning:** What about for the vessel itself, do you get involved in any of the
2 inspections of the vessel's equipment such as the, the permanent equipment, D rings,
3 buttons, those types of things?

4 **WIT:** No, sir.

5 **CDR Denning:** Have you ever noticed any of those, you're not responsible for them
6 necessarily, but have ever notice any obvious damage to those types of equipment
7 that's affixed to the vessel?

8 **WIT:** Every now and then you would see a D ring that might have broke or a button that
9 got ripped out. But we don't use those whenever they're like that. We'll find a different
10 spot to put it.

11 **CDR Denning:** So you don't use them. Is there a process by which you notify the
12 vessel?

13 **WIT:** Yeah we'll inform the mates if they haven't already been informed and they'll mark
14 it with paint and it's generally repaired within a week.

15 **CDR Denning:** Do you happen to know if they repair it?

16 **WIT:** Yes. As far as I know they repair it. Most of the time my wear – my knowledge is
17 that the Bosun does it.

18 **CDR Denning:** Have you ever seen any third party contractors come on to repair that
19 type of ----

20 **WIT:** Yes.

21 **CDR Denning:** So sometimes you've seen third party contractors, sometimes the crew
22 might do it themselves?

23 **WIT:** Right.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CDR Denning:** or this particular voyage, the final voyage of the El Faro, did you
2 observe – you were on board for that loading operation?

3 **WIT:** Yes, sir.

4 **CDR Denning:** Did you notice anything out of the ordinary, anything of concern with
5 regard to the cargo, the cargo lashing, cargo lashing equipment?

6 **WIT:** No, sir. It was a pretty normal day.

7 **CDR Denning:** And you load these ships. So the El Faro would call on Jacksonville
8 once a week?

9 **WIT:** Correct.

10 **CDR Denning:** The El Yunque would call once a week.

11 **WIT:** Yes.

12 **CDR Denning:** So twice a week you would be loading this type of vessel. Would you
13 say it's become routine?

14 **WIT:** Yes.

15 **CDR Denning:** So it's a pretty standard thing. You have – how much turnover is there
16 of your employees? You said there's typically 100 on board? Describe for us their
17 proficiency with what they do.

18 **WIT:** I don't understand what you mean.

19 **CDR Denning:** Are they well trained?

20 **WIT:** Yes.

21 **CDR Denning:** What is their training process? Let's say – let's start with a new
22 employee, say you get a new employee that's coming on as stevedore in your
23 organization. How do they get trained?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Most of the new employees come on, they would immediately be assigned with a
2 gang. They won't be – they'll be extra. They won't be like part of the gang. So you'll
3 have three lashers going with one man on a deck, say we're talking about the second
4 deck, all the people who start out brand new usually start out lashing in the ro-ro deck.
5 So they'll go with a guy and be trained with those three guys throughout that day. And
6 probably for the, you know a good couple weeks worth. They'll end up being with
7 somebody being trained. And it's pretty well set general easy to learn.

8 **CDR Denning:** Is there any type of qualification procedure, any kind of checklist before
9 somebody's allowed to go off and work on their own?

10 **WIT:** No, sir, not for a lasher.

11 **CDR Denning:** What type of references do they have available to them? Is there a
12 manual that tells them how to do this job?

13 **WIT:** No, sir.

14 **CDR Denning:** Is there any kind of lashing diagrams that you use?

15 **WIT:** No, sir.

16 **CDR Denning:** Just to circle back you said that on this particular voyage there was
17 nothing that seemed out of the ordinary?

18 **WIT:** Yeah, there was nothing unusual.

19 **CDR Denning:** Are you ever asked to leave certain lanes open in a cargo deck?

20 **WIT:** Yes, sir.

21 **CDR Denning:** How does that work?

22 **WIT:** Most of the time it was directly related to something like they want to get the rust
23 off the deck with a scaler. But generally that's usually what it is. Sometime in the 2F,

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 2E area on the port side there's a little lane through there. If they're going to end up in
2 some heavy weather they'll ask us to leave that void because the water comes in
3 through those windows pretty good and it could damage that equipment. But that's
4 generally what any kind of voids would be for is to keep the cargo safe or because
5 they're doing maintenance on that part of the deck.

6 **CDR Denning:** You said 2E and 2F, sometimes you're asked to leave those open
7 because essentially, did they explain it to you that water comes in through that when
8 they experience heavy weather and the water itself might damage the cargo? Is that
9 what was explained to you?

10 **WIT:** Correct.

11 **CDR Denning:** Did that happen on – for the most recent voyage, the final voyage? Did
12 they ask you to leave those open?

13 **WIT:** I don't recall.

14 **CDR Denning:** So you just don't remember or the answer is no?

15 **WIT:** I don't remember.

16 **CDR Denning:** Are there any other spaces that they've asked to leave open?
17 Particularly on this final voyage, did they say anything about leaving a particular lane
18 open to allow, there's a riding gang that's working on the vessel making some
19 modifications for converting the ship to another run. Did they ask you to leave any
20 lanes open to facilitate that work?

21 **WIT:** I can't remember. As far as I remember that ship was full.

22 **CDR Denning:** Full?

23 **WIT:** Full. We filled it up.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CDR Denning:** When they ask you to leave a certain lane open, is the cargo that would
2 be stowed in that particular position moved to the side and just secured in a slightly
3 different location, or is it just an entire cargo position that's simply left open, left void?

4 **WIT:** We just void the position.

5 **CDR Denning:** So if you're following a – the typical locations, all the rest of the typical
6 spots there's cargo in them, secured, you're not really shifting cargo, you're just leaving
7 a spot?

8 **WIT:** That's correct.

9 **CDR Denning:** Thank you. That concludes my questions. My colleague is going to
10 ask some additional questions, and in particular Mr. Kucharski is going to go into some
11 detail with you.

12 **CAPT Neubauer:** Do you have any questions Mr. Fawcett?

13 **Mr. Fawcett:** No, sir, no, sir, thank you.

14 **CAPT Neubauer:** Mr. Roth-Roffy.

15 **Mr. Roth-Roffy:** Mr. Kucharski please.

16 **Mr. Kucharski:** Thank you Captain. Good afternoon Mr. Callaway. And I apologize in
17 advance I'm going to ask you a lot of questions. Because you're really you know the
18 last person that was, one of the last people that verified the lashings, securing on board
19 the vessel, so. There will be a lot of detail that I'm going to ask. And I apologize to
20 everyone, but we really need to know these answers. Let me start, first off with some
21 just generalities, when we say PORTUS, does PORTUS also have the longshoreman,
22 the people with the lashes, are they part of the PORTUS group?

23 **WIT:** Yes.

1 **Mr. Kucharski:** PORTUS employees, okay. So all of them are, you have lashing and
2 then you have planners and you have different positions throughout?

3 **WIT:** Yes, sir.

4 **Mr. Kucharski:** Okay, great. And on that particular last load were there more than one
5 gang ordered for the vessel?

6 **WIT:** Yes.

7 **Mr. Kucharski:** How many gangs were there?

8 **WIT:** It would be, technically you would have a lo-lo gang and a ro-ro gang working at
9 the same time concurrently.

10 **Mr. Kucharski:** A lo-lo and a ro-ro gang?

11 **WIT:** Yes.

12 **Mr. Kucharski:** The lo-lo being for the containers?

13 **WIT:** Yes, the load on up top, the ro-ro inside the vessel.

14 **Mr. Kucharski:** And the ro-ro, roll-on roll-off type?

15 **WIT:** Yes.

16 **Mr. Kucharski:** And on the last day you mentioned that you spend about 50 percent of
17 the ship?

18 **WIT:** Correct.

19 **Mr. Kucharski:** And do you actually check all the lashings, visually check them all?

20 **WIT:** No, sir.

21 **Mr. Kucharski:** So you rely on your personnel to make sure that the lashings are
22 correct?

23 **WIT:** Correct.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Kucharski:** Do you – have you ever seen, and this is general before I get into the
2 specific, have you ever seen the Tote lashing manual for the vessels?

3 **WIT:** This particular one, no. I glanced at an older one some years and years back and
4 it ain't the same thing as I saw today. This is the first time I saw this.

5 **Mr. Kucharski:** Okay. So you may not be the person that I'm going to ask a lot of
6 questions of, but we need to get these answers somehow. There's also an approved
7 cargo securing manual for the vessels. Have you ever seen that before?

8 **WIT:** No, sir.

9 **Mr. Kucharski:** Before today have you ever seen a stow plan of a vessel?

10 **WIT:** Yes.

11 **Mr. Kucharski:** How about the general arrangement plan? Before today have you
12 ever looked at that before?

13 **WIT:** Like a pre-stow you mean?

14 **Mr. Kucharski:** No, the general arrangement plan which we ask you to look at, but
15 that's okay. Have you ever seen anything like that before?

16 **WIT:** I have seen it.

17 **Mr. Kucharski:** You've seen it, okay, good. Before today?

18 **WIT:** Yes.

19 **Mr. Kucharski:** Great, okay. So before the accident, before today?

20 **WIT:** Yes.

21 **Mr. Kucharski:** I'm sorry, yes, before the accident.

22 **WIT:** Yes.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Kucharski:** And the same thing with the other questions, the stow plan, you've
2 seen that before the actual accident?

3 **WIT:** Yes.

4 **Mr. Kucharski:** And the cargo securing manual, before today you haven't seen it at
5 all?

6 **WIT:** No, sir.

7 **Mr. Kucharski:** And the lashing manual, you haven't seen that before today?

8 **WIT:** No.

9 **Mr. Kucharski:** Okay, great. So if you would please look at Exhibit, for everybody
10 that's following along, Exhibit number 7, the general arrangement plan which you have
11 as the large diagram. I think we can dispatch that pretty quickly. And when you look at
12 that, for those following along, the vessel is divided into what we call watertight
13 compartments and it'll show number 1, number 2, number 2a, it has deck, 2nd deck,
14 tween deck hold you see those on there?

15 **WIT:** Yes.

16 **Mr. Kucharski:** Great. So starting from forward moving aft we have number 1, then
17 number 2, number 2a, number 3 and number 5 are the cargo areas. Do you see where
18 I'm talking about?

19 **WIT:** Starting forward?

20 **Mr. Kucharski:** Yeah for the cargo, just the cargo areas. You have tanks forward of
21 the hold areas. But if you start in let's say number 1 tween and then number 1 hold, do
22 you see that?

23 **WIT:** Yes.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Kucharski:** Okay, great. So you have 1 then 2 after that, then 3 then, I'm sorry, 1,
2 2, 2a, 3 and 5. You see that?

3 **WIT:** Oh okay, yes, sir.

4 **Mr. Kucharski:** Great, great. Now the trouble I'm having then is when you look at a
5 stow plan, Exhibit 69, you said you've seen that – those before. So if you would just
6 look at a stow plan, 69 is the final stow plan of the El Faro that will suffice. And where
7 I'm going with this is you see different names for the particular areas, okay. You know
8 where the 2nd deck is on the ship?

9 **WIT:** Yes.

10 **Mr. Kucharski:** On the GA plan the next deck down that says tween deck, and then
11 the next deck down shows hold. But on the stow plans they're labeled 2, 3, 4 and then
12 the holds are labeled A, B, C, D, E, and F. We're just trying to reconcile those.

13 **WIT:** So basically, you want me to explain it as far as the way the plan is versus what's
14 on this paper?

15 **Mr. Kucharski:** Please.

16 **WIT:** Okay.

17 **Mr. Kucharski:** Please, yes.

18 **WIT:** We're obviously only talking about the ro-ro decks?

19 **Mr. Kucharski:** Yes.

20 **WIT:** All right. Go to page 16.

21 **Mr. Kucharski:** Page 16 of the GA? I'm sorry, of the...

22 **Mr. Dees:** Of exhibit 69.

23 **Mr. Kucharski:** 69, thank you.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** All right that should be considered what I believe is the tween decks, that is the
2 2nd deck.

3 **Mr. Kucharski:** Actually if I can ask you to look at hold number 3. I think we can just
4 go right down the deck. Because I'm not sure if 2 goes all the way from top to bottom.
5 But if you want to start with number 2 that's fine, that's fine. 2 deck and it say A hold,
6 correct?

7 **WIT:** Yes, 2a. No I'm looking at this wrong, I'm sorry. All right. So the tween deck
8 then is going to be 3a of the 3rd deck. Deck 3, hold A is going to be the tween deck.

9 **Mr. Kucharski:** Okay. So deck 3 is actually – deck 3 is indicated on the stow plan,
10 final stow plan is actually the tween deck?

11 **WIT:** 3a, page number 22.

12 **Mr. Kucharski:** Yes.

13 **WIT:** Is tween 3a.

14 **Mr. Kucharski:** Is the tween, okay, great. And if we can go to deck 4, page 28, it says
15 hold B.

16 **WIT:** That is correct, yes.

17 **Mr. Kucharski:** That would ----

18 **WIT:** 4a.

19 **Mr. Kucharski:** Okay that would be ----

20 **WIT:** Number 1, hold 4a ----

21 **Mr. Kucharski:** The general arrange of the hold?

22 **WIT:** Yes.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Kucharski:** Great. Now the general arrangement then has numbers from 1, as 1,
2 2, 2a, 3 and 5. Whereas the stow plan holds, they're lettered, A, B, C, D, E, and F. And
3 could you shed some light on that for us please?

4 **WIT:** Just as far as general knowledge go, A is the nose starting at the bow and works
5 its way back to F at the stern, split by each cargo hold. And as far as the plan goes the
6 2's, deck 2 will be for the 2nd deck, deck 3 would be tween decks and deck 4 would be
7 the 4th decks down below.

8 **Mr. Kucharski:** Which would be the hold on the GA?

9 **WIT:** Yes.

10 **Mr. Kucharski:** Great. Okay we have 5 cargo areas on the watertight subdivisions if
11 you will, 1, 2, 2a, 3, and 5, five of them. On here, on the stow plan we have A, B, C, D,
12 E, and F, six. Can you clarify that for us?

13 **WIT:** Okay. 2a looks – would, looking at this it's kind of hard to explain.

14 **CAPT Neubauer:** Sir, would you like to take a recess just to prepare for the
15 comparison?

16 **WIT:** It's just difficult to explain. So 3a, what it looks like here, tween 3a, 3b, 3c, and 3d
17 are correct as they should be the plan.

18 **Mr. Kucharski:** Can you give me page numbers?

19 **Mr. Dees:** It's on the general arrangements.

20 **Mr. Kucharski:** You're on the GA?

21 **WIT:** Yes.

22 **Mr. Kucharski:** That's correct.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** That is exactly, I believe, that looks like that's exactly the way the plan is, 3a, 3b,
2 3c, 3d on this GA should be the way the plan is written. 3e and 3f would be cargo hold
3 5.

4 **Mr. Kucharski:** E and F, so E ----

5 **WIT:** 3e ----

6 **Mr. Kucharski:** E and F ----

7 **WIT:** 3f ----

8 **Mr. Kucharski:** Are both in 5?

9 **WIT:** 5 hold.

10 **Mr. Kucharski:** Okay. So that's where you pick up the two, okay. Thank you. Thank
11 you for the clarification. Because we will step through lashings, lashing profiles a little
12 bit latter so we need to establish that. Thank you.

13 **CAPT Neubauer:** And Mr. Callaway can you speak a little closer to the microphone
14 please, sir?

15 **WIT:** Sorry.

16 **Mr. Kucharski:** If you haven't seen the cargo securing manual or the lashing plan for
17 the vessels prior to today, what did you go by to make sure that the proper lashings and
18 the proper angles were met? And the proper leads according to what's in the approved
19 cargo securing manual?

20 **WIT:** As far as I know, because I was trained the same as everybody else, Sea Star
21 was here before me, so we were trained by the crew, the crew told us how to do it
22 correctly and that's how we did it.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Kucharski:** Do you have any knowledge that they knew how to do it by the cargo
2 securing manual?

3 **WIT:** No, sir.

4 **Mr. Kucharski:** Thank you for your answer. You mentioned that there were two gangs,
5 ro-lo – ro-ro and lo-lo. Were they fully manned?

6 **WIT:** Yes.

7 **Mr. Kucharski:** Could you give us an idea of how many each are, the number of
8 personnel in each gang?

9 **WIT:** Going through each area?

10 **Mr. Kucharski:** No not each area, just totals.

11 **WIT:** Uh the ro-ro gang is generally between 30 to 35 people. The lo-lo gangs I would
12 be guessing is going to be generally about 35 to 40. Including the truck drivers
13 obviously, so.

14 **Mr. Kucharski:** I'm sorry, including the drivers?

15 **WIT:** Yeah, the drivers.

16 **Mr. Kucharski:** So that would also include the crane operators?

17 **WIT:** Correct.

18 **Mr. Kucharski:** In generalities, you were asked if there was a problem with the lashing
19 or extra lashing the crew would bring it to your attention.

20 **WIT:** Yes.

21 **Mr. Kucharski:** And then what would you do?

22 **WIT:** We would fix it immediately.

23 **Mr. Kucharski:** Would you fix it or would direct somebody?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** I would send people to fix it.

2 **Mr. Kucharski:** You'd send people.

3 **WIT:** And a crew member would also follow.

4 **Mr. Kucharski:** Did the longshoreman, I'm sorry, the, yeah the longshoreman, the
5 lashers, yeah the lasher, did they bring any problems to your attention?

6 **WIT:** No, sir.

7 **Mr. Kucharski:** Again, before we get down to more specifics, can you tell us the chain
8 size that was used on the lashings?

9 **WIT:** ½ inch alloy.

10 **Mr. Kucharski:** And were all the same binders used aboard the vessel?

11 **WIT:** Yes, sir.

12 **Mr. Kucharski:** Is it a barrel type binder?

13 **WIT:** Yes.

14 **Mr. Kucharski:** I just want to make sure we're absolutely correct about this, there were
15 no voids for weather, or expected weather, you mentioned about water coming in, were
16 there any voids that they asked for?

17 **WIT:** No, sir, not related to weather.

18 **Mr. Kucharski:** Can you tell us if there was a lashing profile for that vessel?

19 **WIT:** Basically you mean the same like the lashing manual?

20 **Mr. Kucharski:** No. The, you may have heard the terms like bad weather, hurricane,
21 things like that, the lashing profile what lashings were put out. Let me back up a little
22 bit. How long have you been a supervisor at PORTUS?

23 **WIT:** I've been a supervisor since 2006.

1 **Mr. Kucharski:** 9, 10 years roughly, okay. So has anything changed in the lashings or
2 the profiles of what you've been asked to do from when you started and then up to
3 now?

4 **WIT:** Yeah, I understand now. When I first became a PORTUS employee there was a
5 difference between a hurricane lash and a good weather lash basically. All right. As
6 time progressed you kind of never knew which way the wind was going to blow. So
7 what PORTUS did was brought it to the attention of Sea Star Tote that we shouldn't
8 have two standards. We shouldn't be getting almost done lashing at the end of the day
9 and then somebody say, something popped up out there, let's put some extra lashing
10 on, let's hurricane lash. So we got tired of going behind and fixing everything over
11 again and we just made it standard to hurricane lash going forward period. So the
12 standard for hurricane lashing, quote unquote has been that since I've been a
13 supervisor.

14 **Mr. Kucharski:** Since 2009 it's always been hurricane lashing?

15 **WIT:** '06.

16 **Mr. Kucharski:** I'm sorry, 2006. Could you briefly before we go into a hold and look at
17 a particular hold and go through the lashings, could you explain to everyone what the
18 hurricane lashing profile is?

19 **WIT:** The hurricane lashing profile is, in my mind is obviously not nothing spectacular.
20 It's harder, it's double the work then what we were doing when I first started as an
21 employee, it's double the work. But it's still not that bad. You – instead of, you want me
22 to explain?

1 **Mr. Kucharski:** Just briefly. We're going to go into a hold and then, a hold, start from
2 the 2nd deck.

3 **WIT:** Yeah because each hold's different.

4 **Mr. Kucharski:** Walk down that hold, and we'll need to pull it up, because we need to
5 understand exactly the lashings that were on there with the cargo there, because we
6 have the final stow plan, the cargo. I don't need every piece, but I think you know,
7 we've discussed this when you were interviewed before.

8 **WIT:** Yes, sir.

9 **Mr. Kucharski:** But so everyone can understand. So yes, just give us a brief overview
10 and then I will ask you more detailed questions when we get into that.

11 **WIT:** So like I said the hurricane lashing, quote unquote, I'm just going to say the
12 lashing from now on, because it is the standard. There's no such thing as hurricane
13 lashing, it is the standard. The lashing that we do now is up on the lo-lo main decks, the
14 nose of the ship on the PONCE class, I'm only going to relate to the PONCE class. The
15 PONCE class vessel on the nose, bay number 1, yeah 1 and 2 was lashed all the way
16 across. And from that point going aft it was the outboard 2 on each side. And to, I'm
17 sorry, a total of 4 lashings on 1 X, and 1 X, 1X, 1X.

18 **Mr. Kucharski:** Okay. They were an X, I'll show you some, we'll pull up some
19 diagrams to look at briefly just to confirm that the X's is the same. Because we asked
20 Captain Lofffield yesterday about double lashings. Okay. We just need to make sure
21 that they're consistent for the calculations that were on.

22 **WIT:** Yes, sir.

23 **Mr. Kucharski:** What about the, you mentioned that was the lo-lo.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** That's the lo-lo.

2 **Mr. Kucharski:** I suppose that was the container deck on the main deck?

3 **WIT:** Correct. And then on the ro-ro decks everything in the nose once again is lashed
4 with four chains, if it's not sitting a button, do we need to clarify what a button is or a
5 deck socket?

6 **Mr. Kucharski:** Sure.

7 **WIT:** Okay. The button or the deck socket is what the Roloc box locks into. If it's not
8 connected to the deck with a deck socket then it's a total of six chains on the trailer.
9 And as far as not being on a button, no matter what it's always six chains, no matter
10 where it's at, no matter where it's stowed. So 2, 2a would always be lashed completely,
11 four chains or six if it's not on the button. From 2b to the aft end to 2d, it would be the
12 outboard 2, just like up top. From 2e all the way to the stern would all be four lashings.
13 And if it's off the button obviously six.

14 **Mr. Kucharski:** And when you say 2, that's the 2nd deck?

15 **WIT:** Sir, yes, sir. And it's the same for the 3rd deck as well. 3a is four lashings, and 3f
16 doesn't go as far back, so it was still the same, it was four lashings or six if it's not with a
17 button.

18 **Mr. Kucharski:** And for the benefit of everyone here that don't understand when you
19 talk about a Roloc box and you talk about a button, would it be acceptable if I said a
20 button is like a circular type, the part that's with a slot on the top of it that's welded to the
21 deck and then the Roloc Box, the heavy box with the king pin of the trailer sits on and
22 that Roloc Box goes in like a claw hammer, if you will and then the king pin goes down
23 and locks?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Exactly.

2 **Mr. Kucharski:** Okay, just basically. So we can understand and we can sort
3 understand this. And, okay so, if you would now, let's look specifically at the – let's look
4 at Exhibit 69, page 6.

5 **WIT:** Okay.

6 **Mr. Kucharski:** That shows load bay 8?

7 **WIT:** Yes, sir.

8 **Mr. Kucharski:** So how would those, that shows containers completely across the
9 deck and three – stacked three high?

10 **WIT:** Yes.

11 **Mr. Kucharski:** Would those receive hurricane lashings on them?

12 **WIT:** It's the two outboard.

13 **Mr. Kucharski:** Just the two outboard?

14 **WIT:** Yes.

15 **Mr. Kucharski:** Great. And if we can just go down to hold number B. I believe it starts
16 on page 17.

17 **WIT:** Okay.

18 **Mr. Kucharski:** And go down the hold. So we'll start at 2 deck and then it should be 3
19 deck and then 4 deck, correct?

20 **WIT:** Uh.

21 **Mr. Kucharski:** You may have to skip pages, but we'll just go right down the holds.

22 **WIT:** Straight, you mean you want to go from B down to ----

23 **Mr. Kucharski:** Yes, please.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Okay.

2 **Mr. Kucharski:** Yes, please.

3 **WIT:** Umm. Go ahead.

4 **Mr. Kucharski:** So what would be the – would there be extra lashings put on outboard
5 trailers there?

6 **WIT:** The, it's just the outboard two. So on the port side, three boxes on the port side,
7 that would all be two chains in the back if it's on the button, or a total of six chains if it's
8 not. And then on the starboard side the three trailers on the starboard side, same story.

9 **Mr. Kucharski:** You mentioned if they're on or they're off the button, how would we
10 know that by looking at this stow plan?

11 **WIT:** You would not.

12 **Mr. Kucharski:** Okay. So now moving down to the next deck I believe it would be
13 page 23, 3 deck B hold.

14 **WIT:** And I don't want to skip over anything right there, and I just thought about it. The
15 trailers in the middle, the 1, 2, 3, 4, 5, 6 in the middle those are lashed as well. There's
16 two in the back if they're on the button, or 6 if not.

17 **Mr. Kucharski:** Which page is that?

18 **WIT:** Uh, 17, the one we were just one.

19 **Mr. Kucharski:** Okay. You say the ones in the middle?

20 **WIT:** Yes.

21 **Mr. Kucharski:** Do we have numbers on those?

22 **WIT:** What do you mean?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Kucharski:** Numbers on the trailers. Are we talking about, it looks like a ramp area
2 there?

3 **WIT:** Two, on 17 would be the centerline. Those 1, the 7 right in the middle right there
4 written in the more bold print.

5 **Mr. Kucharski:** I show 213664, 213662, ----

6 **WIT:** No those are autos. Those are cars.

7 **Mr. Kucharski:** Those are autos, okay. So the next row down the diagram?

8 **WIT:** Yes.

9 **Mr. Kucharski:** I see. And those all would get ----

10 **WIT:** Yes.

11 **Mr. Kucharski:** So four lashings if on the button?

12 **WIT:** Two.

13 **Mr. Kucharski:** Two.

14 **WIT:** Two lashings, two lashings in the rear if on the button, if locked into the deck.

15 Total of six if not.

16 **Mr. Kucharski:** Total of six if not?

17 **WIT:** Correct.

18 **Mr. Kucharski:** Total of two if it's on the button?

19 **WIT:** Yes.

20 **Mr. Kucharski:** Thank you.

21 **WIT:** What was the next one, the page?

22 **Mr. Kucharski:** The next page is 23.

23 **WIT:** Okay.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Kucharski:** And that shows deck 3, hold B. So actually going down that same hold
2 area, but doing down, further down, so 3 deck or what you said earlier was the tween
3 deck?

4 **WIT:** Yes.

5 **Mr. Kucharski:** So what would the lashings, would there be any lashings there
6 because of hurricane profile?

7 **WIT:** Okay. All the small numbers surrounding the trailers are cars on the port side.
8 The three containers located on the port side would have four chains, no matter what
9 and six if not on the button. The same thing for the starboard side, the three on the
10 starboard side. And then everything in the middle is two chains if on the button, six if
11 not. The centerline where it's in gray, kind of shaded gray there, that is the ramp
12 coming from 3a. All of those get four chains no matter what. And ----

13 **Mr. Kucharski:** Sorry.

14 **WIT:** And I already know – we usually put six chains on everything on the ramp. I can't
15 even remember the last time we did not, because I can't – they're usually so hard to get
16 on the button because they're so heavy, we back them up, we try, we try, can't hit it and
17 the box is kind of tweaking a little bit so the pin won't come down the right direction, so
18 everything usually gets six chains on the ramp going forward.

19 **Mr. Kucharski:** And there were buttons on the ramp?

20 **WIT:** Yes.

21 **Mr. Kucharski:** Anything you want to add on that particular one before we move on?

22 **WIT:** No, sir.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Kucharski:** Thank you, this is very helpful. Now we'll go to deck 4 in that same B
2 hold, which should be page 28. It says deck 4 B hold.

3 **WIT:** Yes.

4 **Mr. Kucharski:** And the lashings there?

5 **WIT:** All right. It's the same. These are located in the centerline, so there's no extra
6 lashing, it's two in the back if it's on the button. And there's only two in there. So these,
7 in 4 B there's buttons available. So everything on the 4th deck always hits a button. So
8 there's two chains in the back. The blank spots on either side are the fructose tanks.
9 That's why that space is void.

10 **Mr. Kucharski:** Quick question back on deck 3, hold B, are there clover leafs on that
11 deck, or is it ----

12 **WIT:** Yes.

13 **Mr. Kucharski:** There are clover leafs in the deck?

14 **WIT:** Yes.

15 **Mr. Kucharski:** Could you explain what those are?

16 **WIT:** It's a, like an X, I guess in a way, is that what you're talking about? A clover leaf
17 like on a military ship, I know the difference. On a military ship it's above the deck, it's
18 welded to the deck for lashing. Ours are an X in the deck cut through for lashing.

19 **Mr. Kucharski:** It's cut through the deck. So can you look from one deck down to the -
20 ---

21 **WIT:** Yes.

22 **Mr. Kucharski:** You can. Are there any buttons on that deck?

23 **WIT:** Yes.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Kucharski:** Okay. So what is the difference between the clover leaf or the
2 cruciform or that cutout and what you would use on any other deck?

3 **WIT:** There's no difference. Well I'm sorry. The second deck there's no holes
4 obviously, so everything is a D ring. The 3 deck is all cover leaf.

5 **Mr. Kucharski:** Okay. So when you say that the chains and binders you run them
6 through a D ring as opposed on the 3rd deck or the tween deck, then you have that cut
7 out in the deck?

8 **WIT:** Correct.

9 **Mr. Kucharski:** And how do you attach it then the chain and binder to that?

10 **WIT:** Straight to the hook into the hole.

11 **Mr. Kucharski:** Hook into the hole. And on the other decks where you use the D rings,
12 do you use the hook into the D ring?

13 **WIT:** Umm, it depends. Sometimes not every chain has a big hook, some of the big
14 chains have a big hook, some of them don't. So if it doesn't have a big hook then we
15 will wrap the chain and bring it back to itself.

16 **Mr. Kucharski:** And if it has a big hook on it?

17 **WIT:** Yes. We would just put the hook on the D ring.

18 **Mr. Kucharski:** On the D ring. Do you know what proportion of big hooks, little hooks
19 there are on the ship?

20 **WIT:** No, sir.

21 **Mr. Kucharski:** Is there any reason they went to a bigger hook than a smaller hook?

22 **WIT:** No, not really.

23 **Mr. Kucharski:** Is all the ro-ro cargo of a standard size?

1 **WIT:** You mean like we had the same thing, 40's all day long, no.

2 **Mr. Kucharski:** Are all the buttons set up for pretty much 40 foot stows?

3 **WIT:** Mostly, yes, I would have to agree.

4 **Mr. Kucharski:** So what happens when you have an odd size stow? Is that an off
5 button stow?

6 **WIT:** It depends on how the – how the trailers are coming out at that point. You know if
7 it's what we have on the list what there's to load and it doesn't line up and doesn't hit a
8 button then it won't be on a button. Mostly the 3rd deck will hit a button because most of
9 that deck is smaller, so all the smaller boxes fit down there. And most of that hits the
10 button. The normal for not hitting a button is the 2nd deck.

11 **Mr. Kucharski:** Do you find that there were problems sometimes with getting good
12 leads when, the cargo?

13 **WIT:** No.

14 **Mr. Kucharski:** You mentioned you haven't seen the lashing manual before today.

15 **WIT:** Not this manual.

16 **Mr. Kucharski:** There's another lashing manual out there?

17 **WIT:** I saw one a while back and it had pictures of the actual trailer and that's what I
18 was looking at. I was looking at the pictures. I wasn't actually looking at the manual
19 because somebody said here read this. It was just sitting on somebody's desk and I
20 was grazing through it and I was looking at those photos of probably back in the Alaska
21 days and the old lashing they used then and stuff. But this I have never seen.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Kucharski:** It would still be helpful in the lashing manual, because it's got some
2 pictures in the back of it, would you look at the lashing manual that's Exhibit 42 and
3 please go to page 130.

4 **WIT:** Okay.

5 **Mr. Kucharski:** And would you take, take a few seconds to study that picture.

6 **WIT:** I know exactly what it is.

7 **Mr. Kucharski:** Okay, great. Would you tell us what we're looking at?

8 **WIT:** What you're looking at is a regular van trailer, not a container. Like a reefer, 53
9 foot trailer. Or a, I guess that's pretty much exactly what it is. It's just a regular van
10 trailer, not a container. The only way that you see here to lash this trailer is exactly
11 what you see, the hook goes up through the bottom into that hole and you pull forward
12 and lash. Tighten it down the best you can.

13 **Mr. Kucharski:** Is there a, what looks like a D ring or some kind of metal bar in the
14 picture that the hook is next to that is part of the trailer?

15 **WIT:** No, what you see in the picture was the I-beam of the deck of the trailer, you want
16 it crossed, there's no way to get through there.

17 **Mr. Kucharski:** So there's an I-beam in there, but the hook is not attached to that?

18 **WIT:** Correct.

19 **Mr. Kucharski:** What is the hook actually grabbing there?

20 **WIT:** The steel, the 5th wheel plate.

21 **Mr. Kucharski:** I'm sorry?

22 **WIT:** The 5th wheel plate.

23 **Mr. Kucharski:** The 5th wheel plate.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Like the king pin.

2 **Mr. Kucharski:** Great, thank you. Have you ever seen any plan or drawing or diagram
3 for the fixed points to secure on the vessel, like you know a diagram of the buttons, the
4 D rings, padeyes, or the clover leaves, have you ever seen any plan of that?

5 **WIT:** Not of the PONCE ships, no.

6 **Mr. Kucharski:** On the El Faro's last call, was the soft patch, you know what I mean by
7 the soft patch?

8 **WIT:** No, sir.

9 **Mr. Kucharski:** Okay. Aft of the house on the 2nd deck there's like an escape trunk,
10 almost amid ships, then there's a place that opened up to put things into the engine
11 room.

12 **WIT:** Yes, I know what you're talking about, okay.

13 **Mr. Kucharski:** We saw some emails ----

14 **WIT:** It's about an 8 by 8 plate cover?

15 **Mr. Kucharski:** Yes.

16 **WIT:** Okay.

17 **Mr. Kucharski:** Yes, they called it a soft patch, but it's a plate or cover with a lot bolts
18 from the pictures we've seen on the El Yunque. Was that opened up?

19 **WIT:** I've never seen that open.

20 **Mr. Kucharski:** You've never seen that open?

21 **WIT:** Ever.

22 **Mr. Kucharski:** That concludes my questions. Thank you, that was very, very helpful,
23 thank you.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Yes, sir.

2 **CAPT Neubauer:** Mr. Roth-Roffy do you have any questions?

3 **Mr. Roth-Roffy:** No, sir, thank you.

4 **CAPT Neubauer:** Mr. Fawcett, do you have any follow up?

5 **Mr. Fawcett:** Yes, sir. Thank you Captain. Good afternoon, sir. Just a couple of
6 questions. Do the stevedores that work with you have any training, and after that is
7 there a certification given for that training?

8 **WIT:** Not related to lashing, no.

9 **Mr. Fawcett:** How about yourself as a stevedore supervisor?

10 **WIT:** The certifications all have been not related to lashing, no, sir.

11 **Mr. Fawcett:** How about cargo operations?

12 **WIT:** Moving up through the ranks, yes. The driving the trucks, forklifts, everything yes,
13 there are certifications given.

14 **Mr. Fawcett:** Is there – in the accident voyage time frame, was there enough time to
15 get the lashings done correctly and according to accepted industry standards?

16 **WIT:** Yes, sir.

17 **Mr. Fawcett:** So when I was on board the El Yunque at one point I saw the vehicles
18 were lashed with nylon rope, or nylon line, is that one of the ways those vehicles are
19 secured?

20 **WIT:** Yes.

21 **Mr. Fawcett:** So when you lash them, I've seen the hooks engaged in a cross deck
22 chain, is that the ways it's done?

23 **WIT:** Yes.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Fawcett:** So how do you accommodate the stretching of the nylon line to secure
2 the vehicles properly?

3 **WIT:** We tighten it as tight as we can tighten and pull the rope as tight as we can pull it.

4 **Mr. Fawcett:** Do you know how far nylon line will stretch?

5 **WIT:** No, sir.

6 **Mr. Fawcett:** Was there any pressure that you felt from anybody to get the job done
7 quickly to meet the shipping schedule?

8 **WIT:** No.

9 **Mr. Fawcett:** Thank you, sir.

10 **CAPT Neubauer:** Commander Denning.

11 **CDR Denning:** Just a couple of quick follow ups on my previous questions. If you
12 could turn back to Exhibit 69, again real quick. And I'm going to have you turn to page
13 21.

14 **WIT:** Okay.

15 **CDR Denning:** So while I was asking questions you stated that on the port side in 2e
16 and 2f that you sometimes leave some of those spots void. Is that in respect to number
17 65 and 55 that I see there on that page? That doesn't have any cargo identification
18 number written into it. Is that what you were referring to?

19 **WIT:** I just can't see it.

20 **CAPT Neubauer:** No, take your time, sir.

21 **WIT:** Are you talking the starboard side voids?

22 **CDR Denning:** Starboard side, yes.

23 **WIT:** Yes.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CDR Denning:** The forward two.

2 **WIT:** Those two positions right there are left blank because there's just no cargo we
3 can fit there.

4 **CDR Denning:** Right.

5 **WIT:** . There's just nothing there because it doesn't fit.

6 **CDR Denning:** Is that related to what you told me before as far as ----

7 **WIT:** It could be. If you were asked to void because of water coming in there, yes.

8 **CDR Denning:** That would be the spot you were referring to?

9 **WIT:** No, no, sir, I'm sorry. The – it would be the port side, port side out is what I said
10 earlier.

11 **CDR Denning:** So which ----

12 **WIT:** Which would be 60.

13 **CDR Denning:** Okay. So it's 60, 61, 62?

14 **WIT:** Yes. Which is not void so we weren't asked to void it.

15 **CDR Denning:** That's right you did say port side and I even just repeated it then I
16 showed you the starboard side. If you would – you said that also occurs for 2e as well,
17 right?

18 **WIT:** 2e, yeah.

19 **CDR Denning:** So go to the next, or I'm sorry, go to the previous page.

20 **WIT:** I'm there.

21 **CDR Denning:** Page 20. And I don't see any positions left open there.

22 **WIT:** Correct.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CDR Denning:** So does that change what you said earlier that there was some
2 positions left open on 2e as well?

3 **WIT:** We were not asked to void anything.

4 **CDR Denning:** You weren't?

5 **WIT:** Correct.

6 **CDR Denning:** I thought you said earlier that you were asked to void 2e as well.

7 **WIT:** No, if we were asked it would generally be this area.

8 **CDR Denning:** Understand. So my final question is, and you've answered this before,
9 but I just want to be very clear. On this last voyage is there any – do you have any
10 reason whatsoever that you can think of that the cargo securing wasn't as you just
11 described to Mr. Kucharski?

12 **WIT:** No, everything was pretty typical.

13 **CDR Denning:** No problems whatsoever that you can recall with cargo lashing?

14 **WIT:** No, sir.

15 **CDR Denning:** Thank you.

16 **CAPT Neubauer:** Does Tote have any questions?

17 **Tote Inc:** No questions.

18 **CAPT Neubauer:** Does ABS have any questions?

19 **ABS:** No questions.

20 **CAPT Neubauer:** Does Mrs. Davidson have any questions?

21 **Ms. Davidson:** No questions.

22 **CAPT Neubauer:** Does HEC have any questions?

23 **HEC:** No questions.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **CAPT Neubauer:** Thank you. I have a couple of questions, sir. In regards to 2f and 2e
2 being voided for certain voyages you mentioned it happened in the past for heavy
3 weather.

4 **WIT:** Correct.

5 **CAPT Neubauer:** When was the last time you saw that area voided for heavy
6 weather?

7 **WIT:** I can't remember exactly.

8 **CAPT Neubauer:** Can you give a general time frame, sir?

9 **WIT:** It would probably be within the last 4 or 5 months on the El Yunque.

10 **CAPT Neubauer:** Was it ever done for the El Faro?

11 **WIT:** Yes. It's the most common area to void for cargo. They said that the water really
12 runs down right through there and it will damage the cargo.

13 **CAPT Neubauer:** Understand. On the 29th of September before the accident voyage,
14 do you remember the vessel incurring any list during the cargo loading?

15 **WIT:** No, sir.

16 **CAPT Neubauer:** Do you know how you would become aware of the voided area in 2f
17 and 2e, would it just be due to the stow plan?

18 **WIT:** It would, if we were told about any voids it would come from the crew members.
19 Or the crew members would notify a representative at Tote and they would call me as
20 well. But most of the time, as far as I know it comes from the crew.

21 **CAPT Neubauer:** If Tote Maritime called you, who would call you?

22 **WIT:** Uh most of the time Don Matthews or my supervisors themselves. My direct
23 supervisor at PORTUS.

1 **CAPT Neubauer:** And who's your direct supervisor, sir?

2 **WIT:** Brad Bishop or Chris DeBerry

3 **CAPT Neubauer:** Did you ever incur circumstances where the stow plan would change
4 prior to a voyage to a point where it would cause a problem for you, sir?

5 **WIT:** No, sir.

6 **CAPT Neubauer:** Thank you. Are there any additional questions at this time? Mr.
7 Kucharski.

8 **Mr. Kucharski:** Yes please, Captain. Would you please look at Exhibit 41 and it would
9 be page 8.

10 **WIT:** Okay.

11 **Mr. Kucharski:** And this says, so let me move up to the top of the page where it says
12 cargo securing manual 40 or 45 foot container, typical stratified stack weight and
13 pounds, and then double lashed, GM equals 14, correct? Are we on the – do you see
14 where I'm talking about?

15 **WIT:** Yes.

16 **Mr. Kucharski:** Great. And a little bit further down it shows pictures or a diagram of
17 what looks like containers. Do you see that?

18 **WIT:** Yes.

19 **Mr. Kucharski:** Okay. This indicates earlier, well as I read out it says double lash, so
20 was that how you would double lash the containers just like it's pictured there?

21 **WIT:** No, sir.

22 **Mr. Kucharski:** Please take your time to think about this, how you answer. How would
23 you lash, double lash then?

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** This is pertaining to the lo-lo deck obviously. Our lashing would be the two
2 inboard. What used to be only the wing, the outside one turned into the two inboard,
3 which was what was considered hurricane lashing, going to the two in. We started
4 lashing the two in only two rods on each side to the two high box.

5 **Mr. Kucharski:** So this has more lashings in the diagram than what you would put on
6 for double lashings?

7 **WIT:** Yes, for the PONCE class, yes.

8 **Mr. Kucharski:** How about the leads on the lashings. Take – go over to the right hand
9 side, or the starboard that is where is shows, let's make sure we're on the same one, it
10 says wing and below it 120,960.

11 **WIT:** Umm huh.

12 **Mr. Kucharski:** That one there. The – take that one there, there's two stacked
13 containers, one above the other, would the lashing arrangement for the double lashing
14 actually look like that picture there?

15 **WIT:** No.

16 **Mr. Kucharski:** Could you explain the difference?

17 **WIT:** The lashing – our lashing would like on the left hand side where it says no wind.

18 **Mr. Kucharski:** All the way to the left?

19 **WIT:** Yes.

20 **Mr. Kucharski:** That's a double lash? That's what you would consider a double lash?

21 **WIT:** That's our lashing. Two rods on each side.

22 **Mr. Kucharski:** And that's considered a double lash for weather or hurricanes?

23 **WIT:** I've never been asked to double lash like that on the PONCE class.

1 **Mr. Kucharski:** Like the one over – the one all the way over to the right?

2 **WIT:** Correct.

3 **Mr. Kucharski:** Thank you, that was very – that clarified a lot of things. You mentioned
4 about having voided stows in the past for weather along the 2nd deck. Have you ever
5 seen or heard about damaged cargo where the water came through there and damaged
6 it?

7 **WIT:** Just old stories.

8 **Mr. Kucharski:** Just old stories. On this – on the Puerto Rico route for the PONCE
9 class were you aware of any damage that was caused by seas coming through there?

10 **WIT:** No, sir.

11 **Mr. Kucharski:** How about any broken lashings along that – along the skin of the ship
12 on the 2nd deck?

13 **WIT:** No, sir.

14 **Mr. Kucharski:** Thank you. Very helpful answers, thank you.

15 **CAPT Neubauer:** Were there any final questions for Mr. Callaway?

16 **HEC:** Yes, Captain I have a few questions.

17 **CAPT Neubauer:** Yes, HEC.

18 **HEC:** Thank you. Good afternoon. I just wanted to follow up on Mr. Kucharski's
19 questions on those stack weight diagrams if I could.

20 **CAPT Neubauer:** Sir, I'm sorry, could you identify yourself and speak a little closer to
21 the microphone.

22 **HEC:** I'm Spencer Schilling with Herbert Engineering. And I would just like to follow up
23 on some of the questions that Mr. Kucharski had on the stack weight diagrams that you

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 just looked at. And that would still be on Exhibit 41, page 8, example 40 and 45 foot
2 containers. There's 8 sample stacks shown on that diagram. How many stacks across
3 on the El Faro or the El Yunque on deck?

4 **WIT:** The 40 foot bay, 40, 45's are 12 across except for in the bow where it gets narrow
5 and the 53 foot bays are 11.

6 **HEC:** Okay. And I realize you're looking at this diagram for the first time. Is it possible
7 that these are just individual sample stacks and not a representation of the entire cross
8 section of a row?

9 **WIT:** Yes.

10 **HEC:** So in terms of your lashing plan when you talk about hurricane lash, double lash,
11 or hurricane lash for the outboard two stacks, those would – outboard two stacks have
12 no meaning when you look at this diagram because there are no quote unquote, so
13 you're not looking at the total cross section, we don't know what stacks are outboard
14 and what stacks are in board.

15 **WIT:** Correct.

16 **HEC:** So I just wanted to clarify the normal lashing that you would use would have, you
17 said two rods and two turn buckles. So a single rod goes in the base corner of one
18 stack to the top of the first tier or to the bottom of the second tier?

19 **WIT:** Bottom of the second.

20 **HEC:** Bottom of the second. So you have a pair crossed going to the bottom of the
21 second tier. And for the hurricane lash, was there another set of rods, or was it just
22 those two?

23 **WIT:** Just those two and the two in port, two in starboard would be lashed as well.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **HEC:** Okay. The ones inboard from the weather stack – inner stack?

2 **WIT:** Yes.

3 **HEC:** And then the inboard containers had no lash?

4 **WIT:** No lashing.

5 **HEC:** So they twist lock only?

6 **WIT:** Yes.

7 **HEC:** And in your lashing you never applied a lash that looked like this which had a
8 lower pair like you normally lash for the outboard stacks and the pair that went to the
9 bottom of the third tier.

10 **WIT:** Correct.

11 **HEC:** The rods you don't have.

12 **WIT:** No, sir.

13 **HEC:** Thank you very much.

14 **CAPT Neubauer:** Are there any additional questions for Mr. Callaway?

15 **Tote Inc:** No questions.

16 **ABS:** No questions.

17 **CAPT Neubauer:** Mr. Callaway, we are now complete with your testimony for today.

18 However I anticipate that you may be recalled to provide additional testimony at a later
19 date. Therefore I am not releasing you from your testimony at this time and you remain
20 under oath. Please do not discuss your testimony or this case with anyone other than
21 your counsel, the National Transportation Safety Board, or members of this Coast
22 Guard Marine Board Investigation. If you have any questions about this, you may
23 contact my legal advisor, Commander Jeff Bray. Thank you for your testimony, sir.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **WIT:** Yes, sir.

2 **CAPT Neubauer:** Do any of the parties in interest have any concerns with the
3 testimony provided by Mr. Callaway?

4 **Ms. Davidson:** No.

5 **ABS:** No.

6 **CAPT Neubauer:** Thank you. I have one change to announce for tomorrows schedule.
7 Mr. Ron Rodriguez will be the first witness of the afternoon session. The hearing is
8 adjourned and we'll reconvene at 0900 tomorrow morning.

9 *The hearing adjourned at 1641, 19 February 2016.*

10

11

12