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1 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
2 CIV.A.NO.2:20-1441 (LEAD)
C/W 20-1453 & 2:20-1506
3 JUDGE ELDON E. FALLON
MAGISTRATE JUDGE JANIS VAN MEERVELD
4
5 CORNERSTONE CHEMICAL
COMPANY,
PLAINTIFF,
6
7 VS.
8 M/V NOMADIC MILDE, IMO NO.
9463554, HER ENGINES, TACKLE, EQUIPMENT,
FURNITURE, APPURTENANCES, ETC., IN REM;
9 M/V ATLANTIC VENUS, IMO NO.
9628257, HER ENGINES, TACKLE, EQUIPMENT,
10 FURNITURE, APPURTENANCES, ETC., IN REM;
AND, CRESCENT TOWING &
11 SALVAGE, INC., IN PERSONAM,
DEFENDANT.
12 _____ /
DEPOSITION OF MARK PEREZ
13 DATE: JUNE 26, 2020
REPORTER: JODY PRALAT
14 PLACE: PHELPS DUNBAR, LLC
100 SOUTH ASHLEY DRIVE
15 SUITE 200
TAMPA, FLORIDA 33602
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8 [REDACTED], COAST GUARD

ADAM TONER, NTSB

9 (APPEARED TELEPHONICALLY)

LILLY MAY BAYLEY, OFFICIAL TAGALOG TRANSLATOR

10 REYNALDO IBAY, TAGALOG TRANSLATOR
(APPEARED VIA ZOOM)

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THE DEPOSITION OF MARK PEREZ TAKEN AT PHELPS DUNBAR,
LLC, 100 SOUTH ASHLEY DRIVE, SUITE 200, TAMPA, FLORIDA
33602 ON SUNDAY THE 25TH DAY OF JUNE 2020 AT
APPROXIMATELY 9:12 A.M.; SAID DEPOSITION WAS TAKEN
PURSUANT TO THE FEDERAL RULES OF CIVIL PROCEDURE.

IT IS AGREED THAT JODY PRALAT, BEING A NOTARY PUBLIC AND
COURT REPORTER FOR THE STATE OF FLORIDA, MAY SWEAR THE
WITNESS AND THAT THE READING AND SIGNING OF THE
COMPLETED TRANSCRIPT BY THE WITNESS IS NOT WAIVED.



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PROCEEDINGS

COURT REPORTER: We are going on the record.
The time is 9:11 a.m. Please be advised that these proceedings are being recorded -- or videotaped by Ms. Johanny Rivera, and she'll be observing these proceedings to ensure the quality of the video.
Madam Interpreter, will you please raise your right hand?

MS. BAYLEY: Right.

COURT REPORTER: Do you swear or affirm that you will truly and correctly translate these proceedings from English to Tagalog and from Tagalog to English?

THE INTERPRETER: I do.

COURT REPORTER: Okay. Sir, can you please raise your right hand? Do you swear or affirm that the testimony you are about to give in this case will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: Yes, ma'am.

COURT REPORTER: Thank you.

MR. BERCAW: For just some brief bookkeeping aspects. What I'd like to do is attach Ms. Bayley's curriculum vitae or resume that's been e-mailed to the court reporter as Bayley Exhibit 1. And for any



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1 other exhibit that's going to be attached to this
2 deposition, I'm going to be identifying them by Mr.
3 Perez, and the exhibit numbers. So it'll be Perez
4 1, 2 through whenever, okay? Sir, could -- go
5 ahead, ma'am. I'm sorry.

6 (BAYLEY'S EXHIBIT 1 MARKED FOR IDENTIFICATION)

7 THE INTERPRETER: What you just said, did you
8 want that interpreted?

9 MR. BERCAW: Yes, ma'am, please.

10 THE INTERPRETER: Could you please repeat, and
11 would you pause after a couple of sentences?

12 MR. BERCAW: Absolutely. I apologize.

13 THE INTERPRETER: Thank you.

14 MR. BERCAW: For bookkeeping purposes, I want
15 to attach Ms. Bayley's resume that's been e-mailed
16 to the court reporter as Bayley Exhibit 1.
17 Thereafter, any other exhibit to this deposition
18 will be identified by Perez Exhibit 1, 2, through
19 the last exhibit.

20 THE WITNESS: Okay.

21 DIRECT EXAMINATION

22 BY MR. BERCAW:

23 Q Sir, could you please state your name -- your
24 full name for the record.

25 A My name is Mark Joseph M. Perez.



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1 Q Okay. Where is your home address?

2 THE INTERPRETER: The interpreter will ask him
3 to repeat.

4 A [REDACTED] Philippines.

5 MR. BERCAW: And, Ms. Bayley, could you give
6 your best spelling of that for the court reporter's
7 benefit?

8 THE INTERPRETER: [REDACTED]
9 another word [REDACTED] another word
10 [REDACTED] and
11 Philippines.

12 COURT REPORTER: Could you please spell that
13 first word again? I'm sorry. You broke up.

14 THE INTERPRETER: [REDACTED] as in [REDACTED]
15 [sic], [REDACTED]

16 COURT REPORTER: Thank you.

17 THE WITNESS: Your spelling is wrong. Yes,
18 ma'am.

19 THE INTERPRETER: Speak again, so that the
20 interpreter would correct [REDACTED] The interpreter
21 delivered a wrong spelling of the first word. It's

22 [REDACTED]

23 BY MR. BERCAW:

24 Q Mr. Perez, you're a citizen of the Republic of
25 the Philippines?



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1 A Yes, ma'am.

2 Q Okay. Do you hold citizenship in any other
3 country besides the Philippines?

4 A No, sir.

5 Q Okay.

6 MR. BUTTERWORTH: You're answering his
7 question. You're not answering her questions. I
8 want you to say, "Yes, sir" and I get, "Yes, ma'am."
9 That's okay.

10 MR. BERCAW: It doesn't matter. It really
11 doesn't matter. We have a female interpreter, and a
12 male questioner.

13 THE WITNESS: Okay.

14 MR. BERCAW: Nevertheless, I appreciate your
15 courtesy.

16 THE WITNESS: Thank you as well.

17 BY MR. BERCAW:

18 Q Okay. The records we've been reviewing
19 indicate that you were the second officer of the Nomadic
20 Milde, on May 8, 2020; is that correct?

21 MR. BERCAW: Nomadic Milde.

22 THE INTERPRETER: Nomadic Milde?

23 A Yes, sir.

24 Q Okay. How long had you served as the second
25 officer of the Nomadic Milde before that date?



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1 A Nine months, sir.

2 Q Okay. Is that nine months consecutively or
3 nine months overall?

4 A It was one after the other. Almost seven
5 months -- almost nine months, almost nine months. The
6 exact date to make it nine months is May 18.

7 Q Okay. We learned through the depositions of
8 Chief Kowalski as well as Chief Engineer Piotr
9 Kowalski --

10 THE INTERPRETER: And what's the other one,
11 Counsel?

12 MR. BERCAW: Chief Engineer Piotr Kowalski.

13 BY MR. BERCAW:

14 Q -- that their contracts with Intership were
15 approximately four months in length.

16 THE INTERPRETER: Four months in what?

17 MR. BERCAW: In length.

18 THE INTERPRETER: Four months in length.

19 BY MR. BERCAW:

20 Q Was that about the same duration of your
21 contracts with Interships as concerns the Nomadic Milde?

22 A No, sir.

23 Q Okay. How many separate contracts have you
24 had with Interships concerning the Nomadic Milde?

25 A Before the whatchamacallit -- before the



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1 accident?

2 Q Yes, sir.

3 A I'm not sure if I'd already signed my second
4 contract at that time. My contract was good for eight
5 months. It could be more than eight months, it could be
6 less than eight months.

7 Q Okay. All right. The nine-month hitch you
8 talked about concerning the Nomadic Milde, was that the
9 first time that you served as second officer of that
10 vessel?

11 A I think your question -- I think the question
12 was wrong.

13 Q Okay. One of the rules of the deposition, and
14 we're in the middle of one now, is if you don't
15 understand my question, let me know and I'll try to
16 rephrase the question, okay?

17 A Yes, ma'am.

18 Q Okay. Otherwise, I'm going to assume that you
19 understood my question and you answered truthfully and
20 to the best of your ability, do we have that agreement?

21 A Yes, sir.

22 Q Okay. When did you join the Nomadic Milde?

23 A August 18, sir.

24 Q Okay. And you joined as the second officer,
25 correct?



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1 A Yes, sir. Second officer, sir.

2 Q And that was August 18 of the year 2019,
3 right?

4 A Yes, sir.

5 Q Okay. Before August 18, 2019, had you worked
6 aboard the Nomadic Milde in any capacity?

7 A No, sir.

8 Q Okay. Have you worked as second officer while
9 employed by Intershops on any other vessel?

10 A Yes, sir.

11 Q How many other ships as second officer?

12 A One, sir.

13 Q What was the name of that ship?

14 A Augusta Mars, sir.

15 Q How long did you serve as second officer of
16 the Augusta Mars while employed by Intership Navigation?

17 A I don't remember exactly, but more or less
18 four months.

19 Q When did your employment as second officer
20 aboard the Augusta Marines end?

21 A I don't remember exactly. Maybe March or
22 April.

23 Q Yeah.

24 A I don't recall, ma'am. It may be March or
25 April.



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1 Q And that would be March or April of 2019,
2 correct?

3 A Yes, sir.

4 Q Okay. Have you worked as a second officer on
5 any other ships besides the Nomadic Milde and the
6 Augusta Mars?

7 A Yes, sir.

8 Q All right. Have you worked on any other
9 vessels as a third officer before you started working
10 aboard the Augusta Mars?

11 A Yes, sir.

12 Q Okay. Were you employed by Intership as a
13 third officer on those vessels?

14 A Please repeat your question.

15 Q Sure. Were you employed by Intership as a
16 third officer on any vessels before you began working on
17 the Augusta Mars?

18 A No, sir.

19 Q Who employed you as third officer on their
20 vessels?

21 A I don't understand the question. Can you
22 repeat, sir?

23 THE INTERPRETER: That was rendered in English.

24 Q Yeah. I'll repeat. Okay. Were you ever
25 employed as a third officer on any vessel?



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1 A No, sir.

2 Q Okay. Were you ever employed as a member of
3 the deck department of any vessel before working as a
4 second officer on the Augusta Mars?

5 A Yes, sir.

6 Q In what capacity were you employed aboard
7 vessels before the Augusta Mars?

8 A Able seaman.

9 Q How many ships did you work aboard as an able-
10 bodied seaman?

11 A One.

12 Q Okay. Before you worked as an able-bodied
13 seaman, did you work as an ordinary seaman on vessels?

14 A Yes, sir.

15 Q How many vessels did you work aboard as an
16 ordinary seaman?

17 A Two, sir. Two.

18 Q Okay. Did you work aboard any vessels at a
19 rating lower than ordinary seaman, such as deckhand or
20 any other position lower than ordinary seaman?

21 A Yes, sir. I was a cadet.

22 COURT REPORTER: I'm sorry, could you repeat
23 that last word?

24 Q Cadet.

25 A Yes, sir. I was a cadet.



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1 Q Okay. All right. And what school were you a
2 cadet at?

3 A I was a cadet at a ship of Intership
4 Navigation.

5 Q Okay. When you were employed as an ordinary
6 seaman and as an able-bodied seaman, were you also
7 employed by Intership?

8 A Yes, sir.

9 Q Okay. What ship or ships were you assigned to
10 as a cadet by Intership?

11 THE INTERPRETER: The interpreter would ask him
12 to spell that.

13 THE WITNESS: Hotel, Alpha, Lima, Papa, Romeo,
14 India, Delta, Echo.

15 THE INTERPRETER: The interpreter asked him to
16 repeat the spelling.

17 BY MR. BERCAW:

18 Q The H-A-L Pride was the name of the ship,
19 correct?

20 A Yes, ma'am.

21 Q Was that the only ship that you served on as a
22 cadet?

23 A No, sir.

24 Q What was the other ship or ships?

25 A Daniela Natividad.



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1 Q Please spell that.

2 A D, Alpha, November, India, Echo, Lima, Alpha,
3 November, Alpha, Tango, India, Victory, India, Delta,
4 Alpha, Delta. Natividad.

5 Q Daniela Natividad.

6 A Daniela.

7 Q Natividad. Okay. All right. Okay. Any
8 other ship?

9 THE INTERPRETER: Do you want the interpreter
10 to repeat that?

11 Q I think we got it. Any other ship before --
12 besides the HAL Pride and the Daniela Natividad that you
13 worked on as a cadet for Intership?

14 A Nothing more. Daniela Natividad was a
15 different company.

16 Q Okay. Were you still working as a cadet on
17 the Daniela Natividad or did you work in another
18 capacity?

19 A Only as a cadet, sir.

20 Q Okay. All right. What were the names of the
21 two ships you worked onboard as an ordinary seaman?

22 A The first with UBC Ohio. And the second was
23 UBC Sagunto.

24 Q Okay. And the first three letters of each
25 vessel was Uniform-Bravo-Charlie, correct?



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1 A Yes, sir.

2 Q Okay. What was the name of the ship that you
3 served as an able seaman?

4 A UBC Toronto.

5 Q Okay. When you were employed as an ordinary
6 seaman by Intershops, was any action taken against you
7 or were you dis-rated?

8 A No, sir.

9 Q Okay. When you were employed as an able-
10 bodied seaman aboard the UBC Toronto, was any
11 disciplinary action brought against you or were you dis-
12 rated?

13 A No, sir.

14 Q Okay. What additional training did you
15 undertake between your employment as an able-bodied
16 seaman on the UBC Toronto to become employed as a second
17 officer on the Augusta Mars?

18 A Requirements were examinations. But I already
19 acquired the license after I was a cadet, so advanced,
20 sir.

21 Q Okay. So from what you're telling me, once
22 you completed your training and education as a cadet,
23 you were issued the ability to work as a second officer
24 on ocean-going vessels; is that correct?

25 A No, sir. Those are only requirements in the



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1 Philippines.

2 Q Please explain that to me.

3 A One needs to finish being a cadet to be
4 qualified to take the exam.

5 Q Okay. And then once you take the exam, is
6 that for work as a seaman or is that for work as an
7 officer of navigation or officer of the watch during
8 navigation?

9 A Once one passes the exam, they have a lot of
10 training requirements.

11 Q Okay. So once you complete the requisite
12 amount of sea time, is that when you can serve as a
13 second officer on board a ship?

14 A Yes, sir. In the Philippines once you've
15 completed all the requirements then you are given a
16 certificate. But that would also depend on the company.

17 Q Okay. As far as your former -- formal --
18 excuse me. I'll start over again. As part of your
19 formal education in working on vessels, you had some
20 classroom work and then you had on-the-job training; is
21 that correct?

22 A Please repeat your question.

23 Q Sure. As a cadet, you received some formal
24 education and classroom-type learning. And then once
25 you completed the examination, you began accruing sea



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1 time to advance through the ranks of the deck
2 department; is that accurate?

3 A Could you please break up the question in
4 shorter sentences because it gets confusing?

5 Q Sure. As a cadet, did you have any classroom
6 learning as opposed to working exclusively on board a
7 ship?

8 A No, sir. Learning was onboard the vessel.

9 Q Okay. Were there any part of your learning
10 onboard the vessel held in a classroom setting or was it
11 all on-the-job training?

12 A Certainly I can insert my experience with
13 training was there was one training that I did not
14 mention.

15 Q Go ahead.

16 A After AB, they allowed me to go onboard a ship
17 for four months. And there was an instructor, a chief
18 officer who was our instructor, and there were about
19 nine or ten of us. Our only job onboard the ship was to
20 study for four months. This vessel was a real running
21 vessel and we had a classroom on board this ship.

22 Q Okay. What was the name of the chief officer
23 that was your instructor?

24 THE INTERPRETER: I've been told to ask him to
25 spell -- the spelling.



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1 A The chief officer last name was Tallenpaire
2 (phonetic).

3 THE INTERPRETER: Then the interpreter asked
4 the witness to spell and the response was, "I don't
5 recall. I's a difficult. It's a difficult
6 spelling."

7 BY MR. BERCAW:

8 Q Okay. Was it Polish?

9 A Filipino, sir.

10 Q Okay. Got you. Your date of birth is October
11 17, 1989, correct?

12 A Yes, sir.

13 Q Okay. And the total sea time that you had as
14 a second officer employed by Interships, was just under
15 12 months at the time of the May 8, 2020 accident; is
16 that correct?

17 A Correcting the interpreter, I think it wasn't
18 two months he was asking about 12 months, I think.

19 Q Okay. That's correct. At the time of the
20 accident, your total sea time as a second officer for
21 Intership was just under 12 months? Correct?

22 A More or less 12.

23 Q Okay. What documents and other information
24 did you review before sitting for your deposition today?

25 A I looked at the log book.



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1 Q Did you look at anything else besides the log
2 book?

3 A I roughly checked those other checklists.

4 Q Okay. Anything else besides the checklists
5 and the log book to prepare for your deposition today?

6 A I help in the translation of others, so I
7 heard the VDR. But not the entire VDR, just some of the
8 parts of it.

9 Q Anything else?

10 A I don't recall anymore, ma'am, because I
11 helped in collecting what they asked for so I don't
12 recall.

13 Q Okay.

14 A I saw almost everything, ma'am, but it's just
15 that I don't recall.

16 MR. HELD: What he's saying is, he was
17 instrumental in helping collecting all the documents
18 but didn't necessarily review them for his
19 deposition.

20 BY MR. BERCAW:

21 Q Right. Okay. What checklists did you review
22 in preparation for your deposition?

23 A I only looked at the numbers on the log book.

24 Q Okay. Well, you mentioned you looked at
25 checklists, so I'm asking you what were the names of the



1 checklists? Not necessarily the numbers.

2 A I don't recall. I need to see the checklist.

3 Q I'm trying to help you because I don't know
4 which checklists to pull up unless you tell me which
5 ones you've looked at.

6 MR. HELD: Can you look in here and tell him
7 what you remember?

8 A The ones written in the log book. I'll --
9 I'll look for it here. One is the passage plan
10 appraisal. One is the preparation for sea. The third
11 is navigation in coastal water. Preparation for arrival
12 in port. Anchoring and anchor watch. Anchoring and
13 anchor watch. Embarkation, disembarkation of pilot.
14 Embarkation, disembarkation of pilot. Pilot guard.
15 Pilot guard. Ship to shore master pilot exchange. Ship
16 to shore master pilot exchange. No go area checklist.

17 No go area checklist. Correction, ma'am. No
18 go -- no go check list. It's like this ma'am: go, no go
19 checklist.

20 MR. HELD: Just give him -- tell him this
21 number. Yeah, just tell him --

22 A November, Mike 000544.

23 Q All right. Okay. You didn't review your
24 handwritten statement that you prepared after the
25 accident to prepare for this deposition?



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1 A I read it after a week.

2 Q But you didn't review it to prepare for
3 today's deposition. Is that what you're saying?

4 A I didn't read it last night because I had no
5 copy.

6 Q Okay. That answers the why. Okay.

7 THE INTERPRETER: Interpreter didn't hear the
8 statement, what was that again, please?

9 MR. BERCAW: I said that answers the why.

10 BY MR. BERCAW:

11 Q I'm going to ask you to turn to page NM 21 and
12 22. This is a true and accurate copy of your
13 certificates to serve as an officer in charge of a
14 navigational watch issued by the Republic of the
15 Philippines?

16 A Yes, ma'am. Yes, sir.

17 MR. BERCAW: Okay. We'll attach that as Perez
18 Exhibit 1.

19 (PEREZ EXHIBIT 1 MARKED FOR IDENTIFICATION)

20 Q Mr. Perez, I'd like you to turn to pages 23
21 and 24. Okay. These are these certificates issued by
22 the Republic of the Marshall Islands concerning your
23 serving on board oceangoing vessels in the capacity as a
24 second mate. Correct?

25 A Yes, sir.



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1 Q Okay. And these are true and correct copies
2 of those documents issued by the Republic of the
3 Marshall Islands, right?

4 A To my knowledge. Yes.

5 Q Okay. We'll attach that -- those certificates
6 as Perez Exhibit number 2. Okay. Will you please turn
7 to page 56? Okay. This is a true and correct copy of
8 your handwritten statement regarding what you saw and
9 heard during the incident involving the Nomadic Milde on
10 May 8, 2020, right?

11 (PEREZ EXHIBIT 2 MARKED FOR IDENTIFICATION)

12 INTERPRETER: What was the date again?

13 MR. HELD: May 8 --

14 MR. BERCAW: May 8, 2020.

15 BY MR. BERCAW:

16 A Yes, sir. This is my whatchamacallit
17 (phonetic). This is my handwriting.

18 Q And that is your signature at the bottom of
19 the page 2, correct?

20 A Yes, sir.

21 Q Okay. I will attach a copy of this document
22 as Perez Exhibit number 3. Can you please identify, for
23 the record, the passage plan appraisal that you reviewed
24 in preparation for the deposition today?

25 (PEREZ EXHIBIT 3 MARKED FOR IDENTIFICATION)



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1 THE INTERPRETER: Was is a passage plan of
2 what?

3 MR. BERCAW: Appraisal.

4 BY MR. BERCAW:

5 Q If it's all right with you, I'm going to come
6 around and look over your shoulder to see the document
7 you're looking at. Is that okay with you?

8 A Yes, sir.

9 Q Okay. Thank you. Thank you. It's my
10 understanding that either the Siemens manual, or the
11 deck manual, or another manual by Intership has various
12 checklists that have laminated versions on the bridge of
13 the Nomadic Milde; is that correct?

14 A Yes, sir. We have laminated copies.

15 Q Okay. When you are working with those
16 particular laminated checklists, do you use a grease
17 pencil or other marking to verify whatever is on that
18 checklist has been completed, or alternatively requires
19 additional work or repair?

20 THE INTERPRETER: I ask him to repeat.

21 A I use a whatchamacallit -- a marker. A
22 whiteboard marker.

23 Q Okay. And then once the checklist is
24 completed, then you use a cloth or a paper towel and
25 wipe the checklist clean; is that correct?



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1 A Yes, sir.

2 Q Okay. Does the bridge or the officers'
3 quarters have a computer scanner as part of its
4 equipment?

5 A Yes. They do, sir.

6 Q Okay. Do any of the checklists, before they
7 are wiped clean, ever get scanned into the scanner, and
8 therefore into the computer system of the Nomadic Milde?

9 A No, sir. No, sir. It's not scanned.

10 Q Okay. Do you think it would be a good idea
11 for purposes of verification after an incident that
12 those checklists be scanned into a computer to establish
13 what was done, and what needed work?

14 A I don't know, sir.

15 MR. BERCAW: Okay. All right. This is going
16 to be a good spot for us to take a break, if you
17 need one, Mike.

18 THE WITNESS: Okay.

19 COURT REPORTER: The time is 10:11 a.m. We are
20 going off of video record.

21 MR. BERCAW: We're going to have a five-minute
22 break, okay?

23 (OFF THE RECORD)

24 COURT REPORTER: The time is 10:33 a.m. We're
25 back on the record.



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1 BY MR. BERCAW:

2 Q Okay. Mr. Perez, we've just took a longer
3 than a short break, but I want you to confirm that you
4 understand you're still under oath to tell the truth,
5 the whole truth, and nothing but the truth?

6 A Yes, sir.

7 Q Okay. Mr. Perez, what, in general, are the
8 duties of a second officer of the Nomadic Milde?

9 A I am in charge of making the voyage plan.

10 Q Okay. Anything else?

11 A In charge of the navigational equipments. In
12 charge of the navigational equipments.

13 Q You said navigation and equipment, or was it
14 the navigation equipment?

15 A Navigational equipment like this -- sorry.
16 Navigational equipment.

17 Q Okay.

18 A Navigational equipment.

19 Q Okay. Anything else?

20 A Updates of charts. Updates of charts.
21 Computations. Computations. Medical officer. Medical
22 officer. Assisting the chief for the -- cargo handling.
23 Assisting the chief for cargo handling. OW. OW,
24 officer of the watch when on duty. Officer of the
25 watch. Officer of the watch when on duty.



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1 Q For the Nomadic Milde, I understand your hours
2 of duty were from 12:00 a.m. to 4:00 a.m. and 12:00 p.m.
3 to 4:00 p.m.; is that correct?

4 A Yes, ma'am.

5 Q Okay. Did you prepare the voyage plan for the
6 Nomadic Milde from the dock at Avondale to an anchorage
7 upriver on the Mississippi River?

8 THE INTERPRETER: Repeat the place again. From
9 where to where?

10 MR. BERCAW: The dock at Avondale -- to up
11 river on the Mississippi River.

12 BY MR. BERCAW:

13 A Yes, sir.

14 Q Do you know why the vessel was leaving the
15 Avondale dock and going upriver to anchor?

16 A I'm not sure the reason why.

17 Q Was it because when the vessel was at
18 anchorage in the Mississippi River, there would be
19 repairs done to a hatch cover cylinder?

20 A Actually, I don't know what their plans were.

21 Q Who informed you that the vessel was going to
22 leave the Avondale dock and head up river and anchor in
23 the Mississippi River?

24 A The captain.

25 Q Okay. And when did the captain tell you this?



1 A I don't -- don't recall the time, but perhaps
2 around 11:00 or before noon. I'm not sure.

3 Q Was there a specific anchorage that the
4 captain selected that he wanted the vessel to anchor at
5 as part of the voyage plan?

6 A He did not mention a specific position. Just
7 by that area.

8 Q And what area is that?

9 A All he said was it may be Kenner or Ama. He
10 wasn't specific.

11 Q Okay. The documents we've been provided by
12 the Nomadic Milde interests have included a voyage plan
13 from the Avondale dock to the Ama anchorage. Are you
14 familiar with that document?

15 A Yes, sir. May I take a look at it again?

16 Q Absolutely.

17 A Okay. Thank you.

18 MR. SHARPE: Could you give us the Bates
19 numbers once we get settled?

20 MR. HELD: Sure. Sure, David.

21 MR. BERCAW: Absolutely.

22 MR. HELD: It's going to be 328 to 346.

23 MR. SHARPE: Thanks very much.

24 BY MR. BERCAW:

25 Q Are you there?



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1 A Yes, sir.

2 Q Okay. That document, is that a document that
3 you prepared or was that already prepared?

4 A I did.

5 Q Okay. And if you look at the destination for
6 the Nomadic Milde, it mentions only the Ama, A-M-A,
7 anchorage and not any other anchorage; is that correct?

8 A Yes, sir.

9 Q Were you, in preparing that navigation plan,
10 consulting any charts, be they a physical paper chart or
11 a computer-generated chart, in selecting the Ama
12 anchorage, for the vessel's anchorage?

13 A What I use is what you may call an electronic
14 navigational chart. But may I give information about
15 what he mentioned of destination?

16 Q Yes. Yeah.

17 A The plan I did is I filled Avondale anchorage.

18 Q Okay. If you flip to the middle of that plan,
19 though, there is a specific anchorage identified in that
20 document.

21 A Some parts in this are automatically selected
22 by the automatic system.

23 Q Uh-huh.

24 A I -- I don't -- can't o change this. I cannot
25 remove it. The system would be what was my last



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1 waypoint. Whatever is closest to my last waypoint
2 that's registered with the system, so I am not in a
3 position to select -- I can select, but I don't have the
4 chance to remove it.

5 Q Okay. So at least the starting point is going
6 to be fixed for the voyage plan. In this case, the
7 Avondale dock.

8 A I can type -- I am allowed to type the title,
9 but these two are the ones registered in the system. The
10 Avondale is registered in the system so it was
11 automatically checked in.

12 MR. BERCAW: Right. Yeah. Somebody is feeding
13 back, and I think it might be one of the Zoom
14 participants, is feeding back into their microphone.
15 And so that's causing feedback and nice squealing
16 noises on our end. So if you could mute, if you're
17 not going to speak, that would be great.

18 MR. HELD: I bet it is the NTSB. Adam has all
19 that high-tech electronics spy equipment.

20 MR. BERCAW: Well, I'm not going to tell the
21 government what to do, but I am going to say if you
22 can turn off your mic, that would be great.

23 MR. HELD: Yep. We agree.

24 THE INTERPRETER: You want that interpreted?

25 MR. BERCAW: No. Not necessary.



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1 THE INTERPRETER: Okay.

2 BY MR. BERCAW:

3 Q So you could not select Avondale as the
4 starting point for that voyage plan. Is that what you
5 just told me?

6 A The Avondale was automatically registered. So
7 automatically that's where it registered, but I can
8 choose from what's registered.

9 Q Okay. Did you choose the anchorage or did the
10 program that generated the voyage plan report choose the
11 anchorage?

12 A Title of the departure and arrival was chosen
13 by this. And the top was for the title, I can do the
14 typing for that. But the reason why I didn't put the
15 name of where we anchor was because I wasn't sure where
16 we were going to anchor. We weren't sure about the
17 exact position yet.

18 Q Okay. Does the computer program that
19 generates that report have access to vessels that are
20 currently in anchorages near the Ama anchorage?

21 A This is how it works. The computer will check
22 where your last waypoint is and will choose the
23 anchorage close by. But that's only for the name, just
24 for the name.

25 Q Okay. I want to make sure I understood what



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1 you're saying. And so I'm going to refer to three
2 different anchorages for purposes of my next couple of
3 questions. Okay. Ama anchorage is one, Kenner Bend
4 anchorage is another, and the last is the lower Kenner
5 Bend anchorage. Based upon AIS images that we have been
6 able to locate of the lower Mississippi River,
7 concerning those three anchorages, it appears that
8 during the time period from 11:00 until 4:00 p.m. on May
9 8, that there were at least two vessels located in the
10 lower Kenner Bend anchorage. There were three vessels
11 located near the Kenner Bend anchorage. No. That's
12 just the regular Kenner Bend anchorage, not the lower
13 Kenner Bend anchorage. And it did not appear
14 that there were any oceangoing ships located within the
15 Ama anchorage. So again, my question is: Do you know
16 based upon that information, whether the computer
17 program that assisted in preparing the voyage plan also
18 had that same data when it selected Ama anchorage as the
19 anchorage for the Nomadic Milde?

20 A Could you please repeat the question, or could
21 you ask the question in segments, please?

22 Q Okay. I will try to re-ask it. Does the
23 computer program that assists in preparation of the
24 voyage plan have access to AIS data?

25 A No, sir.



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1 Q You know that for a fact?

2 A Yes, sir. No.

3 Q Okay. What we do know then is that the voyage
4 plan selected the Ama anchorage as the anchorage for the
5 Nomadic Milde; is that correct?

6 A I chose the points.

7 COURT REPORTER: You chose the points?

8 A Yes.

9 Q And so the anchorage closest to the point that
10 you selected to anchor the vessel was the Ama anchorage;
11 is that accurate?

12 A The point I chose was where the captain said
13 over in that area.

14 Q Okay. And so to the extent that a specific
15 anchorage appears on that voyage plan, that is because
16 that is the name of the anchorage closest to the point
17 where the captain said to anchor?

18 A I didn't quite change the plan because, as I
19 said, it can be either/or Ama.

20 Q Okay. As the second officer of the Nomadic
21 Milde, what would be your preference for
22 anchoring the vessel: an anchorage in which three other
23 vessels are anchored nearby or an anchorage that has no
24 other oceangoing vessels in it?

25 A I would consider where the anchorage area and



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1 how deep the water is, because I don't know whether the
2 other boats will be anchored or not and also it would
3 also depend on the pilot. I would plan and sometimes
4 they won't even follow my plan. They remove it from the
5 ECDIS, because they had their own plans.

6 Q Okay. All right. And, Officer Perez, you're
7 saying ECDIS, E-C-D-I-S, not "ecklist," correct?

8 A Echo, Charlie, Delta, India --

9 Q Sierra, correct?

10 A Sierra.

11 Q So you've been saying ECDIS, correct?

12 A ECDIS.

13 Q Okay. So you don't have a preference based
14 upon the congestion of an anchorage as to whether you
15 would rather anchor in one that has three vessels
16 already moored nearby, versus one that does not appear
17 to have any vessels moored in it based upon information
18 appearing on the ECDIS system?

19 A Because it's the captain who chooses where --

20 COURT REPORTER: I'm sorry. Could you repeat
21 that? You broke up in the very beginning.

22 A The captain who would instruct me where, but
23 normally when the pilot goes up he would inform and give
24 us the plan on where we go, the plan where to go. To my
25 knowledge it is the pilot who says the exact place,



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1 because we're required to get a pilot. What I meant was
2 that normally the pilot would -- would inform us where
3 to go.

4 Q Okay. During the voyage where the Nomadic
5 Milde traveled up the Mississippi River, was loaded with
6 lead concentrate at Avondale, and then proceeded to the
7 anchorage, was that your first time in the Mississippi
8 River during flood stage?

9 A I don't recall because I had been going back
10 and forth there in two vessels. Two voyages to New
11 Orleans, two contracts, therefore two vessels. Normally
12 the voyage is to New Orleans to South America.

13 Q Okay. How many other times had you been in
14 the Mississippi River as a second officer when the river
15 was in flood stage?

16 A I've only been there once when the river was
17 high, when I was working at Nomadic Milde as a second
18 officer.

19 Q And was that during the time that this
20 incident occurred with the Atlantic Venus and the dock?

21 A Yes, sir. That voyage.

22 Q Okay. Okay. When the Nomadic Milde left the
23 Avondale dock, you were the officer on navigation watch,
24 correct?

25 A I was, but when the boat leaves, I go on the



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1 bridge -- I planned the vessel. I was on duty at the
2 time but the -- the people on the bridge are the captain
3 and the chief mate, that's what I meant.

4 Q Okay.

5 A Because I'm in charge of the front of the
6 vessel when it leaves.

7 Q All right. So when the Nomadic Milde leaves
8 port, or leaves the Avondale dock, at that time the
9 pilot, the captain, and the chief mate were on the
10 bridge, as far as you know?

11 A To my knowledge, it is the pilot, the captain,
12 and the chief mate. Although I'm not sure if the other
13 chief mate was there, this chief mate who was going
14 home.

15 Q Okay. And you were located at the bows of the
16 ship as the vessel was leaving the dock; is that
17 correct?

18 A Yes, sir.

19 Q Okay. Where were you located when the vessel
20 was in a position to drop her anchors at the anchorage?

21 A I was at the bridge.

22 Q Okay. Were you in the bridge when the pilot
23 changed the anchorage that the Nomadic Milde would be
24 anchoring at?

25 A Yes, sir.



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1 Q Where did the pilot change -- what anchorage
2 did the pilot change the anchorage from?

3 A I'm not sure but what I saw was that he parked
4 it, reduced speed, close to where I did the pulling
5 waypoint.

6 COURT REPORTER: The pulling way point?

7 A The last way point.

8 Q Okay. Do you know whether the pilot that was
9 on board before the anchors were dropped, changed the
10 anchorage for the Nomadic Milde, from the Ama anchorage
11 to the Kenner Bend anchorage?

12 A Would you please repeat your question?

13 Q Yes. Do you know whether the pilot changed
14 the anchorage location for the Nomadic Milde from the
15 Ama anchorage to the Kenner Bend anchorage?

16 A I did not know what their plans were.

17 Q Okay. You do know that there was a change in
18 the anchorage though; is that correct?

19 A This is what I thought was they did reduce
20 speed. And then they added again.

21 Q Okay. The ECDIS display of the Nomadic Milde
22 will show the boundaries of the designated anchorages
23 along the Mississippi River, correct?

24 A Could you please repeat?

25 COURT REPORTER: I'm sorry. can you repeat



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1 that?

2 MR. BUTTERWORTH: She said can you please
3 repeat.

4 COURT REPORTER: I didn't hear the answer. I
5 didn't hear the --

6 MR. BUTTERWORTH: That's what she said. She
7 said, "Can you please repeat?"

8 MR. BERCAW: Yes. The -- read it back to them.

9 (REPORTER READS BACK REQUESTED QUESTION)

10 THE INTERPRETER: Interpreter asks the witness
11 to repeat.

12 BY MR. BERCAW:

13 A One will see the boundary of the ECDIS.

14 Q At any time that you were in the bridge of the
15 vessel, until the pilot who anchored the vessel
16 departed, did Captain Murkowski question or disagree
17 with that pilot's advice concerning the anchorage of the
18 vessel?

19 A I don't know, sir.

20 Q While you were in the bridge and during the
21 time that the pilot who anchored the vessel was also
22 located in the bridge until he left, did you hear the
23 chief officer disagree with what the pilot's advice was
24 concerning the anchoring of the vessel?

25 A I don't know, sir, because they were close to



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1 one another and I was away from where they were because
2 there wasn't enough room.

3 Q When the anchors were being dropped for the
4 Nomadic Milde, were you located on the bridge or in the
5 bows of the ship?

6 A I was at the bridge, sir.

7 Q Okay. Who was at the bows of the ship during
8 the anchoring operation?

9 A The bosun, and I don't know who the others
10 were.

11 Q All right. You go off watch and turned the
12 watch over to the chief officer at 4:00 p.m. on May 8,
13 correct?

14 A Yes, sir.

15 Q Okay. Before the Nomadic Milde became
16 anchored in that location, did you complete a form and
17 checklist that resembles NM 3217?

18 A 3217.

19 Q What was the anchoring plan for the Nomadic
20 Milde at the location where she dropped her anchors?

21 THE INTERPRETER: This part was already
22 finished because we were already in anchorage.

23 Q Right. Before the vessel anchored in the
24 anchorage, what was the anchoring plan?

25 A I didn't know how to position it. I did not



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1 know the plan. I did not know the pilot's plan.

2 Q Who completed the form and checklist register
3 for anchoring and anchor watch of the Nomadic Milde
4 before the anchors were dropped?

5 A Me.

6 Q Okay. But you don't know the anchoring plan
7 before the anchors were dropped?

8 A Yes, sir. Because most of the time we find
9 out when the pilot arrives.

10 Q Okay.

11 A The final -- the final plan.

12 Q Can you tell me what the final anchoring plan
13 for the Nomadic Milde was where she was at the time
14 before this incident?

15 A I would only know the plan once they've
16 dropped anchor, because even if that's the time I'm on
17 guard, it is the captain who has the last say. He has
18 the command.

19 Q So on this checklist register that we've been
20 referring to where it says at the top, "Has an anchoring
21 plan been prepared taking into account various
22 criteria," did you check that box or did you leave it
23 blank?

24 A Yes, sir. The ones that would be checked and
25 the ones where we check any more.



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1 Q So I'm trying to understand. You can't tell
2 us what the anchoring plan was, but you checked the box
3 saying, "has an anchoring plan been prepared;" is that
4 accurate?

5 A My plan was to position on where we were
6 headed.

7 Q But we don't know if that was the Ama
8 anchorage or the Kenner Bend anchorage at that time. Is
9 that fair to say?

10 A Yes, sir.

11 Q All right. Did you plot the ship's position
12 on a paper chart after the anchors were dropped?

13 A We do not have a paper chart. We use
14 electronic -- electronic alone. That's it.

15 Q Okay. Did you turn on the anchor alarm on the
16 ECDIS after the anchors had been dropped?

17 A Yes, sir. I turned the whatchamacallit and
18 anchor watch. But not immediately because I can put
19 that on any time.

20 Q Okay. What were the parameters that were set
21 for the anchor watch alarm on the ECDIS system that you
22 did turn on?

23 A I turned on the anchor watch which was 180
24 meters.

25 Q How was the 180 meters measured?



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1 A From the size of the boat, in the length of
2 the anchor.

3 Q Okay. From my review of the records that have
4 been provided, the port anchor of the Nomadic Milde had
5 ten shots or ten shackles of anchor chain attached to
6 it; is that correct?

7 A Not ten shackles. Ten shackles?

8 Q Yes. Ten shackles not were out, but it had a
9 total anchor chain length of ten shackles; is that
10 correct?

11 A I don't remember exactly which, but one was
12 nine and one was ten. I just don't remember which is
13 which.

14 Q My review of the records of the Nomadic Milde
15 indicated that it was the starboard anchor that had only
16 a total of nine shackles of anchor chain attached to it.
17 Does that refresh your recollection?

18 A Yes, sir. One side was nine and the other
19 side was ten.

20 Q Okay. Why was the starboard anchor chain nine
21 and the port anchor chain ten?

22 A I don't know, sir.

23 Q Okay. Who would know?

24 A I don't know.

25 Q Okay. All right. When you were handing over



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1 the watch to Chief Officer Kowalski, there was a
2 discussion between you two concerning how many times he
3 had used that particular ECDIS system before; correct?

4 A Yes, sir.

5 Q And during that conversation, he indicated
6 that was the first time he had been on board a ship with
7 that type of ECDIS; correct?

8 A I don't recall what he said, but it was
9 something like might can happen or something like that.
10 Maybe he said it, or maybe he just said perhaps, I just
11 don't recall.

12 Q After you went off watch at 4:00 p.m., what
13 did you do next?

14 A I was still on the bridge.

15 Q How long did you remain on the bridge after
16 your watch ended at 4:00?

17 A I was there when it occurred.

18 Q So from the time you went off watch at 4:00
19 until the occurrence, you remained on the bridge?

20 A Yes, sir. Because I planned to have a meal
21 before 5:00 and then rest.

22 Q Okay. Tell us in your own words what happened
23 from the time the pilot left the ship up until the time
24 that the Nomadic Milde made contact with the Atlantic
25 Venus?



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1 A Repeat the tail end of your question, Counsel.

2 Q Until the Nomadic Milde made contact with the
3 Atlantic Venus.

4 A May I look at my whatchamacallit so I have
5 reference?

6 Q You can't tell us without looking at a sheet
7 of paper as we sit here today?

8 A I can tell you some of it but I can't tell you
9 everything.

10 Q That's what I want. I want, to the best that
11 you can, to tell me what happened between the time the
12 pilot left the bridge until the Nomadic Milde made
13 contact with the Atlantic Venus.

14 A Okay -- okay. I -- I will try. The pilot
15 went down. I was at the bridge along with the captain
16 and the chief mate. The captain went down first and
17 after a few minutes, the chief mate went down to change
18 his clothes. And then he came back immediately. He
19 only left for a short time, and then he changed to this
20 because it was 4:00. And then the crew was discussing
21 about the boat being too close, so it has -- it had to
22 be watched. And he went to the whatchamacallit, the
23 wing, and did the visual. I was in front of the
24 computer doing my report, and I would look at the boat
25 because I can see it from behind. And then when I



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1 wasn't looking, the chief mate said something like,
2 looks like it's close. And what I recall was that he
3 called the captain and the chief engineer, and I told
4 the bosun even if I wasn't told to, just in advance.
5 Then the captain arrived at the bridge. He looked at
6 the vessel and then he advised the VTS.

7 COURT REPORTER: Advised the?

8 A Vessel traffic system, VTS. And then they
9 talked about it. And then when the engine was ready,
10 the captain used it as well as the steering. I wasn't
11 sure at that time but it's like someone either pulled
12 him or he pulled. He made the call while he was
13 controlling the engine and the steering, and then they
14 ended up in front of the other vessel.

15 Q So the port side of the Nomadic Milde came to
16 make contact with the bulbous bow of the Atlantic Venus,
17 correct?

18 A You -- with what part of the --

19 Q The bulbous bow.

20 A The bulbous bow of the other vessel touched
21 our port side.

22 Q Okay. In your training as a second officer,
23 if the vessel you're in charge of as the officer on
24 watch begins to drag anchor, do you have authority to
25 drop additional anchor chain or do you need to get the



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1 master of the ship involved before you can do that?

2 A As far as I am concerned, if I have my doubts
3 then I would call him immediately and I would get him to
4 make a decision.

5 Q When you have been second officer of the
6 Nomadic Milde or the Augusta Mars, have either of those
7 vessels dragged their anchors while you were on watch
8 before the incident involving the Atlantic Venus?

9 A I do not recall.

10 Q Okay. Before the incident involving the
11 Atlantic Venus, have either the Nomadic Milde or the
12 Augusta Mars turned on a cable or swung at their anchors
13 while you were the officer on watch?

14 A Could you just repeat your question?

15 Q Sure. Before the incident involving the
16 Atlantic Venus, when you were the second officer of the
17 Nomadic Milde or the Augusta Mars.

18 THE INTERPRETER: Officer of what again,
19 please, Counsel?

20 Q Nomadic Milde or the Augusta Mars. Did either
21 of those vessels turn on a cable or swing while at
22 anchor?

23 A I don't recall.

24 Q Do you know whether dropping an anchor chain
25 can reduce or eliminate a vessel that's dragging at her



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1 anchors?

2 A Could you please repeat your question again?

3 Q Do you know that if a vessel is dragging her
4 anchors, one way to reduce that or to stop it is to drop
5 additional anchor chain?

6 A There's a chance that it may help because the
7 others are heavier. But then, if there's another vessel
8 next to it, then you might hit the other vessel.

9 Q When you were in the bridge and the pilot was
10 giving advice on anchoring the Nomadic Milde near Kenner
11 Bend anchorage, did you see that the vessel was not in
12 the boundaries of the Kenner Bend anchorage?

13 A I saw that it was outside the boundary.

14 Q What did you do when you saw that the Nomadic
15 Milde was anchored outside the boundary of the Kenner
16 Bend Anchorage?

17 A Nothing, because that decision had to be made
18 by the pilot or the captain.

19 Q Did you ask the captain why that was
20 appropriate for the vessel to be moored outside the
21 anchorage?

22 A No, sir. Because I rely on the pilot and the
23 other vessels were there longer, a long time, outside.

24 Q All right. After the Nomadic Milde made
25 contact with the Atlantic Venus, until the Nomadic Milde



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1 made contact with the Cornerstone dock, can you tell us
2 in your own words what happened?

3 A I only saw a little bit of what happened
4 because I was uncomfortable. There was -- it was a
5 pilot. The pilot arrived and the people had long waited
6 for the pilot's arrival, though. And what I saw was one
7 tugboat also, I don't know which one was first. And
8 then the biological either -- I don't know whether it
9 was to the chief mate or to the pilot -- the chief mate
10 or the captain. And then I was just informed that we
11 were waiting for another vessel. Then I don't know if
12 the boat arrived, but then they started to -- okay --
13 they started to -- they started moving that away. And
14 then I didn't see what happened next and I then looked
15 in that direction and I heard loud voices. Then what I
16 -- the next thing I saw was that we were facing the
17 terminal of that sea. And then I heard the captain
18 called or announced to run away from the vessel because
19 the vessel was going to hit the terminal. And then I
20 heard the pilot say that we hit the berths and then we
21 were aground.

22 Q Okay. When did you move to the bows of the
23 vessel before the Nomadic Milde struck the dock?

24 A Can you repeat, can you repeat, sir?

25 Q Yes.



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1 A Before. Can you repeat, sir?

2 Q When did you move to the bows of the vessel
3 after the Nomadic Milde made contact with the Atlantic
4 Venus, but before the Nomadic Milde hit the dock?

5 A I didn't go there after it hit the Venus.

6 Q At some point in time, you were asked to go to
7 the bows of the Nomadic Milde when the vessels were
8 trying to separate themselves, correct?

9 A In the beginning, they had plans, I don't know
10 what the plans are, but the plan was to have someone go
11 to the front of the vessel.

12 Q Okay. So did you ever get to the front of the
13 vessel before the Nomadic Milde hit the dock?

14 A To my recollection, no, but I'm a 100 percent
15 sure about it.

16 Q Okay. Did the Starboard anchor chain of the
17 Nomadic Milde fail before the Nomadic Milde hit the
18 dock?

19 A I don't know, sir, because I wasn't there.

20 Q Okay. Do you know if the port anchor chain of
21 the Nomadic Milde paid all the way out through the
22 hawsepipe before the Nomadic Milde struck the dock?

23 A I don't know anything about that because I
24 wasn't there.

25 Q Okay. Didn't the pilot instruct you and the



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1 chief officer to go to the bows of the vessel when the
2 Nomadic Milde and the Atlantic Venus were trying to
3 separate from each other?

4 A Please repeat the question.

5 Q Didn't the pilot ask you and the chief officer
6 to go to the bows when the Nomadic Milde and the
7 Atlantic Venus were trying to separate from each other?

8 A I don't recall if they said anything to me,
9 but I don't know if some -- someone said something to
10 the chief mate.

11 Q Did the chief mate asked you to join him on
12 the bows of the Nomadic Milde at any time before that
13 vessel hit the Cornerstone dock?

14 A There was a time when he asked me to go with
15 him but I don't recall whether it was before or after.

16 Q Before or after what?

17 A When the vessel hit the terminal.

18 Q Okay. All right. Do you know why the Nomadic
19 Milde moved forward towards the Cornerstone dock when
20 the vessels were trying to separate from themselves?

21 A I don't know, sir.

22 Q Okay. Do you know if the starboard anchor
23 chain of the Atlantic Venus failed at any time?

24 A I don't know, sir.

25 Q Okay. Do you know why the Nomadic Milde



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1 struck the Cornerstone dock?

2 A No, sir.

3 Q Okay.

4 MR. BERCAW: I tender the witness. Lunch is
5 going to be here in about five or ten minutes. Would
6 now probably be a good time to take a 30, 40 minute
7 break?

8 MR. HELD: That's fine if it's okay with
9 everybody else.

10 MR. BERCAW: I'll check. Let me go check on
11 the status right --

12 MR. DEPAULA: Yeah. We will take a five-
13 minute break.

14 MR. BERCAW: Why don't we take a five-minute
15 break for sure.

16 VIDEOGRAPHER: The time is 12:01 p.m. We're
17 going off video record.

18 (OFF THE RECORD)

19 VIDEOGRAPHER: The time is 12:10 p.m. We're
20 going back on the record.

21 CROSS EXAMINATION

22 BY MR. DEPAULA:

23 Q All right. Mr. Perez. My name is Tim DePaula
24 and I'm going to be asking you some questions now, okay?

25 A Okay, sir.



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1 Q I understand you are the vessel's navigational
2 officer; correct?

3 A Yes, sir.

4 Q Do you write the entries in the deck log as
5 well?

6 A When I'm on duty and -- and anything to do
7 with me.

8 Q All right.

9 A Then I write down.

10 Q Can you look at Ace NM 177?

11 MR. BERCAW: Okay. We're there.

12 Q All right. Can you tell me on 177, if any of
13 the writings are your handwriting?

14 A The entry for 6:00 and for 4:00 p.m. and the
15 two in the lower page -- in the lower -- lower part of
16 the page.

17 Q The lower part under safety records; correct?

18 A Yes, sir. Both of those two.

19 Q What about the next page, NM 178?

20 A That's my -- that's my handwriting until 6:00.
21 As well as 2:00, 3:00, 4:00, 4:40. And also below 1327.

22 Q Did you say 1327?

23 A Yes, sir.

24 Q So the entries that are time-stamped 1300 on
25 NM 178, you did not write that?



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1 A No, sir.

2 Q Do you know who wrote that?

3 A I don't know whose is it. I'm -- I'm not sure
4 who wrote it down.

5 Q Okay. That entry discusses certain
6 navigational checklists, correct?

7 A Yes, sir.

8 Q Did you or were you involved with completing
9 whatever was required on those checklists listed on that
10 day?

11 A Yes, sir.

12 Q Which ones?

13 A I would like to have a chance to take a look
14 at the bell book because this might just have been
15 transferred.

16 Q Okay.

17 A Yes, sir. I was the one who did it.

18 Q So you were the one who made sure everything
19 on the checklist were performed, but you did not write
20 that it was done in the deck log book, correct?

21 A Yes, sir. What we do is that we write
22 everything in the bell book, and then afterwards we
23 transfer. But some parts would not fit in the bell
24 book. What we do -- the log book everything would not
25 fit the space in the log book, so we choose what we -



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1 there are things that we wrote down on the bell book,
2 and then transferred it to the log book.

3 Q Will you look at an NM 183?

4 A Yes.

5 Q Okay. Do you see the entries for 1250 and
6 1320 on May 8th?

7 A Yes, sir.

8 Q Is that your handwriting on either one of
9 those?

10 A Yes, sir.

11 Q Are you the one who performed whatever checks
12 are listed in those checklists?

13 A Yes, sir. But there are some entries that I
14 leave for the chief mate, or the captain to write.
15 Things related to the engine.

16 Q And you were asked questions about whether
17 after you check the checklist off with a whiteboard
18 marker, whether you scan it?

19 A We don't scan, sir.

20 Q Right. Do you take a photograph of it?

21 A No, sir.

22 Q Is there any record we can look at to see what
23 boxes you actually checked, or what boxes you left
24 blank?

25 A No, sir. The form where there are no source



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1 -- that means we have no hard copy.

2 Q If you leave certain sections of a checklist
3 blank, are you supposed to log that on either the bell
4 book, or the deck log book?

5 A I normally inform the captain, or the chief
6 mate that the engine hasn't been tested yet.

7 Q And I appreciate that, but what about entries
8 that don't have anything to do with the engine?

9 A Those are the things that I leave alone first
10 until the -- the engine and the thruster before the
11 pilot arrives. I leave things about the engine, the
12 others I am able to do.

13 Q May I ask you, for example, look at NM 536.

14 A Okay, sir.

15 Q Okay. That is the anchoring and anchor watch
16 checklist; correct?

17 A Yes, sir.

18 Q Okay. And that is also navigational checklist
19 number 9 as listed in the bell book entry at 1320 on NM
20 183.

21 A Yes, sir.

22 Q According to the bell book, you completed that
23 checklist at 13:20 on May 8th, correct?

24 A Whatever is applicable for that time.

25 Q Okay. Can you sit here right now and tell me



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1 what you checked and what you did not check at 13:20 on
2 that checklist?

3 THE INTERPRETER: Counsel did you say 13:20?

4 MR. DEPAULA: Yes, ma'am.

5 A I checked what was written in -- reduced speed
6 because that was in the plan. And the wind was also
7 there. And the electricity was in sailing direction --
8 current, current. And maneuvering low speed in the
9 vessel's characteristic, zero, and I move it to the
10 middle -- the water's depth.

11 THE INTERPRETER: Interpreter needs to verify
12 glass.

13 THE WITNESS: Seabed.

14 BY MR. DEPAULA:

15 A Oh, the seabed glass can be seen below in the
16 map. The captain as well as the pilot makes the
17 decision with regards to anchoring. And then the engine
18 and the crew are on standby.

19 COURT REPORTER: And the what are on standby,
20 Madam Interpreter?

21 THE INTERPRETER: Deck crew, deck crew and the
22 engine crew.

23 BY MR. DEPAULA:

24 A And these tide signals were prepared. After
25 anchor dropped, the pilot posted normal. And the ECDIS,



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1 every minute it logs its position. So we visually see
2 the terminal, because it's narrow at each side of the
3 river. We can check the position in the map as well as
4 the GPS, including the radar. We have a lookout that
5 moves around the ship.

6 Q Let me ask you, you checked all these off, the
7 ones you're describing, at 13:20?

8 A No, sir. Because this form is for anchoring
9 and whoever is on duty. No. When it's anchored and
10 when it's still planning to anchor -- to drop anchor.

11 Q Is there a notation in the bell book that this
12 checklist was updated after 13:20?

13 A When the chief mate and I exchange posts.

14 Q Okay. What is navigational checklist number
15 7?

16 A Let me check. I can't tell you until I see
17 the entire manual for this form of registered checklist.

18 Q Okay. Let's do this. Look at NM 5858. Do
19 you see it?

20 A Do you have a copy here? Okay. I'm looking
21 at 5858.

22 Q Have you ever seen that document before?

23 A I have seen this before.

24 Q What is it to your knowledge?

25 A This is our procedure of operation when we're



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1 at the bridge.

2 Q Do you receive training on these procedures
3 when you come on board the vessel?

4 A Yes, sir. We have familiarization training
5 and I also use this in the other vessels that I
6 previously worked in.

7 Q Who conducts the familiarization training of
8 these procedures when you come aboard the vessel?

9 A The second officer, sir.

10 Q So when you came onboard the Nomadic Milde in
11 I believe it was August of 2019, the second officer you
12 relieved would have trained you on this manual, is that
13 what you're saying?

14 A Yes, sir. He showed this again to me because,
15 as I mentioned earlier, I've seen this in the past
16 already.

17 Q Outside of the training you received from the
18 second officer when you boarded the vessel in August,
19 does the company have any sort of training or review of
20 these policies and procedures?

21 A I don't recall now, sir. But it's normal for
22 them to send updates to us. If they have updates, only
23 if they have updates, then they send it to us.

24 Q Do you recall if there was any update sent to
25 you from August 2019 to May 8, 2020?



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1 A I don't recall any, but it will be in the
2 manual if there were -- there was.

3 Q Can you tell me what navigation checklist
4 number 7 is, if you look through that manual?

5 A This checklist is included in other manuals.
6 Well, everything that's in it are checklists. It's
7 written at the top that this are forms and registered
8 checklists. So that's the name of the manual.

9 Q Okay. Can you look at -- yeah, go ahead.

10 A And here, what's written is it's a bridge
11 manual.

12 Q Will you turn to NM 532.

13 A Okay, sir.

14 Q Okay. Were you ever provided an NM 532
15 through NM 544 and have been advised that that is the
16 pre-arrival checklist?

17 A 532 until 544, sir.

18 Q Right. Is that, to your knowledge, all the
19 people at pre-arrival checklist?

20 A Yes. Sir, to my knowledge, this is it.

21 Q Can you look through those pages and tell me
22 what navigational checklist number 7 is?

23 A It's not here, so I can't tell you.

24 Q Do you know why it's not there?

25 A Perhaps it's because it's not in the pre-



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1 arrival checklist.

2 Q Sitting here today, you don't know what it --
3 you don't know what it refers to, do you?

4 A If I don't see it, then I won't know.

5 Q Do you receive any training on how to complete
6 the checklist that you're looking at right now prior to
7 coming on board the Nomadic Milde?

8 A Before -- before I boarded the Nomadic Milde,
9 I don't remember if we were given this training for this
10 checklist.

11 Q After you boarded the Nomadic Milde, were you
12 trained on how to complete the checklist properly?

13 A I don't recall, sir. No.

14 Q Mr. Perez, do you know if the Nomadic Milde
15 has a left or right-handed propeller?

16 A Because I don't recall now. It's a long time
17 we are not preparing this checklist.

18 THE INTERPRETER: That was in English.

19 THE WITNESS: Sorry.

20 Q It's not necessarily on a checklist. I'm just
21 wondering if you know, sitting here, do you know if it's
22 a left-handed or right-handed propeller?

23 A I don't recall now. It has been a long time.

24 Q Do you also fill out the pilot cards on the
25 vessel?



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1 A Yes, sir, but -- yes, sir, but it's fixed, it
2 cannot be changed, so I'm not updating. Yeah. Because
3 the turning of the propeller does not change.

4 Q Well, I'm not asking about the turning of the
5 propeller. I'm asking if you fill out the information
6 contained in the pilot card?

7 A I do the filling up if it -- if I'm on duty.

8 Q On May 8th, when the vessel was at the berth,
9 prior to going to the anchorage and the pilot boarded --
10 you can translate that -- were you on watch or no?

11 A It was me.

12 Q The pilot card that was given to that pilot,
13 did you fill it out?

14 A Yes, sir.

15 Q Do you have to fill out all the blanks in the
16 pilot card every time, or are some of the blanks already
17 filled in?

18 A With regards to the vessel's characteristics,
19 it's already filled out in the card.

20 Q When you came on board the vessel in August of
21 2019, was the vessel's speed log operational?

22 A Yes, sir.

23 Q Do you know when the speed log first began
24 malfunctioning?

25 A I don't remember the exact date, but it was



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1 sometime between December or January.

2 Q And the speed log had not been repaired on May
3 8th, correct?

4 A Someone boarded the vessel to service it when
5 we were in Europe.

6 Q Was it your understanding that it was
7 operational on May 8th or not?

8 A It wasn't operational on May 8th.

9 Q Was it your understanding that it was
10 operational or not, when the vessel entered the
11 Mississippi River?

12 A No, sir. No, sir. It was not functioning.

13 Q Are you involved with filling out or
14 completing any portions of the electronic notices of
15 arrival that the vessel sends to the United States Coast
16 Guard prior to coming into a U.S. port?

17 A No, sir. I am not involved.

18 Q Are you aware one way or the other whether the
19 vessel alerted the United States Coast Guard that the
20 vessel's speed log was not operational when it arrived
21 in the Mississippi River?

22 A I know it wasn't operational because the
23 captain and I discussed it.

24 Q Okay. And what did the captain and you
25 discuss?



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1 A I just said that the speed log wasn't
2 operational. It wasn't operational.

3 Q And this was before the vessel came into the
4 United States port?

5 A Yes, sir.

6 Q Did you discuss with the captain about whether
7 that should be reported to the United States Coast Guard
8 or not?

9 A I mentioned it to him, but he said -- I don't
10 know whether he said we should or we shouldn't because
11 there were two other equipments that would -- there were
12 two other -- other equipment that measure speed.

13 Q Do you know what the function of the speed log
14 is?

15 A Yes, sir.

16 Q All right. Please explain it to me.

17 A This is testing speed through the water.

18 Q What other equipment on the Nomadic Milde
19 measured the speed through the water?

20 A No, sir. Nothing. One thing we have is on
21 the ground.

22 Q The vessel's primary navigational means is the
23 ECDIS, correct?

24 A Yes, sir.

25 Q And the vessel does not keep a paper chart as



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1 a backup, correct?

2 A It does not, sir.

3 Q How many active stations are on the bridge of
4 the Nomadic Milde?

5 A Two, sir.

6 Q Do the two transfer data between each other,
7 or do you have to input parameters and settings into
8 each one separately?

9 A Yes, sir. It's connected to one another.

10 Q How many radars does the Nomadic Milde have on
11 the bridge?

12 A Two, sir.

13 Q Both of the radars have an ARPA function?

14 A Yes, sir.

15 Q Prior to the vessel coming into the
16 Mississippi River, was either radar showing an alarm
17 because there was no speed log sensor on it?

18 A I don't recall, sir.

19 Q Prior to coming into the Mississippi, was the
20 ECDIS showing an alarm because there was no speed log
21 sensor connected to it?

22 A Yes. The ECDIS sounded an alarm.

23 Q How often would the ECDIS sound the alarm
24 because there was no speed log?

25 A Well, if you press it -- if you acknowledge



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1 the alarm, then it goes away.

2 Q And if you acknowledge it one time, it goes
3 away forever? Or you have to keep acknowledging it?

4 A So when it alarms, then we press it and then
5 there's no more sound. But it's still listed in the
6 alarm for ECDIS, just that it doesn't -- that there's no
7 sound anymore.

8 Q Prior to coming into the United States, was
9 the Nomadic Milde's ECDIS charts -- was there an issue
10 with the charts being updated properly?

11 A All the charts were updated.

12 Q Do you know what week the charts were updated
13 to?

14 A I don't know the -- the number, but I do know
15 that it's normal and I updated every Friday or
16 Saturday --

17 THE WITNESS: Friday or Saturday.

18 THE INTERPRETER: -- or Saturday.

19 Q Do you know prior to May 8th, when the last
20 time you updated the chart was?

21 A One minute, sir, let me check the day of the
22 week of the 8th.

23 Q Okay. We'll tell you that the 8th is a
24 Friday.

25 A I may have updated it last Friday or last



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1 Saturday.

2 Q Do you know what AIO stands for with regard to
3 the ECDIS chart?

4 A Yes, sir.

5 Q Okay. What is that?

6 A Admiralty Information Overlay.

7 THE INTERPRETER: Admiralty Information
8 Overlay.

9 Q And that's essentially just a chart overlay;
10 correct?

11 A Yes, sir.

12 Q What about AVCS, do you know that stands for?

13 A Admiralty Vector Chart.

14 THE INTERPRETER: Admiralty Vector Chart.

15 Q Those two charts are overlays. Were they
16 updated properly prior to entering the Mississippi
17 River?

18 A Yes, sir.

19 Q Was there some issue that you were e-mailing
20 back and forth between the technical service company
21 regarding a problem you were having with it showing out
22 of date?

23 A When I updated, the chart will be updated. The
24 AISNA box -- the AIONA box will be updated, but the
25 report has an issue. I don't recall what it was, but it



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1 still prints from what is shown in the upload. But so
2 what happens is the report shows it's -- it's expired.
3 But when I -- I actually check the chart, it says it's
4 updated. And the solution to that was that we had the
5 permit re-installed. And then they turn off the system
6 and switch it back on again. Then the report is good.

7 Q So when did that get corrected?

8 A Could you repeat your answer, please -- your
9 question, please.

10 Q Yeah. I understood your answer just now was
11 that there was an issue with what was showing on the
12 ECDIS and what was on a report, but you basically
13 uninstalled something and re-installed something and the
14 issue got fixed; is that what you told me?

15 MR. HELD: Objection.

16 A It's not the same as the report, but the chart
17 is updated.

18 Q Were you still having an issue on board the
19 Nomadic Milde where the report shows that it was
20 expired?

21 A Not anymore, because it has been resolved.
22 It's just that we had to restart it.

23 Q Okay. And when was it resolved?

24 A When we were here in -- whatchamacallit --
25 when we were here in Tampa.



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1 MR. HELD: Hey Tim, you ready for a lunch
2 break?

3 MR. DEPAULA: Yeah, we can take a break. That's
4 fine.

5 MR. HELD: Yeah. Let's take 30 minutes, okay?

6 MR. BERCAW: Okay.

7 MR. DEPAULA: Yeah.

8 MR. BERCAW: It's fine.

9 COURT REPORTER: The time is 1:04 p.m. We're
10 going off the video record.

11 (OFF THE RECORD)

12 COURT REPORTER: The time is 1:39 p.m. We are
13 back on the video record.

14 BY MR. DEPAULA:

15 Q All right. Mr. Perez, we just got back from a
16 lunch break. Is there a notebook maintained by the
17 bridge officers?

18 A What will we write in the record?

19 Q I'm sorry. What?

20 THE INTERPRETER: Do you want the interpreter
21 to repeat the response?

22 Q Yeah.

23 A What would we write in the record?

24 Q Okay. Well, I'm not sure what that means, so
25 ask it again. Is there a notebook that's maintained on



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1 the bridge?

2 A What is the notebook for?

3 Q I'm asking you, is there one maintained? I
4 have no idea what it would be for, but I'm asking you,
5 is there one at the bridge that is maintained?

6 A If it's in regards to the chart, there is one,
7 but I don't know because the question was notebooks, so
8 there's several notebooks.

9 Q Is there some sort of rough logs or other sort
10 of rough notes that are kept on the bridge in these
11 various notebooks?

12 A There's a notebook there that records
13 everything that occurs. But are you asking if the
14 captains on the bridge that's written on the notebook?

15 Q I'm just asking if there's a notebook that's
16 maintained?

17 A We do write on the log book that pertains --
18 that's what we write.

19 Q How many notebooks are maintained on the
20 bridge?

21 A We have a log book, a bell book, magnetic
22 compass error book, GMDSS log book, radar log book.

23 Q I think we're -- I think you're not
24 understanding my question. I understand that there are
25 various log books, formal log books that are maintained



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1 by the bridge group. Are there more informal or rough
2 notebooks maintained, as well?

3 A Only the bell book and the logbook are. There
4 are no other formal notebooks in the bridge.

5 Q Okay. So if I understand you correctly, there
6 are rough logs for the log book, for the deck log book,
7 and there are rough logs for the bell book, correct?

8 A We do not have a rough notebook for the bell
9 book and the -- the log book.

10 Q Okay. Do you keep a personal notebook, a
11 rough notes of some sort, while you are on watch?

12 A I have an informal list that's in the berth,
13 but this is information about cargo.

14 Q Do you know if the chief officer keeps
15 informal notes while he is on watch?

16 A I don't know, sir.

17 Q Do you know if the master keeps informal
18 notes?

19 A Sometimes I see him -- I see a log book in his
20 pocket. I don't recall when that was, but once I saw
21 him with a notebook.

22 Q So on the record, Michael, I just wanted to
23 make sure that the vessel is placed on notice to
24 preserve whatever notebooks there are on the bridge,
25 please.



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1 MR. DEPAULA: Did somebody hear that? Because

2 I --

3 MR. HELD: No. We heard you.

4 BY MR. DEPAULA:

5 Q Okay. Mr. Perez, I'll ask you some questions
6 about when the Nomadic Milde anchored on May the 8th.

7 A Okay, sir. Go ahead.

8 Q After the pilot left the vessel, who was in
9 charge of the anchor watch?

10 A I placed the anchor watch, sir.

11 Q Okay. And tell me what you did.

12 A I -- I put 130 meters.

13 Q Okay. And that was on the ECDIS alarm;
14 correct?

15 A Yes, sir.

16 Q Did you also mark your position visually?

17 A We put the other vessels, so we estimated and
18 the passage was narrow.

19 Q What was your estimate as to how close the
20 vessel upriver from U.S.?

21 A I told you all now, sir.

22 Q Okay. What was your estimate of the vessel
23 that was downriver from you, the distance?

24 A I can't tell you but the way I see it, it
25 probably must have been less than one cable or less.



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1 Q Do you know how many meters are one cable?

2 A One cable is 185.2.

3 Q What makes you think now that the vessel
4 downriver from you was one cable away while you were at
5 anchor?

6 A Repeat the question again, please.

7 Q Sure.

8 A What makes you think --

9 Q What makes you think today that the vessel
10 downriver from you was one cable away?

11 A The vessel wasn't moving, so when I looked at
12 it, we might have been in front of him -- in front of
13 it. Let me repeat my response.

14 Q Okay.

15 A The vessel was moving. So it's possible that
16 when I looked at the vessel, it wasn't really in front
17 of our vessel, so it might have been quite a distance
18 away. Because I don't know what time you were referring
19 to when you asked about the distance.

20 Q Okay. I'll try to ask a better question,
21 okay?

22 A Okay.

23 Q When the pilot left the Nomadic Milde after
24 the anchors were dropped on May 8th, you were
25 responsible for the anchor watch, yes?



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1 A Yes, sir.

2 Q At that time, did you make an assessment as to
3 how far away the vessel directly upriver from you was
4 from the Nomadic Milde?

5 A Yes, sir. Because when I put the anchor watch
6 I would see whether we were close or not.

7 Q Okay. Can you tell me sitting here today,
8 what the distance was when you made that assessment?

9 A 180, but I cannot estimate how much farther.
10 But I estimated it was around 180. No. Because I'm
11 referring to my anchor watch which is 108.

12 Q You're referring to the setting you put on the
13 ECDIS, correct?

14 A Yes, sir.

15 Q Okay. Let me ask this a different way. When
16 did you put the 180 meter setting on the ECDIS?

17 A After the pilot left, because we can put that
18 any time in any brand of ECDIS, that brand.

19 Q You put in different settings in the ECDIS,
20 correct?

21 A Could you please repeat?

22 Q Yeah. Yeah. Yeah. In addition to the anchor
23 watch setting on the ECDIS, you put in other settings as
24 well, correct?

25 A I did not -- I did not change anything else. I



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1 just activated -- reactivated the ECDIS alarm.

2 Q Okay. So can you tell me what the setting for
3 the safety depth was for the ECDIS when you anchored it
4 on May 8th?

5 A May I take the look at my passage plan because
6 I base whatever I put there on this.

7 Q Well, are you telling me that the number is in
8 the passage plan or do you have to look at the passage
9 plan to figure out what it was set to?

10 A Just to help me because of the -- what I have
11 wrote and updated. 12 meters, sir.

12 Q Do I understand you correctly that you didn't
13 actually change that setting? When you went to the
14 anchorage that was already the setting when you went
15 there, correct?

16 A We only change it when we leave the berth.

17 Q So do you recall changing the safety depth
18 setting when you left Avondale on May 8th?

19 A My recollection I did, because that's what I
20 do. That's what I normally do.

21 Q The 180 meters setting for the anchor watch
22 that you had talked about earlier, was that already set
23 at Avondale?

24 A No, sir. Because it's not possible. Because
25 by that time we still don't know how long -- how long



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1 the anchor that we will be putting is.

2 Q When the pilot left the vessel after anchoring
3 on May the 8th, did you make a determination of the
4 water depth?

5 A It's written in the back, but I don't recall
6 now.

7 Q So you rely upon whatever the ECDIS is showing
8 you; correct?

9 A No, sir. Because we have a radar to represent
10 and we also the echo sounder for the water depth.

11 Q Did you have any concern when the pilot left
12 the Nomadic Milde regarding the water depth or the
13 under-keel clearance of the Nomadic Milde?

14 A During my guard, no.

15 Q Did you hear either the chief officer or the
16 master express any concern about the water depth for the
17 under keel clearance on the vessel when the pilot left?

18 A I -- I didn't hear anything.

19 Q Prior to setting the anchor alarm on the
20 ECDIS, did you use the ECDIS to measure the distance
21 between the upriver and downriver vessels from the
22 Nomadic Milde?

23 A I checked with the ECDIS and the radar.

24 Q You physically measured the distance between
25 the Nomadic Milde and the vessel upriver and downriver?



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1 A I do not recall now how I measured it.

2 Q Okay. In addition to the alarm on the ECDIS,
3 do you keep a visual watch to make sure that the vessel
4 is not dragging anchors?

5 A Most of the time I rely on the ECDIS, and I
6 only have been on duty there for a short period of time.
7 I also look at the actual because it's close and then
8 that's when we measure.

9 MR. DEPAULA: What was that word you said?

10 THE INTERPRETER: Excuse me, Counsel, I missed
11 what you said. Could you please repeat?

12 MR. DEPAULA: Yeah, he said he also looks at
13 something and I couldn't catch it.

14 BY MR. DEPAULA:

15 A Actual site we can see that it was close. So
16 then we backed up by checking the radar.

17 Q What are you referring to when you say the
18 actual site and it was close? What was the actual site,
19 and what was close?

20 A I compare it to where the other places where
21 we dropped anchor.

22 Q Okay. And then how do you do that? Well, do
23 you pick out a tree, or do you pick out a marking on
24 land to determine that?

25 A Well, I place the radars for a certain



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1 position, then you know that you find out what the
2 distance is.

3 Q What was that first thing he said? I can't
4 understand him.

5 A If you place the cursor of the radar in the
6 vessel, then you can read the distance. Using the
7 cursor, you can see how far the distance is from you.

8 Q Okay. So when you are doing the anchor watch,
9 you rely exclusively on the electronic equipment on the
10 bridge, correct?

11 A Could you please repeat your question?

12 Q Sure. When you are doing the anchor watch, do
13 you rely exclusively on the electronic equipment on the
14 bridge?

15 A You look at your distance in the back and then
16 you measure electronic. You look at the boat's
17 surroundings, and then I do an electronic measuring.

18 Q Okay. After you do the electronic measuring
19 the first time, do you rely solely on the electronic
20 equipment to see if the vessel is dragging anchors?

21 A We looked at what's behind me because I -- I
22 observed the -- the vessel and then using the ECDIS you
23 see the time every minute. You can see the position
24 every minute.

25 Q Do you know what time it was when you first



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1 realized that the Nomadic Milde was dragging her
2 anchors?

3 A I don't remember because I wasn't on duty at
4 that time.

5 Q When the pilot left the Nomadic Milde after
6 her anchors were dropped, do you recall him telling the
7 bridge crew to keep the engines on short notice?

8 A To my knowledge, short notice.

9 Q You remember that?

10 A Yes. I remember short notice, but I don't
11 know when I found out that it was short notice. I don't
12 remember what time I found out about it.

13 Q Is it your understanding that short notice
14 means the same thing as standby condition?

15 A Those two are different, sir.

16 Q Okay. Explain to me what standby condition
17 is?

18 A To my knowledge, a normal standby for the
19 engine is one -- one hour.

20 Q So it's your understanding that standby
21 condition means the normal one hour time it takes to
22 start the engine?

23 A No, sir. That's the length of time that they
24 asked for us to advise.

25 Q But it's your understanding that standby



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1 condition is not -- the condition that the engines would
2 be started quickly, or if there was sort of an emergency
3 situation, correct?

4 A I'm a bit confused with the question. Is the
5 question asking whether the machine was on standby ready
6 to go?

7 Q Let me ask it this way.

8 THE INTERPRETER: The engine on standby, ready
9 to go.

10 Q Let me ask you this way. Let me ask you this
11 way. Have you ever heard of the term, standby
12 condition?

13 A With regards to the engine, sir?

14 Q Yes.

15 A Yes, sir.

16 Q Okay. Tell me what that means to you?

17 A My understanding of that is that the -- the
18 engine is on and we can go anytime.

19 Q Prior to joining the Nomadic Milde, did you
20 receive any training from either the owners or the
21 managers of the company with regard to how to properly
22 perform an anchor watch?

23 A They gave me ECDIS training, so it's included.

24 Q Okay. Aside from the ECDIS training, did you
25 receive any other type of training regarding an anchor



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1 watch?

2 A If you're asking before I boarded this vessel,
3 I thought -- I know I did. But if you're asking before
4 I boarded other vessels, I don't recall if there were
5 others before I started working on this vessel. I don't
6 know if there were.

7 Q When you boarded the vessel in August of 2019,
8 at any point from then until May 8th, did you receive
9 training on board on how to properly perform an anchor
10 watch?

11 A I do not recall, sir.

12 Q Sitting here today, do you know whether or not
13 the owners or the managers of the Nomadic Milde had any
14 specific policies or procedures on how to perform a
15 proper anchor watch?

16 A I base it on the bridge manual. I haven't
17 seen any.

18 Q I have some questions about a VDR transcript
19 that we received.

20 A Okay, sir.

21 Q Can you look at NM 6254?

22 A Okay, sir.

23 Q Okay. Do you see the entry for 2139-3, which
24 is also 1639-3?

25 A Yes, sir.



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1 Q Can you see how you talk about -- a distance
2 0.03 cables?

3 A 0.3 cables.

4 Q Yeah. But look, 0.3.03. Do you see that?

5 THE INTERPRETER: What's that, sir?

6 MR. DEPAULA: 0.03.

7 THE INTERPRETER: 0.03.

8 BY MR. DEPAULA:

9 Q Do you see that?

10 A Yes.

11 Q Okay. Do you know what that distance is
12 referring to?

13 A Distance from the vessel behind us.

14 Q Do you know how you measured that distance at
15 that time?

16 A Yes, sir.

17 Q Then tell me how.

18 A By the radar.

19 Q You were asked some questions earlier about
20 what happened between 1600 and the vessel aligning with
21 the Atlantic Venus. Can you tell me where you were
22 standing at during that time?

23 A When chief made notice about the threat, I was
24 by the computer. He noticed that it was close. We
25 didn't know yet whether it was going to drag. I was in



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1 front of the computer.

2 Q When the pilot boarded after the Nomadic Milde
3 had already hit the Atlantic Venus, and so at the time
4 the Nomadic Milde hit the Cornerstone terminal, can you
5 tell me where you were standing?

6 A Most of the time I was located at the port
7 side of the bridge. Inside, inside. Port side inside.
8 Not on the wing.

9 A Port side inside, not in the wing. There were
10 times when I got out of the wing to take a look.

11 Q And did the pilot who was on board the Nomadic
12 Milde at that time, did he operate or did he stand on
13 the port side wing the entire time?

14 A I don't know exactly when, but because when we
15 started I saw him inside and then later on I saw him
16 outside.

17 Q Is one of your responsibilities to sync the
18 clocks on various equipment on board the vessel?

19 THE INTERPRETER: Just a minute, interpreter
20 needs to have a sip of water. Okay. Interpreter is
21 back.

22 MR. BERCAW: Do you need me to repeat the
23 question or --

24 THE INTERPRETER: Please repeat the question.

25 BY MR. DEPAULA:



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1 Q Okay. Is one of your duties to sync the
2 clocks on various equipment on the vessel?

3 A My job is to sync the clock in the bridge, the
4 GPS, radar, and the ECDIS.

5 Q And do you recall the last time you
6 synchronized those clocks before the incidents on May
7 the 8th?

8 A I don't recall, but let me check the log book.
9 Because sometimes I work with it after days. May 2,
10 sir.

11 Q The 2nd?

12 A May 2. May 2.

13 Q Do you know if any of the engine room
14 equipment is also synced when those bridge equipments
15 are synced?

16 A I don't do that in the engine room.

17 Q Do you have any idea who is responsible to
18 sync the clocks of the equipment in the engine room?

19 A I don't know, sir. What I do know is the wall
20 clock in the engine room is connected to us, so it
21 automatically changes when we change our clocks. But I
22 don't touch the computer.

23 Q Okay. Thank you.

24 A You're welcome.

25 MR. DEPAULA: Mr. Perez, that's all the



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1 questions I have at the moment. Thank you.

2 TH WITNESS: You're welcome, sir.

3 MR. HELD: Kevin?

4 CROSS EXAMINATION

5 BY MR. FREY:

6 Q I just have, like, two or three questions, Mr.
7 Perez.

8 A Go ahead.

9 Q All right. I'm an attorney for two of the
10 tugboats that were there at the time the incident
11 occurred, the Ervin Cooper and the Ned Ferry.

12 THE INTERPRETER: And the names of your
13 tugboats please, Counsel?

14 MR. FREY: Ervin Cooper and Ned Ferry.

15 THE INTERPRETER: Ervin Cooper and Ned Ferry.

16 BY MR. FREY:

17 Q Okay. All right. During the time when the
18 Nomadic Milde was up against the Atlantic Venus, there
19 were two tugboats in the area; is that correct?

20 A What I recall about the tugboats was that when
21 we were hit, there was one tugboat that arrived, but I
22 don't know about the tugboats that had arrived. I don't
23 recall the incident.

24 Q Okay. So did you talk -- did you talk to any
25 of the tugboats?



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1 A To my recollection, I didn't speak to anyone
2 from the tugboat.

3 Q Didn't -- did not? I'm just trying to clarify
4 about this, sir.

5 A Yes, sir. I do not recall speaking to anyone
6 from the tugboat. If I did, it may be to say, "go
7 ahead," but I don't recall.

8 Q All right. When the pilot got onboard your
9 vessel, was the pilot communicating with the tugboats?

10 A I don't know who he was talking to.

11 Q Do you know what the tugboats were ordered to
12 do when the Nomadic Milde was trying to become untangled
13 with the Atlantic Venus?

14 THE INTERPRETER: I'm going to ask him to
15 repeat his response.

16 A No, sir. I don't recall -- I don't recall
17 anything related to the tugboat.

18 MR. FREY: All right. That's all the questions
19 I have. Thank you very much, sir.

20 THE WITNESS: Thank you to you as well.

21 MR. HELD: We don't have any questions, Jim.

22 MR. BERCAW: I have nothing else either.

23 MR. HELD: Does anybody else -- do any of the
24 other attorneys have any questions? And are there
25 any objections to having Mr. Perez repatriated after



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1 today's deposition?

2 MR. BERCAW: No.

3 MR. FREY: No objection from us.

4 MR. HELD: Okay. Hearing no objections.

5 MR. HELD: I think that's it. We appreciate
6 it. Thank you, everybody.

7 COURT REPORTER: The time is 2:36 p.m. We are
8 going off the record.

9 (DEPOSITION CONCLUDED AT 2:36 P.M.)

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25 CERTIFICATE OF OATH



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STATE OF FLORIDA

COUNTY OF ORANGE

I, the undersigned, certify that the witness in the foregoing transcript personally appeared before me and was duly sworn.

Identification: Produced Identification

 _____

JODY LYNN PRALAT

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C E R T I F I C A T E

STATE OF FLORIDA)
COUNTY OF ORANGE)

I, JODY LYNN PRALAT, Court Reporter and Notary Public for the State of Florida at Large, do hereby certify that I was authorized to and did report the foregoing proceeding, and that said transcript is a true record of the testimony given by the witness.

I FURTHER CERTIFY that I am not of counsel for, related to, or employed by any of the parties or attorneys involved herein, nor am I financially interested in said action.

Submitted on: July 09, 2020.

 _____

JODY LYNN PRALAT
Court Reporter, Notary Public

ERRATA





July 9, 2020

Michael Butterworth, Esquire
Phelps Dunbar, LLP
Canal Place - Suite 2000
365 Canal Street
New Orleans, LA 70130

RE: Deposition of **Mark Perez and Vincent Abaricio** taken on **06/25/2020**
Cornerstone Chemical Company v M/V Nomadic Milde, IMO No. 9463554

Dear Mr. Butterworth,

IMPORTANT NOTICE FOR DEPOSITION TRANSCRIPT READ AND SIGN

It is suggested that the review of this transcript be completed within 30 days of your receipt of this letter,
as considered reasonable under Federal Rules*.

 x **Attorney - Copy of Transcript Enclosed:** Signature of the Deponent is required. Please have the deponent make any corrections/changes necessary on the Errata Sheet ONLY, sign name on the form where indicated. Please return ONLY the original signed Errata Sheet to our offices within 30 days from the date of this memorandum. If you have any questions, please call our offices.

 Attorney - No Copy Ordered: Since you did not request a copy of the transcript, it will be necessary for the Deponent to call our offices to arrange for an appointment to read and sign the transcript of the Deposition within 30 days of this memorandum.

 Deponent: At the time of your deposition, you did not waive your right to read and sign the transcript of your testimony, therefore, attached please find a copy of the transcript and Errata Sheet. Please read the transcript, make any corrections necessary on the Errata Sheet ONLY, sign the bottom of the Errata Sheet, and return it within 30 days from the date of this memorandum. Please call our offices if you have any questions.

 Deponent: At the time of your deposition, you did not waive your right to read and sign the transcript of your testimony, therefore, it is necessary for you to come to our offices to read and sign same. Please call Milestone Reporting Company to arrange for an appointment at your earliest convenience.

 The attached executed copies of the Errata Sheet(s) are sent to you for your files. If you have any questions, please call our offices.

Thank you for your attention to this matter.

No. 154704

cc: James Bercaw, Esquire
Timothy DePaula, Esquire
Kevin Frey, ESQ
Waiver:

I, **Mark Perez and Vincent Abaricio**, hereby waive the reading and signing of my deposition transcript.

Deponent Signature

Date

*Federal Civil Procedure Rule 30 (e) / Florida Civil Procedure Rule 1.310 (e)

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