

# EXHIBIT A

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
KEY WEST DIVISION

IN ADMIRALTY

CASE NO. 4:17-cv-10050

IN THE MATTER OF:  
THE COMPLAINT OF HORIZON  
DIVE ADVENTURES, INC., AS OWNER  
OF THE M/V PISCES (Hull Id# FVL31002F707)  
ITS ENGINES, TACKLE, APPURTENANCES,  
EQUIPMENT, ETC., IN A CAUSE FOR  
EXONERATION FROM OR LIMITATION OF  
LIABILITY,

Petitioner,

vs.

SANDRA STEWART, AS PERSONAL  
REPRESENTATIVE OF THE ESTATE OF  
ROBERT STEWART,

Respondent/Claimant.

VIDEO DEPOSITION OF  
DANIEL DAWSON

Taken on behalf of the Respondent/Claimant

Friday, May 4, 2018  
10:01 a.m. - 3:52 p.m.  
All Keys Reporting  
a U.S. Legal Support Company  
9701 Overseas Highway  
Marathon, Florida 33050

Examination of the witness taken before:  
Suzanne Ex, CVR-M, FPR

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<p style="text-align: center;">APPEARANCES</p> <p>On Behalf of the Petitioner:</p> <p>FERTIG &amp; GRAMLING 200 Southeast 13th Street Fort Lauderdale, Florida 33316 Telephone: 954.763.5020 / Fax: 954.763.5412 Chris.Fertig@fertig.com / DML@fertig.com BY: CHRISTOPHER R. FERTIG, ESQUIRE</p> <p>On Behalf of the Respondent/Claimant:</p> <p>THE HAGGARD LAW FIRM, P.A. 330 Alhambra Circle, First Floor Coral Gables, Florida 33134 Telephone: 305.446.5700 / Fax: 305.446.1154 ppe@haggardlawfirm.com / mah@haggardlawfirm.com BY: PEDRO P. ECHARTE III, ESQUIRE</p> <p>On Behalf of the Respondent/Claimant Sotis:</p> <p>KENNEDY'S AMERICAS, LLP 1395 Brickell Avenue, Suite 610 Miami, Florida 33131 Telephone: 305.438.7825 / Fax: 305.374.8066 Neil.Bayer@kennedyslaw.com BY: NEIL BAYER, ESQUIRE</p> <p>Also Present:</p> <p>CRAIG JENNI, CONSULTING EXPERT FOR PETITIONER</p> <p>ANDY CLARKE, VIDEOGRAPHER CHAMPION LEGAL 137 Madeira Avenue Coral Gables, Florida 33134 Telephone: 305.444.9279, Extension 203 andy@championlegal.com</p>	<p>1 Deposition taken before Suzanne Ex, Certified</p> <p>2 Verbatim Reporter, Florida Professional Reporter and</p> <p>3 Notary Public in and for the State of Florida at Large in</p> <p>4 the above cause.</p> <p>5 -----</p> <p>6 THE VIDEOGRAPHER: We are on the video record.</p> <p>7 This is the beginning. The time is 10:01 a.m. This</p> <p>8 is the video deposition of Daniel Dawson commencing</p> <p>9 today, Friday, May 4th, 2018, In The Matter Of: The</p> <p>10 Complaint of Horizon Dive Adventures, Inc., as</p> <p>11 Owners of the M/V Pisces, Hull ID FVL31002F707, its</p> <p>12 Engines, Tackle, Appurtenances, Equipment, et</p> <p>13 cetera, in Cause for Exoneration From or Limitation</p> <p>14 of Liability versus Sandra Stewart, as Personal</p> <p>15 Representative of the Estate of Robert Stewart.</p> <p>16 We are at All Keys Reporting, 9701 Overseas</p> <p>17 Highway in Marathon, Florida, 33050. The court</p> <p>18 reporter is Sue Ex. The videographer is Andy Clarke</p> <p>19 of Champion Legal. Will counsel state their</p> <p>20 appearances for the record.</p> <p>21 MR. ECHARTE: Pedro Echarte on behalf of the</p> <p>22 Claimant Sandra Stewart.</p> <p>23 MR. FERTIG: Chris Fertig on behalf of</p> <p>24 Petitioner Horizon Dive Adventures as Owner of the</p> <p>25 M/V Pisces.</p>
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<p>1 INDEX OF PROCEEDINGS PAGE</p> <p>2 -----</p> <p>3 Video Deposition of DANIEL DAWSON</p> <p>4 Direct Examination by Mr. Echarte ..... 5</p> <p>5 Certificate of Oath ..... 274</p> <p>6 Certificate of Reporter ..... 275</p> <p>7 Read Letter ..... None - Waived</p> <p>8 Errata Sheet ..... None - Waived</p> <p>9 -----</p> <p>10 CLAIMANT EXHIBITS Page</p> <p>11 No. 1 MCSO Offense Report ..... 14</p> <p>12 No. 2 Daniel Dawson Dive Credentials ..... 26</p> <p>13 No. 3 David D. Wilkerson Dive Credentials .... 31</p> <p>14 No. 4 Robert L. Steele Dive Credentials .... 31</p> <p>15 No. 5 Pisces Safety Drill &amp; Maintenance Log ... 65</p> <p>16 No. 6 Horizon Employee Handbook ..... 83</p> <p>17 No. 7 Mate's Duties &amp; Responsibilities ..... 84</p> <p>18 No. 8 Captain's Duties &amp; Responsibilities .... 84</p> <p>19 No. 9 Emergency Action Plan ..... 84</p> <p>20 No. 10 Missing Diver/Passenger/Boater ..... 84</p> <p>21 No. 11 E-mail Communications ..... 151</p> <p>22 No. 12 Text Message Communications ..... 155</p> <p>23 No. 13 Complete Liability Release Forms ..... 167</p> <p>24 No. 14 Manifest ..... 210</p> <p>25 No. 15 GPS Coordinate/Dive Profile Packet .... 218</p>	<p>1 MR. BAYER: Neil Bayer on behalf of Peter</p> <p>2 Sotis.</p> <p>3 THE VIDEOGRAPHER: Court reporter, please swear</p> <p>4 in the witness.</p> <p>5 THE COURT REPORTER: Would you raise your right</p> <p>6 hand, please. Do you swear or affirm the testimony</p> <p>7 you're giving in this cause will be the whole truth</p> <p>8 and nothing but the truth?</p> <p>9 THE WITNESS: Yes, I do.</p> <p>10 THEREUPON,</p> <p>11 DANIEL DAWSON</p> <p>12 having been first duly sworn, was examined and testified</p> <p>13 as follows:</p> <p>14 DIRECT EXAMINATION</p> <p>15 BY MR. ECHARTE:</p> <p>16 Q. Can you state your name for the record, sir.</p> <p>17 A. Yes. My name is Daniel Dawson.</p> <p>18 MR. ECHARTE: And before we proceed, I just</p> <p>19 want to put on the record that a individual by the</p> <p>20 name of Craig Jenni has been brought here by the</p> <p>21 attorney for Horizon Dive Adventures. Mr. Jenni was</p> <p>22 involved in the recovery of Robert Stewart's body.</p> <p>23 I'm objecting to his presence here, but I know that</p> <p>24 Mr. Fertig has brought him along.</p> <p>25 MR. FERTIG: I will state the reason for</p>

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<p>1 Mr. Jenni is that he is my consulting expert, and I</p> <p>2 do not believe that anything that Mr. Jenni did as</p> <p>3 to volunteer his services to recover the body of</p> <p>4 Mr. Stewart has anything to do with any issue and</p> <p>5 limitation which specifically is the privy or</p> <p>6 knowledge of the owner of what actually caused the</p> <p>7 death.</p> <p>8 So, unless we have a court order, we're going</p> <p>9 to continue to have my consulting expert present at</p> <p>10 these depositions so he can assist me in preparing</p> <p>11 the case. Thank you.</p> <p>12 BY MR. ECHARTE:</p> <p>13 Q. Could you please state your name for the</p> <p>14 record.</p> <p>15 A. Yes. My name is Daniel Dawson.</p> <p>16 Q. Do you have a middle name?</p> <p>17 A. Michael.</p> <p>18 Q. Is your address 1031 Northeast 36th Avenue in</p> <p>19 Homestead?</p> <p>20 A. Yes, sir. That is correct.</p> <p>21 Q. And you are the president of Horizon Dive</p> <p>22 Adventures, Incorporated?</p> <p>23 A. I am the president of Horizon Divers</p> <p>24 Incorporated.</p> <p>25 Q. And where is that corporation or business</p>	<p>1 a captain of a charter sailboat for about four and-a-half</p> <p>2 years. At that time, I also was a captain of -- and an</p> <p>3 instructor at a dive shop down there when I was not on</p> <p>4 charter on my boat.</p> <p>5 Q. Okay. So is it fair to say you first became a</p> <p>6 dive instructor in 2000?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And prior to that, you already had your</p> <p>9 captain's credentials?</p> <p>10 A. Yes.</p> <p>11 Q. How long did you have those for? When did you</p> <p>12 first obtain those?</p> <p>13 A. I obtained my cap -- my six-pack captain's</p> <p>14 license in early 1998. And then I got my masters on, I</p> <p>15 believe it was later in 1998 as well.</p> <p>16 Q. And, I'm sorry. The two licenses were?</p> <p>17 A. First one was a six-pack, OUPV. And then the</p> <p>18 second one is the masters license.</p> <p>19 Q. Tell me what the first license allows you to</p> <p>20 do.</p> <p>21 A. The first license allows you to run a boat with</p> <p>22 a maximum of six paying passengers.</p> <p>23 Q. And the second credential?</p> <p>24 A. It allows you to run an inspected vessel.</p> <p>25 Q. And the Pisces, which we're here discussing</p>
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<p>1 located?</p> <p>2 A. Horizon Dive Adventures, Incorporated, is</p> <p>3 located in Key Largo, Florida.</p> <p>4 Q. What's the address?</p> <p>5 A. 105800 Overseas Highway, Key Largo.</p> <p>6 Q. Did you start that company?</p> <p>7 A. I did not.</p> <p>8 Q. Okay. When did you first become involved with</p> <p>9 that company?</p> <p>10 A. I purchased the company March 15th, 2005.</p> <p>11 Q. Are you the sole owner?</p> <p>12 A. I am, yes.</p> <p>13 Q. Have you been the sole owner since March 15,</p> <p>14 2005?</p> <p>15 A. Yes, I have been the sole owner since then.</p> <p>16 Q. What did you do before that?</p> <p>17 A. I was a very small partner in a construction</p> <p>18 firm in Denver, Colorado.</p> <p>19 Q. Prior to purchasing Horizon Dive Adventures on</p> <p>20 March 15, 2005, did you have any experience or did you</p> <p>21 ever work in the dive industry?</p> <p>22 A. Yes, sir. I did.</p> <p>23 Q. Okay. Tell me about that experience.</p> <p>24 A. I became a dive instructor in 2000 in Saint</p> <p>25 Thomas, the U.S. Virgin Islands, when I was down there as</p>	<p>1 today, that's an inspected vessel, correct?</p> <p>2 A. It is.</p> <p>3 Q. Have you ever been convicted of a felony?</p> <p>4 A. No, sir.</p> <p>5 Q. Have you ever been convicted of a crime of</p> <p>6 dishonesty?</p> <p>7 A. No, sir.</p> <p>8 Q. Tell me a little bit about your educational</p> <p>9 background, separate and apart from your professional</p> <p>10 licenses and certifications?</p> <p>11 A. Well, I graduated high school in 1990 and I</p> <p>12 attended Metro State College in downtown Denver for two</p> <p>13 years.</p> <p>14 Q. Are you originally from Colorado?</p> <p>15 A. I've lived all over but most of my life in</p> <p>16 Colorado, yes.</p> <p>17 Q. Did you -- and, I'm sorry. When did you</p> <p>18 graduate from Metro State College?</p> <p>19 A. I didn't graduate from Metro State College. I</p> <p>20 attended there from 1990, the fall of 1990 to the spring</p> <p>21 of '92.</p> <p>22 Q. What were you studying?</p> <p>23 A. Biology.</p> <p>24 Q. Did you review any documents to prepare for</p> <p>25 today's deposition?</p>

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<p>1 A. Yes, sir.</p> <p>2 Q. What documents did you review?</p> <p>3 A. Mostly communications between myself and the</p> <p>4 Sharkwater team. Mostly Brock.</p> <p>5 Q. That would have been e-mails?</p> <p>6 A. E-mails, and there were some texts involved as</p> <p>7 well.</p> <p>8 Q. Have you reviewed any other documents in</p> <p>9 preparation for today's deposition?</p> <p>10 A. Just some of the, you know, boating paperwork,</p> <p>11 you know, COI, stuff like that, just in case, you know,</p> <p>12 just going over that paperwork there.</p> <p>13 Q. Let's go through the boating paperwork.</p> <p>14 You said COI. That's a certificate of</p> <p>15 inspection?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And I assume that pertained to the Pisces?</p> <p>18 A. Yes, sir.</p> <p>19 Q. What other boating paperwork did you review?</p> <p>20 A. Stability letter, registration in Monroe</p> <p>21 County.</p> <p>22 Q. Any other documents reviewed in advance of</p> <p>23 today's deposition?</p> <p>24 A. No, sir.</p> <p>25 Q. Have you reviewed any documents in connection</p>	<p>1 just refer to it as Horizon Divers?</p> <p>2 A. Yes.</p> <p>3 Q. We'll know what we're talking about, right?</p> <p>4 A. That's -- that's what we are pretty much</p> <p>5 called, not our corporate name, yes.</p> <p>6 Q. Has Horizon Divers ever been a plaintiff in a</p> <p>7 lawsuit?</p> <p>8 A. No.</p> <p>9 Q. Have you?</p> <p>10 A. No.</p> <p>11 Q. On January 31st, 2017, you managed the</p> <p>12 operations of Horizon Divers, correct?</p> <p>13 A. Yes, sir. I was -- I am the manager and owner</p> <p>14 and president of the corporation.</p> <p>15 Q. One of the documents I received in response to</p> <p>16 my request for production was an employee handbook.</p> <p>17 A. Yes.</p> <p>18 Q. Or employee manual. It refers to management.</p> <p>19 Back on January 31st, 2017, who was considered</p> <p>20 management at Horizon Divers?</p> <p>21 A. Myself.</p> <p>22 Q. No other managers?</p> <p>23 A. No.</p> <p>24 Q. Do you know an individual by the name of Joe</p> <p>25 Duada (phonetic)?</p>
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<p>1 with this case since January 31st, 2017?</p> <p>2 A. Just when I was preparing the discovery from</p> <p>3 information asked to me pertaining to the company. Just,</p> <p>4 yeah, besides that, giving that information at that time</p> <p>5 Since then, no.</p> <p>6 Q. Okay. And I've already put on the record that</p> <p>7 Mr. Jenni is sitting across from me. You know Mr. Jenni,</p> <p>8 correct?</p> <p>9 A. Yes, sir. I do.</p> <p>10 Q. Okay. And, in fact, during the recovery</p> <p>11 efforts of Robert Stewart's body, Mr. Jenni was on the</p> <p>12 Pisces?</p> <p>13 A. Yes, he was.</p> <p>14 Q. Okay. And Mr. Jenni was also one of the two or</p> <p>15 three divers that dove down to recover Robert Stewart's</p> <p>16 body, correct?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And you were on the vessel at that time?</p> <p>19 A. I was, yes.</p> <p>20 Q. Have -- has Horizon Dive Adventures ever been</p> <p>21 sued before?</p> <p>22 A. No. No, sir.</p> <p>23 Q. Have you ever been sued before?</p> <p>24 A. No, sir.</p> <p>25 Q. Have -- has Horizon Divers -- is it okay if I</p>	<p>1 A. Joe Dauda?</p> <p>2 Q. Yes.</p> <p>3 A. Yes. He was the previous owner of Horizon</p> <p>4 Divers. He's the gentleman, him and his wife Bobbie</p> <p>5 Dauda, are the couple that I bought the business from.</p> <p>6 Q. Do they have any involvement -- did they have</p> <p>7 any involvement with Horizon Divers on January 31st,</p> <p>8 2017?</p> <p>9 A. No, sir.</p> <p>10 Q. Have you reviewed the Monroe County Sheriff's</p> <p>11 Office Offense Report pertaining to this incident? I'm</p> <p>12 going to --</p> <p>13 A. If I may see that.</p> <p>14 MR. ECHARTE: And, Neil, I'm sorry, I only</p> <p>15 brought one extra copy of things so if you need me</p> <p>16 to slow down so you guys can share, just let me</p> <p>17 know.</p> <p>18 MR. BAYER: You just have one. I can look</p> <p>19 afterward.</p> <p>20 MR. ECHARTE: I have one for the witness.</p> <p>21 MR. FERTIG: Okay. I'm just letting him look</p> <p>22 at it as you're --</p> <p>23 MR. ECHARTE: Yeah. I just brought a -- I'm</p> <p>24 going to mark this. I'm going to mark this Monroe</p> <p>25 County Sheriff's Office Offense Report as Claimant's</p>

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<p>1 Exhibit 1 to Mr. Dawson's deposition.  2 (Claimant's Exhibit Number 1 was marked.)  3 Q. Please take a look at this. Let me know if  4 you've seen this before.  5 A. No, sir. I have not ever seen this before.  6 Q. Okay. This is an offense incident report or  7 offense report that I received from Monroe County  8 Sheriff's Office pertaining to the drowning and death of  9 Robert Stewart.  10 On page seven of twelve, there's reference to  11 conversations between an officer and someone who held  12 themselves out to be the owner of the vessel and the dive  13 company at Caloosa Cove Marina. It's listed as Joe --  14 how do you pronounce his last name?  15 A. Dauda.  16 Q. Dauda. Was he -- do you recall seeing him at  17 Caloosa cove Marina at all throughout this?  18 A. No.  19 Q. Okay. Were you --  20 A. I did not.  21 Q. Were you at Caloosa Cove Marina?  22 A. Yes, sir.  23 Q. Okay. And you represented yourself, I assume,  24 if you were talking to any law-enforcement entities, as  25 the owner of Horizon Divers?</p>	<p>1 Q. Concerning this case, correct?  2 A. I haven't heard from Joe Dauda since 2005.  3 Q. Okay. Do you have any ownership interest in  4 any other companies?  5 A. Yes.  6 Q. What are those?  7 A. Sailor Ventures, Inc.  8 Q. I'm sorry?  9 A. Sailor Ventures, LL -- it's Sailor Ventures,  10 LLC.  11 Q. Okay. And what kind of company is that?  12 A. It's just another company that my dad and I  13 own. He owns some property so he put me on there as a  14 member of the LLC in case anything ever happened to him,  15 I could still take care of the business that needed to be  16 taken care of.  17 Q. Is that a real estate business then?  18 A. Yeah.  19 Q. What is -- any other entities?  20 A. No.  21 Q. What is Horizon Divers Instructor Development  22 Center, LLC?  23 A. That is a -- another, I'm another member of  24 that as well and right now, I believe I'm the sole member  25 of that. That is a LLC that we started as a PADI diving</p>
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<p>1 A. Yes, sir. I arrived there before anybody else  2 did. And when they arrived, I introduced myself as the  3 owner.  4 Q. And you're referring to on January 31st?  5 A. January 31st.  6 Q. Okay. Take a look through this and maybe they  7 just got the information based off some -- well, I don't  8 want to speculate where they got the name from. But tell  9 me if this is a conversation that you recall having and  10 maybe the name is just incorrect.  11 A. I do recall this conversation --  12 Q. Okay.  13 A. -- that's listed here on page seven.  14 Q. Okay. And so, is it fair to assume that that  15 was a conversation that you had as the owner of Horizon  16 Divers with law enforcement?  17 A. Yes.  18 Q. Okay. And you were certainly, as we already  19 discussed, the owner of the vessel and the dive company  20 on January 31st, 2017?  21 A. Yes, sir.  22 Q. And Mr. Dauda, I assume, had no conversations  23 with the captain, who in this case was David Wilkerson,  24 around that time?  25 A. No.</p>	<p>1 facility for instructor training.  2 PADI, which is the Professional Association of  3 Dive Instructors, at the time we were setting this up,  4 needed it to be separate from our dive company, in their  5 eyes, as the instruction.  6 Q. And your dive company that you're referring to  7 is Horizon Divers?  8 A. Horizon Divers, yes.  9 Q. Okay. Is that, is Horizon Divers Instructor  10 Development Center, LLC, still in operation?  11 A. It is.  12 Q. Does that have a different business address  13 than Horizon Divers?  14 A. No, sir. It does not.  15 Q. We can agree that on January 31st, 2017,  16 Horizon Dive Adventures, Incorporated, owned the Pisces,  17 correct?  18 A. Yes.  19 Q. When did Horizon Divers purchase that vessel?  20 A. I believe it was purchased in August of 2007.  21 Q. How much was it purchased for?  22 A. About a hundred-and-sixty-five, hundred-and-  23 sixty-eight-thousand dollars, roughly.  24 Q. Has Horizon Divers done any major repair work  25 or maintenance work to that vessel?</p>

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<p>1 A. Besides normal engine stuff over time?</p> <p>2 Q. Yes.</p> <p>3 A. Ten years old. I think we've replaced the</p> <p>4 transmission after five or six years of use, and normal</p> <p>5 parts and pieces and things like that. Besides that, no.</p> <p>6 Q. The engines have not been replaced?</p> <p>7 A. Parts of them have but not the whole engine,</p> <p>8 no.</p> <p>9 Q. Horizon Divers owns other vessels?</p> <p>10 A. We do own another vessel, yes.</p> <p>11 Q. What is the name of the other vessel?</p> <p>12 A. Cheeca View. C-h-e-e-c-a, separate word, View.</p> <p>13 Q. What kind of -- what's -- who made that boat?</p> <p>14 A. It's a 45-foot Corinthian Catamaran.</p> <p>15 Q. When was that purchased?</p> <p>16 A. That was purchased for me when I bought the</p> <p>17 business in 2005. That was part of the business</p> <p>18 transaction.</p> <p>19 Q. And Horizon Divers owned that vessel on</p> <p>20 January 31st, 2017?</p> <p>21 A. Yes.</p> <p>22 Q. And it still owns that vessel?</p> <p>23 A. Yes.</p> <p>24 Q. And we can agree that both the vessels, the</p> <p>25 Pisces and the Cheeca View, operated under a certificate</p>	<p>1 Q. Okay.</p> <p>2 A. Myself, Daniel Dawson.</p> <p>3 Q. Okay.</p> <p>4 A. And that's it, at that time.</p> <p>5 Q. And, okay. So that was in addition to David</p> <p>6 Wilkerson, correct?</p> <p>7 A. Yes.</p> <p>8 Q. How was it determined what captain would be</p> <p>9 assigned to a particular dive excursion?</p> <p>10 A. Dependent on the day. We have two boats. Troy</p> <p>11 and David are our main captains. So Troy would -- has</p> <p>12 been around for a long time with me so he drove the</p> <p>13 bigger boat which is Cheeca View. And on those -- just</p> <p>14 happened that the scheduling on those two days, David was</p> <p>15 the captain of Pisces.</p> <p>16 Q. Okay. So is it based on -- and I just want to</p> <p>17 clarify this a little bit.</p> <p>18 Is it based on captain availability? Is it</p> <p>19 based on the fact that Wilkerson primarily worked on the</p> <p>20 Pisces and Troy primarily worked on Cheeca View?</p> <p>21 A. I believe it was just that time and that day</p> <p>22 that David was the captain assigned to Pisces.</p> <p>23 Q. Was the Cheeca View chartered out that day?</p> <p>24 A. Yes.</p> <p>25 Q. Okay.</p>
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<p>1 of inspection issued by the United States Coast Guard?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And that -- sorry, strike that.</p> <p>4 Back on January of 2017, David Wilkerson worked</p> <p>5 as a captain on Horizon Divers vessels?</p> <p>6 A. Yes.</p> <p>7 Q. He was the captain of the Pisces on the date</p> <p>8 that Robert Stewart went missing, correct?</p> <p>9 A. Yes, he was.</p> <p>10 Q. Did Horizon Divers utilize any other captains</p> <p>11 around that time, or masters?</p> <p>12 A. For driving any one of our boats?</p> <p>13 Q. Yes.</p> <p>14 A. Yes.</p> <p>15 Q. Back in January, back on January 31st, 2017,</p> <p>16 what other captains did Horizon Divers use on its</p> <p>17 vessels?</p> <p>18 A. Troy Wheatley.</p> <p>19 Q. Troy. How do you spell his last name?</p> <p>20 A. W-h-e-a-t-l-e-y.</p> <p>21 Q. W-h --</p> <p>22 A. -- e-a-t-l-e-y.</p> <p>23 Q. Okay. Thank you.</p> <p>24 Any others?</p> <p>25 A. Jeff Knapp.</p>	<p>1 A. It was chartered out to another location.</p> <p>2 Q. And who was driving the boat that day or who</p> <p>3 was the master of the Cheeca View on January 31st, 2017?</p> <p>4 A. Troy Wheatley.</p> <p>5 Q. Was Cheeca View also chartered out on</p> <p>6 January 30th, 2017?</p> <p>7 A. Yes.</p> <p>8 Q. And who was the captain or master?</p> <p>9 A. Troy Wheatley.</p> <p>10 Q. Okay. And I should have done this at the</p> <p>11 beginning and I apologize.</p> <p>12 Have you ever given a deposition before?</p> <p>13 A. Once before.</p> <p>14 Q. Okay. How long ago was that?</p> <p>15 A. Not quite a year.</p> <p>16 Q. Was that in connection with Horizon Divers in</p> <p>17 any way?</p> <p>18 A. No.</p> <p>19 Q. It was a personal matter?</p> <p>20 A. Yeah.</p> <p>21 Q. Okay. Let me go through some ground rules very</p> <p>22 quickly.</p> <p>23 A. Sure.</p> <p>24 Q. If you need to take any breaks at any point in</p> <p>25 time, just let me know. We can take as many breaks as</p>



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<p>1 you need. We're going to be here for a while today.</p> <p>2 A. Uh-huh.</p> <p>3 Q. But if you need to use the restroom, get fresh</p> <p>4 air, just let me know. The only exception to that is if</p> <p>5 I've asked you a question, I'm just going to ask that you</p> <p>6 answer before we step out, okay?</p> <p>7 A. No problem.</p> <p>8 Q. If you don't understand a question, please let</p> <p>9 me know that you don't understand it so I can do my best</p> <p>10 to rephrase it, okay?</p> <p>11 A. Yes.</p> <p>12 Q. If you answer, we're all going to assume that</p> <p>13 you understood the question, okay?</p> <p>14 A. Yes.</p> <p>15 Q. If you don't know the answer to a question,</p> <p>16 just let me know that you don't know, all right?</p> <p>17 A. Yes.</p> <p>18 Q. That's a perfectly fine response. I may ask</p> <p>19 you to estimate in terms of time frames or distances,</p> <p>20 things of that nature. Just let us know you're</p> <p>21 estimating if that's the case, if you can.</p> <p>22 A. Sure.</p> <p>23 Q. Okay?</p> <p>24 A. Okay.</p> <p>25 Q. The last two rules are, she has to take down</p>	<p>1 A. Off my head, no.</p> <p>2 Q. You would have records of that as well?</p> <p>3 A. Yes.</p> <p>4 Q. Other than simply availability -- and correct</p> <p>5 me if I'm misrepresenting your testimony. I'm just</p> <p>6 trying to synthesize it a little bit.</p> <p>7 Other than availability and the fact that</p> <p>8 Mr. Wilkerson traditionally operated the Pisces and</p> <p>9 Mr. Wheatley normally operated the Cheeca View, was there</p> <p>10 any other considerations or factors that went into your</p> <p>11 decision on what captain to place on what vessel?</p> <p>12 A. Not really, no.</p> <p>13 Q. Would you factor in the type of diving that was</p> <p>14 going to be performed?</p> <p>15 A. No.</p> <p>16 Q. Would you factor in the qualifications of the</p> <p>17 captains, other than the fact they were simply licensed</p> <p>18 captains?</p> <p>19 A. No.</p> <p>20 Q. Was the captain permitted to select the deck</p> <p>21 hand that would be assisting him on a given day?</p> <p>22 A. At times, we may have that discussion. But</p> <p>23 most of the time, there was a schedule of deck hands for</p> <p>24 either boat on whatever day of the week that may be.</p> <p>25 Q. Okay. Tell me a little bit about that.</p>
Page 23	Page 25
<p>1 everything we say, and I've never seen this contraption</p> <p>2 before. Normally, it's someone typing it. But just</p> <p>3 let's do our best not to talk over each other. Most of</p> <p>4 the time, you're going to know where I'm going with my</p> <p>5 question but just wait until I finish it so we don't</p> <p>6 drive her too crazy, okay?</p> <p>7 A. Yes.</p> <p>8 Q. Troy Wheatley was the captain on the Cheeca</p> <p>9 View on both January 30th, 2017 and January 31st, 2017?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Did David Wilkerson ever operate the Cheeca</p> <p>12 View as a captain or master?</p> <p>13 A. Yes.</p> <p>14 Q. Where was the Cheeca View on January 31st,</p> <p>15 2017? What type of diving or site was it at?</p> <p>16 A. I believe it was a shallow reef but I could, I</p> <p>17 could be wrong. It could be one of our other wrecks and</p> <p>18 stuff like that. I really don't know.</p> <p>19 Q. Would you have records of that?</p> <p>20 A. Yes, we would.</p> <p>21 Q. Was there any other crew members aboard the</p> <p>22 Cheeca View on January 30th, 2017 and January 31st, 2017,</p> <p>23 other than Mr. Wheatley?</p> <p>24 A. There would have been a deck hand.</p> <p>25 Q. Do you know who that deck hand was?</p>	<p>1 Was there -- did deck hands work on certain</p> <p>2 days?</p> <p>3 A. Most of my deck hands are also instructors.</p> <p>4 Q. Okay.</p> <p>5 A. So it would fall down onto the schedule as if</p> <p>6 there was an instructor teaching a class, another person</p> <p>7 would step in as deck hand on that day. So we usually</p> <p>8 schedule it out the week before to double check, to make</p> <p>9 sure that there's always a deck hand on board the boat at</p> <p>10 any given time.</p> <p>11 Q. So, similar to the captain, the selection of</p> <p>12 the captain and master, the deck hand was primarily based</p> <p>13 on who was available and --</p> <p>14 A. Yes.</p> <p>15 Q. -- scheduling matters of that nature, correct?</p> <p>16 A. Yes, yes.</p> <p>17 Q. Not based on diving qualifications, correct?</p> <p>18 A. No.</p> <p>19 Q. Not based on familiarity with certain dive</p> <p>20 sites?</p> <p>21 A. No.</p> <p>22 Q. Robert Steele was the deck hand on the Pisces</p> <p>23 on January 30th, 2017?</p> <p>24 A. Yes.</p> <p>25 Q. And Robert Steele was also the deck hand on the</p>



<p style="text-align: right;">Page 26</p> <p>1 Pisces on January 31st, 2017, correct?</p> <p>2 A. He was on board the boat, yes.</p> <p>3 Q. We've talked a little bit about your diving</p> <p>4 background and the fact that you were first certified, I</p> <p>5 believe, in 2000, you said?</p> <p>6 A. That's when I became an instructor.</p> <p>7 Q. When did you first start diving?</p> <p>8 A. I first started diving in 1994.</p> <p>9 Q. And I've been provided your diving</p> <p>10 certifications and you've obtained several certifications</p> <p>11 since 1994, correct?</p> <p>12 A. Yes.</p> <p>13 Sorry.</p> <p>14 Q. No problem. And again, if you need any breaks,</p> <p>15 just let me know.</p> <p>16 A. Okay.</p> <p>17 MR. ECHARTÉ: I'm going to mark this as</p> <p>18 Claimant's Exhibit 2. Providing opposing counsel</p> <p>19 with an extra copy.</p> <p>20 (Claimant's Exhibit Number 2 was marked.)</p> <p>21 Q. Could you please take a look through that, and</p> <p>22 then I'm going to ask you a few questions regarding it.</p> <p>23 You have a chance to review that?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Okay. These are, it appears to me, a list of</p>	<p style="text-align: right;">Page 28</p> <p>1 organization.</p> <p>2 Q. In terms of, like --</p> <p>3 A. Police officers, fire department.</p> <p>4 Q. Okay.</p> <p>5 A. SDI, TDI, ERDI are all encompassing</p> <p>6 international training.</p> <p>7 Q. And you also mentioned PADI, correct?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And what does PADI stand for?</p> <p>10 A. Professional Association Dive Instructors.</p> <p>11 Q. Now, you, through Horizon Divers, you provide</p> <p>12 training -- or, I'm sorry. You, you can certify divers,</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. And are those certifications through these dive</p> <p>16 entities that we've already -- or, dive certification</p> <p>17 agencies?</p> <p>18 A. Those are the agencies that we teach through,</p> <p>19 yes.</p> <p>20 Q. Do you have any IANTD credentials?</p> <p>21 A. I used to, years ago.</p> <p>22 Q. Okay. When was that?</p> <p>23 A. I haven't renewed them in probably five or six</p> <p>24 years.</p> <p>25 Q. When did you first get them?</p>
<p style="text-align: right;">Page 27</p> <p>1 your diving credentials, correct?</p> <p>2 A. Yes.</p> <p>3 Q. And there's also, on page five, I believe, of</p> <p>4 this composite exhibit or this exhibit, I should say,</p> <p>5 your captain's credentials?</p> <p>6 A. Yes.</p> <p>7 Q. And then the next page, what is that?</p> <p>8 A. The TWIC card.</p> <p>9 Q. Okay. And then the last page, that's more of</p> <p>10 your diving credentials? That's the actual cards?</p> <p>11 A. Yes, sir.</p> <p>12 Q. It appears the majority of these are through</p> <p>13 SDI -- or, the majority of your diving qualifications are</p> <p>14 through SDI, TDI and ERDI?</p> <p>15 A. As well as PADI.</p> <p>16 Q. Okay. What is SDI?</p> <p>17 A. Scuba Diving International.</p> <p>18 Q. What is TDI?</p> <p>19 A. Tech Diving International.</p> <p>20 Q. And ERDI?</p> <p>21 A. ERDI, if I remember correctly, is -- basically,</p> <p>22 it's a public safety. I can't remember exactly what ERDI</p> <p>23 stands for.</p> <p>24 Q. Okay. What do you mean by public safety?</p> <p>25 A. It's a public safety diving training</p>	<p style="text-align: right;">Page 29</p> <p>1 A. Some of my original dive instructor, tech</p> <p>2 diving credential back in 2007, 2008, were IANTD.</p> <p>3 Q. So you started technical diving in 2007, 2008?</p> <p>4 A. My first one was in 2006, yes.</p> <p>5 Q. And why did you do it through IANTD?</p> <p>6 A. The instructor that I knew at the time.</p> <p>7 Q. Who was that?</p> <p>8 A. Danny Donagan.</p> <p>9 Q. It was not Peter Sotis?</p> <p>10 A. It was not. I have taken a class through Peter</p> <p>11 Sotis, though.</p> <p>12 Q. When was that?</p> <p>13 A. I don't remember the exact date.</p> <p>14 Q. What kind of class?</p> <p>15 A. Those would have been in advance rec.</p> <p>16 Q. And was this through his company Add Helium?</p> <p>17 A. No.</p> <p>18 Q. Where did you take his class?</p> <p>19 A. Through my shop. He came down to my shop and</p> <p>20 did it.</p> <p>21 Q. Did he certify anyone else?</p> <p>22 A. Troy Wheatley was in the class with me.</p> <p>23 Q. Now, there's a difference between recreational</p> <p>24 diving and technical diving, correct?</p> <p>25 A. Yes, sir.</p>

<p style="text-align: right;">Page 30</p> <p>1 Q. It's my understanding, and correct me if I'm</p> <p>2 wrong, I'm not a diver, but technical diving can mean a</p> <p>3 couple different things, correct?</p> <p>4 A. It's still a recreational style of diving but,</p> <p>5 yes, it is a little more advanced than going out to a</p> <p>6 reef.</p> <p>7 Q. Now understood. So technical diving is a more</p> <p>8 advanced form of recreational diving, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And it can be considered technical based on the</p> <p>11 depth of the dive, correct?</p> <p>12 A. And also the time or duration spent under</p> <p>13 water.</p> <p>14 Q. And can it also be considered technical based</p> <p>15 on the type of equipment utilized?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. For example, rebreathers, those are</p> <p>18 considered technical dive equipment, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Traditional recreational diving, that is</p> <p>21 generally just what we all see in the movies, scuba</p> <p>22 diving where the bubbles come out of the regulator?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Troy Wheatley is a certified technical</p> <p>25 diver?</p>	<p style="text-align: right;">Page 32</p> <p>1 Mr. Wilkerson's credentials, diving credentials and</p> <p>2 captain's credentials, these were the documents I was</p> <p>3 provided.</p> <p>4 As you sit here today are you aware of any</p> <p>5 course or certification that he may not -- that he may</p> <p>6 have that is not listed on what is --</p> <p>7 A. These are his professional credentials.</p> <p>8 Q. Okay.</p> <p>9 A. Diver-level credentials, I do not have.</p> <p>10 Q. Okay. What's the difference between a</p> <p>11 professional credential and a diver-level credential?</p> <p>12 A. A professional diver credential would be an</p> <p>13 instructor or a dive master.</p> <p>14 Q. And the reason they were listed -- because you</p> <p>15 have several technical diving credentials listed in</p> <p>16 Claimant's Exhibit 2, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And the reason they're listed here is</p> <p>19 because they're professional diving credentials, I</p> <p>20 assume?</p> <p>21 A. Yes.</p> <p>22 Q. Based on your testimony --</p> <p>23 A. Oh, but on that one is also my recreational or</p> <p>24 my non-professional level as well.</p> <p>25 Q. Understood. You don't have, Horizon Divers</p>
<p style="text-align: right;">Page 31</p> <p>1 A. He is.</p> <p>2 Q. Okay. And so are you, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And so is Jeff Knapp, correct?</p> <p>5 A. Yes.</p> <p>6 Q. David Wilkerson is not, though, right?</p> <p>7 A. I believe he is a -- not to a -- at some level,</p> <p>8 he is, but not very advanced. He's a very basic</p> <p>9 technical diver.</p> <p>10 Q. Okay. And I was going to do this in a moment</p> <p>11 but we might as well just do it now. I have his diving</p> <p>12 credentials here as well.</p> <p>13 I'm going to mark Mr. Wilkerson's diving</p> <p>14 credentials, which were provided by your attorneys, as</p> <p>15 Claimant's Exhibit 3 to this deposition; and Mr. Steel's</p> <p>16 credentials as Plaintiff's Exhibit -- Claimant's Exhibit</p> <p>17 4 to this deposition.</p> <p>18 (Claimant's Exhibits 3 and 4 were marked.)</p> <p>19 That's Claimant's Exhibit 3 that I'll pass you,</p> <p>20 and this is Claimant's Exhibit 4.</p> <p>21 Which of Mr. Wilkerson's credentials on -- in,</p> <p>22 within Claimant's Exhibit 3, are considered technical</p> <p>23 diving credentials?</p> <p>24 A. None of them on any of this paper.</p> <p>25 Q. Okay. This was -- when I asked for</p>	<p style="text-align: right;">Page 33</p> <p>1 does not have information on David Wilkerson's personal</p> <p>2 diving credentials?</p> <p>3 A. No, sir.</p> <p>4 Q. Okay.</p> <p>5 A. All I -- all I need to know is his</p> <p>6 professional.</p> <p>7 Q. Now, Mr. Steele's credentials and</p> <p>8 qualifications in Claimant's Exhibit 4, does he have any</p> <p>9 technical diving credentials listed on these sheets?</p> <p>10 A. No, sir.</p> <p>11 Q. And again, you would not have Mr. Steele's</p> <p>12 personal diving credentials, correct?</p> <p>13 A. I would not, no.</p> <p>14 Q. You'll agree with me that there are more risks</p> <p>15 associated with technical diving, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Technical diving requires more training than</p> <p>18 simple recreational diving, correct?</p> <p>19 A. Yes, it does.</p> <p>20 Q. You're qualified to teach technical diving in</p> <p>21 different areas, correct?</p> <p>22 A. Yes. Open circuit and some rebreathers, yes.</p> <p>23 Q. And that's closed-circuit rebreathers?</p> <p>24 A. Closed-circuit rebreathers.</p> <p>25 Q. And that's the type of equipment that Robert</p>

<p style="text-align: right;">Page 34</p> <p>1 Stewart was utilizing on January 30th and 31st, correct?</p> <p>2 A. That is the type of equipment he was using.</p> <p>3 Q. Mr. Wilkerson is not qualified to teach</p> <p>4 rebreather diving, correct?</p> <p>5 A. No, he is not.</p> <p>6 Q. Does -- do you know, as you sit here today,</p> <p>7 even though you don't, may not have the actual paperwork,</p> <p>8 do you know if he has any rebreathing or rebreather</p> <p>9 experience as a personal diver?</p> <p>10 A. No, he does not.</p> <p>11 Q. Does Robert Steele have any experience with</p> <p>12 rebreathers?</p> <p>13 A. He does now.</p> <p>14 Q. Okay. And on January 31st, two-thousand --</p> <p>15 A. Not at the time.</p> <p>16 Q. Okay. And just let me finish my --</p> <p>17 A. Sure. Sorry.</p> <p>18 Q. -- question. No, that's okay. You're doing</p> <p>19 fine so far.</p> <p>20 Back on January 31st, just to clarify for the</p> <p>21 record, January 31st of 2017, Robert Steele did not have</p> <p>22 any rebreather experience, correct?</p> <p>23 A. Correct. He did not.</p> <p>24 Q. Back on January 31st, you, Mr. Knapp and</p> <p>25 Mr. Wheatley, however, all had rebreather experience,</p>	<p style="text-align: right;">Page 36</p> <p>1 teach technical diving?</p> <p>2 A. Yes. Another instructor named Kurt Wagner.</p> <p>3 Q. But he was not a captain, correct?</p> <p>4 A. He was not a captain at the time, no.</p> <p>5 Q. Anyone else other than Kurt Wagner?</p> <p>6 A. No.</p> <p>7 Q. Other than being an instructor, did Kurt Wagner</p> <p>8 have any other roles or responsibilities in connection</p> <p>9 with Horizon Divers back in January of 2017?</p> <p>10 A. He'd be an instructor and a deck hand on the</p> <p>11 boat every once in a while.</p> <p>12 Q. And what type of technical diving professional</p> <p>13 qualifications did Mr. Wagner have?</p> <p>14 A. He was at the advanced nitrox instructor level.</p> <p>15 Q. And tell me what that is.</p> <p>16 A. That is the first stepping stone into the</p> <p>17 technical instruction. Advanced nitrox is where you can</p> <p>18 dive, still recreational profiles, but you utilize up to</p> <p>19 a hundred percent oxygen. It's still a non-decompression</p> <p>20 dive course. So it was his, like, it was his first one.</p> <p>21 He was working towards his decompression procedures</p> <p>22 instructor.</p> <p>23 Q. Explain to me what a merchant mariner</p> <p>24 credential is.</p> <p>25 A. It's basically a captain's license.</p>
<p style="text-align: right;">Page 35</p> <p>1 correct?</p> <p>2 A. Just myself and Jeff Knapp had rebreather</p> <p>3 experience. Troy Wheatley did not have rebreather</p> <p>4 experience. He's a tech -- he has technical diving</p> <p>5 experience, but open circuit.</p> <p>6 Q. Understood. So the technical diving experience</p> <p>7 that Mr. Wheatley had on January 31st, 2017, it's</p> <p>8 considered technical diving for what reasons?</p> <p>9 A. For open circuit, which means a regulator with</p> <p>10 scuba tanks on your back, not a rebreather.</p> <p>11 Q. And what makes it technical; because of the</p> <p>12 depths he would be able to dive to?</p> <p>13 A. The depths. The depths and the durations that</p> <p>14 he could spend under water, yes.</p> <p>15 Q. And is technical diving, is that -- is there a</p> <p>16 line in terms of depth as to what is considered</p> <p>17 technical? Is it over 130 feet?</p> <p>18 A. You could say that, yeah.</p> <p>19 Q. Okay. So the Queen of Nassau?</p> <p>20 A. That would be a technical dive.</p> <p>21 Q. Regardless of what type of equipment you're in?</p> <p>22 A. Yes.</p> <p>23 Q. Other than Troy Wheatley, Jeff Knapp and</p> <p>24 yourself, back on January 31st, 2017, did Horizon Divers</p> <p>25 have any instructors that were technical or that could</p>	<p style="text-align: right;">Page 37</p> <p>1 Q. And we already -- I'm sorry. I didn't mean to</p> <p>2 interrupt you. Go ahead.</p> <p>3 A. Issued through the U.S. Coast Guard.</p> <p>4 Q. And we already discussed that allows you to</p> <p>5 operate vessels with -- what's the --</p> <p>6 A. Well, there's -- I've had two versions. I've</p> <p>7 had the OUPD which is the uninspected vessel up to six</p> <p>8 paying passengers. That was my first license I had. And</p> <p>9 then now, I have the hundred-ton masters.</p> <p>10 Q. Okay.</p> <p>11 A. Which allows me to operate inspected vessels up</p> <p>12 to a hundred gross tons.</p> <p>13 Q. David Wilkerson, on January 31st, 2017, had his</p> <p>14 merchant mariner credential?</p> <p>15 A. Yes.</p> <p>16 Q. What did that permit him to operate, a</p> <p>17 certificate of inspection vessel?</p> <p>18 A. An inspected vessel. I don't know the tonnage</p> <p>19 off the top of my head, but yes.</p> <p>20 Q. That credential does not pertain to diving</p> <p>21 operations or operating a dive boat specifically,</p> <p>22 correct?</p> <p>23 A. It does not.</p> <p>24 Q. Is there any credentials or training that one</p> <p>25 needs to operate a dive vessel that you're aware of?</p>

<p style="text-align: right;">Page 38</p> <p>1 A. I mean, we train all of our captains in-house</p> <p>2 to --</p> <p>3 Q. Okay.</p> <p>4 A. -- to operate a dive vessel. Most captains</p> <p>5 come to me with some experience, if not already a</p> <p>6 captain's license.</p> <p>7 Q. I'm going to circle back to that in a second</p> <p>8 but my question was more specifically, there's no license</p> <p>9 that allows you to operate a dive vessel or no</p> <p>10 qualification in addition to the merchant mariner</p> <p>11 credential that allows you to operate a dive vessel,</p> <p>12 correct, as a captain?</p> <p>13 A. No.</p> <p>14 Q. And you said that Horizon Divers trains its</p> <p>15 captains, correct?</p> <p>16 A. Yes.</p> <p>17 Q. To operate dive vessels?</p> <p>18 A. Yes.</p> <p>19 Q. Because those are the only vessels you guys</p> <p>20 operate, right?</p> <p>21 A. Yes.</p> <p>22 Q. Tell me about that training. What type of</p> <p>23 training do you provide to your captains?</p> <p>24 A. It's all hands-on. Myself, who have worked on</p> <p>25 many other dive boats in the past, have been trained. My</p>	<p style="text-align: right;">Page 40</p> <p>1 -- and, typically, the person that's training to be a</p> <p>2 captain will also be a deck hand, so they've been a deck</p> <p>3 hand on the boat so they understand the deck hand</p> <p>4 responsibilities on the boat --</p> <p>5 Q. Does --</p> <p>6 A. -- and then move up to the captain's position.</p> <p>7 Q. Okay. And I apologize again for interrupting</p> <p>8 you.</p> <p>9 But my question is more specifically, does</p> <p>10 Horizon Divers, is it -- when you say they spend many</p> <p>11 days and weeks, is there a certain amount of hours that</p> <p>12 they need to spend on the boat prior to operating one of</p> <p>13 your vessels?</p> <p>14 A. No.</p> <p>15 Q. So it's not a specific program that you keep a</p> <p>16 log of?</p> <p>17 A. There is not a specific program.</p> <p>18 Q. Okay. When did Wilkerson start operating</p> <p>19 vessels for Horizon Divers?</p> <p>20 A. Back in 2015. Early 2015, I believe. Could</p> <p>21 have been late 2014.</p> <p>22 Q. Did he go, undergo this hands-on training that</p> <p>23 you just described?</p> <p>24 A. Yes.</p> <p>25 Q. And that all pertained to the operation of the</p>
<p style="text-align: right;">Page 39</p> <p>1 first dive boat I ever drove was a Corinthian which is an</p> <p>2 Army vessel.</p> <p>3 And so, when a captain, when we're looking for</p> <p>4 a captain or a captain comes to me looking for a job, the</p> <p>5 first thing they do is they spend many, many days or</p> <p>6 weeks on our boat with one of our captains, myself, Troy,</p> <p>7 training to understand how we dock the boat, how we drive</p> <p>8 the boat, how the boat operates, how it moves in the</p> <p>9 water. You know, how it -- how fast it will go, how</p> <p>10 slow, I'll take it -- how long it takes to slow down, how</p> <p>11 long it takes to speed up, things like that. All the</p> <p>12 basic information.</p> <p>13 Q. Now, all of those things that you just listed,</p> <p>14 and if there's additional ones we're going to get to</p> <p>15 those in a second, but all those things you just listed,</p> <p>16 you'll agree with me those pertain to the operation of</p> <p>17 the vessel itself, correct?</p> <p>18 A. Yes.</p> <p>19 Q. They do not pertain to diving specifically,</p> <p>20 correct?</p> <p>21 A. No.</p> <p>22 Q. Is there any records that Horizon Divers keeps</p> <p>23 of that training that its captains undergo, the in-house</p> <p>24 training?</p> <p>25 A. I mean, it's in the log book of the boat that</p>	<p style="text-align: right;">Page 41</p> <p>1 dive vessel?</p> <p>2 A. Yes. He was an instructor and deck hand with</p> <p>3 me for about six or seven months before he just sparked</p> <p>4 interest in becoming a captain.</p> <p>5 He's had lots and lots of experience in the</p> <p>6 past with boats in general. And when he came to me and</p> <p>7 says, "I want to be a captain," we were losing a captain</p> <p>8 at the time so that's kind of what I think, what made him</p> <p>9 want to do it.</p> <p>10 So we put him through the paces as a, you know,</p> <p>11 making sure he could drive the boat. But he'd been on</p> <p>12 the boat for six or seven months before that as well.</p> <p>13 Q. So he came to you, I guess, sometime in 2014?</p> <p>14 A. Uh-huh.</p> <p>15 Q. That's when his relationship with Horizon Dive</p> <p>16 Adventures began?</p> <p>17 A. Yeah. Early in that, that year, yeah.</p> <p>18 Q. And he first started with Horizon Dive, Divers,</p> <p>19 as an instructor and deck hand, you said?</p> <p>20 A. Yes.</p> <p>21 Q. And then, at some point in time, about six to</p> <p>22 seven months later, he expresses an interest to become a</p> <p>23 captain, and then you start training him in that regard?</p> <p>24 A. Yes.</p> <p>25 Q. And he obtained his merchant mariner</p>

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<p>1 credentials in, it looks -- I'm showing you Claimant's</p> <p>2 Exhibit 3 -- March of 2015. Does that make sense with</p> <p>3 these time frames?</p> <p>4 A. Yes.</p> <p>5 Q. What type of instructor was Captain Wilkerson?</p> <p>6 A. An open water, open water instructor which will</p> <p>7 let him teach open water, advanced rescue classes, basic</p> <p>8 recreational stuff.</p> <p>9 Q. And, again, not -- not technical diving?</p> <p>10 A. No.</p> <p>11 Q. We've already discussed Horizon Divers' two</p> <p>12 vessels are both regulated by the United States Coast</p> <p>13 Guard, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And they're both subject to United States Coast</p> <p>16 Guard inspections?</p> <p>17 A. Yes.</p> <p>18 Q. What do those inspections entail?</p> <p>19 A. A very lengthy list of things that they go</p> <p>20 through. Everything from life jackets, EPIRBs, strobe</p> <p>21 lights, life -- life rafts, life floats.</p> <p>22 Q. Are the inspections that are performed on your</p> <p>23 two vessels or Horizon Divers' two vessels, the same as</p> <p>24 any other vessel or is it unique to dive boats?</p> <p>25 A. No, it's the same as any, any dive boat.</p>	<p>1 Q. What permits you or what allows you to certify</p> <p>2 students or to instruct students in diving, whether it's</p> <p>3 recreational or technical?</p> <p>4 A. What allows us to do that?</p> <p>5 Q. Yes.</p> <p>6 A. We go through specific instructor training</p> <p>7 through an organization such as SDI, TDI, PADI, IANTD, as</p> <p>8 you so will. You need to be certified as a diver first</p> <p>9 from another instructor and get so much experience as an</p> <p>10 open -- as a certified diver. Take multiple of classes</p> <p>11 to become a diver at different levels before you start</p> <p>12 taking instructor-level classes.</p> <p>13 Q. Okay. So it's your personal professional</p> <p>14 qualifications that allow you to instruct students and</p> <p>15 certify students?</p> <p>16 A. And following the standards and procedures of,</p> <p>17 of whatever organization you're teaching through.</p> <p>18 Q. Does Horizon Divers itself, the corporation,</p> <p>19 have to obtain any sort of license or certification</p> <p>20 through any of these dive certification agencies that we</p> <p>21 talked about?</p> <p>22 A. No. We just pay member dues.</p> <p>23 Q. And Horizon Divers pays member dues to TDI,</p> <p>24 SDI, ERDI and PADI?</p> <p>25 A. Yes.</p>
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<p>1 Q. How often are the vessels inspected?</p> <p>2 A. Once a year.</p> <p>3 Q. And on January 31st, 2017, the Pisces had a</p> <p>4 valid United States Coast Guard Certificate of</p> <p>5 Inspection, correct?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Now, that means that those vessels are also</p> <p>8 subject to the United States Coast Guard regulations,</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. And that includes the operation of the vessel?</p> <p>12 A. Yes.</p> <p>13 Q. That includes the duties owed to passengers on</p> <p>14 the vessel?</p> <p>15 A. Yes.</p> <p>16 Q. That includes safety requirements?</p> <p>17 A. Yes.</p> <p>18 Q. And that also includes the regulations</p> <p>19 concerning the manning of the vessel with masters and</p> <p>20 deck hands, correct?</p> <p>21 A. Yes.</p> <p>22 Q. With respect to Horizon Divers diving</p> <p>23 activities, is it regulated by any agencies, governmental</p> <p>24 or private?</p> <p>25 A. No.</p>	<p>1 Q. Any other diving certification agencies?</p> <p>2 A. No, not at this time.</p> <p>3 Q. Not IANTD, correct?</p> <p>4 A. No, I haven't done that in a while.</p> <p>5 Q. And not NAUI?</p> <p>6 A. Not NAUI.</p> <p>7 Q. The U.S. Coast Guard, that does not have</p> <p>8 anything to do with your diving operations or you don't</p> <p>9 -- strike that.</p> <p>10 United States Coast Guard doesn't issue you any</p> <p>11 sort of certificate or license that allows you to</p> <p>12 instruct students, right?</p> <p>13 A. No, they do not.</p> <p>14 Q. Do you know what a marine safety advisory is?</p> <p>15 A. I do.</p> <p>16 Q. What is that?</p> <p>17 A. That's a safety advisory that the Coast Guard</p> <p>18 sends out.</p> <p>19 Q. The United States Coast Guard?</p> <p>20 A. U.S., yes, United States Coast Guard.</p> <p>21 Q. And do you, as an entity that operates dive</p> <p>22 vessels, have any sort of mechanism or procedures that</p> <p>23 you follow to obtain marine safety advisories that may be</p> <p>24 applicable to your operations?</p> <p>25 A. They're usually sent out to, you know, each</p>

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<p>1 individual dive shop.</p> <p>2 Q. Okay.</p> <p>3 A. Our safety inspector will bring them by the</p> <p>4 shop.</p> <p>5 Q. Who is your safety inspector?</p> <p>6 A. Now, is Ben Morris. At the time of the</p> <p>7 incident was also Ben Morris.</p> <p>8 Q. And Ben Morris works for?</p> <p>9 A. The U.S. Coast Guard.</p> <p>10 Q. So, if a safety, one of these marine safety</p> <p>11 advisories is issued, Ben Morris who works for United</p> <p>12 States Coast Guard will come by the dive shop and say,</p> <p>13 hey, this just came out or --</p> <p>14 A. Whoever it is at that time, yeah.</p> <p>15 Q. Understood. And back in January 31st, 2017, it</p> <p>16 was --</p> <p>17 A. Ben Morris.</p> <p>18 Q. -- Mr. Morris?</p> <p>19 A. Yes.</p> <p>20 Q. And what's his rank, do you know?</p> <p>21 A. No, I don't.</p> <p>22 Q. Okay. The only reason I ask is I just don't</p> <p>23 want to refer to him as mister if he's got an official</p> <p>24 rank.</p> <p>25 A. I just call him Officer Morris.</p>	<p>1 A. Yes.</p> <p>2 Q. How many times?</p> <p>3 A. Maybe two others.</p> <p>4 Q. Can you tell me about those?</p> <p>5 A. One was a young girl wasn't feeling good after</p> <p>6 a dive. She was, I believe, twelve years old, seek</p> <p>7 medical attention. So, at that point, we informed</p> <p>8 Officer Morris of the situation.</p> <p>9 Q. Do you recall when that was?</p> <p>10 A. In 2014 sometime. I don't remember.</p> <p>11 Q. Do you recall what vessel she was diving off</p> <p>12 of?</p> <p>13 A. I believe it was Pisces.</p> <p>14 Q. Do you recall who the captain was?</p> <p>15 A. At that time, it was Mike Rogers.</p> <p>16 Q. And she was performing just, I assume,</p> <p>17 normal --</p> <p>18 A. Yeah. She was in very shallow reef with her</p> <p>19 grandparents.</p> <p>20 Q. With regular scuba equipment?</p> <p>21 A. Regular scuba equipment.</p> <p>22 Q. What was the second incident?</p> <p>23 A. We had a lady, after diving, go and have a</p> <p>24 seizure at -- back at the dive shop.</p> <p>25 Q. When was that?</p>
Page 47	Page 49
<p>1 Q. Okay. And Officer Morris is still Horizon</p> <p>2 Divers' safety advisor?</p> <p>3 A. Yes.</p> <p>4 Q. What's the role of the United States Coast</p> <p>5 Guard safety advisor with respect to Horizon Divers?</p> <p>6 A. He is the gentleman that comes out and does our</p> <p>7 safety inspection or our hull exam every year.</p> <p>8 Q. Beyond performing a safety inspection and hull</p> <p>9 exam -- and we're referring to inspections done to your</p> <p>10 vessels, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And in addition to coming by and delivering</p> <p>13 these marine safety advisories, does he have any other</p> <p>14 role or connection with Horizon Dive Adventures?</p> <p>15 A. He is the person that I contact if there ever</p> <p>16 was an incident. So, on the evening of the 31st, I -- he</p> <p>17 was the person I contacted for the Coast Guard about the</p> <p>18 incident.</p> <p>19 Q. How did you contact him?</p> <p>20 A. I called his phone.</p> <p>21 Q. Where is he located?</p> <p>22 A. He's at Station Islamorada.</p> <p>23 Q. Have you ever had to contact him with respect</p> <p>24 to any other incidents that occurred on your dive</p> <p>25 vessels?</p>	<p>1 A. That was two-thousand -- late 2016.</p> <p>2 Q. What vessel was she diving off of?</p> <p>3 A. Cheeca View.</p> <p>4 Q. Was her seizure in any way connected to her</p> <p>5 diving?</p> <p>6 A. We're not sure.</p> <p>7 Q. Okay.</p> <p>8 A. It was a couple hours later so we don't know.</p> <p>9 Q. And you connect -- or, you contacted Officer</p> <p>10 Morris on that occasion as well?</p> <p>11 A. Yes. Anytime there's a medical of any sort, we</p> <p>12 usually let him know what's going on so he's aware.</p> <p>13 Q. When Mr. Morris -- or, I'm sorry.</p> <p>14 When Officer Morris drops off the marine safety</p> <p>15 advisory, that's something obviously you review, correct?</p> <p>16 A. Yes.</p> <p>17 Q. And you provide that to your captains?</p> <p>18 A. Yes.</p> <p>19 Q. And you ensure that they know what's in those</p> <p>20 marine safety advisories, correct?</p> <p>21 A. Yes.</p> <p>22 Q. What kind of information is traditionally</p> <p>23 incorporated in those marine safety advisories? I mean,</p> <p>24 they can address a range of issues, correct?</p> <p>25 A. Yeah.</p>



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<p>1 Q. Okay. And tell me, what are the most common?</p> <p>2 A. Navigation to -- navigation hazards.</p> <p>3 Navigation hazards.</p> <p>4 Q. Okay. What's an example of a navigation</p> <p>5 hazard?</p> <p>6 A. Well, an example is there's a barge outside of</p> <p>7 our canal. After Hurricane Irma, it kind of got</p> <p>8 destroyed more, so parts and pieces were spread out. And</p> <p>9 very common, after a big storm comes by, they will come</p> <p>10 by and let us know that there's a lot of debris being</p> <p>11 found in the water, to proceed with caution until you're</p> <p>12 so far offshore.</p> <p>13 Every once in awhile, we report to them</p> <p>14 whenever we see vessels floating and adrift.</p> <p>15 Q. Okay.</p> <p>16 A. And they'll pass it on to other dive shops and</p> <p>17 other boaters as well, to keep a lookout.</p> <p>18 Q. Other than navigation hazards, any other marine</p> <p>19 safety advisories? I'm sorry, any other types of issues</p> <p>20 addressed in these marine safety advisories that you can</p> <p>21 recall?</p> <p>22 A. Sometimes they're weather related.</p> <p>23 Q. Okay. Anything else?</p> <p>24 A. Those are usually the ones that I see. I</p> <p>25 haven't seen anything lately.</p>	<p>1 A. Yes.</p> <p>2 Q. And Mr. Jenni was present for part of that</p> <p>3 conversation?</p> <p>4 A. No.</p> <p>5 Q. Okay. Is there anything that you testified to</p> <p>6 earlier that you need to change or anything of that</p> <p>7 nature?</p> <p>8 A. No.</p> <p>9 Q. Okay. With respect to the training that</p> <p>10 captains receive at Horizon Divers, that hands-on</p> <p>11 training, we discussed the training, that they're on the</p> <p>12 vessel with, I assume, a prior or a current captain,</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. And they receive hands-on training regarding</p> <p>16 the operations of the vessel. You talked about, you</p> <p>17 know, how it moves, how it speeds up, how it slows down,</p> <p>18 anchoring, things of that nature, correct?</p> <p>19 A. Yes, exactly.</p> <p>20 Q. Okay. Is there any training that a captain</p> <p>21 receives with respect to diving specifically?</p> <p>22 A. Well, all of my captains --</p> <p>23 Q. Uh-huh.</p> <p>24 A. -- are dive master or instructor qualified.</p> <p>25 Q. Okay.</p>
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<p>1 Q. And you agree that generally, the information</p> <p>2 contained in a marine safety advisory should be followed,</p> <p>3 correct?</p> <p>4 A. Yeah. Yes.</p> <p>5 MR. ECHARTE: I'm about to get into another</p> <p>6 area. Why don't we just take a quick five --</p> <p>7 MR. BAYER: Sure.</p> <p>8 MR. ECHARTE: -- two, three-minute break.</p> <p>9 MR. FERTIG: Sure, perfect.</p> <p>10 THE VIDEOGRAPHER: Going off the video record.</p> <p>11 The time is 10:51 a.m.</p> <p>12 (Recess from 10:51 a.m. to 11:04 a.m.)</p> <p>13 THE VIDEOGRAPHER: We are back on the video</p> <p>14 record. The time is 11:04 a.m. You may proceed.</p> <p>15 BY MR. ECHARTE:</p> <p>16 Q. Sir, before I move into the next area, I want</p> <p>17 to ask you a few more questions about the captain's</p> <p>18 training.</p> <p>19 A. Okay.</p> <p>20 Q. We already talked about -- actually, strike</p> <p>21 that.</p> <p>22 We just took a break, right?</p> <p>23 A. Yes.</p> <p>24 Q. And you had an opportunity, you spoke with your</p> <p>25 attorney, correct?</p>	<p>1 A. So they are at the minimum of a basic</p> <p>2 professional level. So they are all divers and</p> <p>3 understand diving, recreationally.</p> <p>4 Q. Now, that's not a requirement for a captain to</p> <p>5 be a dive master -- or, I'm sorry.</p> <p>6 That's not a requirement for an individual to</p> <p>7 be a dive master in order to operate a dive vessel as a</p> <p>8 captain, correct?</p> <p>9 A. It is not.</p> <p>10 Q. That's something that you do as Horizon Divers,</p> <p>11 you ensure that your captains are somewhat familiar with</p> <p>12 diving operations, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And why is that? Why do you do that?</p> <p>15 A. Well, first off, they're all here as -- to work</p> <p>16 in the dive industry is why they come down here, to work</p> <p>17 in the Keys.</p> <p>18 Most every one of them, as I said before, start</p> <p>19 off as a dive master or an instructor, and then work</p> <p>20 towards the captain's position and operating a boat at</p> <p>21 some length of time during while they're down here.</p> <p>22 Q. But going back to my original question which is</p> <p>23 why, why does Horizon Divers require their captains --</p> <p>24 or, maybe it's that they don't. Maybe that's just the</p> <p>25 natural progression of someone's career at Horizon Divers</p>



<p style="text-align: right;">Page 54</p> <p>1 or affiliation with Horizon Divers.</p> <p>2 But why are all the captains dive masters? I</p> <p>3 mean, is it important that they understand diving if</p> <p>4 they're going to be operating a dive vessel, to you</p> <p>5 anyway?</p> <p>6 A. In my opinion, yes, it is important to do that.</p> <p>7 It is not a requirement that we have at Horizon Divers,</p> <p>8 per se. It's just kind of the natural progression of</p> <p>9 when people come down to start here at the shop, they</p> <p>10 usually start as a dive master, then become an</p> <p>11 instructor, and then a lot of them want to move up to</p> <p>12 become a captain.</p> <p>13 Q. Now, if someone came to you and they already</p> <p>14 had their captain's credentials and someone came to you</p> <p>15 and said, I'd like to operate one of your dive vessels,</p> <p>16 and you had a need but they didn't have any diving</p> <p>17 experience, would you require them to get some diving</p> <p>18 experience prior to operating one of your dive vessels?</p> <p>19 A. No.</p> <p>20 Q. Okay.</p> <p>21 A. It may take longer for them to understand the</p> <p>22 needs of a dive vessel.</p> <p>23 Q. And what do you mean by that?</p> <p>24 A. Just what the -- what to expect for divers in</p> <p>25 the water. The dive locations, the dive sites, is a big</p>	<p style="text-align: right;">Page 56</p> <p>1 would be utilized, at that point, as a guided diver, to</p> <p>2 guide a group of divers.</p> <p>3 Q. What is a dive master?</p> <p>4 A. A dive master is somebody that will -- is a</p> <p>5 professional, not an instructor, who can take certified</p> <p>6 divers already down on the dive excursion if so asked</p> <p>7 and/or they are also hired to do so.</p> <p>8 Q. What's the difference between a dive master and</p> <p>9 a dive instructor?</p> <p>10 A. An instructor can actually do instruction and</p> <p>11 teach somebody how to dive. A dive master can assist an</p> <p>12 instructor but cannot do any instruction on their own.</p> <p>13 Q. Now, can someone be a dive master -- is a dive</p> <p>14 master someone that has certifications that enable them</p> <p>15 to lead an excursion but maybe not instruct?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Now, can an instructor be a dive master</p> <p>18 or, if an instructor is on a vessel, they're the</p> <p>19 instructor?</p> <p>20 A. An instructor could still go out and do a</p> <p>21 guided excursion.</p> <p>22 Q. Okay.</p> <p>23 A. They don't have to, just because they're an</p> <p>24 instructor, not teach. They can still do a guide's --</p> <p>25 Q. But what I'm -- what I'm getting at more is if</p>
<p style="text-align: right;">Page 55</p> <p>1 part of it. Anybody can drive the boat out of a channel</p> <p>2 and then head out to the ocean, but not know where to go</p> <p>3 or where not to go is important.</p> <p>4 Q. Now, you mentioned what to expect from the</p> <p>5 divers. What do you mean by that?</p> <p>6 A. Just their needs on the boat, needs getting on</p> <p>7 the boat.</p> <p>8 Q. Let's talk about the general duties of Horizon</p> <p>9 Divers and its crew during these excursions.</p> <p>10 We can agree that the vessels utilized by your</p> <p>11 company must be seaworthy, right?</p> <p>12 A. Yes.</p> <p>13 Q. We can agree that vessels operated by Horizon</p> <p>14 Divers in transporting divers to dive sites must be</p> <p>15 properly equipped?</p> <p>16 A. Yes.</p> <p>17 Q. We can agree that they must be properly manned</p> <p>18 as well, correct?</p> <p>19 A. Yes. All Coast Guard regulations.</p> <p>20 Q. During a dive excursion, tell me what type of</p> <p>21 crew is necessary or what type of crew you place on your</p> <p>22 dive vessels?</p> <p>23 A. We have a captain and a deck hand.</p> <p>24 Q. Okay. What about a dive master?</p> <p>25 A. That's going to depend on -- a dive master</p>	<p style="text-align: right;">Page 57</p> <p>1 someone's on the vessel and they're a certified dive</p> <p>2 instructor, okay, are they considered an instructor on</p> <p>3 the vessel even if they're not necessarily teaching or</p> <p>4 are they then considered a dive master if they're just</p> <p>5 leading an excursion?</p> <p>6 Do you understand my question? I might not be</p> <p>7 being clear.</p> <p>8 A. Not really, I do not. I don't.</p> <p>9 Q. Okay. So a dive master does not need to be a</p> <p>10 certified instructor, correct?</p> <p>11 A. Yes. They do not need to be a certified</p> <p>12 instructor.</p> <p>13 Q. So if -- if a group of people contact Horizon</p> <p>14 Divers, they'd like to go dive a certain wreck but they</p> <p>15 want someone to lead them on this excursion, you can</p> <p>16 provide a dive master, correct?</p> <p>17 A. As long as that dive master is qualified to</p> <p>18 dive that particular -- like, if you go to a reef.</p> <p>19 Q. Uh-huh.</p> <p>20 A. Say you wanted to go out and dive a reef, my</p> <p>21 dive master can guide you on that excursion.</p> <p>22 Q. I have to be certified correct?</p> <p>23 A. You have to be a certified diver.</p> <p>24 Q. To perform that type of dive?</p> <p>25 A. To perform that type of dive.</p>

Page 58	Page 60
<p>1 Q. Okay. And then you can provide me a dive</p> <p>2 master and that dive master does not need to be a</p> <p>3 professional instructor, correct?</p> <p>4 A. No, he does not.</p> <p>5 Q. Okay.</p> <p>6 A. He's a professional -- a dive master is still a</p> <p>7 professional.</p> <p>8 Q. Now, someone that has instructor credentials,</p> <p>9 they can function as a dive master aboard a boat,</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. For example, if I have the credential to dive</p> <p>13 or the qualification to dive a certain site, but I would</p> <p>14 like someone to lead the excursion, I can have someone</p> <p>15 there that's, quote/unquote, a "dive master," but he may</p> <p>16 have instructor credentials, correct?</p> <p>17 A. We still label it as a dive master or a guide.</p> <p>18 Q. Okay.</p> <p>19 A. The guide can be a dive master and/or an</p> <p>20 instructor.</p> <p>21 Q. So the only time they're labeled as an</p> <p>22 instructor would be if they're actually teaching?</p> <p>23 A. Yes.</p> <p>24 Q. Okay.</p> <p>25 A. You need to be teaching a class to be labeled</p>	<p>1 A. Yes.</p> <p>2 Q. Okay. And you don't necessarily require then</p> <p>3 that a dive master accompany me if I'm already certified,</p> <p>4 correct?</p> <p>5 A. If you're a certified diver that is capable of</p> <p>6 diving that level, wherever you plan on going, then you</p> <p>7 can dive on your own. We're just going to be the</p> <p>8 transportation to get you there and back.</p> <p>9 Q. Let's talk about what the captain's</p> <p>10 responsibilities are.</p> <p>11 A. Uh-huh.</p> <p>12 Q. We can agree that a captain is ultimately</p> <p>13 responsible for the safe operation of the vessel,</p> <p>14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. We can agree that a captain is ultimately</p> <p>17 responsible for the safety of the vessel's passengers,</p> <p>18 correct?</p> <p>19 A. While on board the boat, yes.</p> <p>20 Q. What do you mean by "while on board the boat"?</p> <p>21 A. Well, once the diver gets in the water, we're</p> <p>22 not -- we're not in charge of that. We're not -- can't</p> <p>23 physically be a part of that safety.</p> <p>24 Q. Okay. So it's your position that a diver is</p> <p>25 only considered a passenger when they're physically on</p>
Page 59	Page 61
<p>1 as an instructor. You have to become a dive master</p> <p>2 before you can become an instructor.</p> <p>3 Q. Do you require that every group -- does Horizon</p> <p>4 Divers require that divers aboard your vessels go with</p> <p>5 either one of your dive masters or an instructor?</p> <p>6 A. No, we do not.</p> <p>7 Q. Okay. So --</p> <p>8 A. We provide dive masters if asked, and they are</p> <p>9 paid for separately.</p> <p>10 Q. Understood. So if I'm -- if I'd like to dive</p> <p>11 one of your sites and I have the credentials to do so, I</p> <p>12 can charter your vessel and you would provide a captain</p> <p>13 and a mate to take me out to that dive site?</p> <p>14 A. You would pay for the charter, the excursion,</p> <p>15 and go on the boat with mostly other divers, unless you</p> <p>16 paid for a private trip.</p> <p>17 Q. Okay. So let's just simplify things.</p> <p>18 So, for a private trip, if I just wanted to go</p> <p>19 diving with me and my friend, we both had qualifications</p> <p>20 to go to a certain dive site and I wanted to go out to</p> <p>21 that dive site using one of your vessels, I could charter</p> <p>22 your vessel, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And I -- and you would provide me the vessel,</p> <p>25 the captain, and the deck hand?</p>	<p>1 the boat; is that your testimony?</p> <p>2 A. I mean, they're still our passengers while</p> <p>3 they're -- yeah, while they're in transit from the dock</p> <p>4 to the dive site.</p> <p>5 Q. Okay.</p> <p>6 A. And then back from dive site back to the dock.</p> <p>7 Q. Once they get in the water, are they no longer</p> <p>8 considered a passenger?</p> <p>9 A. I mean, we're still -- passengers on board the</p> <p>10 boat, yes, but out of our purview of control.</p> <p>11 Q. Now, they still, a captain still has the</p> <p>12 responsibility for the safety of its passengers even if</p> <p>13 they're just in the water next to the boat, correct?</p> <p>14 A. Sure.</p> <p>15 Q. I mean, they can't, for example, drive over</p> <p>16 a --</p> <p>17 A. Yeah. They don't want to be -- no. They want</p> <p>18 to make sure they know where they're at, not to drive</p> <p>19 over them or anything like that, yeah.</p> <p>20 Q. So just because someone, a passenger physically</p> <p>21 gets into the water doesn't mean that the captain loses</p> <p>22 all responsibilities for their safety, correct?</p> <p>23 A. No. That's true. Yeah.</p> <p>24 Q. The captain is also responsible for managing</p> <p>25 the crew, correct?</p>

<p style="text-align: right;">Page 62</p> <p>1 A. Yes.</p> <p>2 Q. Other than the safe operation of the vessel,</p> <p>3 other than the safety of the boat's passengers and other</p> <p>4 than managing the crew, what other responsibilities does</p> <p>5 a captain have aboard a vessel?</p> <p>6 A. Safe passage two and from shore, navigation</p> <p>7 purposes, knowing where to avoid certain navigational</p> <p>8 hazards, channels back into the dock, dive site location,</p> <p>9 anchor and/or mooring types of locations.</p> <p>10 Q. An anchor is where an anchor drops from the</p> <p>11 boat and it -- explain to me the difference between</p> <p>12 anchoring and mooring.</p> <p>13 A. An anchor is something that we would take from</p> <p>14 the boat, lay into the water with a rope or chain</p> <p>15 attached to it, and back off while we set the anchor in</p> <p>16 the, in the ocean.</p> <p>17 A mooring line is a predetermined anchor point</p> <p>18 that is put down there from the Sanctuary and has a float</p> <p>19 ball and a tag line on the surface.</p> <p>20 Q. Okay. So there is a, I assume, for lack of a</p> <p>21 better term, something that secures that rope in a</p> <p>22 mooring situation to the bottom of the ocean, and then</p> <p>23 there's a line and a ball, and then you can tie off to</p> <p>24 it?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 64</p> <p>1 have placed them in charge of a vessel or have determined</p> <p>2 that they're able to captain one of your boats, do they</p> <p>3 receive ongoing training?</p> <p>4 A. Yeah.</p> <p>5 Q. Okay. Tell me about that.</p> <p>6 A. Well, we -- we continually do training to make</p> <p>7 sure -- you know, different techniques are going on.</p> <p>8 Every year during our Coast Guard inspection, the actual</p> <p>9 inspector comes out when they do the inspection, and we</p> <p>10 do take the boat offshore and do a man overboard drill, a</p> <p>11 fire drill, and evacuation of a boat if there was ever</p> <p>12 any kind of issue like that. And that's done every year</p> <p>13 with the Coast Guard. And all --</p> <p>14 Q. That's like an abandon ship type training?</p> <p>15 A. Abandon ship, yeah.</p> <p>16 Q. Now, there's a placard that the United States</p> <p>17 Coast Guard requires to be placed on all vessels,</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. That addresses those three areas, man</p> <p>21 overboard, abandon ship and fire, right?</p> <p>22 A. Yes.</p> <p>23 Q. And the Pisces, on January 31st, 2017, had that</p> <p>24 placard, correct?</p> <p>25 A. Yes. It's posted on the boat, on board the</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. The vessel ties off to it?</p> <p>2 A. Yes.</p> <p>3 Q. And then the difference between that and an</p> <p>4 anchor is the anchor actually goes down from the boat and</p> <p>5 ties directly to the boat, correct?</p> <p>6 A. Yes.</p> <p>7 Q. In addition to the hands-on training that we</p> <p>8 discussed for your captains that they receive when they,</p> <p>9 I assume primarily, that's throughout the phase when</p> <p>10 they're trying to become a captain at Horizon Divers,</p> <p>11 correct, that training that we discussed earlier?</p> <p>12 A. Yes. They could have their captain's license</p> <p>13 as well, but still not understand our vessels.</p> <p>14 Q. So they, in order to become a captain on your</p> <p>15 vessel, they need to have a license, obviously, right?</p> <p>16 A. Yes.</p> <p>17 Q. They also need to go through the hands-on</p> <p>18 training specific to your operations and your vessels,</p> <p>19 correct?</p> <p>20 A. Correct.</p> <p>21 Q. And that's that hands-on training that we</p> <p>22 discussed?</p> <p>23 A. Correct.</p> <p>24 Q. Now, after they've obtained that hands-on</p> <p>25 training, after they've already satisfied you and you</p>	<p style="text-align: right;">Page 65</p> <p>1 boat so everybody can see it.</p> <p>2 Q. I requested from your attorneys all your</p> <p>3 maintenance and safety logs, and I'm going to go ahead</p> <p>4 and mark this composite exhibit, this stack of pages that</p> <p>5 I was provided in response to that request for</p> <p>6 production, as Claimant's Exhibit 5 to your deposition.</p> <p>7 (Claimant's Exhibit Number 5 was marked.)</p> <p>8 If you could just take a look through this.</p> <p>9 And, I'm sorry. I asked for all training manuals and</p> <p>10 evidence of training for the crew members that were on</p> <p>11 board the vessel that day, on January 31st, 2017.</p> <p>12 This is what I was provided. Does this look</p> <p>13 familiar to you?</p> <p>14 A. Yes, it does.</p> <p>15 Q. The first page has some small photographs and</p> <p>16 that, the first photo at the top of the first page says</p> <p>17 Pisces Maintenance Log.</p> <p>18 A. Yes, it does.</p> <p>19 Q. What is that?</p> <p>20 A. That would be the log sheet when we, you know,</p> <p>21 change the oil, change the -- a fan belt, if needed be,</p> <p>22 you know, if the turbo filter was cleaned.</p> <p>23 Q. That is kept aboard this boat?</p> <p>24 A. Yes, it is.</p> <p>25 Q. And how far back does that go?</p>

<p style="text-align: right;">Page 66</p> <p>1 A. Every year, we change it out. I put a new one</p> <p>2 in.</p> <p>3 Q. For the -- is that calendar year?</p> <p>4 A. Every calendar year, yes.</p> <p>5 Q. Do you keep the prior year's documentation</p> <p>6 anywhere?</p> <p>7 A. Most of the time. Depends on if I get it</p> <p>8 returned back to me from the crew.</p> <p>9 Q. Okay. What is the next photo down?</p> <p>10 A. That would be the weekly and monthly</p> <p>11 maintenance checkoff, it looks like.</p> <p>12 Q. And what kind of items does that pertain to or</p> <p>13 what does that have to do with?</p> <p>14 A. It's going to be, you know, making sure that</p> <p>15 all the filters are in place, the fuel filters are nice</p> <p>16 and secure, you know, the radio is working, EPIRB</p> <p>17 functions properly.</p> <p>18 Q. What's the EPIRB?</p> <p>19 A. Emergency radio beacon.</p> <p>20 Q. So these all have to do with either the vessel</p> <p>21 itself, its engines, things of that nature or some safety</p> <p>22 devices on the, on the vessel, correct?</p> <p>23 A. Exactly, yes.</p> <p>24 Q. Doesn't really have anything to do with diving,</p> <p>25 right?</p>	<p style="text-align: right;">Page 68</p> <p>1 drills need to be done quarterly, why were they done two</p> <p>2 times in January?</p> <p>3 A. Because we had two different mates.</p> <p>4 Q. So if a new mate comes on board, then you do it</p> <p>5 again?</p> <p>6 A. Cassie and Bobby, Cassie Qualls and Bobby</p> <p>7 Steele are two of our, our mates.</p> <p>8 Q. Okay.</p> <p>9 A. Our main mates at the time. So we just made</p> <p>10 sure that both of them had that qualification and done</p> <p>11 quarterly.</p> <p>12 Q. Now, had Bobby Steele worked with David</p> <p>13 Wilkerson before?</p> <p>14 A. Yes.</p> <p>15 Q. And this, the training on January 21st, 2017,</p> <p>16 and I guess I'll call it the safety drills because that's</p> <p>17 what is referred to here, and the safety drill on</p> <p>18 January 26th, 2017, those were the three items we just</p> <p>19 discussed, the man overboard, the fire and the</p> <p>20 evacuation, right?</p> <p>21 A. Yes.</p> <p>22 Q. And those three were done again on February 9,</p> <p>23 2017, correct?</p> <p>24 A. Yes. That was when we had our Coast Guard</p> <p>25 inspection. So the Coast Guard officer was on board the</p>
<p style="text-align: right;">Page 67</p> <p>1 A. No.</p> <p>2 Q. The next document, page two of this exhibit,</p> <p>3 it's called the Pisces Safety Drill Log.</p> <p>4 A. Yes.</p> <p>5 Q. What is this?</p> <p>6 A. Every quarter, we need to do a man overboard, a</p> <p>7 fire and abandon ship drill.</p> <p>8 Q. Okay.</p> <p>9 A. This is just logging it. And it looks like it</p> <p>10 was logged on there twice in January of 2017, because we</p> <p>11 had two different mates on board.</p> <p>12 Q. Okay.</p> <p>13 A. Cassie Qualls and Bobby Steele. And the</p> <p>14 February 9th, 2017, those three drills were done with</p> <p>15 Officer Ben Morris because that was when we did our last</p> <p>16 -- we did a Coast Guard inspection right after, in the</p> <p>17 beginning of January -- or, February that year.</p> <p>18 Q. Was --</p> <p>19 A. So we logged it then as well.</p> <p>20 Q. Was that Coast Guard inspection in any way a</p> <p>21 result of this incident?</p> <p>22 A. No.</p> <p>23 Q. Okay.</p> <p>24 A. It was a scheduled one prior to that.</p> <p>25 Q. If the crew training man overboard and fire</p>	<p style="text-align: right;">Page 69</p> <p>1 boat checking those requirements, as he does every year.</p> <p>2 Q. And the three people that were present were</p> <p>3 you, Tray -- or, Troy?</p> <p>4 A. Myself, Troy and Kurt Wagner.</p> <p>5 Q. Okay. And Kurt Wagner was -- I know you</p> <p>6 mentioned his name earlier -- he was a former captain?</p> <p>7 A. He's an instructor and a deck hand.</p> <p>8 Q. Apologies.</p> <p>9 Other than these safety drills, do your crew</p> <p>10 undergo any other training or drills with respect to</p> <p>11 operating these vessels or with respect to the dive</p> <p>12 operations of your company?</p> <p>13 A. Well, we do these drills quarterly.</p> <p>14 Q. Okay.</p> <p>15 A. We make sure that, you know, especially if new</p> <p>16 crew come on board, that they go -- they get the training</p> <p>17 as well as they've already done.</p> <p>18 Q. This training?</p> <p>19 A. Same stuff here.</p> <p>20 Q. Okay.</p> <p>21 A. You know, besides that, just going through the</p> <p>22 boat on a quarterly -- or, a monthly basis, making sure</p> <p>23 all safety equipment's up to date.</p> <p>24 Q. Okay. And that's addressed in some of these</p> <p>25 other, on these other pages, correct?</p>

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<p>1 A. Yeah.</p> <p>2 Q. Okay. So other than the three pages here, is</p> <p>3 there any other training -- and I know two of these don't</p> <p>4 really pertain to training and are more the safety</p> <p>5 equipment on the boat.</p> <p>6 But other than this Safety Drill Log that I've</p> <p>7 provided you and other than the hands-on training at the</p> <p>8 beginning of a captain's, I guess, career with Horizon</p> <p>9 Divers or relationship with Horizon Divers, do they</p> <p>10 receive any other training through Horizon Divers?</p> <p>11 A. As far as? Can you explain as far as towards</p> <p>12 what?</p> <p>13 Q. As far as anything related to them being a</p> <p>14 captain aboard your vessels.</p> <p>15 A. Well, they have gone through the captain's</p> <p>16 course.</p> <p>17 Q. Okay. That's done, obviously, before they</p> <p>18 become a captain?</p> <p>19 A. Before they become a captain.</p> <p>20 Q. Now, once they become a captain, let's start</p> <p>21 with that. So once they've gone through that course,</p> <p>22 once they've done the hands-on training, once you've been</p> <p>23 made comfortable that they can operate your vessels, do</p> <p>24 they undergo any other training from that point forward</p> <p>25 other than the items depicted here on this drill log?</p>	<p>1 -- basically, it's a dummy, you know, weighs 185 pounds,</p> <p>2 that we will actually go back and pick back up. They</p> <p>3 will yell "man overboard" whatever side of the boat, port</p> <p>4 or starboard. The captain will agree to that and then</p> <p>5 we'll fulfill either a Williamson turn or whatever he</p> <p>6 needs to do to turn back around to go pick up that</p> <p>7 passenger or that item.</p> <p>8 And we go through the whole drill with the</p> <p>9 Coast Guard. He kind of watches us do it. We go up and</p> <p>10 then we pick that item up, just like we would, you know,</p> <p>11 get real close to them. Some people get in the water,</p> <p>12 bring that over to the boat, depending on, you know, the</p> <p>13 boat. Toss a line, you know, a float line to them.</p> <p>14 Bring them back on board and that's the man overboard</p> <p>15 drill.</p> <p>16 A fire --</p> <p>17 Q. Let me --</p> <p>18 A. Sure.</p> <p>19 Q. -- stop you there just so we can go through a</p> <p>20 few things before we move on so we're not bouncing around</p> <p>21 too much.</p> <p>22 A. Okay.</p> <p>23 Q. If that's okay.</p> <p>24 That's not always done with the Coast Guard,</p> <p>25 correct?</p>
Page 71	Page 73
<p>1 A. Only if they did something separate on their</p> <p>2 own --</p> <p>3 Q. Okay.</p> <p>4 A. -- as to further their captain's license or</p> <p>5 things like that. Otherwise, these requirements meet the</p> <p>6 requirements of the Coast Guard's annual training.</p> <p>7 Q. And those Coast Guard requirements, those are</p> <p>8 the requirements that are applicable to all vessels, not</p> <p>9 just dive vessels, correct?</p> <p>10 A. All vessels, yes.</p> <p>11 Q. Now, certainly, if the Coast Guard recommended</p> <p>12 additional training or additional policies and procedures</p> <p>13 with respect to making sure your crew knew what they were</p> <p>14 doing, you would certainly implement those, correct?</p> <p>15 A. Yes. And usually, the Coast Guard, at the time</p> <p>16 of the inspection, will come out and say these are the</p> <p>17 new ways we want things done. And that's why the officer</p> <p>18 always takes us out and does the safety drill himself.</p> <p>19 Q. Okay. Tell me what the man overboard, the fire</p> <p>20 and the abandon ship drills or drill entails?</p> <p>21 A. A man overboard drill will entail that we</p> <p>22 literally will throw something over the side of the boat.</p> <p>23 One person on board the boat will yell "man overboard"</p> <p>24 and keep their eye on that, whatever it is thrown in the</p> <p>25 water, which is usually -- a lot of times, it's a, it's</p>	<p>1 A. Every year.</p> <p>2 Q. But the ones on January 21st and 26th here,</p> <p>3 those were not done with the --</p> <p>4 A. Those were --</p> <p>5 Q. -- Coast Guard?</p> <p>6 A. No. We actually did the same drill with that</p> <p>7 mate.</p> <p>8 Q. Okay. Understood. But these were --</p> <p>9 A. Usually, at that point, it's going to be like a</p> <p>10 life jacket we throw overboard because we don't have a --</p> <p>11 Q. Okay.</p> <p>12 A. Like, a dummy person, yeah.</p> <p>13 Q. Now, when the drills -- let's just discuss -- I</p> <p>14 don't want to talk about the one where the Coast Guard</p> <p>15 was there.</p> <p>16 A. Okay.</p> <p>17 Q. But the drills that your crew was doing, that</p> <p>18 Captain Wilkerson was doing with his two mates on the</p> <p>19 21st and the 26th of January of 2017, that is not done</p> <p>20 necessarily or that's not done at dock, correct?</p> <p>21 A. No. It's done underway.</p> <p>22 Q. Okay. And you said that the procedures are,</p> <p>23 and I just want to break this down into steps as to what</p> <p>24 the man overboard proper procedures are, someone yells</p> <p>25 "man overboard," correct?</p>

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<p>1 A. Yes.</p> <p>2 Q. And then the captain then agrees that there's a</p> <p>3 person off the ship?</p> <p>4 A. There's an acknowledgment to that.</p> <p>5 Q. Okay. And then you also mentioned that it's</p> <p>6 their responsibility to keep eyes on the individual,</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. And they then perform some sort of boat</p> <p>10 maneuver to get try to get the vessel as close as they</p> <p>11 can to the individual?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And once they're close enough, someone</p> <p>14 will go in the water if necessary?</p> <p>15 A. Yeah. It's called a Williamson turn --</p> <p>16 Q. Okay.</p> <p>17 A. -- is what they call it. And then we will get</p> <p>18 close to that person and, if need be, get in the water or</p> <p>19 we -- we actually throw a line with a float ball on it.</p> <p>20 Q. Okay.</p> <p>21 A. And then, if need be, get in the water to pick</p> <p>22 up that item or person.</p> <p>23 Q. When would it be necessary for -- and I assume</p> <p>24 it's a crew member that jumps into the water, right?</p> <p>25 A. Yes.</p>	<p>1 A. Yes.</p> <p>2 Q. And what does the Williamson turn entail?</p> <p>3 A. Basically, if they -- say they were to fall off</p> <p>4 the starboard side of the boat, the boat would maneuver</p> <p>5 and turn towards the starboard side to get the engines</p> <p>6 away from that person and go out and do a wide arcing</p> <p>7 turn and come back to the downward side of that person or</p> <p>8 item in the water.</p> <p>9 Q. Okay. And I guess that it depends on -- how</p> <p>10 long that turn takes will depend on how fast the boat was</p> <p>11 going, the currents, winds, things of that nature,</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. You also mentioned that you throw a rescue ball</p> <p>15 or a rescue ring?</p> <p>16 A. Yeah. We have a, I don't know, teardrop-shaped</p> <p>17 fender, basically, bright orange with a ball on it. You</p> <p>18 know, we throw that with a line so that way, if the</p> <p>19 person was able to grab a hold of it, we can pull them</p> <p>20 back to the boat.</p> <p>21 Q. And if the person is not able to grab a hold of</p> <p>22 it, if they're incapacitated, that's when a crew member</p> <p>23 will jump in?</p> <p>24 A. We still throw that next to them and a crew</p> <p>25 member gets into the water.</p>
Page 75	Page 77
<p>1 Q. You'll agree with me that a captain cannot</p> <p>2 delegate that type of responsibility to other passengers,</p> <p>3 right?</p> <p>4 A. No.</p> <p>5 Q. So it has to be a crew member?</p> <p>6 A. Unless, and the Coast Guard tells us this too,</p> <p>7 is if the crew member is busy doing other things and</p> <p>8 lining people up, to assign somebody on board the boat.</p> <p>9 Q. Okay. And that would be up to the captain to</p> <p>10 assign that responsibility?</p> <p>11 A. Yes. And they have to agree to it.</p> <p>12 Q. Okay. Now, if the vessel, I presume, is</p> <p>13 already close enough to the person that has fallen</p> <p>14 overboard, they don't need to do, necessarily, a</p> <p>15 Williamson turn, right?</p> <p>16 A. Most of the time they're going to fall</p> <p>17 overboard while we're underway. That's how the drill is</p> <p>18 done.</p> <p>19 Q. Okay.</p> <p>20 A. Yeah, I guess they -- I mean, if they fall</p> <p>21 overboard when we're on mooring line, then we won't have</p> <p>22 to maneuver the boat.</p> <p>23 Q. Let me ask you this.</p> <p>24 If -- the Williamson turn is performed to get</p> <p>25 the vessel closer to the individual, correct?</p>	<p>1 Q. Okay. And what's the purpose of a crew member</p> <p>2 getting in the water at that point in time?</p> <p>3 A. Swimming him back to the boat.</p> <p>4 Q. Okay. And it's -- once the crew member gets in</p> <p>5 the water, do they have certain responsibilities or do</p> <p>6 they go through certain steps as they approach the person</p> <p>7 in the water?</p> <p>8 A. Well, usually, they go as fast as they can to</p> <p>9 that person, not knowing if they're conscious or</p> <p>10 unconscious.</p> <p>11 Q. And -- sorry, go ahead.</p> <p>12 A. So they -- they will grab that person and grab</p> <p>13 onto that rope. And then the crew, the captain will pull</p> <p>14 them back to the boat.</p> <p>15 Q. And we can agree that if someone is in the</p> <p>16 water and they're unconscious or they're exhibiting signs</p> <p>17 of some sort of medical emergency, the first goal is to</p> <p>18 keep them above the water, right?</p> <p>19 A. Yes. And they will wave to us if they needed</p> <p>20 our attention.</p> <p>21 Q. But if they're unconscious, they can't wave,</p> <p>22 right?</p> <p>23 A. Yes.</p> <p>24 Q. Tell me about the fire drill.</p> <p>25 A. Okay. So the fire drill, this one, I mean,</p>



<p style="text-align: right;">Page 78</p> <p>1 obviously, it's hard to mimic a fire on board the boat.  2 But we will, you know, be underway and we'll notice that  3 there's a fire somewhere. So we talk about what can be  4 done to minimize the fire or isolate the fire to a  5 certain area. How to position the boat, depending on  6 where the fire may be, to obviously, blow the smoke away  7 from the passengers.  8 You know, if the fire is in the back of the  9 boat, you're going to move all the passengers to the  10 front of the boat and try and point the bow into the wind  11 so the smoke is going away from everyone. And, at that  12 point, we would obviously be getting them off the boat.  13 Talk about where the fire extinguishers are,  14 how to operate the fire extinguishers, where the fuel  15 shutoff is on the engines.  16 Q. Tell me about the evacuation drill.  17 A. Pretty much the same thing. We would notice  18 that if for some reason, we know we needed to abandon  19 ship, we would pretty much go through everything of how  20 to abandon ship, where the life jackets are, how to hand  21 out the life jackets, the life raft that's -- the life  22 float that's on the surface, on the top of the boat, how  23 they get that deployed. That the EPIRB is automatically  24 activated once it's in the water and attached to the life  25 floats as well.</p>	<p style="text-align: right;">Page 80</p> <p>1 credentials?  2 A. We do, yes.  3 Q. Okay. And that's because it's important for  4 them to understand in diving, right?  5 A. Yes. In our --  6 Q. Or, at least you find it important?  7 A. We find it important. It also enables them to  8 help the customers on board the boat and understand what  9 they're doing.  10 Q. Okay. You also mentioned rescue diver  11 training, right?  12 A. Rescue diver training, yes.  13 Q. That's a course someone can take, correct?  14 A. Yes, it is.  15 Q. And NAUI has a rescue diving course. All these  16 dive certification agencies that we've already listed  17 have diver rescue courses, correct?  18 A. I am pretty sure that every one of them do,  19 yeah, of some sort.  20 Q. And your deck hands take that course?  21 A. Before they can become a dive master or an  22 instructor, they have to have that course.  23 Q. What about before they become -- do they have  24 to be a dive master or an instructor to be a deck hand?  25 A. They do not.</p>
<p style="text-align: right;">Page 79</p> <p>1 Q. I've been asking about the captain's response  2 -- or, I'm sorry, captain's training from the moment he  3 becomes a captain aboard a Horizon Divers vessel, so I'm  4 talking about after they've done that hands-on training  5 up until, you know, throughout their career with Horizon  6 Divers. And we talked about that the primary additional  7 training that they receive is this drill of man  8 overboard, fire and abandon ship, right?  9 A. Yes.  10 Q. The deck hands, what training do they receive  11 before they become a deck hand on one of your boats?  12 A. Kind of the same as hands-on experience as a  13 captain.  14 Q. Okay.  15 A. Most of our deck hands are dive masters and  16 instructors, as I said before. During their dive master  17 course, they have previously done like, a rescue diver  18 course, which is just a basic rescue diver course. It's  19 a recreational course that a lot of people take.  20 In their dive master course, they will learn a  21 little bit more about boat handling, how to facilitate  22 things on board the boat, emergencies and things like  23 that. That's part of their actual dive master training.  24 Q. Do you require that your deck hands all  25 understand or have some sort of diving qualifications or</p>	<p style="text-align: right;">Page 81</p> <p>1 Q. Aboard your vessels?  2 A. On board our vessels, we -- we do ask that  3 everybody is that.  4 Q. Okay.  5 A. Or in the process of the training of that.  6 Q. Do you require that they have the diver rescue  7 certification prior to becoming a deck hand?  8 A. They would be going through that process as  9 well.  10 Q. Okay. So they don't necessarily have to have  11 the actual credential at the time that they become --  12 A. Before I, before I let them be one, yes, they  13 will.  14 Q. Okay. Now that, you'll agree with me, only  15 stays active for a certain period of time, correct, or  16 valid?  17 A. What's that.  18 Q. The actual diver rescue credential?  19 A. No. It's a certification you get and it's a --  20 it's a diver certification. It never expires.  21 Q. Okay. So it's not something that you have to  22 do again, you have to take the course again every three  23 or four or five years or nothing like that?  24 A. No, it's not.  25 Q. What kind of things are addressed in the diver</p>



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<p>1 rescue courses? Actually, strike that.</p> <p>2 Before -- I'm going to ask you that question in</p> <p>3 a second.</p> <p>4 You guys teach those courses, correct, Horizon</p> <p>5 Divers?</p> <p>6 A. Yes, we do.</p> <p>7 Q. Okay.</p> <p>8 A. We teach the rescue diver course.</p> <p>9 Q. And who's the --</p> <p>10 A. Mainly through PADI and SDI.</p> <p>11 Q. That was going to be my question.</p> <p>12 And what kind of things are addressed in the</p> <p>13 diver rescue course?</p> <p>14 A. The diver rescue course is mainly to do with</p> <p>15 diving situations, in-water situations as far as divers.</p> <p>16 How to search and, you know, do a little bit of search</p> <p>17 and rescue of a diver, bringing the diver back to the --</p> <p>18 back to the surface safely, dealing with an unconscious</p> <p>19 diver at the -- under water, and safely assisting them</p> <p>20 back to the surface.</p> <p>21 Q. Now, that course deals with both underwater</p> <p>22 rescue techniques, correct? And it also deals with, and</p> <p>23 there's certain sections of those courses that deal with</p> <p>24 rescuing divers that are already on the surface, correct?</p> <p>25 A. That is all part of the rescue diver course,</p>	<p>1 (Claimant's Exhibit Number 7 was marked.)</p> <p>2 I'm going to mark what is referred to as</p> <p>3 Captain's Duties and Responsibilities, as 8.</p> <p>4 (Claimant's Exhibit Number 8 was marked.)</p> <p>5 I'm going to mark what is listed as the</p> <p>6 Emergency Action Plan, as Number 9.</p> <p>7 (Claimant's Exhibit Number 9 was marked.)</p> <p>8 And I'm going to mark what is referred to --</p> <p>9 it's a two-page document that I'm going to mark as</p> <p>10 Claimant's 10, which the first page is called or referred</p> <p>11 to as Missing Diver/Passenger/Boater, and the second page</p> <p>12 is, Injured Diver/Serious Marine Incident, and that will</p> <p>13 be Claimant's 10 to your deposition.</p> <p>14 (Claimant's Exhibit Number 10 was marked.)</p> <p>15 When I asked for all your written policies and</p> <p>16 procedures, this -- these are the documents I obtained,</p> <p>17 Claimant's Exhibit 6 through 10. I'd like you to look</p> <p>18 through these and let me know if there's any other</p> <p>19 written policies and procedures that your company used or</p> <p>20 were in effect back on January 31st, 2017, or if this</p> <p>21 encompasses everything.</p> <p>22 A. I believe these cover everything.</p> <p>23 Q. Okay. Let's go through the first one,</p> <p>24 Plaintiff's [sic] Exhibit 6. This is the employee</p> <p>25 handbook, correct?</p>
Page 83	Page 85
<p>1 yes. There are scenarios that, during the course, that</p> <p>2 the students will go through with their instructor.</p> <p>3 Q. If there's an emergency on board one of your</p> <p>4 vessels, the deck hand should be ready and able to</p> <p>5 assist, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And the deck hand takes his or her direction</p> <p>8 from the captain of the vessel?</p> <p>9 A. Yes.</p> <p>10 Q. I also asked for your company's written</p> <p>11 policies and procedures with respect to its dive</p> <p>12 operations, dive excursions, boat operations, and I</p> <p>13 received a couple different documents and I'd like to go</p> <p>14 through them with you so you can tell me what they are.</p> <p>15 And then, once we get through this, we'll take a break.</p> <p>16 I'm going to mark what I received as the</p> <p>17 Employee Handbook from Horizon Divers as Exhibit 6. I'm</p> <p>18 just going to mark a couple things first and then I'm</p> <p>19 going to give you a stack of them because I want to ask</p> <p>20 you one question initially.</p> <p>21 (Claimant's Exhibit Number 6 was marked.)</p> <p>22 I'm going to mark what I received as the mate's</p> <p>23 duties and responsibilities or the document entitled</p> <p>24 Mate's Duties and Responsibilities, as Claimant's</p> <p>25 Exhibit 7.</p>	<p>1 A. Yes.</p> <p>2 Q. Okay. And this is all, given to all crew</p> <p>3 members when they begin their work or relationship with</p> <p>4 Horizon Divers?</p> <p>5 A. Everybody has the ability to read through it,</p> <p>6 yes.</p> <p>7 Q. Okay.</p> <p>8 A. It's given to them, I mean, at the time.</p> <p>9 Q. Do you sit down, do you make them sign off that</p> <p>10 they've read it or anything?</p> <p>11 A. They sign off on their 1099, that they've read</p> <p>12 everything and stuff like that, but.</p> <p>13 Q. Now, this was given to David Wilkerson?</p> <p>14 A. Yes, it was.</p> <p>15 Q. And it was given to Robert Steele?</p> <p>16 A. Yes, it was.</p> <p>17 Q. They were required to follow this?</p> <p>18 A. Yes.</p> <p>19 Q. Is there anything that Wilkerson or Steele were</p> <p>20 not bound by in this or this applies to all captain, crew</p> <p>21 members, deck hands?</p> <p>22 A. It applies to everyone --</p> <p>23 Q. Okay.</p> <p>24 A. -- that works at Horizon Divers.</p> <p>25 Q. And this, it prohibits employees from drug or</p>

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<p>1 alcohol use during work hours, correct?</p> <p>2 A. It does.</p> <p>3 Q. And that certainly applies to Wilkerson and</p> <p>4 Steele, right?</p> <p>5 A. It does.</p> <p>6 Q. And --</p> <p>7 A. And there's also a document from the Coast</p> <p>8 Guard that is signed in their, their record file as well.</p> <p>9 Q. And it actually says that if you suspect an</p> <p>10 employee to be under the influence of drugs or alcohol,</p> <p>11 you can require them to immediately get tested, right?</p> <p>12 A. Yes, I can.</p> <p>13 Q. And that applies to Mr. Wilkerson and</p> <p>14 Mr. Steele?</p> <p>15 A. Yes, it does.</p> <p>16 Q. If an employee takes medication, in fact,</p> <p>17 prescription medication, they're required to inform</p> <p>18 Horizon Divers about it, right?</p> <p>19 A. Yes, they are.</p> <p>20 Q. And that information is kept in their employee</p> <p>21 file?</p> <p>22 A. Yes, sir.</p> <p>23 Q. That applied to Wilkerson and Steele?</p> <p>24 A. It does apply to Wilkerson and Steele.</p> <p>25 Q. And Wilkerson and Steele were both required to</p>	<p>1 question rather than ten.</p> <p>2 So, but is there -- if there was no instruction</p> <p>3 going on and no dive excursion that day, could there be</p> <p>4 an opportunity or would there be a chance that David</p> <p>5 Wilkerson could still be on duty at the shop?</p> <p>6 A. No. He would usually not be working that day.</p> <p>7 Q. Okay.</p> <p>8 A. If he wasn't driving the boat or teaching, he</p> <p>9 would usually not work.</p> <p>10 Q. Now, the teaching, is that on a set schedule</p> <p>11 every week or is that as needed as people contact you?</p> <p>12 A. It's an on-demand basis, so it's as needed and</p> <p>13 when people contact us.</p> <p>14 Q. So their schedules could fluctuate?</p> <p>15 A. Yes.</p> <p>16 Q. So it's not that they worked Monday through</p> <p>17 Friday, 9:00 to 5:00?</p> <p>18 A. No.</p> <p>19 Q. Or something similar to that schedule. You</p> <p>20 would call them when you needed them?</p> <p>21 A. Yes. I only have one person that -- two people</p> <p>22 that do that. It's the office people.</p> <p>23 Q. Two people that are on duty all day?</p> <p>24 A. At the off -- in the office, yeah. Answering</p> <p>25 phones and making reservations. That's it.</p>
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<p>1 fill out time sheets?</p> <p>2 A. Yes.</p> <p>3 Q. And that's how they were paid, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Did they have -- and if it's different</p> <p>6 responses for each of them, just let me know and I can</p> <p>7 ask you separately.</p> <p>8 But did Wilkerson and Steele, back in around</p> <p>9 January of 2017, have set days and hours that they were</p> <p>10 working?</p> <p>11 A. I don't recall.</p> <p>12 Q. Okay.</p> <p>13 A. Probably, more David than -- David Wilkerson</p> <p>14 than Bobby Steele.</p> <p>15 Q. Okay.</p> <p>16 A. Because David was primarily doing instruction</p> <p>17 and boat captaining so he would take a couple of days,</p> <p>18 Troy would drive the other couple days.</p> <p>19 As far as Bobby Steele went, he was a deck</p> <p>20 hand, instructor, so kind of depending on where he was</p> <p>21 needed at the day, on the day.</p> <p>22 Q. If there was no -- I guess what I'm trying to</p> <p>23 get at, and I may not ask this in the best way, so if</p> <p>24 it's confusing just let me know and I'll do my best to</p> <p>25 rephrase it. I'm just going to try to get it out in one</p>	<p>1 Q. Who are those people?</p> <p>2 A. At the time, it was -- it changes every year,</p> <p>3 but Joni Brice and, I believe, Jessica Horn.</p> <p>4 Q. Did either of those two individuals have any</p> <p>5 interaction with Brock Cahill, Robert Stewart or anyone</p> <p>6 affiliated with Sharkwater?</p> <p>7 A. No.</p> <p>8 Q. That, the majority of those communications went</p> <p>9 through you, correct?</p> <p>10 A. Yes.</p> <p>11 Q. And I believe there were some e-mails with Jeff</p> <p>12 Knapp, right?</p> <p>13 A. Yes. Because I was out of town on vacation.</p> <p>14 That was the only reason why he jumped in.</p> <p>15 Q. Understood.</p> <p>16 They were paid on an hourly basis? We already</p> <p>17 discussed that, correct?</p> <p>18 A. No. They -- the captain and the deck hand are</p> <p>19 paid on a per-trip basis.</p> <p>20 Q. Per trip.</p> <p>21 And I assume with David Wilkerson or your</p> <p>22 instructors are paid on a per-class basis?</p> <p>23 A. Per-class basis.</p> <p>24 The people who work in the shop are the only</p> <p>25 ones that are on an hourly basis.</p>

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<p>1 Q. Did they receive any benefits through Horizon</p> <p>2 Divers? And I'm referring to Wilkerson and Steele.</p> <p>3 Health insurance, anything of that nature?</p> <p>4 A. No, there was no health insurance or anything,</p> <p>5 benefits in that nature.</p> <p>6 Q. No retirement plan?</p> <p>7 A. None at all.</p> <p>8 Q. There's also, as I read through the employee</p> <p>9 handbook, there's something that addresses off-duty</p> <p>10 privileges, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And when an employee is off duty, they can go</p> <p>13 on the boat if there's room?</p> <p>14 A. Yeah. Employee, instructors, captains, deck</p> <p>15 hands can go diving on their -- whenever they're not</p> <p>16 working, provided that they help unload -- load and</p> <p>17 unload the boat.</p> <p>18 Q. So, as long as they assist, they're allowed to</p> <p>19 go out there?</p> <p>20 A. Yes.</p> <p>21 Q. And that pertained to Wilkerson and Steele?</p> <p>22 A. Yes.</p> <p>23 Q. Employees are obviously required to be at work</p> <p>24 on time?</p> <p>25 A. Yes.</p>	<p>1 MR. FERTIG: Number 6 is the handbook.</p> <p>2 MR. ECHARTE: Yeah.</p> <p>3 BY MR. ECHARTE:</p> <p>4 Q. Claimant's Exhibit 7, which is the mate's</p> <p>5 duties and responsibilities. What is this document?</p> <p>6 A. This is just letting the mates know when</p> <p>7 they're, you know, when they're working as a mate or get</p> <p>8 hired on as a deck hand, basically, is what this really</p> <p>9 comes out to, what their duties and responsibilities are</p> <p>10 from when they arrive at the shop in the morning or the</p> <p>11 boat in the morning, setting up the boat. And then,</p> <p>12 while they're underway and at the dive site. And then,</p> <p>13 kind of what they do at the end of the day before they go</p> <p>14 home.</p> <p>15 Q. Is this given to all your mates or deck hands?</p> <p>16 A. It is.</p> <p>17 Q. Those terms are interchangeable, correct?</p> <p>18 A. They are interchangeable. But mostly, they're</p> <p>19 just as deck hand, yeah.</p> <p>20 Q. Okay. I just don't want to be referring to</p> <p>21 something wrong.</p> <p>22 A. No, I gotcha.</p> <p>23 Q. I just want to make sure we're on the same page</p> <p>24 when I'm referring to both of them. But with respect to</p> <p>25 these duties and responsibilities for your mates, they</p>
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<p>1 Q. And the time that they needed to be at work,</p> <p>2 that was dictated by Horizon Divers, right?</p> <p>3 A. Yes.</p> <p>4 Q. And you, ultimately?</p> <p>5 A. Ultimately.</p> <p>6 Q. And employees must also be in uniform, right?</p> <p>7 A. We don't really have a set uniform.</p> <p>8 Q. Okay.</p> <p>9 A. As long as they're wearing a Horizon Divers tee</p> <p>10 shirt, you know, they're not dressed provocatively and</p> <p>11 they're not all -- you know, usually shorts and a tee</p> <p>12 shirt of some sort. A lot of the captains will wear</p> <p>13 shirts that are similar to this.</p> <p>14 Q. Now, the shirts that they would wear or, I</p> <p>15 guess, for lack of a better term, their uniforms, it</p> <p>16 just, it was, based on your testimony, a shirt that had</p> <p>17 the Horizon Divers emblem?</p> <p>18 A. It will have the Horizon Divers emblem usually</p> <p>19 on their left chest, and then on the back of the shirt as</p> <p>20 well.</p> <p>21 Q. Let's talk about the next document in that</p> <p>22 packet. You can pass that one over here so I don't lose</p> <p>23 track.</p> <p>24 Claimant's Exhibit 6, this is the -- or, I'm</p> <p>25 sorry.</p>	<p>1 are -- this was given to Robert Steele, correct?</p> <p>2 A. Yes.</p> <p>3 Q. Is this posted anywhere?</p> <p>4 A. No.</p> <p>5 Q. Okay. This is given to them when they begin</p> <p>6 their employment with --</p> <p>7 A. Yes.</p> <p>8 Q. -- with Horizon Divers?</p> <p>9 A. And then the captains, as they're training</p> <p>10 these people as deck hands, go through these</p> <p>11 responsibilities. And they're usually trained by a deck</p> <p>12 hand that's been there for a while longer who already</p> <p>13 knows all the stuff and sets them up. So they've been --</p> <p>14 they've seen this paper and then they go through it.</p> <p>15 Q. I am not sure if I asked you this earlier. If</p> <p>16 I did, I apologize.</p> <p>17 When did Robert Steele start working with</p> <p>18 Horizon Divers?</p> <p>19 A. May of 2015. It was right when we moved</p> <p>20 locations.</p> <p>21 Q. You were always in Key Largo, though?</p> <p>22 A. Yes.</p> <p>23 Q. Was this document or these duties and</p> <p>24 responsibilities, these were the same ones -- this was</p> <p>25 what was effective in January 31st, 2017, correct?</p>

<p style="text-align: right;">Page 94</p> <p>1 A. Yes, it is.</p> <p>2 Q. When Robert Steele started with the company in</p> <p>3 2015, whenever it was, was this also the same document</p> <p>4 that was given to them?</p> <p>5 A. Yes, it is.</p> <p>6 Q. Is it still the same document today?</p> <p>7 A. It still is, yes.</p> <p>8 Q. Okay. So you haven't made any changes to it or</p> <p>9 anything?</p> <p>10 A. No, sir.</p> <p>11 Q. And you certainly expect that your mates will</p> <p>12 follow these out, their outlined procedures here,</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And the first section talks about prior</p> <p>16 to departure, and these are all the responsibilities, as</p> <p>17 you just described, that they're required to go through</p> <p>18 prior to the vessel leaving the dock?</p> <p>19 A. Yes.</p> <p>20 Q. And then, the next set of items is what they're</p> <p>21 supposed to do once they're underway and at the dive</p> <p>22 site, right?</p> <p>23 A. Yes.</p> <p>24 Q. You can put that aside. We'll come back to</p> <p>25 that in a moment.</p>	<p style="text-align: right;">Page 96</p> <p>1 and cleaning supplies away, make sure that the water is</p> <p>2 filled, the coolers are stocked with ice and drinks,</p> <p>3 paper cups, make sure the mask rinse buckets and stuff</p> <p>4 like that -- yeah, it's just making sure that the boat is</p> <p>5 set up correctly.</p> <p>6 Q. Okay. And so you're referring to, this is</p> <p>7 paragraph nine, and there's 9a through 9i, correct?</p> <p>8 A. Yes, there is.</p> <p>9 Q. Okay. And that's the captain's responsibility</p> <p>10 before the boat leaves the dock to make sure that the</p> <p>11 mate or the deck hand has done all these items, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And the captain, even once the boat</p> <p>14 leaves the dock, is still responsible for supervising the</p> <p>15 crew, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Number eleven talks about, "When complete, pick</p> <p>18 up manifest, and prepare for departure."</p> <p>19 What is a manifest?</p> <p>20 A. That pertained more to our older location since</p> <p>21 the dock and the shop were in the same location. Now,</p> <p>22 our manifest is electronic.</p> <p>23 Q. Okay.</p> <p>24 A. A manifest is a list of all the passengers on</p> <p>25 board our boat.</p>
<p style="text-align: right;">Page 95</p> <p>1 We can go to the next document which is</p> <p>2 Claimant's Exhibit 8, and these are the captain's duties</p> <p>3 and responsibilities. Can you describe what this is?</p> <p>4 A. Basically, the same thing as the deck hands,</p> <p>5 it's just more of the captain's responsibilities from</p> <p>6 time of arrival at the dock til going home at the end of</p> <p>7 the day.</p> <p>8 Q. And this was given to David Wilkerson when he</p> <p>9 started working with Horizon Divers?</p> <p>10 A. It was given to David Wilkerson as well as</p> <p>11 every other captain.</p> <p>12 Q. And when David Wilkerson started working at</p> <p>13 Horizon Divers, it was this same document; it has not</p> <p>14 changed, correct?</p> <p>15 A. Has not changed.</p> <p>16 Q. And this document was the one that was in</p> <p>17 effect on January 31st, 2017?</p> <p>18 A. Yes, it was.</p> <p>19 Q. And this, you expected David Wilkerson to</p> <p>20 follow this, correct?</p> <p>21 A. Yes.</p> <p>22 Q. Now, this number nine under the first section</p> <p>23 discusses how the captain is required to supervise the</p> <p>24 crew, correct?</p> <p>25 A. Supervise the crew as in putting all the tools</p>	<p style="text-align: right;">Page 97</p> <p>1 Q. And it also lists the crew members, correct?</p> <p>2 A. It does list the crew members as crew members.</p> <p>3 And every one of those passengers, before they can be</p> <p>4 added to the manifest, has to have a liability release</p> <p>5 signed at the shop.</p> <p>6 Q. Okay. So the manifest lists all passengers and</p> <p>7 it separates them from crew. It's just not a list of</p> <p>8 names, right?</p> <p>9 A. It's just a list of names and who's diving.</p> <p>10 And then, the crew members are at the top. So it's</p> <p>11 captain and deck hand.</p> <p>12 Q. Who's responsible for creating that manifest?</p> <p>13 A. We are, at the shop.</p> <p>14 Q. Okay. Now, when you say "we are," is that you?</p> <p>15 A. Myself. Whoever's in the shop that morning or</p> <p>16 afternoon is the one that receives the releases from the</p> <p>17 divers. And then, we check to make sure that their</p> <p>18 documentation is good and we sign them up.</p> <p>19 Q. Are the only two people at or three people that</p> <p>20 would be in the shop responsible for putting together the</p> <p>21 manifest -- let's go back to January 31st, 2017 -- would</p> <p>22 it be you and the two people that are always in the shop</p> <p>23 that work those consistent days and hours?</p> <p>24 A. Jeff Knapp as well, works in the shop.</p> <p>25 Q. Okay.</p>

<p style="text-align: right;">Page 98</p> <p>1 A. So usually, a few people. Some of our deck 2 hands, when they're not working on the boat, will come 3 into the shop and help sign divers in. 4 Q. Okay. So Jeff Knapp used to work in the shop 5 as well? 6 A. He does, yes. 7 Q. Did David Wilkerson ever work in the shop? 8 A. No. 9 Q. Did Robert Steele ever work in the shop? 10 A. Only to repair dive equipment. Never dealt 11 with customers in that way. 12 Q. The shop, is that where also the classes took 13 place? 14 A. Yes. That's where our classroom is as well. 15 Q. So David Wilkerson would provide instruction at 16 the shop, but he wouldn't necessarily work in the shop? 17 A. Yes. 18 Q. So it would be you, Jeff Knapp or the two other 19 people that worked in the shop that would create the 20 manifest? 21 A. Yes. 22 Q. And then, it's electronic, so how would it -- 23 would the captain receive it then, and I'm going to 24 January 31st of 2017, would it be e-mailed to the captain 25 before he left the dock?</p>	<p style="text-align: right;">Page 100</p> <p>1 Now, you said that before someone gets added or 2 a passenger gets added to the manifest, they're required 3 to sign a waiver of liability, correct? 4 A. Yes. 5 Q. And you said they're required to do that at the 6 shop, correct? 7 A. Not always. Sometimes they do it on board the 8 boat. 9 Q. And in this case, on January 30th, the four 10 passengers, actually five passengers that went on the 11 boat that day, did they all sign liability waivers? 12 A. On the boat. 13 Q. Now, that was Peter Sotis on the liability 14 waiver, correct? 15 A. Yes. 16 Q. Claudia Sotis signed the liability waiver? 17 A. Yes. 18 Q. Robert Stewart signed a liability waiver? 19 A. Yes. 20 Q. Brock Cahill signed a liability waiver? 21 A. Yes. 22 Q. Now, there was, on January 30th, there was also 23 another individual by the name of Ben Sampson who was not 24 diving. Do you know who I'm referring to? 25 A. Yes.</p>
<p style="text-align: right;">Page 99</p> <p>1 A. It's online. 2 Q. Okay. 3 A. It's an online-based reservation system. 4 Q. And would the captain check it before he left 5 the dock? 6 A. Every time. He calls roll to everybody on 7 board the boat before he does the safety briefing, and 8 then they leave the dock. 9 Q. Now, we have -- I've obtained the manifest from 10 January 30th, 2017, and January 31st, 2017. I'm sure 11 you've reviewed those two documents, correct? 12 A. Yes, I have. 13 Q. And I'm going to provide them to you in just a 14 minute, but who created those, do you recall? 15 A. David called in who was on board the boat to 16 the shop, and we added them to the manifest. And then 17 it, when we clicked "save," it would update it to his 18 electronic. 19 Q. Who, who did it from the shop? 20 A. Obviously, I couldn't tell you that day if it 21 was Joni or Jessica, but I know I was there that day. 22 Q. So it could have been -- 23 A. It could have even been myself. 24 Q. And, I'm sorry. I didn't mean to interrupt 25 again. I know, I'm going to drive you crazy.</p>	<p style="text-align: right;">Page 101</p> <p>1 Q. He was also a passenger on the vessel on 2 January 30th? 3 A. Yes. 4 Q. He did not sign a liability -- 5 A. He did sign a liability release. 6 Q. And do you still -- are you still in possession 7 of that? 8 A. Yes. 9 Q. Okay. Those were signed aboard the Pisces on 10 the morning of January 30th, correct? 11 A. Yes. 12 Q. That was before the boat left dock? 13 A. Before the boat left the dock. 14 Q. And you did not get those waivers until that 15 evening, correct? 16 A. Until that evening. 17 Q. And David Wilkerson was the individual that 18 took those waivers to Horizon Divers, correct? 19 A. Yes. 20 Q. And that was after they got back on 21 January 30th, right? 22 A. Yes. He put -- he took them from the boat 23 after signed, put them in his truck to bring back to the 24 shop later. 25 Q. Did Robert Stewart or any other of the</p>

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<p>1 passengers that day sign any other waivers or releases?</p> <p>2 A. From Horizon Divers, no.</p> <p>3 Q. Did they sign any other documentation to allow</p> <p>4 them to go out on the vessel?</p> <p>5 A. For Horizon Divers' purposes, no.</p> <p>6 Q. For anyone else's purposes?</p> <p>7 A. There was another document. I think it was</p> <p>8 Robert Stewart's document though, so.</p> <p>9 Q. Okay. What document is that?</p> <p>10 A. I wasn't there. I don't know. I just was told</p> <p>11 that there was a photo release or something.</p> <p>12 Q. Okay. Do you know who's in possession of that?</p> <p>13 A. No. And I found this out afterwards. I did</p> <p>14 not find out that day.</p> <p>15 Q. And what is that document, what's your</p> <p>16 understanding of what that document was?</p> <p>17 A. That the gentleman, Ben, was doing some</p> <p>18 videography, and that was just to release David for being</p> <p>19 a part of that video.</p> <p>20 Q. Understood.</p> <p>21 When David Wilkerson took those releases to</p> <p>22 Horizon Divers, who were they given to?</p> <p>23 A. Me, personally.</p> <p>24 Q. And then what did you do with them?</p> <p>25 A. I stapled them to that day's manifest because</p>	<p>1 you did not rent any gear to any of these divers,</p> <p>2 correct?</p> <p>3 A. No, sir. We were just supplying a boat.</p> <p>4 Q. And a mate and a captain?</p> <p>5 A. And a mate and a captain.</p> <p>6 Q. On --</p> <p>7 A. When I say, "supplying a boat," that means the</p> <p>8 manning requirement as well.</p> <p>9 Q. Understood.</p> <p>10 Paragraph number thirteen or item number</p> <p>11 thirteen talks about the captain is required to introduce</p> <p>12 the crew and give Coast Guard safety briefing. "Keep the</p> <p>13 mates briefing short and timely but precise."</p> <p>14 What does the Coast Guard safety briefing</p> <p>15 entail?</p> <p>16 A. It entails stowage of gear, the safety</p> <p>17 equipment on board the boat. We go over the emergency</p> <p>18 action plan, which is the next document here. Man</p> <p>19 overboard requirements, abandon ship drills pertaining to</p> <p>20 the life float that's on top of the boat, life jackets,</p> <p>21 show them the placard of how a life jacket is used. We</p> <p>22 talk about boarding and un-boarding of the vessel.</p> <p>23 Q. Okay.</p> <p>24 A. In and out of the water. Then we talk about,</p> <p>25 you know, there's a cooler, ice water, where to store</p>
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<p>1 we keep a paper copy of the manifest, which is what, I</p> <p>2 think, what we sent you.</p> <p>3 Q. Uh-huh.</p> <p>4 A. And I keep those in file.</p> <p>5 Q. Okay. And you still have the originals?</p> <p>6 A. I do.</p> <p>7 Q. And are those in your possession or your</p> <p>8 attorney's possession?</p> <p>9 A. Attorney's possession.</p> <p>10 Q. On item number twelve on Claimant's Exhibit 8,</p> <p>11 talks about, "Welcome guests on board and check that they</p> <p>12 have all gear."</p> <p>13 That's just checking that they didn't forget</p> <p>14 anything like masks and things of that nature? I mean,</p> <p>15 what are we talking about here?</p> <p>16 A. It's pretty much checking to make sure that if</p> <p>17 you are coming on board, that you have all the dive gear</p> <p>18 that you need to do this dive excursion and, and/or, if</p> <p>19 you need to rent some of our rental gear.</p> <p>20 Q. Okay.</p> <p>21 A. Just to make sure that we supply -- that</p> <p>22 everything is supplied to you beforehand if you're</p> <p>23 renting. If not, you have all your stuff out of your car</p> <p>24 before the boat leaves the dock.</p> <p>25 Q. The dive excursions on January 30th and 31st,</p>	<p>1 your gear that's not being used, where to store the stuff</p> <p>2 that you don't want to get wet to keep it dry, so on and</p> <p>3 so forth.</p> <p>4 Q. There's no discussions or coordination</p> <p>5 regarding emergency action plans for --</p> <p>6 A. No, we talk -- that's what I say, we talk about</p> <p>7 the emergency action plan as far as like, you know, if</p> <p>8 we're underway and you see somebody go overboard, please</p> <p>9 yell "man overboard," what side it is.</p> <p>10 Q. Okay.</p> <p>11 A. If you see smoke, something like that, please</p> <p>12 get our attention so we can go through that as well.</p> <p>13 Q. So with -- with respect to rescues or emergency</p> <p>14 procedures and protocols, during that initial briefing by</p> <p>15 the captain, the extent of it is contained within the</p> <p>16 emergency action plan?</p> <p>17 A. Yeah.</p> <p>18 Q. Okay. Does it go beyond this?</p> <p>19 A. The only thing it goes beyond is talking about</p> <p>20 that individual equipment, you know, abandoning ship.</p> <p>21 Talk about the life raft --</p> <p>22 Q. Oh, understood.</p> <p>23 A. -- or the life jackets.</p> <p>24 Q. Okay.</p> <p>25 A. When they're going to be utilized. And we'll</p>



<p style="text-align: right;">Page 106</p> <p>1 tell them when they need to either get off the boat or 2 put on a life jacket. 3 Q. Other than the emergency action plan which has 4 been marked as Exhibit 9, and the additional discussions 5 regarding the life boats and life preservers and things 6 of that nature, anything else that's discussed in the 7 initial briefing with respect to emergency procedures? 8 A. Just talking about, you know, where our life 9 rings are, where our first aid kit is. 10 Q. Okay. 11 A. Our oxygen kit. Just kind of where everything 12 is on board the boat. 13 Q. Okay. Going to the next page of the captain's 14 duties and responsibilities, it's under the section 15 "Underway and at Dive Site." Number seven talks about, 16 "Make log book entries, as appropriate." What is that? 17 A. Log, put it in the -- our log book for the 18 boat, the site location that they were at and the weather 19 conditions. 20 Q. Do they maintain a dive log? 21 A. As far as -- well, it's a boating log of where 22 we were that day, how many people were on board and who 23 the crew was. 24 Q. What about times of dives; do they keep track 25 of that? Meaning the crew members.</p>	<p style="text-align: right;">Page 108</p> <p>1 A. So a little over an hour. So we expect 2 everybody back on board within that time frame. 3 We move to another location, get there at 4 11:00. Say, okay, we want everybody back on board at 5 12:05. 6 Q. Okay. 7 A. When we go to our wrecks and still do 8 recreational profiles, they're diving to their ability of 9 their computer, their dive computer or their dive plan 10 that they've made themselves. 11 Q. Okay. 12 A. So we stay on that wreck for a two hour and 13 twenty minute period, and they do their diving within 14 that time frame. 15 Q. Now, does the captain or the mate, do they talk 16 to the divers before they enter the water saying, what 17 are your intentions during this dive, how long do you 18 intend on being down there? 19 A. Yes. 20 Q. Okay. And that's what they write down in their 21 handbook? 22 A. Usually write it down on a handbook or a 23 clipboard with some paper on it. 24 Q. And the purpose of that is to make sure that 25 the captain and mate are aware of when they're going to</p>
<p style="text-align: right;">Page 107</p> <p>1 A. What time the divers entered the water? 2 Q. Yes. 3 A. No. 4 Q. So there's no diving log book showing divers 5 entered water at 12:00 p.m. and exited at 1:00 p.m., two- 6 minute surface interval, back in the water? 7 I mean, I know that's a ridiculous example, but 8 nothing of that nature? 9 A. Not in a log book, per se, no. 10 Q. Okay. Does the captain or the mate keep track 11 of that in any sort of way other than in a log book? 12 A. Each of them do it in their own different way. 13 Some of them have a little pad of paper that they write 14 down the time in the water so they know when to expect 15 them back on board the boat. 16 Q. Okay. And do they check with the divers ahead 17 of time to know how long they intend on being down there? 18 A. For purposes of recreational diving, non- 19 technical, no. 20 Q. Okay. 21 A. We get to a dive site and if it's one of our 22 shallow reefs or shallow wrecks, we will tell them, you 23 know, it's 9:35. We want everybody back on board at 24 10:40. 25 Q. Okay.</p>	<p style="text-align: right;">Page 109</p> <p>1 surfacing? 2 A. Yes. 3 Q. In addition to -- or, do you, do you keep 4 copies of this handwritten book? 5 A. Those -- no. Those are the captain's and 6 mate's or deck hand's paperwork. 7 Q. In this case, on January 31st, 2017, did you 8 ever ask David Wilkerson or Robert Steele for their 9 notes? 10 A. No. I don't know if they took any or what they 11 wrote them on. Troy uses his phone. 12 Q. Okay. 13 A. So. 14 Q. Is there any other reason why a captain or a 15 mate would write down any information regarding the dives 16 other than just to know when to expect the divers back on 17 board? 18 A. They just want to know their dive profile or 19 their, what we call their run time. That's it. 20 Q. And the purpose of that is to know when they're 21 going to surface? 22 A. Know when they're going to surface. 23 Q. Number eight says, "Maintain vigilance over 24 guests in the water." Do you see that? 25 A. Yes.</p>



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<p>1 Q. Okay. And what is -- what does that mean?</p> <p>2 A. Typical dives, we can see the bubbles coming to</p> <p>3 the surface so we're just making sure that they're on the</p> <p>4 site location.</p> <p>5 Q. And once they're on the surface, keep eyes on</p> <p>6 them?</p> <p>7 A. Yeah.</p> <p>8 Q. Until they get onto the boat?</p> <p>9 A. When they get on, when they get on the surface,</p> <p>10 when they get to the surface, the boat crew usually asks</p> <p>11 them if they're okay. So there's -- you can do the big</p> <p>12 "O" or this is the okay. And those divers are asked to</p> <p>13 give that signal back if everything is fine.</p> <p>14 Q. Okay.</p> <p>15 A. And then they swim back to the boat.</p> <p>16 Q. Once they give the signal that they're okay,</p> <p>17 you just can't, or a captain and a mate, they can't just</p> <p>18 ignore them, correct?</p> <p>19 A. No. We go about helping other divers back on</p> <p>20 board the boat and kind of have the presence of where</p> <p>21 they are. Usually, they're going to surface real close</p> <p>22 to the boat.</p> <p>23 MR. ECHARTÉ: I know we've been going about an</p> <p>24 hour. I've got another like, ten or fifteen minutes</p> <p>25 for this section. Is it okay if I just power</p>	<p>1 Q. And this is the training that David Wilkerson</p> <p>2 did on two occasions on the 21st and the 26th, right?</p> <p>3 A. Yes.</p> <p>4 Q. And this is also the training that Robert</p> <p>5 Steele did on January 26th, correct?</p> <p>6 A. Yes, it is.</p> <p>7 Q. Okay. Going to the next exhibit, Missing</p> <p>8 Diver/Passenger/Boater, and Injured Diver/Serious Marine</p> <p>9 Incident. And this is Exhibit 10 to Claimant's</p> <p>10 deposition. What are these documents?</p> <p>11 A. These documents were created back, awhile back,</p> <p>12 when we formed the water emergency team through the fire</p> <p>13 department. And these are documents that a couple of</p> <p>14 dive shops use for a missing diver, boater, passenger</p> <p>15 and/or a serious marine incident.</p> <p>16 Q. What is the water emergency team?</p> <p>17 A. It was part of the fire department dive team.</p> <p>18 It was basically a bunch of dive professionals and</p> <p>19 captains that would go out and if another boat, another</p> <p>20 dive shop lost a diver or a boat was drifting somewhere,</p> <p>21 we would go out and help do the search patterns and --</p> <p>22 Q. On January 31st, 2017, were you part of that</p> <p>23 water emergency team?</p> <p>24 A. From my understanding, yes, I was.</p> <p>25 Q. Okay. And you individually or Horizon Divers?</p>
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<p>1 through it and then --</p> <p>2 MR. FERTIG: Fine.</p> <p>3 MR. ECHARTÉ: -- we can take a longer break; is</p> <p>4 that okay with everyone?</p> <p>5 MR. BAYER: Fine, sure.</p> <p>6 MR. ECHARTÉ: Okay.</p> <p>7 MR. FERTIG: I should ask Dan. Dan, are you</p> <p>8 okay?</p> <p>9 THE WITNESS: I don't have to go to the</p> <p>10 bathroom yet so we're good.</p> <p>11 MR. FERTIG: Okay.</p> <p>12 MR. ECHARTÉ: Okay. Yeah, I don't have that</p> <p>13 much longer and then we can take a longer break and</p> <p>14 come back and I'll wrap everything up later.</p> <p>15 THE WITNESS: Are we finished with this one?</p> <p>16 MR. ECHARTÉ: We are finished with that one.</p> <p>17 Thank you.</p> <p>18 Q. Let's look at Exhibit Number 9 to your</p> <p>19 deposition. This is the emergency action plan. And</p> <p>20 we've already discussed this quite a bit, correct?</p> <p>21 A. Yes, we have.</p> <p>22 Q. Your crew members are required to be familiar</p> <p>23 with it, right?</p> <p>24 A. It -- they are, and it is posted on all the</p> <p>25 boats.</p>	<p>1 A. Myself individually. It's just an individual</p> <p>2 thing.</p> <p>3 Q. Okay. Was Craig Jenni a member of that team?</p> <p>4 A. No.</p> <p>5 Q. Were any other members of that team involved in</p> <p>6 the search, rescue or recovery efforts of Robert Stewart?</p> <p>7 A. Rob Bleser. He was our -- the captain of the</p> <p>8 water emergency team.</p> <p>9 Q. Any other individuals that you're aware of?</p> <p>10 A. Some of his employees may have been, I don't</p> <p>11 know, that were there. I'm not sure if they were actual</p> <p>12 members or not.</p> <p>13 Q. Now, Rob Bleser does not work for the Key Largo</p> <p>14 Fire Department, right?</p> <p>15 A. I am unaware of that.</p> <p>16 Q. Let me ask you this way.</p> <p>17 What's your understanding of who Rob Bleser is?</p> <p>18 A. Well, he owns another dive shop.</p> <p>19 Q. Okay.</p> <p>20 A. And it's my understanding that he was the</p> <p>21 captain of the water emergency team under purview of the</p> <p>22 fire department.</p> <p>23 Q. What dive shop does he own?</p> <p>24 A. Quiescence.</p> <p>25 Q. Where is that?</p>

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<p>1 A. In Key Largo.</p> <p>2 Q. How do you spell that?</p> <p>3 A. Please don't ask me to spell that.</p> <p>4 Q. I have no clue, either.</p> <p>5 A. The way I explain it is "qui-science"</p> <p>6 (phonetic).</p> <p>7 Q. Okay.</p> <p>8 A. So, something of that nature.</p> <p>9 Q. Does he also take divers to deep-water wrecks?</p> <p>10 A. What do you mean?</p> <p>11 Q. Let me phrase it this way.</p> <p>12 Does he take divers to the Queen of Nassau?</p> <p>13 MR. FERTIG: By "he" you're referring to his</p> <p>14 dive shop or him personally?</p> <p>15 MR. ECHARTE: His dive shop.</p> <p>16 A. Are we talking about Rob Bleser?</p> <p>17 Q. Yes.</p> <p>18 A. No, he does not.</p> <p>19 Q. Okay. What does his dive shop primarily do?</p> <p>20 A. More the recreational type diving.</p> <p>21 Q. Are there other dive shops anywhere along the</p> <p>22 Keys that go to Queen of Nassau?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. What are those dive shops?</p> <p>25 A. I don't know if they still do, but I know in</p>	<p>1 A. Can I look back?</p> <p>2 Q. Yeah, of course.</p> <p>3 A. I mean, they talk about --</p> <p>4 Q. And if they do, just point out to what is --</p> <p>5 A. The emergency action plan talks about the</p> <p>6 diver, you know, per -- people at the surface or</p> <p>7 emergency action plan.</p> <p>8 Q. Okay. And you're referring to the man</p> <p>9 overboard section on the emergency action plan, which is</p> <p>10 listed as Claimant's 9, correct?</p> <p>11 A. Yes, I am.</p> <p>12 Q. Okay. And that's the standard United States</p> <p>13 Coast Guard placard that's supposed to be displayed on</p> <p>14 your vessels?</p> <p>15 A. Exactly. This comes from the Coast Guard</p> <p>16 themselves.</p> <p>17 Q. Okay. Other than that man overboard section on</p> <p>18 the emergency action plan, is there any other documents</p> <p>19 that address diver rescue and recovery procedures?</p> <p>20 A. Just the missing diver and boater and seriously</p> <p>21 injured.</p> <p>22 Q. And how does that address what to -- what to do</p> <p>23 in a diver rescue situation?</p> <p>24 A. It addresses who to call.</p> <p>25 Q. Okay.</p>
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<p>1 the past, Silent World.</p> <p>2 Q. Silent World?</p> <p>3 A. Silent World has run trips there.</p> <p>4 Q. Okay.</p> <p>5 A. I believe Rainbow Reef has run trips there.</p> <p>6 Q. Is there anything about the Queen of Nassau</p> <p>7 that makes it more dangerous or risky than other dive</p> <p>8 sites at that depth?</p> <p>9 A. No. It's just farther away from everywhere</p> <p>10 else.</p> <p>11 Q. Do you still operate dive excursions to the</p> <p>12 Queen of Nassau?</p> <p>13 A. Yes.</p> <p>14 Q. Now, we already discussed that Exhibits 6</p> <p>15 through 10 are -- encompass all written policies and</p> <p>16 procedures for Horizon Divers that were in effect back on</p> <p>17 January 31st, 2017, right?</p> <p>18 A. Yes, we did discuss that.</p> <p>19 Q. Okay. And we can agree that none of these</p> <p>20 documents address any pre-dive planning by the captain or</p> <p>21 the mate, correct?</p> <p>22 A. Yes. There is no pre-dive planning by the</p> <p>23 captain and deck hand.</p> <p>24 Q. We can agree that none of these documents</p> <p>25 address diver rescue or recovery procedures, correct?</p>	<p>1 A. Such as the Coast Guard on Channel 16 or the</p> <p>2 actual phone number to the Coast Guard Station</p> <p>3 Islamorada, for the missing diver/boater anyway. And it</p> <p>4 says Officer Ben Morris' actual cell phone number. The</p> <p>5 dispatch to the emergency services, you know, the</p> <p>6 ambulance. It also gives Rob Bleser's phone number and</p> <p>7 my phone number, and Andy Bohl who is a member of the</p> <p>8 fire department. FWC, Florida Marine Patrol, Sheriff's</p> <p>9 Office, all the direct phone numbers. So that -- these</p> <p>10 are posted on board the boat.</p> <p>11 Q. Now, these two pages, and we're talking about</p> <p>12 Claimant's Exhibit 10, they don't talk about how to get</p> <p>13 -- how to rescue a diver, right?</p> <p>14 A. No.</p> <p>15 Q. They talk about what to do when there's an</p> <p>16 emergency by way of calling the Coast Guard, getting</p> <p>17 extra assistance, making sure notes are taken, things of</p> <p>18 that nature, right?</p> <p>19 A. Yes.</p> <p>20 Q. It doesn't actually talk about the actual</p> <p>21 recovery of the diver?</p> <p>22 A. No.</p> <p>23 Q. Okay. Other than -- then you'll agree with me,</p> <p>24 the only thing in these written policies and procedures</p> <p>25 that addresses actually rescuing a diver in any sort of</p>

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<p>1 way would be the man overboard procedures in</p> <p>2 Claimant's 6, correct -- I'm sorry, Claimant's 9?</p> <p>3 A. That would be the only thing that has it, that</p> <p>4 addresses in our paperwork, yes, of getting somebody out</p> <p>5 of the water --</p> <p>6 Q. We --</p> <p>7 A. -- or rescuing somebody.</p> <p>8 Q. We can agree that none of these documents</p> <p>9 address the emergency procedures to take place for a</p> <p>10 distressed or disabled diver, correct?</p> <p>11 A. Yes. None of these documents do that.</p> <p>12 Q. We can agree that your crew members did not</p> <p>13 receive periodic training regarding diver rescue</p> <p>14 procedures, correct, other than the man overboard</p> <p>15 training?</p> <p>16 A. I mean, they do other trainin and stuff. Most</p> <p>17 of them are instructors so they're teaching that rescue</p> <p>18 class.</p> <p>19 Q. Okay.</p> <p>20 A. So there is, in my vision, that when these</p> <p>21 divers, instructors teach these classes, there's their</p> <p>22 review on that material.</p> <p>23 Q. And how often would, let's say in the year</p> <p>24 leading up to this incident, how often would David</p> <p>25 Wilkerson have taught the diver rescue class?</p>	<p>1 something like that. But, typically, it's the instructor</p> <p>2 and the student.</p> <p>3 Q. We can agree that none of these documents</p> <p>4 instruct the crew to have a planning or coordination</p> <p>5 meeting prior to the vessel leaving the dock, correct?</p> <p>6 A. No. We talk about that every time we go out.</p> <p>7 Talk -- the captain goes over where we're going to go,</p> <p>8 what we're going to do, kind of the orientation of how</p> <p>9 things are going to flow.</p> <p>10 Q. And are you talking about the captain talking</p> <p>11 to the passengers?</p> <p>12 A. The captain talks to the passengers. The</p> <p>13 captain also talks to the crew member.</p> <p>14 Q. Okay.</p> <p>15 A. When I'm driving the boat, same thing. Again,</p> <p>16 I've trained a lot of these divers, is I talk to my deck</p> <p>17 hand, what I expect him to do by helping the crew doing</p> <p>18 these different things. And then I talk to the actual</p> <p>19 passengers about the site we're going to go to, what's</p> <p>20 going to happen, what to expect, what not to expect.</p> <p>21 Q. None of these documents, though, talk about or</p> <p>22 have written requirements or procedures that show what</p> <p>23 the captain should coordinate with the other crew member,</p> <p>24 correct?</p> <p>25 A. No, they do not.</p>
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<p>1 A. Maybe once or twice.</p> <p>2 Q. Okay. And what about Robert Steele, did he</p> <p>3 ever teach that class?</p> <p>4 A. Same thing, yeah, once or twice.</p> <p>5 We kind of divvy those out to all the different</p> <p>6 instructors because of who wants to teach them.</p> <p>7 Q. Would you have records of that to show us how</p> <p>8 often David Wilkerson or Robert Steele taught the diver</p> <p>9 rescue class in, let's say, the year leading up to this</p> <p>10 incident?</p> <p>11 A. I don't think I would be able to -- it would</p> <p>12 take me a long time. Maybe we can figure it out, but I</p> <p>13 don't think so, no.</p> <p>14 Q. Okay.</p> <p>15 A. I don't have a spreadsheet of who did what, if</p> <p>16 that's what you're referring to, no.</p> <p>17 Q. Beyond them teaching -- and when they teach</p> <p>18 that class, they do it -- is there one instructor</p> <p>19 involved?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. So they would not -- it wouldn't have</p> <p>22 been David Wilkerson and Robert Steele teaching the class</p> <p>23 together, correct?</p> <p>24 A. Only if there was like, say, one student and we</p> <p>25 would need another person to play a role of a diver,</p>	<p>1 Q. Okay. We can agree that these documents,</p> <p>2 there's no written policies or procedures that require</p> <p>3 the crew to assess the experience of the divers?</p> <p>4 A. The qualification and experience of the divers</p> <p>5 is their certification card and/or if they're diving with</p> <p>6 their instructor.</p> <p>7 Q. And do you normally put that on the manifest?</p> <p>8 A. What's that?</p> <p>9 Q. The credentials or what they're certified to be</p> <p>10 able to do?</p> <p>11 A. I don't think it shows up on the manifest.</p> <p>12 Q. Okay.</p> <p>13 A. It's on their diver record in our -- our</p> <p>14 reservation system.</p> <p>15 Q. Now, in this case, it's my understanding you</p> <p>16 didn't check diver certification cards?</p> <p>17 MR. FERTIG: I think he was still answering the</p> <p>18 question.</p> <p>19 MR. ECHARTÉ: Oh, I apologize.</p> <p>20 A. Yeah. When they check in and they show us, you</p> <p>21 know, they fill out their release, they show us the diver</p> <p>22 certification card, we put that on our reservation</p> <p>23 system.</p> <p>24 Now, if you're coming down with your</p> <p>25 instructor, you don't have that card yet because your</p>

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<p>1 instructor is actually doing the instruction. They would</p> <p>2 fill out the release and it would be under that purview</p> <p>3 of that instructor.</p> <p>4 Q. Okay. So, in this case, you did not check --</p> <p>5 and "you," I mean you, David Wilkerson, Robert Steele.</p> <p>6 Is it your testimony that you did not check</p> <p>7 Robert Stewart's diver certifications?</p> <p>8 A. No. He did show an instructor card on board</p> <p>9 the boat and wrote down stuff there, but he was also</p> <p>10 diving with his instructor.</p> <p>11 Q. Robert Stewart wrote down a instructor card or</p> <p>12 qualification?</p> <p>13 A. I don't remember what it says now but there</p> <p>14 were -- I think it said IDCs.</p> <p>15 Q. Okay. And that was -- he also wrote TDI,</p> <p>16 correct?</p> <p>17 A. I think so. I'd -- I'd have to see it again.</p> <p>18 I don't remember.</p> <p>19 Q. We're going to go through that in a minute so</p> <p>20 we'll circle back to that.</p> <p>21 But I believe my question was there's no</p> <p>22 written policies and procedures that require the crew to</p> <p>23 assess the experience of divers, correct?</p> <p>24 A. There is no written procedures for that, no.</p> <p>25 Q. And the procedures that you do have in place,</p>	<p>1 they're coming down, say they're coming down with an</p> <p>2 instructor, as in the case that we're talking about, I</p> <p>3 know that instructor very well.</p> <p>4 Q. Okay.</p> <p>5 A. So I didn't have to do -- vet the students.</p> <p>6 Q. You don't just let any instructor on your boat,</p> <p>7 right?</p> <p>8 A. I mean, I have -- I'm going to have a</p> <p>9 conversation with them. Anybody can come down and teach</p> <p>10 a class on my boat, but before we go do a dive that has</p> <p>11 anything to do with outside the recreational, that we're</p> <p>12 going to have a very long talk or they're going to do a</p> <p>13 couple of dives so we know that they can do it.</p> <p>14 Q. And when you talk about a very long talk, what</p> <p>15 are you talking about? I mean --</p> <p>16 A. Just ask them their -- if I don't know, say I</p> <p>17 don't know you, I'm going to ask you, okay, what's your</p> <p>18 experience, where have you been, how long you been</p> <p>19 teaching, what do you plan on doing down here, you know,</p> <p>20 down on the dive. Just things like that. Just kind of</p> <p>21 get an idea what's going on.</p> <p>22 Q. Do you also talk about the students?</p> <p>23 A. Yeah.</p> <p>24 Q. How many are you bringing, what qualifications</p> <p>25 do they have, how much experience do they have?</p>
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<p>1 let's separate this incident because we're going to talk</p> <p>2 about that later in depth, but the general procedure is</p> <p>3 that the diver shows their card at the shop or to the</p> <p>4 crew member, correct?</p> <p>5 A. On board the boat, yes.</p> <p>6 Q. And if they are with an instructor, then the</p> <p>7 instructor is the one that vouches for them?</p> <p>8 A. And the instructor would tell us that that</p> <p>9 individual was either in a class under instruction.</p> <p>10 Q. Okay. Beyond just a certification card, do you</p> <p>11 typically assess any other experience or qualifications a</p> <p>12 diver has?</p> <p>13 For example, do you ask, did you just receive</p> <p>14 this qualification yesterday and have you ever dove to</p> <p>15 this depth other than with an instructor? Does that make</p> <p>16 sense?</p> <p>17 A. Yes.</p> <p>18 Q. Okay.</p> <p>19 A. Typically, are we -- when we're referring to</p> <p>20 some of these deeper dives, I'm the one that usually is</p> <p>21 referred to those phone calls and e-mails. The girls at</p> <p>22 the front desk don't want -- they want that to come</p> <p>23 through me, so I kind of vet a lot of those people.</p> <p>24 Q. Okay.</p> <p>25 A. Before they come down. And then again, if</p>	<p>1 A. Sure.</p> <p>2 Q. Okay. Now, if I, for example, if I just</p> <p>3 obtained a certification to allow me to dive to 180 feet</p> <p>4 on a rebreather and I've only done those dives on three</p> <p>5 or four prior occasions with my instructor and I received</p> <p>6 my card, can I go out on your vessel and dive to 180 feet</p> <p>7 on a rebreather without an instructor or dive master?</p> <p>8 A. And you don't have a card, you said?</p> <p>9 Q. I do have a card.</p> <p>10 A. And you do have a card.</p> <p>11 Q. Yes.</p> <p>12 A. And you can show me that card?</p> <p>13 Q. Yes.</p> <p>14 A. We would, one of two things. You would buddy</p> <p>15 up with somebody else.</p> <p>16 Q. Okay.</p> <p>17 A. So, the gentleman next to you, say, okay, do</p> <p>18 you guys want to buddy together, or you would have to</p> <p>19 hire one of our instructors to guide you on that dive.</p> <p>20 Q. Can the buddy be of similar experience as me in</p> <p>21 that scenario?</p> <p>22 A. Yes.</p> <p>23 Q. Okay.</p> <p>24 A. You're a certified diver to that level at that</p> <p>25 point. There's no reason for me to not let you go.</p>

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<p>1 Q. No, and the reason I ask is, is the answer</p> <p>2 different for that scenario in a recreational dive</p> <p>3 situation versus a technical dive situation? I mean, do</p> <p>4 you require more experience? Do you require more than</p> <p>5 just a certification card if you do a certain dive and</p> <p>6 it's a technical dive situation?</p> <p>7 A. Most of the time, to get a technical diver</p> <p>8 certification, you have to have a lot of experience. So</p> <p>9 we're taking under the advisement that they follow</p> <p>10 standards and procedures from a training organization</p> <p>11 under an instructor that followed those standards and</p> <p>12 procedures to get where they're at, so they should have</p> <p>13 that experience.</p> <p>14 Recreationally, we kind of consider the same</p> <p>15 thing. To get to, you know, to advanced open water</p> <p>16 level, they've had some diver experience. They've been</p> <p>17 with -- through instruction. They have been out diving</p> <p>18 on a boat.</p> <p>19 But if, again, if you came to me and says, hey,</p> <p>20 I want to go out diving today and you're by yourself, if</p> <p>21 we can't buddy you up with somebody else on board the</p> <p>22 boat, then you will have to go guided with an instructor.</p> <p>23 Q. Okay. And just again, I think I already asked</p> <p>24 you this, but if I come to you and I say I just obtained</p> <p>25 my certification card that allows me to dive to the Queen</p>	<p>1 Q. I want to talk a little bit now, and we've</p> <p>2 already glanced over it but -- or, glossed over it, but I</p> <p>3 want to talk a little bit now about when you're</p> <p>4 approached by someone to take them out on a dive</p> <p>5 excursion and what your normal procedures and policies</p> <p>6 are.</p> <p>7 And I understand that may vary depending on</p> <p>8 whether they're certified, whether they bring an</p> <p>9 instructor and things of that nature. So I'm going to</p> <p>10 try to, my best that I can, to break this into different</p> <p>11 categories, okay.</p> <p>12 If someone reaches out to you to ask you, we</p> <p>13 want to go, and let's just assume these are all technical</p> <p>14 dives, okay?</p> <p>15 A. Oh, okay.</p> <p>16 Q. For purposes of these questions.</p> <p>17 They want to do a technical dive, 225-foot</p> <p>18 wreck, and they want you to take them out. And by "you,"</p> <p>19 I mean Horizon Divers.</p> <p>20 What things do you go through before the dock</p> <p>21 leaves -- or, the vessel leaves the dock?</p> <p>22 MR. FERTIG: Would you define "take them out"?</p> <p>23 MR. ECHARTE: Yes.</p> <p>24 BY MR. ECHARTE:</p> <p>25 Q. Before they get on your vessel and you take</p>
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<p>1 of Nassau wreck on a rebreather, okay, and my friend here</p> <p>2 is going to be diving with me, he just obtained his card,</p> <p>3 too. Never been out by ourselves. We've only been out</p> <p>4 with our instructor but we have our certification.</p> <p>5 Are they allowed to do that type of dive off of</p> <p>6 your vessel, even though it's a more high risk than a</p> <p>7 normal recreational trip?</p> <p>8 A. If they're certified to do that, yes.</p> <p>9 Q. Okay.</p> <p>10 A. We will try to convince them to take a</p> <p>11 professional with them --</p> <p>12 Q. Okay.</p> <p>13 A. -- to guide them through that first experience.</p> <p>14 But it's -- it's -- they're certified to do it.</p> <p>15 Q. Okay.</p> <p>16 A. There's no reason why we shouldn't let them if</p> <p>17 they feel comfortable.</p> <p>18 MR. ECHARTE: Okay. We can go ahead and take a</p> <p>19 break. Why don't we go off the record.</p> <p>20 THE VIDEOGRAPHER: We're going off the video</p> <p>21 record. The time is 12:22 p.m.</p> <p>22 (Recess from 12:22 p.m. to 12:47 p.m.)</p> <p>23 THE VIDEOGRAPHER: We are back on the video</p> <p>24 record. The time is 12:47 p.m. You may proceed.</p> <p>25 BY MR. ECHARTE:</p>	<p>1 them to the dive site that they want to go, go to.</p> <p>2 A. The process kind of usually starts off with a</p> <p>3 phone call.</p> <p>4 Q. Okay.</p> <p>5 A. Or an e-mail, asking for such, that type of</p> <p>6 trip.</p> <p>7 Q. Okay.</p> <p>8 A. At that point, I usually ask them what their</p> <p>9 certification levels are or if they're in a class. It's</p> <p>10 usually the instructor that's calling me to ask me these</p> <p>11 things for the trip to happen.</p> <p>12 We go through logistics as far as what dates</p> <p>13 they want to go, the time. Obviously, you know, money is</p> <p>14 usually asked, you know, how much it's going to cost for</p> <p>15 that trip. If it's a private trip or if it's opened up</p> <p>16 to others that are qualified to go.</p> <p>17 We talk about whether they're diving open</p> <p>18 circuit or rebreather. We're talking about if we need to</p> <p>19 provide gas fills beforehand or are they going to come</p> <p>20 already prepared, ready to go.</p> <p>21 We, we talk about do they need to have a guide</p> <p>22 or one of our instructors go down with them. And an</p> <p>23 instructor, what I mean is by guiding them, not actually</p> <p>24 doing any kind of teaching.</p> <p>25 Q. Would that be the dive master or just -- is</p>

<p style="text-align: right;">Page 130</p> <p>1 guide separate from a dive master?</p> <p>2 A. It can be a dive master and the dive master</p> <p>3 would, at that point, need to be technical -- qualified</p> <p>4 as well, to do that dive.</p> <p>5 Q. Let me as you this again. And I didn't -- I</p> <p>6 didn't want to -- I don't want to get too sidetracked.</p> <p>7 And if we need to come back to it, that's fine.</p> <p>8 But, is dive master a qualification or</p> <p>9 credential that someone obtains?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. So a guide doesn't have to be a,</p> <p>12 quote/unquote, "dive master"?</p> <p>13 A. It's a dive master or instructor.</p> <p>14 Q. Oh, okay.</p> <p>15 A. But they are going to be a professional in a</p> <p>16 working manner.</p> <p>17 Q. Okay. Go ahead. I'm sorry.</p> <p>18 A. So we ask them if they want a guide or somebody</p> <p>19 to dive with them. So, basically, it's like a paid buddy</p> <p>20 to take them out on a dive site. Because if it's just</p> <p>21 one person, different than a whole group, so it kind of</p> <p>22 varies on that, that factor.</p> <p>23 Once the boat trip is set up, and say it's a</p> <p>24 private trip, then that boat is then scheduled with the</p> <p>25 crew for a captain and a deck hand.</p>	<p style="text-align: right;">Page 132</p> <p>1 So we just, pretty much, the trip is set up.</p> <p>2 They're doing their -- their thing. They're under</p> <p>3 instruction by that instructor so they're not showing us</p> <p>4 a certification card to that level because they're doing</p> <p>5 a class. But they show us their certification card or</p> <p>6 some other card, usually to -- at least they know they're</p> <p>7 certified.</p> <p>8 They fill out their releases. They make</p> <p>9 payment. If they're getting any equipment or anything</p> <p>10 like that, then they pick it up then, they analyze</p> <p>11 gasses, and then go to the boat.</p> <p>12 Q. If a passenger is coming down or a diver wants</p> <p>13 to go out on your vessel and he doesn't have the</p> <p>14 certification required but he -- say he's performed the</p> <p>15 classes to do a certain type of technical dive, but he</p> <p>16 hasn't completed his open-water dives to complete the</p> <p>17 certification and doesn't have his physical card, can he</p> <p>18 go with an instructor from Horizon Divers that's</p> <p>19 qualified to dive to that depth and qualified to instruct</p> <p>20 to that depth and on that equipment, even though he has</p> <p>21 not finished his certification with his actual</p> <p>22 instructor?</p> <p>23 A. Yes, that can happen. I can take a diver out.</p> <p>24 So, you come to me and you have three of your</p> <p>25 six dives that you need. I'm just running through</p>
<p style="text-align: right;">Page 131</p> <p>1 We will prepare as much in advance if we have</p> <p>2 to provide any kind of equipment, you know, rental</p> <p>3 equipment, tanks, gas fills and so on and so forth. If</p> <p>4 none of that is needed to be provided, there may be a</p> <p>5 couple correspondences back and forth as far as just, you</p> <p>6 know, checking on weather. And that's usually the most</p> <p>7 important thing that people worry about right before a</p> <p>8 big trip is the weather.</p> <p>9 And then, they usually come to the shop, you</p> <p>10 know, the day or so beforehand and sign in the paperwork</p> <p>11 and show us certification cards and everything, and we</p> <p>12 get them on the boat the day the trip is going.</p> <p>13 Q. Okay.</p> <p>14 A. If it's -- and the difference is -- is, you</p> <p>15 know, a certified diver to go to that level or if there's</p> <p>16 a class going on.</p> <p>17 If there's a class going on, then, if we don't</p> <p>18 know the instructor, we, you know, the instructor comes</p> <p>19 in and we have a nice long talk with the instructor.</p> <p>20 If we know the instructor, which for the most</p> <p>21 part, you know, we know most of the South Florida</p> <p>22 instructors when they come down to teach a class. We get</p> <p>23 a lot of instructors from other locations and stuff like</p> <p>24 that as well, that come down that we know or I've met</p> <p>25 before.</p>	<p style="text-align: right;">Page 133</p> <p>1 numbers. Three of your six dives done for your class but</p> <p>2 your instructor couldn't come down and we already have</p> <p>3 this trip going out.</p> <p>4 And you say, hey, I want to go on that trip but</p> <p>5 I'm not done with my class yet, can you finish my</p> <p>6 instruction on that dive. Because that dive can be done</p> <p>7 as part of the instruction.</p> <p>8 Q. Now, you can only do that if the student is</p> <p>9 completing his courses through the same type of</p> <p>10 certification agencies that you certify them through,</p> <p>11 correct?</p> <p>12 A. Yes. I was -- I was getting to that.</p> <p>13 Q. Okay.</p> <p>14 A. And same equipment.</p> <p>15 Q. Okay.</p> <p>16 A. If they come down on a rebreather that I'm not</p> <p>17 certified to teach on, I can't.</p> <p>18 Q. Okay.</p> <p>19 A. If they're coming down as a NAUI student, I</p> <p>20 can't. IANTD student, I can't. PADI or TDI, then yes, I</p> <p>21 can jump in. I have them fill out all the student</p> <p>22 information.</p> <p>23 Myself, though, what I would do is I would want</p> <p>24 them to go out to a shallower site to assess their skill</p> <p>25 level before I jumped into a really deep location.</p>



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<p>1 Q. No one through your company back in</p> <p>2 January 31st, 2017, certified students through IANTD,</p> <p>3 correct?</p> <p>4 A. No.</p> <p>5 Q. No one through your company back on</p> <p>6 January 31st, 2017, certified anyone on Revo closed-</p> <p>7 circuit rebreathers, correct?</p> <p>8 A. No.</p> <p>9 Q. So if Rob Stewart had not come down with Peter</p> <p>10 Sotis and he had not completed his open-water dives on</p> <p>11 the Revo closed circuit rebreather to a depth of 225</p> <p>12 feet, he could not go out on your vessel, correct?</p> <p>13 A. If he did not come down with Peter?</p> <p>14 Q. Yes.</p> <p>15 A. Then, no, he would not be able to do that dive.</p> <p>16 Q. Now, you'll agree with me -- well, the first</p> <p>17 thing you said is that when someone contacts you, it's by</p> <p>18 phone or e-mail, correct?</p> <p>19 A. Most of the time, yes.</p> <p>20 Q. And then the next thing, the very next thing</p> <p>21 you mentioned was you talk to them about their</p> <p>22 certification levels, correct?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. You'll agree with me that there are no</p> <p>25 e-mail -- have you reviewed your communications? I</p>	<p>1 Q. Okay. And finishing a class, did he tell you</p> <p>2 whether he would be finishing the -- what class was he</p> <p>3 going to be finishing?</p> <p>4 A. I believe he called it the hundred meter class.</p> <p>5 Q. Okay.</p> <p>6 A. Depending on what agency, there's -- some of</p> <p>7 them are hundred meter, some are called advanced mix, and</p> <p>8 some of them are -- I can't remember what the other</p> <p>9 agencies call it. But I believe he called it a hundred</p> <p>10 meter class which certifies them to a hundred meters on a</p> <p>11 rebreather.</p> <p>12 Q. And that would have been through IANTD?</p> <p>13 A. He did tell me that, yeah.</p> <p>14 Q. And you know, I mean, you already testified you</p> <p>15 know who Peter Sotis is, correct?</p> <p>16 A. I do.</p> <p>17 Q. Okay.</p> <p>18 A. I do. We go -- we've known each other for a</p> <p>19 very long time.</p> <p>20 Q. And we're going to get into Peter Sotis in a</p> <p>21 bit, more in depth, but he's an IANTD instructor,</p> <p>22 correct?</p> <p>23 A. Yes. Very well-known IANTD instructor.</p> <p>24 Q. He's not a TDI instructor, he's not an SDI,</p> <p>25 ERDI, none of those?</p>
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<p>1 believe you testified you reviewed your e-mails with</p> <p>2 Brock and the rest of the Sharkwater crew, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And you'll agree with me that there's not one</p> <p>5 e-mail in those communications where you ask Brock, Karen</p> <p>6 or any of these other individuals what Rob's and Brock's</p> <p>7 certification levels are, correct?</p> <p>8 A. I don't recall exactly if there's an e-mail to</p> <p>9 that. But I know that I had a phone conversation with</p> <p>10 Brock about that.</p> <p>11 Q. When was that phone conversation?</p> <p>12 A. His initial contact with me was via e-mail,</p> <p>13 which I believe I replied back to fairly quickly. But</p> <p>14 then I actually had a phone conversation with him to</p> <p>15 discuss this situation because it was a little bit of,</p> <p>16 more of a unique situation as far as they were doing</p> <p>17 filming and stuff.</p> <p>18 Q. And it's your testimony under oath here today</p> <p>19 that you talked to Brock in that first phone call about</p> <p>20 him and Rob's certifications?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And what did he tell you about his</p> <p>23 certifications?</p> <p>24 A. They were going to be finishing a class right</p> <p>25 before that trip.</p>	<p>1 A. I do not believe so.</p> <p>2 Q. Okay. Did you review the waivers on the 30th</p> <p>3 when David Wilkerson brought them back to you to make</p> <p>4 sure that they were all filled out and everything?</p> <p>5 A. It was like, 8:00 o'clock at night. I don't</p> <p>6 remember exactly, at that point, if I looked at them then</p> <p>7 or if I looked -- waited until the next morning.</p> <p>8 Q. Did you look at it before they went out on the</p> <p>9 boat on January 31st, 2017?</p> <p>10 A. By the time I would have come down, they would</p> <p>11 already have started their process of going out in the</p> <p>12 boat.</p> <p>13 Q. Did Wilkerson come back to the shop to fill any</p> <p>14 tanks?</p> <p>15 A. He dropped tanks off for me to fill, yes.</p> <p>16 Q. Okay. And then did he pick those up in the</p> <p>17 morning?</p> <p>18 A. He did.</p> <p>19 Q. What tanks did you fill?</p> <p>20 A. I filled three diluent and three oxygen tanks.</p> <p>21 The diluent had 10/50, 10 percent oxygen, 50 percent</p> <p>22 helium.</p> <p>23 Q. Was that labeled on the tanks?</p> <p>24 A. It was labeled on the tanks that they gave me,</p> <p>25 that's what they were. And I just, I drained them and I</p>



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1 refilled them back up.  
 2 Q. I'm sorry. Three diluent -- oh, three oxygen.  
 3 MR. BAYER: I'm sorry, can -- what did you say  
 4 the percentage mix was?  
 5 THE WITNESS: 10/50.  
 6 MR. BAYER: 10/50.  
 7 THE WITNESS: 10 percent oxygen, 50 percent  
 8 helium.  
 9 MR. BAYER: Yeah. I wasn't sure if it was 50  
 10 or 15.  
 11 THE WITNESS: Oh, sorry.  
 12 BY MR. ECHARTÉ:  
 13 Q. Did you fill those just based on the label or  
 14 did you fill those based on what David Wilkerson told you  
 15 they wanted in the tank?  
 16 A. There was a piece of tape on the tanks with  
 17 what they wanted in them.  
 18 Q. What do you -- who is "they"?  
 19 A. Peter's the one that gave David the tanks and  
 20 labeled the tanks to get filled.  
 21 Q. Okay. So based on your understanding, Peter  
 22 put a piece of tape on there and wrote 10/50?  
 23 A. Yes.  
 24 Q. And then he gave those to David Wilkerson and  
 25 told Wilkerson, this is the gas mixture we need for the

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1 fill logs at that point in time?  
 2 A. I'm sure I do.  
 3 Q. Okay.  
 4 A. I just haven't located them.  
 5 Q. With the fill logs, what kind of information is  
 6 contained on them?  
 7 A. The fill log is basically the day that it was  
 8 filled, what the tanks were filled with, and who did it.  
 9 Q. Does it contain any identifying information for  
 10 the actual tanks? Meaning like, is there a serial number  
 11 on the tank where you write down, this tank had this gas  
 12 mixture, or do you just write, three tanks filled for  
 13 Peter Sotis?  
 14 A. Pretty much just wrote down three tanks for  
 15 Peter Sotis. If there's a tank number on it, you know,  
 16 like our tanks have numbers on them, I will write that  
 17 down when we fill those. But for other customers' tanks,  
 18 there's usually not any identifying marks on them.  
 19 Q. Beyond the fill logs -- did you charge them for  
 20 that?  
 21 A. Well, yeah. It was on their invoice.  
 22 Q. Okay. It was included in the invoice?  
 23 A. Yes.  
 24 Q. I don't think there was a separate line item,  
 25 correct?

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1 diluent?  
 2 A. Yes.  
 3 Q. And then David Wilkerson gave it to you and  
 4 David Wilkerson told you, this is what Peter wants in  
 5 these tanks?  
 6 A. Yes.  
 7 Q. And then you put in 10/50 gas mixture?  
 8 A. Yes.  
 9 Q. Okay. And that was on the evening of  
 10 January 30th?  
 11 A. That's when the tanks were brought back to me,  
 12 yes.  
 13 Q. Do you keep fill logs?  
 14 A. Yes. I don't remember if I have those or not.  
 15 Q. You haven't looked for those in this case?  
 16 A. I -- we have a lot of stuff going on. I don't  
 17 remember, really recall looking for those.  
 18 Q. Well, January 31st, Robert Stewart died off  
 19 diving off the Pisces, right?  
 20 A. I understand that, yes.  
 21 Q. And pretty extensive investigation, pretty  
 22 extensive recovery effort. In fact, one of the recovery  
 23 divers is sitting with us here today, right?  
 24 A. Yes.  
 25 Q. Okay. And you didn't check to see if you had

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1 A. There should have been, but I don't --  
 2 Q. We'll go through the invoice in a minute.  
 3 But that's something you would charge for?  
 4 A. Yes.  
 5 Q. On a rebreather, you understand -- have you  
 6 ever dove off a Revo closed-circuit rebreather?  
 7 A. I have not.  
 8 Q. Have you ever used a Shearwater computer --  
 9 A. Yes.  
 10 Q. -- on your rebreathers?  
 11 A. Yes. I have one on mine.  
 12 Q. Okay. And a Shearwater, what do we refer to  
 13 those as, a dive computer?  
 14 A. On a -- on a rebreather, it's actually the  
 15 controlling unit for the rebreather.  
 16 Q. Okay. So the --  
 17 A. But, and a computer, all at the same time,  
 18 yeah.  
 19 Q. Controlling unit?  
 20 A. Uh-huh.  
 21 Q. Okay. So the Shearwater controlling unit for a  
 22 rebreather, you input the gas mixture on that computer,  
 23 correct?  
 24 A. Yes. You load -- you put that in there before  
 25 you actually get in the water and dive.

36 (Pages 138 to 141)

<p style="text-align: right;">Page 142</p> <p>1 Q. And it is important to make sure that the gas</p> <p>2 mixture that's put in on the Shearwater control computer</p> <p>3 -- what did we call it?</p> <p>4 A. Controller.</p> <p>5 Q. Okay. The controller, is the same as the</p> <p>6 actual gas mixture in the diluent tank, correct?</p> <p>7 A. It is very important.</p> <p>8 Q. Okay.</p> <p>9 A. You analyze those tanks before you put them on</p> <p>10 your unit and that is -- the analyzed gas is what you</p> <p>11 actually put into the control unit because that is what</p> <p>12 the controller assumes you are diving while you're</p> <p>13 diving. So you want that to be as accurate as possible.</p> <p>14 Q. And if you are a captain on a vessel, on the</p> <p>15 Pisces, and you see that a student or a diver is putting</p> <p>16 in one gas mixture onto his dive computer and you know</p> <p>17 that the tanks are a different gas mixture, you're going</p> <p>18 to make sure they don't do that, right?</p> <p>19 A. No. It has nothing to do with the captain on</p> <p>20 board the boat.</p> <p>21 Q. Okay. So if you're a captain on a boat and you</p> <p>22 know that a diver is putting in the wrong gas mixture on</p> <p>23 his computer, compared to the gas tanks that you gave him</p> <p>24 or Horizon Divers gave them, you wouldn't necessarily</p> <p>25 stop him?</p>	<p style="text-align: right;">Page 144</p> <p>1 A. He doesn't understand that.</p> <p>2 Q. Okay.</p> <p>3 A. The other thing is, is, I mean, if we're</p> <p>4 speaking of this case, Rob and Brock were diving with</p> <p>5 their instructor who is now in control of them in that,</p> <p>6 what we assume was that class, and relying on him to be</p> <p>7 in that class under his purview. We're not going to step</p> <p>8 over Peter's instruction.</p> <p>9 Q. So even though you know it's very important to</p> <p>10 put in the same gas mixture -- I'm not talking about</p> <p>11 David Wilkerson because I know he does not -- we can</p> <p>12 agree that he doesn't know anything about rebreathers or</p> <p>13 at least didn't on January 31st, 2017, right?</p> <p>14 A. Yes. He did not know anything about them.</p> <p>15 Q. Okay.</p> <p>16 A. Minus having them on board the boat every once</p> <p>17 in a while, but yes.</p> <p>18 Q. Minus knowing what they are, he doesn't know</p> <p>19 how they operate, he doesn't know how to dive with them</p> <p>20 or anything like that, correct?</p> <p>21 A. No, he does not.</p> <p>22 Q. Okay.</p> <p>23 A. Yeah.</p> <p>24 Q. So my question goes back to if you had been the</p> <p>25 captain aboard the boat, you understand that it's --</p>
<p style="text-align: right;">Page 143</p> <p>1 A. I wouldn't -- I would not know if he was</p> <p>2 putting in the wrong gasses.</p> <p>3 Q. I'm saying, if you found out?</p> <p>4 A. Well, if I found out, I might question it.</p> <p>5 Q. Okay.</p> <p>6 A. But, for the most part, people show up to my</p> <p>7 dock ready to go with all their stuff. They're not</p> <p>8 putting their rebreathers together five minutes before</p> <p>9 the boat leaves.</p> <p>10 Rebreathers are a very complex unit. There's a</p> <p>11 lot of -- there's a long checklist that these things go</p> <p>12 through with analyzing the gasses, putting together all</p> <p>13 the positive and negative pressure tests. That all</p> <p>14 should have been done long before they came.</p> <p>15 Q. Understood.</p> <p>16 If it's not and there's a discussion on board</p> <p>17 between divers and they say, we are going to input 10/20,</p> <p>18 for example, into the Shearwater computer and you know,</p> <p>19 because you just filled the tanks, that it's a 10/50 gas</p> <p>20 mixture, you're not going to let them dive to 225 feet,</p> <p>21 right?</p> <p>22 A. I -- I might say something, but most captains,</p> <p>23 like in this case, David, he doesn't dive a rebreather.</p> <p>24 He's not a trimix diver. So he --</p> <p>25 Q. So he would --</p>	<p style="text-align: right;">Page 145</p> <p>1 passenger safety is ultimately your responsibility. We</p> <p>2 already discussed that, correct?</p> <p>3 A. Yes, we did.</p> <p>4 Q. Okay. And if there's an instructor who is not</p> <p>5 a Horizon Divers employee or contractor that is aboard</p> <p>6 the vessel with students and you, as Daniel Dawson, as</p> <p>7 the captain of the Pisces, notices that he's instructing</p> <p>8 his students to put in one gas mixture and you know that</p> <p>9 there's another gas mixture in those tanks, you're going</p> <p>10 to let them get into the water?</p> <p>11 A. I am relying on the instructor at that point.</p> <p>12 I'm not going to climb on somebody else's instruction and</p> <p>13 get in the way of that. That's not my class. I'm not</p> <p>14 part of that.</p> <p>15 I may ask what, you know, in this case, I may</p> <p>16 say, hey, Peter, what's going on. But I wasn't there. I</p> <p>17 haven't seen this situation before. I haven't really</p> <p>18 been in this situation. I really don't know how I would</p> <p>19 handle it.</p> <p>20 Q. We can agree it's incredibly unsafe to put in</p> <p>21 one gas mixture when you have a different gas mixture in</p> <p>22 the diluent tank, right? I mean, you would never do that</p> <p>23 yourself, right?</p> <p>24 A. Myself, no.</p> <p>25 Q. Okay.</p>

<p style="text-align: right;">Page 146</p> <p>1 A. I like my computer telling me exactly what I'm</p> <p>2 diving. But there are a lot of people out there in the</p> <p>3 industry that will not do that.</p> <p>4 Q. Do you know why they do that?</p> <p>5 A. My understanding of that is that the more</p> <p>6 helium you put into your computer, the longer your D-Co</p> <p>7 will be. It will, it will add more decompression time to</p> <p>8 your stuff. So you add less helium on your computer so</p> <p>9 you can get out of the water a little quicker, a little</p> <p>10 faster.</p> <p>11 Q. And that increases your bottom time?</p> <p>12 A. No, it -- it shortens your decompression time.</p> <p>13 Q. Does that in turn then increase the amount of</p> <p>14 time you can be at depth?</p> <p>15 A. No.</p> <p>16 Q. Okay.</p> <p>17 A. But there's a lot of people in the industry</p> <p>18 that do that. Myself, don't agree with that, I don't do</p> <p>19 that.</p> <p>20 Q. Is that anything that you would recommend to</p> <p>21 any of your students?</p> <p>22 A. Never.</p> <p>23 Q. That's nothing -- if you heard your, one of</p> <p>24 your instructors doing that, you would probably stop</p> <p>25 that --</p>	<p style="text-align: right;">Page 148</p> <p>1 A. Uh-huh.</p> <p>2 Q. Why is that important for Horizon Divers to</p> <p>3 know?</p> <p>4 A. Because that leads into what kind of stuff I</p> <p>5 need to provide.</p> <p>6 Q. Okay.</p> <p>7 A. Am I going to need to provide -- you know, if</p> <p>8 you're flying in from England, you may not bring tanks.</p> <p>9 So, do I need to provide the tanks. Do I need rebreather</p> <p>10 tanks or doubles. And then, that leads into how much gas</p> <p>11 of helium with the mix, the trimix, which is oxygen,</p> <p>12 helium and then nitrogen mixed together, how much of</p> <p>13 those items I need to have on hand to fulfill the</p> <p>14 requirements for that, that trip or trips.</p> <p>15 Q. If someone is going to use -- so it's primarily</p> <p>16 to make sure that you have the equipment necessary for</p> <p>17 the divers to perform their dives?</p> <p>18 A. Yes.</p> <p>19 Q. If they need it?</p> <p>20 A. If you came down with five rebreather divers, I</p> <p>21 may not have five sets of rebreather tanks, so I'd have</p> <p>22 to borrow some. If you came down here with twelve open-</p> <p>23 circuit divers, I need to make sure I have enough doubles</p> <p>24 and decompression bottles to fulfill the requirements for</p> <p>25 that.</p>
<p style="text-align: right;">Page 147</p> <p>1 A. Yes.</p> <p>2 Q. -- practice, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And the reason you would stop it is it's</p> <p>5 certainly not recommended, right?</p> <p>6 A. Yes. And most of my instructors, technical</p> <p>7 instructors, I trained. So they've -- they go through my</p> <p>8 training and understand that.</p> <p>9 Q. Has it -- have you been told, and I don't want</p> <p>10 to know anything about discussions with your counsel or</p> <p>11 prior counsel or anything like that, but did you ever</p> <p>12 become aware, separate and apart from conversations with</p> <p>13 your attorneys, as to what inputs Peter Sotis was putting</p> <p>14 into his computer or Rob Stewart into his?</p> <p>15 A. This is the first time I've heard of this. In</p> <p>16 this, involved in this case.</p> <p>17 Q. After -- I've created a list of things that we</p> <p>18 talk -- or, that you told me you go through when you're</p> <p>19 contacted for a dive excursion. We already talked about</p> <p>20 your first contacted by phone through -- or, through</p> <p>21 phone or e-mail. We talked about the certification</p> <p>22 levels. Then there's the discussion, obviously, about</p> <p>23 dates, times, costs.</p> <p>24 The fourth item you mentioned was whether</p> <p>25 they're going to be open circuit or rebreather.</p>	<p style="text-align: right;">Page 149</p> <p>1 Q. Okay.</p> <p>2 A. So that's why I like to know the logistics of</p> <p>3 what they're diving so I can make sure that I have said</p> <p>4 equipment and said gas supply to fulfill the needs.</p> <p>5 Q. Is there anything that is done differently</p> <p>6 aboard the vessel if someone's diving closed circuit</p> <p>7 versus rebreather?</p> <p>8 A. No.</p> <p>9 Q. There's no different equipment between the two,</p> <p>10 correct?</p> <p>11 A. No.</p> <p>12 Q. And I'm not talking about dive equipment, I'm</p> <p>13 talking safety equipment and things of that nature aboard</p> <p>14 the boat; it's the same either way?</p> <p>15 A. Everything is set up exactly the same way.</p> <p>16 Q. If you see, if you've been told by either an</p> <p>17 instructor or a diver that they are certain -- actually,</p> <p>18 strike that.</p> <p>19 If you're just told by a diver, I have this</p> <p>20 certification, but they don't show you a card, would you</p> <p>21 let them on your boat?</p> <p>22 A. No.</p> <p>23 Q. Okay.</p> <p>24 A. Without an instructor or with an instructor?</p> <p>25 Q. Without.</p>

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<p>1 A. No.</p> <p>2 Q. What about with?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. So the instructor can vouch for the</p> <p>5 student. As long as you know that he's an instructor and</p> <p>6 you check his certification or qualifications --</p> <p>7 A. And he's --</p> <p>8 Q. -- or you know him personally, he can vouch for</p> <p>9 a student and the student doesn't have to show you</p> <p>10 anything?</p> <p>11 A. As long as he tells me that he is doing the</p> <p>12 instruction for the student, then he's under the purview</p> <p>13 of that instructor.</p> <p>14 Q. Even if it's a technical dive?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. If you are led to believe that a diver's</p> <p>17 credentials may not be what they've been represented to</p> <p>18 you to be, do you do anything to verify his credentials,</p> <p>19 at least what they're telling you they are?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And what do you do?</p> <p>22 A. Well, there's been a -- there's been times that</p> <p>23 I've called the instructor back home, wherever they would</p> <p>24 be. I have -- there's an online verification process</p> <p>25 through almost every agency out there where I can get</p>	<p>1 refer back to this throughout the depo, but I'd like you</p> <p>2 to flip through that and let me know if you're aware of</p> <p>3 any other communications that have not been provided</p> <p>4 there.</p> <p>5 MR. FERTIG: E-mail communications.</p> <p>6 MR. ECHARTE: E-mail.</p> <p>7 A. Yeah, this all looks like all the e-mails that</p> <p>8 I --</p> <p>9 Q. There's nothing that you reviewed that's not in</p> <p>10 this packet that stands out to you as you sit here today?</p> <p>11 A. No.</p> <p>12 Q. Okay. And there's no communication, e-mail</p> <p>13 communication that you recall having that's not included</p> <p>14 in this packet as you sit here today?</p> <p>15 A. Involving myself --</p> <p>16 Q. Yes.</p> <p>17 A. -- and the Sharkwater team?</p> <p>18 Q. Yes.</p> <p>19 A. No.</p> <p>20 Q. Did you have communications with David</p> <p>21 Wilkerson prior to January 30th, 2017, about this dive</p> <p>22 excursion?</p> <p>23 A. Just in the reference of he and I talked about</p> <p>24 where they wanted to go. We -- he was actually the one</p> <p>25 that got me hooked up with the Caloosa Cove Marina</p>
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<p>1 their first, middle and last name, they're birth date,</p> <p>2 and it will bring up all of their certification levels.</p> <p>3 Q. Can you also pick up the phone and call, for</p> <p>4 example, say TDI or SDI?</p> <p>5 A. Yes. As long as they're open for business,</p> <p>6 yeah, I can.</p> <p>7 Q. And have you done that in the past?</p> <p>8 A. We have done that in the past. We do that</p> <p>9 quite often.</p> <p>10 Q. Did you pull up, try to pull up anyone's</p> <p>11 credentials in this case, either Robert Stewart or Brock</p> <p>12 Cahill?</p> <p>13 A. No. They were diving with their instructor.</p> <p>14 There was no reason for us to do that.</p> <p>15 Q. Now, you didn't know Peter Sotis was going on</p> <p>16 this boat until January 27th, 2017, correct?</p> <p>17 A. Correct. Or somewhere around that date, yeah,</p> <p>18 but --</p> <p>19 Q. And we can -- let me go ahead and do that.</p> <p>20 (Claimant's Exhibit Number 11 was marked.)</p> <p>21 I already gave you guys a copy. This is</p> <p>22 Claimant's Exhibit 11, which is all the e-mail</p> <p>23 communications I've been provided by your attorneys</p> <p>24 between you, Brock Cahill and Sharkwater team. Just, if</p> <p>25 you could, what I'd like you to do first, we're going to</p>	<p>1 because he knew the dock master down there. And, so they</p> <p>2 didn't have a spot originally, and then he found out that</p> <p>3 they could fit us in. Just in reference to what was</p> <p>4 needed to get on the boat to go down there that day, that</p> <p>5 he'd be picking them up at a certain time, how many days</p> <p>6 he'd be going out, stuff like that. The same stuff we</p> <p>7 talk about every other trip.</p> <p>8 Q. Did you communicate, did you have any</p> <p>9 communications with him via e-mail or text messages about</p> <p>10 this dive excursion?</p> <p>11 A. I believe there is an e-mail with David, just</p> <p>12 talking about the Caloosa Cove thing, that he might have</p> <p>13 been in.</p> <p>14 Q. But any just between you and him?</p> <p>15 A. No. That would all been done verbally.</p> <p>16 Q. Okay. Did you have any discussions with him</p> <p>17 about the qualification levels or experience levels of</p> <p>18 the divers that would be out on that boat?</p> <p>19 A. "Him" is referring to David Wilkerson?</p> <p>20 Q. Yes.</p> <p>21 A. I don't recall that conversation. I think he</p> <p>22 just asked who they were and I told him that they were in</p> <p>23 a class with Peter. You know, this would have been the</p> <p>24 week before. Hey, they're in a class with Peter right</p> <p>25 now, they're finishing up their certifications. And, at</p>

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<p>1 that time, we still were unsure who was going to be going</p> <p>2 out with them.</p> <p>3 Q. Did David Wilkerson know Peter Sotis?</p> <p>4 A. Yes. Prior trips years past.</p> <p>5 Q. How many times has Peter Sotis been on your</p> <p>6 boat prior to January 31st, 2017 -- or, let's --</p> <p>7 January 30th, 2017?</p> <p>8 MR. FERTIG: Which boat? All boats?</p> <p>9 MR. ECHARTE: All boats.</p> <p>10 A. I mean, it goes back to 2005.</p> <p>11 Q. So, has it been more than a handful of times?</p> <p>12 A. Oh, yeah.</p> <p>13 Q. Okay.</p> <p>14 A. He's done a lot of instruction for a couple</p> <p>15 dive shops. Before he owned Add Helium, he did some</p> <p>16 independent stuff. He's done -- I took a class from him.</p> <p>17 Q. Prior to January 30th, 2017, when was the last</p> <p>18 time Peter Sotis was out on one of your vessels?</p> <p>19 A. June 2015.</p> <p>20 Q. So it had been quite some time?</p> <p>21 A. Yeah.</p> <p>22 Q. Had he, in June 2015, did he already have Add</p> <p>23 Helium?</p> <p>24 A. Yes.</p> <p>25 Q. How do you know that date? Did you look back</p>	<p>1 Q. Okay. Is this the first communication you had</p> <p>2 with Peter regarding this dive excursion?</p> <p>3 A. Peter and I directly?</p> <p>4 Q. Yes.</p> <p>5 A. Not through Brock?</p> <p>6 Q. Yes.</p> <p>7 A. Yes, this is.</p> <p>8 Q. So the first communication you had with Peter</p> <p>9 Sotis was on January 25th, 2017?</p> <p>10 A. About this trip, yes.</p> <p>11 Q. Prior to that, you did not contact him to</p> <p>12 verify whether or not he would be going, correct?</p> <p>13 A. No.</p> <p>14 Q. That was information you were getting through</p> <p>15 Brock?</p> <p>16 A. Yeah. Every -- all other communications were</p> <p>17 through Brock.</p> <p>18 Q. Prior to January 25th, 2017, you did not</p> <p>19 contact Peter to discuss what qualifications, experience</p> <p>20 or classes even, Brock and Rob were taking, correct?</p> <p>21 A. No.</p> <p>22 Q. Other than the communications shown in</p> <p>23 Claimant's 12 here, these text messages, did you have any</p> <p>24 other communications with Peter Sotis prior to January</p> <p>25 30th, 2017?</p>
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<p>1 in your records and look to see when he was last on your</p> <p>2 boat?</p> <p>3 A. David and I had a conversation about it and for</p> <p>4 some reason, it stuck out.</p> <p>5 Q. This is back at the time prior to these dives?</p> <p>6 A. Yeah.</p> <p>7 Q. I'm sorry. I lost my train of thought. Give</p> <p>8 me one second. Oh.</p> <p>9 I've also been provided some e-mails. You</p> <p>10 first found out Peter was going to be on this vessel on</p> <p>11 January 27, 2017, I believe, right?</p> <p>12 A. I'd have to look through the e-mails and read</p> <p>13 to verify that.</p> <p>14 Q. Let me -- give me one second. I might be able</p> <p>15 to speed this up. I was incorrect. It looks like it's</p> <p>16 the 25th. Let me give you this. I'm going to mark this</p> <p>17 as Claimant's 12.</p> <p>18 (Claimant's Exhibit Number 12 was marked.)</p> <p>19 A. Now, this is a text, correct?</p> <p>20 Q. Yes, I believe so. I received this from your</p> <p>21 attorneys.</p> <p>22 THE WITNESS: These are the --</p> <p>23 MR. FERTIG: I know. He can just look at, if</p> <p>24 you want.</p> <p>25 A. Yes, these are text messages.</p>	<p>1 A. Not since November of 2015, at a trade show</p> <p>2 when we talked.</p> <p>3 Q. What I'm saying is between January 25th, 2017,</p> <p>4 and the day the boat left the dock on January 30th, the</p> <p>5 day before Robert Stewart died, did you talk to Peter</p> <p>6 again after this?</p> <p>7 A. No. This was our only communication we had.</p> <p>8 Q. So you did not talk to Peter at any point in</p> <p>9 time about Brock and Rob's qualifications?</p> <p>10 A. No.</p> <p>11 Q. Okay. You did not talk to Peter at any point</p> <p>12 in time about their experience levels?</p> <p>13 A. I didn't feel the need to.</p> <p>14 Q. Okay.</p> <p>15 A. Since they were in a class with him at that</p> <p>16 time. When I texted this text, they were in the middle</p> <p>17 of a class.</p> <p>18 Q. Okay.</p> <p>19 A. So --</p> <p>20 Q. Now, but you don't -- again, you didn't talk to</p> <p>21 him, right?</p> <p>22 A. Well, I mean, text him, with him.</p> <p>23 Q. Okay.</p> <p>24 A. But I was informed by Brock that they were in a</p> <p>25 class at this time. Because I believe there was other</p>

<p style="text-align: right;">Page 158</p> <p>1 e-mails with Brock and I during the same time and he was 2 unsure if Peter was going to come or not come. 3 So I figured I better find out so I can prepare 4 my stuff because I was going to be the one going out 5 diving with them instead of Peter. 6 Q. Okay. Now, you did not, at any point in time 7 -- is it fair to say then, you did not, in this case, 8 verify Brock and Rob's credentials or qualifications with 9 their instructor, directly with their instructor? 10 A. Before they came down? No. 11 Q. Before they even went out on the boat? 12 A. I didn't need to when they went on the boat 13 because they were with their instructor. 14 Q. Okay. And you received an e-mail on 15 January 27th, 2017, just three days before they were 16 supposed to leave the dock that day where Brock told you 17 he's still in class with Peter, correct? 18 A. Do you have the -- 19 Q. Yeah, I'm sorry. 20 A. What page is that on? 21 Q. If you look at, at the bottom, HDA000104, 22 referring to Claimant's 11. 23 A. Is this the subject e-mail, Lady Fish, at the 24 top of the page? 25 Q. Yeah. Where it says, it starts with, "Sorry I</p>	<p style="text-align: right;">Page 160</p> <p>1 Q. No, after the 27th. 2 A. No. We were relying on his information that he 3 was still going to be in class with Peter. 4 Q. And this class, when you see the word class, do 5 you understand that to mean in the actual classroom on 6 shore or diving out on the water? 7 A. To me, class means class, pool and open water 8 diving. 9 Q. So it can mean open water diving? 10 A. Yes. I mean, at this level, they're open water 11 diving. They're not going to do a whole lot in a pool. 12 Q. Well, what about in the classroom? 13 A. Well, they did -- I'm sure they did some 14 classroom at some point. I don't know the schedule of 15 how their class function went. 16 Q. Okay. 17 A. But my class, we've done class already and the 18 last couple days is all diving. 19 Q. We talked a lot about how you select the crew 20 members for particular dive excursions and my 21 understanding is, based on your prior testimony, that 22 most of the time, David Wilkerson would be aboard the 23 Pisces, you would have another diver aboard your bigger 24 boat, and it was really just based on scheduling and 25 things of that nature, correct?</p>
<p style="text-align: right;">Page 159</p> <p>1 missed you, hot sauce." Hot sauce? Yes, hot sauce. 2 "I'm in class this afternoon with Peter." 3 Do you recall receiving that e-mail? 4 A. Yes, I do. 5 Q. Okay. And that was sent from Brock to you, 6 correct? 7 A. Yes. 8 Q. And that was sent January 27, 2017, at 9 3:57 p.m., right? 10 A. I agree to that right here, yup. 11 Q. Your e-mail is Dan at Horizon Divers dot com? 12 A. Yes, it is. 13 Q. And there was two dot -- to day, I'm sorry. 14 There was two days in between when this e-mail 15 was sent you, two full days, and then the first day that 16 they left on the Pisces to go dive the Queen of Nassau, 17 correct? 18 A. The 27th. Their first trip was the 30th. 19 Q. Yes. So we have the 28th and the 29th? 20 A. Two full days of nothing happening. 21 Q. Okay. 22 A. Yes. 23 Q. Did you ever talk to Brock about what diving he 24 would be doing during those two days, if any? 25 A. During his class?</p>	<p style="text-align: right;">Page 161</p> <p>1 A. Yes. 2 MR. FERTIG: Before you begin, I think the 3 court reporter wants some water. 4 MR. ECHARTÉ: Oh, I'm sorry. 5 Q. Before -- when did you decide that David 6 Wilkerson would be the captain taking out this dive 7 excursion? 8 A. Typically, Troy will drive Cheeca View when 9 he's on shift. So when he -- when his days are to drive, 10 he'll drive Cheeca View because he's more our head 11 captain. 12 So David kind of fell into, that was his day to 13 drive. You know, the next boat to be scheduled was 14 Pisces and he was the next captain to be scheduled so 15 that's how it worked out. 16 Q. What do you mean, next captain to be scheduled? 17 A. So if we have two boats going out, we have our 18 head captain who gets the first boat. And then, whatever 19 captain is left on reserve, gets the next boat for that 20 day. 21 Q. So is there like, kind of like a wheel system 22 like, David hasn't driven in two trips so let's give him 23 a shout and then -- 24 A. No. 25 Q. -- Phil -- or, Jeff, I mean?</p>



<p style="text-align: right;">Page 162</p> <p>1 A. No. Jeff, Jeff and myself are kind of the</p> <p>2 relief captains. So if David has a class or he has a</p> <p>3 prior conflict of something else and he can't drive that</p> <p>4 day, then Jeff or I will fill in. But Troy will drive,</p> <p>5 you know, five days a week and David will drive a</p> <p>6 different five or six days a week, depending on whatever</p> <p>7 he wanted.</p> <p>8 Q. And we can agree then in this case, there was</p> <p>9 no consideration or no -- nothing -- David Wilkerson's</p> <p>10 selection to man this vessel on the 30th and the 31st,</p> <p>11 that was not based on the location of the dive site,</p> <p>12 correct?</p> <p>13 A. No.</p> <p>14 Q. That was not based on the depth of the dive</p> <p>15 site, correct?</p> <p>16 A. I didn't ask him to do it because of those</p> <p>17 reasons, no.</p> <p>18 Q. Okay.</p> <p>19 A. He has driven many technical trips.</p> <p>20 Q. And that was not based on, his selection was</p> <p>21 not based on the fact that they were using rebreathers,</p> <p>22 correct?</p> <p>23 A. No, not at all.</p> <p>24 Q. And he obviously has no experiencing using</p> <p>25 rebreathers, right?</p>	<p style="text-align: right;">Page 164</p> <p>1 Q. These two, do you know whose handwriting that</p> <p>2 is?</p> <p>3 A. It could be David's.</p> <p>4 Q. But you don't know? You don't have specific</p> <p>5 knowledge?</p> <p>6 A. No, I'm assuming it's David's since he's the</p> <p>7 captain of the vessel that day.</p> <p>8 Q. Okay. And we're talking about the first two</p> <p>9 line items on the second page of Plaintiff's or</p> <p>10 Claimant's 5, right?</p> <p>11 A. Yes.</p> <p>12 Q. Okay.</p> <p>13 A. Usually, the captain is the one that fills in</p> <p>14 this safety drill log.</p> <p>15 Q. And the third line filled out here for</p> <p>16 February 9, 2017, that was your handwriting?</p> <p>17 A. That is my handwriting. And that was because I</p> <p>18 was the Coast Guard inspector that day.</p> <p>19 Q. After the waivers were brought back to you,</p> <p>20 that was on the evening of the 30th, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And they were brought by David Wilkerson?</p> <p>23 A. Yes.</p> <p>24 Q. And then you took them and you said you stapled</p> <p>25 them to the manifest for the boat that day, correct?</p>
<p style="text-align: right;">Page 163</p> <p>1 A. To my knowledge, he knows nothing about</p> <p>2 rebreathers and has never tried one at all.</p> <p>3 Q. If a passenger or a diver is going to bring</p> <p>4 their own instructor, the instructor is still considered</p> <p>5 a passenger, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And they're not considered part of the crew,</p> <p>8 right?</p> <p>9 A. Not if they're separate from our crew, no.</p> <p>10 They are separate on their own. They're a passenger.</p> <p>11 Q. In this case, Peter Sotis, he's not a part of</p> <p>12 Horizon Dive -- Divers' crew, so he was considered a</p> <p>13 passenger on the 30th and on the 31st?</p> <p>14 A. Yes, he was considered a passenger.</p> <p>15 Q. Now, the captain, despite the fact that there's</p> <p>16 an instructor on board, the captain is still ultimately</p> <p>17 responsible for the safety of the passengers?</p> <p>18 A. Yes.</p> <p>19 Q. You can pass those to me. Let me just keep</p> <p>20 them organized so we don't lose things later.</p> <p>21 Going back to Plaintiff's -- or, I'm sorry,</p> <p>22 Claimant's 5, turning to page two here. The third line</p> <p>23 item, on February 9, 2017, and then the rest of the</p> <p>24 writing there. Is that your handwriting?</p> <p>25 A. That is my handwriting, yes.</p>	<p style="text-align: right;">Page 165</p> <p>1 A. That would have been that next morning when I</p> <p>2 did it.</p> <p>3 Q. Okay. And then you put them where?</p> <p>4 A. In our drawer that we keep our manifests in.</p> <p>5 And the end of every month, I take those and file them.</p> <p>6 Q. Okay. Now, the incident happens later that</p> <p>7 afternoon, right?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And we're talking about the 31st now?</p> <p>10 A. 31st.</p> <p>11 Q. When the incident happened, did you go pull</p> <p>12 them and move them anywhere?</p> <p>13 A. I did.</p> <p>14 Q. Where did you take them to?</p> <p>15 A. I brought them to my lawyer.</p> <p>16 Q. Okay. And who was that?</p> <p>17 A. At that time, it was -- is Donna, still Donna.</p> <p>18 Q. So you gave the waivers to Donna Albert?</p> <p>19 A. Yes. She asked for them.</p> <p>20 Q. And that was on the 31st, right?</p> <p>21 A. It was a few days later. I don't remember</p> <p>22 exactly what date it was.</p> <p>23 Q. Was anyone else, prior to the point in time</p> <p>24 when you gave them to Donna Albert, was anyone else in</p> <p>25 possession of them?</p>

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1 A. No.  
 2 Q. Did anyone else have access to them?  
 3 A. I mean, everybody at the shop had access to  
 4 them until I pulled them from the drawer.  
 5 Q. But, to the best of your knowledge, from the  
 6 moment David Wilkerson gave you them to the moment that  
 7 you gave them to Donna Albert, they were in your drawer?  
 8 A. Well, I took them, --  
 9 Q. Okay.  
 10 A. -- stapled them together with the manifest, put  
 11 them in the drawer that they always go in. That day, I  
 12 think, which I think was Jessica, if I remember right, I  
 13 could be wrong, probably went through and verified all  
 14 the information, made sure the, you know, the addresses,  
 15 e-mail addresses and all that stuff is put into our  
 16 system and then put back in the drawer.  
 17 And then, after the incident happened, because  
 18 I knew that I was going to have to fill out paperwork  
 19 with the Coast Guard and all this other stuff, I pulled  
 20 those out.  
 21 Q. Did you look at, when you looked at them the  
 22 morning of, I believe you testified it was the morning of  
 23 the 31st?  
 24 A. Yeah.  
 25 Q. Did you notice -- do you look to make sure that

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1 A. No.  
 2 Q. Are you -- do you have any knowledge as to  
 3 whether Donna Albert or anyone else on behalf of Horizon  
 4 Divers altered or in any way modified this waiver as it  
 5 was given to you?  
 6 A. Once I took these and gave them to -- in  
 7 possession of them, I have no idea what happened after  
 8 that.  
 9 Q. Now, we have been talking a lot about dates  
 10 here. They were supposed to dive, and by "they" I mean  
 11 Rob and Brock, they were supposed to go out on your boat  
 12 the 30th, the 31st and the 1st, correct?  
 13 A. And possibly another day.  
 14 Q. Okay. And when was that discussion had?  
 15 A. I think it was pretty close to when they were  
 16 coming down, that they had an extra day, they might want  
 17 to go back out.  
 18 Q. Now, none of that was memorialized in an  
 19 e-mail, correct?  
 20 A. No.  
 21 Q. Paragraph seventeen of this waiver, and we're  
 22 looking at Robert Stewart's waiver, says that the date  
 23 the release is effective is going to be the 31st through  
 24 the -- through February 2nd, right?  
 25 A. Yes.

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1 they're completely filled out or did you in this case?  
 2 A. Yeah.  
 3 Q. Okay.  
 4 A. Yeah, I mean, I looked through them briefly.  
 5 Q. And were they completely filled out?  
 6 A. They seemed to be filled out to me.  
 7 (Claimant's Exhibit Number 13 was marked.)  
 8 Q. All right. I'm going to show you what's been  
 9 marked as Plaintiff's 13 -- or, Claimant's 13. And  
 10 please look through these and tell me if you recognize  
 11 these?  
 12 A. Yes, they look familiar.  
 13 Q. And to your knowledge, to your recollection,  
 14 did you write anything on any of these waivers at any  
 15 point in time after you received them from David  
 16 Wilkerson?  
 17 A. Not that I recall.  
 18 Q. Okay. And turning to Robert Stewart's waiver,  
 19 do you recall writing anything on either of these two  
 20 pages yourself?  
 21 A. The front page and this page?  
 22 Q. Yes.  
 23 A. No.  
 24 Q. Did you instruct anyone to add any writing to  
 25 either of these pages?

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1 Q. Okay. That doesn't coincide with the date that  
 2 they started diving, correct?  
 3 A. No.  
 4 Q. That also includes an extra day than what they  
 5 had paid for, correct?  
 6 A. Yes.  
 7 Q. Meaning they had only paid for the 30th, the  
 8 31st and the 2nd, right? I'm sorry. The 30th, the 31st  
 9 and the 1st?  
 10 A. That was what the plan was, yes.  
 11 Q. Okay.  
 12 A. But I think they were probably informed,  
 13 because that's how we usually do it, we tell them on line  
 14 seventeen to put the other dates that they're going to be  
 15 here so we don't have to fill this out every day.  
 16 Q. Okay. Now, this does not state that it's  
 17 effective on the 30th, right?  
 18 A. No. But down here, it does.  
 19 Q. So he puts in down here, January 30th, 2017,  
 20 right?  
 21 A. Yes, that's what it says.  
 22 Q. Okay. And then, in up here, and it's your  
 23 testimony or it's your understanding that Robert Stewart  
 24 is the one that filled in these numbers here on number  
 25 seventeen?

43 (Pages 166 to 169)

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<p>1 A. That's how it came to me.</p> <p>2 Q. And do you recall seeing this filled out in</p> <p>3 this manner as you sit here today or do you just assume</p> <p>4 this was the way it was given to you?</p> <p>5 A. This is how it was given to me.</p> <p>6 Q. Were those -- do you recall seeing number</p> <p>7 seventeen already filled out when it was given to you?</p> <p>8 A. Yes.</p> <p>9 Q. And you reviewed these, you looked at these the</p> <p>10 morning of the 31st?</p> <p>11 A. I would have perused through them really</p> <p>12 quickly to make sure that, you know, they had the</p> <p>13 signature and their name and their address and all that</p> <p>14 stuff in there.</p> <p>15 Q. Okay.</p> <p>16 A. And that would be about it.</p> <p>17 Q. Did you look at the certification information?</p> <p>18 A. Yeah. It says 100 meter, IDCS.</p> <p>19 Q. What does that mean?</p> <p>20 A. Hundred meter means a hundred meters certified</p> <p>21 in depth.</p> <p>22 Q. What does IDCS mean?</p> <p>23 A. I take that to be an instructor level of some</p> <p>24 sort because I know Rob Stewart was an instructor for</p> <p>25 PADI.</p>	<p>1 A. Yes, he is.</p> <p>2 Q. And so, the course that Rob and Brock would</p> <p>3 have been taking on the 27th when you received that e-</p> <p>4 mail and in the days leading up to these dive excursions</p> <p>5 would have been IANTD courses, correct?</p> <p>6 A. Yes.</p> <p>7 Q. Did you call TDI to see if this certification</p> <p>8 number or any of this information was valid?</p> <p>9 A. No. My assumption was, again, he was with his</p> <p>10 instructor and you can see Brock Cahill had IANTD on</p> <p>11 there.</p> <p>12 Q. Right.</p> <p>13 A. And maybe he just filled out the wrong agency.</p> <p>14 Q. Now, Brock had IANTD, right?</p> <p>15 A. That's what he wrote, IANTD.</p> <p>16 Q. And Claudia had IANTD?</p> <p>17 A. If I can find it. It's in here somewhere,</p> <p>18 right? Yes, Claudia has IANTD as well.</p> <p>19 Q. And Peter has IANTD, right?</p> <p>20 A. Of course, yes.</p> <p>21 Q. Okay. But Rob had TDI, right?</p> <p>22 A. That's what's written down here, yes.</p> <p>23 Q. And you were in possession of these documents,</p> <p>24 like we said, before Rob died, right?</p> <p>25 A. Yes.</p>
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<p>1 Q. Okay. So you think that's a PADI designation?</p> <p>2 A. That's the only thing we could think of. We</p> <p>3 couldn't figure it out.</p> <p>4 Q. When couldn't you figure this out?</p> <p>5 A. Well, I knew he was an instructor before I even</p> <p>6 met him or before he came down.</p> <p>7 Q. No. But I'm saying, when you say "we couldn't</p> <p>8 figure this out" when you --</p> <p>9 A. We didn't know what IDCS meant.</p> <p>10 Q. Was this after the incident?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. When you looked at this the morning of</p> <p>13 the 31st and you perused this to make sure it was signed</p> <p>14 and his address and name and everything were filled out,</p> <p>15 did you look at it and say, hmm, I wonder what IDCS is?</p> <p>16 A. Yeah, but I really didn't think much of it.</p> <p>17 Q. Okay. And you looked and you saw that the</p> <p>18 agency was TDI, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And you don't know Peter Sotis -- or, you know</p> <p>21 that Peter Sotis is not an IANTD -- I'm sorry.</p> <p>22 You know that Peter Sotis is not a TDI</p> <p>23 instructor, correct?</p> <p>24 A. Yes.</p> <p>25 Q. He's an IANTD instructor, correct?</p>	<p>1 Q. And, to the best of your knowledge, these were</p> <p>2 never modified or altered by anyone after David Wilkerson</p> <p>3 handed them to you on the evening of January 30th?</p> <p>4 A. To the best of my knowledge, that never</p> <p>5 happened.</p> <p>6 Q. These were signed on the boat, correct?</p> <p>7 A. Yes, they were signed on the boat.</p> <p>8 MR. ECHARTÉ: All right. Let's -- why don't we</p> <p>9 take a real quick break because I'm going to get</p> <p>10 into another area that's going to go a little while.</p> <p>11 MR. FERTIG: Okay. That's fine.</p> <p>12 THE VIDEOGRAPHER: We'll go off the video</p> <p>13 record. The time is 1:36 p.m.</p> <p>14 (Recess from 1:36 p.m. to 1:53 p.m.)</p> <p>15 THE VIDEOGRAPHER: Back on the video record.</p> <p>16 The time is 1:53 p.m. You may proceed.</p> <p>17 BY MR. ECHARTÉ:</p> <p>18 Q. I want to talk about best practices pertaining</p> <p>19 to rescue and recovery of divers, okay?</p> <p>20 You obviously, Horizon Divers, you yourself,</p> <p>21 you strive to prevent injury and death to your</p> <p>22 passengers, of course, right?</p> <p>23 A. Oh, of course, yes.</p> <p>24 Q. And we can agree that in order to do that, you</p> <p>25 need to have the appropriate policies and procedures in</p>

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<p>1 place for your crew members, correct?</p> <p>2 A. Yes.</p> <p>3 Q. And those policies and procedures need to</p> <p>4 include the rescue of divers in distress, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And we talked about some of the procedures that</p> <p>7 you have in place with respect to written policies and</p> <p>8 procedures, the only one that we were able to identify</p> <p>9 back on January -- that was in effect on January 31st,</p> <p>10 2017, was that man overboard standard, the United States</p> <p>11 Coast Guard procedure, correct?</p> <p>12 A. As far as a written one, correct.</p> <p>13 Q. And that is not applicable or that is not</p> <p>14 specific to divers, correct?</p> <p>15 A. Not specific for diving, no.</p> <p>16 Q. Okay. And we talked about other policies and</p> <p>17 procedures -- or, I'm sorry, we didn't. We talked about</p> <p>18 other training that your crew might have received</p> <p>19 regarding the rescue of divers in distress, right?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And the majority of that, if not all of</p> <p>22 it, and correct me, all of that training came from their,</p> <p>23 the course that they took in diver rescue, correct?</p> <p>24 A. All of their training would be rescue diver,</p> <p>25 dive master, and there's some in the instructor course.</p>	<p>1 A. As quick as possible.</p> <p>2 Q. And when I'm talking about -- when I'm asking</p> <p>3 these questions, I'm talking about crew members aboard</p> <p>4 dive vessels, okay?</p> <p>5 And we can agree that in order for crew members</p> <p>6 to act quickly under stress, they need to -- they need to</p> <p>7 be well trained, correct?</p> <p>8 A. Well trained and prepared, yes.</p> <p>9 Q. And we can agree that the emergency</p> <p>10 preparedness must start before the boat leaves the shore,</p> <p>11 right?</p> <p>12 A. Yes.</p> <p>13 Q. And that's certainly before any diving takes</p> <p>14 place, right?</p> <p>15 A. Before we leave shore, yes.</p> <p>16 Q. Now, you don't have any written policies or</p> <p>17 procedures regarding the coordination among the crew</p> <p>18 before they leave shore, correct?</p> <p>19 A. What do you mean?</p> <p>20 Q. Other than the man overboard procedures, and</p> <p>21 maybe that's the only one and if so, you let me know, is</p> <p>22 that the only time that a captain and a mate discuss and</p> <p>23 lay out what they're going to do in a man overboard type</p> <p>24 situation?</p> <p>25 A. It's discussed on a quarterly basis and it's</p>
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<p>1 Q. Okay. And so those, the issue of rescuing a</p> <p>2 diver in distress is addressed in those three courses?</p> <p>3 A. Yes.</p> <p>4 Q. And other than those courses -- those are</p> <p>5 courses that are taken through a dive certification</p> <p>6 agency, right?</p> <p>7 A. Yes.</p> <p>8 Q. Or a company like yourself provides the</p> <p>9 training or provides the course to the individual?</p> <p>10 A. A dive company would follow a training standard</p> <p>11 from an organization to teach those courses, correct.</p> <p>12 Q. Okay. Sorry. Dive company was the word or</p> <p>13 phrase I was looking for.</p> <p>14 Horizon Divers itself did not provide any</p> <p>15 additional training to its captain and its crew regarding</p> <p>16 rescuing divers in distress, correct?</p> <p>17 A. Minus the PADI or SDI training to get through</p> <p>18 the instructor level?</p> <p>19 Q. Yes.</p> <p>20 A. No.</p> <p>21 Q. We can agree that an emergency situation can</p> <p>22 cause a great deal of stress among crew, correct?</p> <p>23 A. Yes.</p> <p>24 Q. We can agree that in an emergency situation,</p> <p>25 crew members need to be able to act quickly, correct?</p>	<p>1 kind of, kind of understood. You know, we don't talk</p> <p>2 about it every single day.</p> <p>3 Q. Okay. So before a dive excursion leaves the</p> <p>4 dock for a day, okay, there is not a meeting or Horizon</p> <p>5 Divers doesn't require its captain and its deck hand to</p> <p>6 sit down and say, we have "x" amount of divers here, if</p> <p>7 this -- and talk about all the contingencies that can</p> <p>8 happen in an emergency situation, that's not done every</p> <p>9 day, correct?</p> <p>10 A. No. We do a safety briefing on the boat before</p> <p>11 the boat leaves. The captain does the safety briefing</p> <p>12 for everybody on board the boat and that is talked about</p> <p>13 then.</p> <p>14 Q. Nothing specific, no requirement by Horizon</p> <p>15 Dive Adventures that there's a specific interaction</p> <p>16 between the crew members, correct?</p> <p>17 A. No.</p> <p>18 Q. And the safety briefing for the entire vessel,</p> <p>19 as you just mentioned, that's for crew members or</p> <p>20 primarily for passengers or it's addressed to everyone?</p> <p>21 A. It's addressed to everybody on board the boat</p> <p>22 to what's being expected of the divers getting in and out</p> <p>23 of the water. And if there is an emergency, the proper</p> <p>24 signal to get us back to the boat.</p> <p>25 Q. And is there a -- that's the standard United</p>

<p style="text-align: right;">Page 178</p> <p>1 States Coast Guard safety briefing that was referenced in</p> <p>2 the captain's duties and --</p> <p>3 A. Yes.</p> <p>4 Q. -- responsibilities, correct?</p> <p>5 A. Among also the recommended dive briefings and</p> <p>6 stuff like that, that we are trained with or from our</p> <p>7 training organizations.</p> <p>8 Q. What do you mean about what dive briefings?</p> <p>9 A. Well, how to get off the boat, how to get on</p> <p>10 the boat. We're a fins-off ladder. Some boats, you</p> <p>11 climb up the ladder with your fins on. So we need to</p> <p>12 brief these passengers that you take your fins off before</p> <p>13 you climb up the ladder. If we don't, some people will</p> <p>14 try and climb up the ladder with their fins on when you</p> <p>15 -- it's not physically -- it's physically possible, it's</p> <p>16 just not recommended.</p> <p>17 Q. And we can agree that none of that pertains to,</p> <p>18 none of the additional items addressed pertain to the</p> <p>19 rescue of a distressed diver, it's more just getting on</p> <p>20 and off the boat and safety things like that, correct?</p> <p>21 A. We -- we tell them that if there is -- when</p> <p>22 they get to the surface, we ask them for the okay signal.</p> <p>23 If they give us the okay signal, then we're going to --</p> <p>24 we're relying on that they're fine. If they wave their</p> <p>25 arms in distress, then we will get in the water to come</p>	<p style="text-align: right;">Page 180</p> <p>1 we're still getting divers on board, on board the boat.</p> <p>2 So it kind of depends on that, that situation.</p> <p>3 Q. Hold on one second so we can --</p> <p>4 A. Okay.</p> <p>5 MR. ECHARTE: No, we can just wait a minute.</p> <p>6 Q. Sorry. Go ahead.</p> <p>7 A. Okay. Where was I?</p> <p>8 Basically, it depends on -- or, the situation</p> <p>9 is different, it's fluid every time</p> <p>10 Q. Right.</p> <p>11 A. You know, it depends on if there's a diver</p> <p>12 getting on board the boat. We can't maneuver the boat if</p> <p>13 there's divers on the mooring line that are getting ready</p> <p>14 to get back to the boat, things like that, we can't move.</p> <p>15 Q. Now, if the diver in distress is close to the</p> <p>16 vessel, say within ten feet, that's not very far, right?</p> <p>17 A. No.</p> <p>18 Q. Okay. So if a diver is within say, ten feet,</p> <p>19 the diver is in distress, doesn't it make more sense,</p> <p>20 you'll agree with me it makes more sense for a crew</p> <p>21 member to jump in than to move the boat all the way</p> <p>22 around in a Williamson maneuver to come back, correct?</p> <p>23 A. Yes. That would be the protocols, to throw a</p> <p>24 line in the water --</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">Page 179</p> <p>1 get them.</p> <p>2 Q. Okay.</p> <p>3 A. Or bring the boat to them.</p> <p>4 Q. And what's, other than that then, what you just</p> <p>5 mentioned, anything else that's discussed before the boat</p> <p>6 leaves shore that could pertain to rescuing a distressed</p> <p>7 diver?</p> <p>8 A. No.</p> <p>9 Q. Now, you said if a diver is in distress, you</p> <p>10 will either jump in, and by "you" I mean crew member</p> <p>11 jumps in, or you bring the boat around in that Williams</p> <p>12 maneuver?</p> <p>13 A. Yeah.</p> <p>14 Q. When does one situation occur versus another?</p> <p>15 Does it depend on how far the distressed diver is from</p> <p>16 the vessel?</p> <p>17 A. It depends on -- if we have people boarding the</p> <p>18 ladder, the boat can't be maneuvered.</p> <p>19 Q. Okay.</p> <p>20 A. If the boat is at anchor or tied to a mooring</p> <p>21 line and there's people all around the boat, can't</p> <p>22 maneuver the boat.</p> <p>23 The distance, how far away from the boat that</p> <p>24 this person may be having distress because that deck hand</p> <p>25 will have to go a long distance and bring him back while</p>	<p style="text-align: right;">Page 181</p> <p>1 A. -- with a ball. And if they're waving for</p> <p>2 distress and we see that they're in distress, yes, the</p> <p>3 crew member would be getting in the water and bringing</p> <p>4 them back to the boat.</p> <p>5 Q. So you first would throw a -- the rescue ball?</p> <p>6 A. Yes.</p> <p>7 Q. And if the diver in distress cannot utilize</p> <p>8 that safety device, then it's man in the water, right?</p> <p>9 A. Yes.</p> <p>10 Q. Immediately, right?</p> <p>11 A. Yes.</p> <p>12 Q. And we obviously, based on this conversation</p> <p>13 and these questions and answers, we can agree that a</p> <p>14 diver in distress requires immediate rescue, right?</p> <p>15 A. Yes.</p> <p>16 Q. We can agree that there's signs, there are</p> <p>17 observable signs that can notify crew members that</p> <p>18 there's problems with a diver, right? And I'm talking</p> <p>19 about on the surface.</p> <p>20 A. They will usually tell us by waving their arms,</p> <p>21 asking for assistance.</p> <p>22 Q. That's one way that you can see that a diver's</p> <p>23 in distress, right?</p> <p>24 A. That's probably the most prominent way.</p> <p>25 Q. There's other signs, though, that a diver can</p>

<p style="text-align: right;">Page 182</p> <p>1 be in distress, correct?</p> <p>2 A. Depends on how far away from the boat to see</p> <p>3 that.</p> <p>4 Q. What if they're -- if they're close enough</p> <p>5 where you can see the diver, one way -- I mean, I'm not</p> <p>6 talking about someone that's 200 yards away, okay. I'm</p> <p>7 talking about someone within ten, fifteen, twenty feet of</p> <p>8 the vessel, okay?</p> <p>9 A. Uh-huh.</p> <p>10 Q. I mean, we can agree that a captain should be</p> <p>11 able to see that far, right?</p> <p>12 A. Sure.</p> <p>13 Q. Okay. If the diver, for example, is sinking</p> <p>14 and not maintaining his buoyancy above the surface, even</p> <p>15 if he's not waving his arms, that can be a sign of</p> <p>16 distress, correct?</p> <p>17 A. Not necessarily.</p> <p>18 Q. But it can be, correct?</p> <p>19 A. It could be.</p> <p>20 Q. Okay.</p> <p>21 A. But it still, it doesn't necessarily mean</p> <p>22 distress.</p> <p>23 Q. Right.</p> <p>24 A. So there's a lot of determination between the</p> <p>25 crew, what is stress and what's not stress. You know, a</p>	<p style="text-align: right;">Page 184</p> <p>1 unconscious, it is made to roll the diver over?</p> <p>2 A. The back inflates so it's going to put them on</p> <p>3 their -- on their -- face down.</p> <p>4 Q. It's going to put them face down?</p> <p>5 A. Uh-huh.</p> <p>6 Q. Okay. And what does that exactly?</p> <p>7 A. It's a back inflated.</p> <p>8 Q. And is that inflated once the diver gets to the</p> <p>9 surface?</p> <p>10 A. It should be.</p> <p>11 Q. So that's inflated by the diver himself?</p> <p>12 A. It's inflated by the diver himself. It's a</p> <p>13 little button control that he has control of.</p> <p>14 Q. So if the diver is not conscious or doesn't</p> <p>15 have all his mental, mental faculties about him, he may</p> <p>16 not inflate that, correct?</p> <p>17 A. It's possible that he would not, yes.</p> <p>18 Q. So there could be a situation when a diver on a</p> <p>19 rebreather loses consciousness but doesn't necessarily</p> <p>20 float face down on the water, right? That situation is</p> <p>21 possible?</p> <p>22 A. You mean, possible of them not floating on the</p> <p>23 surface?</p> <p>24 Q. Yes.</p> <p>25 A. Well, sure. If they're overweighted, they're</p>
<p style="text-align: right;">Page 183</p> <p>1 lot of divers will float at the surface just below the</p> <p>2 water line so the wave action is not causing much of an</p> <p>3 issue with them.</p> <p>4 Q. Okay.</p> <p>5 A. All right. So they'll be buoyant just under</p> <p>6 that level. That doesn't necessarily mean that they're</p> <p>7 having a distress.</p> <p>8 Unless they're physically or verbally telling</p> <p>9 us that there's a problem, we are relying on their</p> <p>10 ability as a dive -- a certified diver that they're going</p> <p>11 to let us know if they need extra help.</p> <p>12 Q. On that note, loss of consciousness is</p> <p>13 certainly a sign of distress, correct?</p> <p>14 A. And they will be floating face down on the</p> <p>15 surface and we would see that very -- a lot differently</p> <p>16 than somebody bobbing up and down vertically.</p> <p>17 Q. But --</p> <p>18 A. The equipment is relied on to -- the way this</p> <p>19 stuff works, will roll you out a certain way.</p> <p>20 Q. And is that true of all equipment?</p> <p>21 A. Not all equipment.</p> <p>22 Q. Is that --</p> <p>23 A. But I'm sure we're talking about technical</p> <p>24 equipment and, yes, it is.</p> <p>25 Q. Okay. So technical equipment, if a diver is</p>	<p style="text-align: right;">Page 185</p> <p>1 going to sink.</p> <p>2 Q. Okay. And if they don't inflate the --</p> <p>3 A. If they don't inflate the wing or their</p> <p>4 buoyancy control device, yes, they will have no positive</p> <p>5 inflation and they will go back underwater.</p> <p>6 Q. Can we agree that rejecting a mouthpiece while</p> <p>7 the diver is still in the water, that could be another</p> <p>8 sign of distress? Doesn't have to be, but it could be,</p> <p>9 correct?</p> <p>10 A. Rejecting as in like somebody trying to give</p> <p>11 him one?</p> <p>12 Q. No. As in him spitting out his own mouthpiece?</p> <p>13 A. No, not -- I mean, it's a -- it's a sign</p> <p>14 sometimes. Not always. I mean, I take my mouthpiece out</p> <p>15 and I communicate with my students, get on the line, grab</p> <p>16 the ladder, don't forget to take your fins off, things</p> <p>17 like that.</p> <p>18 Q. Now, you're an instructor, though, right?</p> <p>19 A. Yup.</p> <p>20 Q. Okay. And when you're talking about</p> <p>21 instructing your students, that's because you need to</p> <p>22 communicate with them, right?</p> <p>23 A. Uh-huh.</p> <p>24 Q. Do you ever instruct your students -- and, I'm</p> <p>25 sorry. Was that a yes or a no, just for the record.</p>



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<p>1 A. It was a yes.</p> <p>2 Q. Okay. Do you ever instruct your students that</p> <p>3 they cannot take their -- let's talk about technical</p> <p>4 diving on rebreathers.</p> <p>5 Do you ever tell them that they can't the loop</p> <p>6 out of their mouth until they're on the boat?</p> <p>7 A. That's personal preference. What I do tell</p> <p>8 them is not to take their loop out of the mouth and not</p> <p>9 close it.</p> <p>10 Q. Okay.</p> <p>11 A. If they take their loop out of the mouth and</p> <p>12 keep it open, it's going to flood.</p> <p>13 Q. And what happens if their loop floods?</p> <p>14 A. You're going to have a lot of negative water</p> <p>15 weight and you're going to lose buoyancy. But that is a</p> <p>16 controlled function by that diver.</p> <p>17 Q. And we can agree then that if a diver is in the</p> <p>18 water on a rebreather, not -- non-responsive, is not</p> <p>19 grabbing the ball or -- the rescue ball or responding to</p> <p>20 commands from the vessel and his loop is out of his</p> <p>21 mouth, that's a concerning situation, right?</p> <p>22 A. I mean, you probably raise a little bit of</p> <p>23 concern but I still wouldn't know if the loop was open or</p> <p>24 if it was closed. It's hard to see.</p> <p>25 Q. But if he's non-responsive, can we assume -- I</p>	<p>1 which is what a lot of our, as instructors do, we do see</p> <p>2 these reports, just because the diver next to me has a</p> <p>3 problem doesn't mean I'm necessarily going to have the</p> <p>4 same problem, follow the same profile.</p> <p>5 Q. Okay. Even though, even if you've done very</p> <p>6 similar profiles over the course of several days?</p> <p>7 A. Sure.</p> <p>8 Q. And is that based on -- and I know that you're</p> <p>9 not a medical doctor. But is it your understanding that</p> <p>10 that's based on the different physiology of the divers?</p> <p>11 A. Physiology of everybody is a little different.</p> <p>12 Q. Okay.</p> <p>13 A. It's the same thing if you and I went and ran a</p> <p>14 marathon, I might not be as tired when we're done as you</p> <p>15 would. Same sort of thing.</p> <p>16 Q. So we can agree that -- so we can agree that</p> <p>17 just because one diver is having a medical emergency, it</p> <p>18 doesn't necessarily mean that the other diver is having a</p> <p>19 medical emergency?</p> <p>20 A. Yes. It does not necessarily mean that.</p> <p>21 Q. Okay. Can we agree, though, that if one diver</p> <p>22 that has performed similar dive profiles to another diver</p> <p>23 is having a medical emergency, the crew should be on</p> <p>24 notice or at least pay more attention to the other diver</p> <p>25 to see if he's undergoing any similar symptoms, or do you</p>
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<p>1 mean, do you ever instruct your crew members to assume</p> <p>2 the worst and assume that it's open?</p> <p>3 A. No.</p> <p>4 Q. I mean, a non -- no?</p> <p>5 A. That's a basic skill when rebreather diving.</p> <p>6 Day one, pool one, you take the loop out of your mouth,</p> <p>7 you close it.</p> <p>8 Q. And you can only close it if you're conscious,</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. So if you're unconscious and the loop</p> <p>12 comes out of your mouth, you don't expect a diver to</p> <p>13 close it, correct, close the loop?</p> <p>14 A. Not if they're unconscious, no.</p> <p>15 Q. Okay. Non-responsiveness, that can be another</p> <p>16 sign of distress, correct?</p> <p>17 A. Sure. Yes.</p> <p>18 Q. We can also agree that if two divers perform</p> <p>19 the exact same dives over the course of two days, one has</p> <p>20 a medical emergency, the other one may very well likely</p> <p>21 be undergoing similar symptoms?</p> <p>22 A. I do not agree with that.</p> <p>23 Q. Okay. Why is that?</p> <p>24 A. I'm not a medical doctor, per se, but reading</p> <p>25 back in dive incidences and stuff like that in records,</p>	<p>1 just ignore it and focus on the diver having a medical</p> <p>2 emergency?</p> <p>3 A. No, I think you are a little bit more aware</p> <p>4 what's going on.</p> <p>5 Q. Okay.</p> <p>6 A. And keeping, you know, wondering what's going</p> <p>7 on, stuff like that. But when you have a medical</p> <p>8 emergency on your hand, you're going to triage what you</p> <p>9 know, not what you don't know.</p> <p>10 Q. Okay. We can agree that a diver's condition</p> <p>11 can change rapidly, correct?</p> <p>12 A. Yeah, a diver's condition can change rapidly.</p> <p>13 Q. I mean, they can go from conscious to</p> <p>14 unconscious, like that?</p> <p>15 A. It's possible, yeah.</p> <p>16 Q. It's possible for a diver to surface, give the</p> <p>17 okay sign, and then lose consciousness without further</p> <p>18 warning, right?</p> <p>19 A. Typically, it doesn't happen that way. But,</p> <p>20 yeah, I guess it could happen.</p> <p>21 Q. We've talked a lot about the steps that the</p> <p>22 crew members need to take to rescue a diver in distress</p> <p>23 in the water, and we've talked a lot about that man</p> <p>24 overboard procedure --</p> <p>25 A. Uh-huh.</p>

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<p>1 Q. -- and the Williamson maneuver, right?</p> <p>2 A. Sure</p> <p>3 Q. We also discussed that one of the most</p> <p>4 important things in maintaining or in rescuing a diver in</p> <p>5 distress that's on the surface, I'm not talking about</p> <p>6 under the water, but a diver in distress on the surface</p> <p>7 of the water, one of the most important things is making</p> <p>8 sure he maintains positive buoyancy, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And that can be done in several ways, right?</p> <p>11 A. Well, and you're inflating your BCD.</p> <p>12 Q. Well, the diver can do that himself.</p> <p>13 A. The diver can do that himself.</p> <p>14 Q. But I'm talking about the crew members ensuring</p> <p>15 that a diver remains on the surface, there's different</p> <p>16 ways that that can be done. We've mentioned the rescue</p> <p>17 ball, right?</p> <p>18 A. Uh-huh.</p> <p>19 Q. Yes?</p> <p>20 A. Yes.</p> <p>21 Q. Sorry. One rule I didn't give you because you</p> <p>22 did fine throughout the deposition was she can't take</p> <p>23 down uh-huhs and uh-uhs. So I'll just --</p> <p>24 A. Got it.</p> <p>25 Q. -- remind you, okay?</p>	<p>1 Q. Yeah. What I want to do is I want to discuss</p> <p>2 general, and then we'll apply it to this situation in a</p> <p>3 few minutes.</p> <p>4 A. If there's no other things going on board the</p> <p>5 boat and the captain says, hey, this person -- sees a</p> <p>6 problem, the deck hand is going to get in the water right</p> <p>7 away and get that person positively inflated or drop the</p> <p>8 weights and get them back to the boat.</p> <p>9 Q. Okay. And the only way that the captain will</p> <p>10 know that, if he maintains eyes on the distressed diver,</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. And we're talking about the diver in the water,</p> <p>14 right? Yes?</p> <p>15 A. Yes.</p> <p>16 Q. And we're talking about --</p> <p>17 A. Among all the other divers in the water on a</p> <p>18 general, and not speaking of this incident, but in</p> <p>19 general, --</p> <p>20 Q. Right.</p> <p>21 A. -- there's going to be, you know, up to thirty</p> <p>22 other divers in the water at this time.</p> <p>23 Q. And if there's one, then it's probably a lot</p> <p>24 easier for the captain to maintain eyes on that one</p> <p>25 diver, right?</p>
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<p>1 A. No problem.</p> <p>2 Q. The rescue ball, if a diver grabs onto it and</p> <p>3 is able to, that keeps them above the surface, right?</p> <p>4 A. It's a positive floatation device, yes.</p> <p>5 Q. If a -- another thing that can be done is the</p> <p>6 diver can drop his weight belt, right?</p> <p>7 A. Correct.</p> <p>8 Q. And if the diver is non-responsive, you don't</p> <p>9 expect him to drop his weight belt, right?</p> <p>10 A. Probably not. Yeah, would be harder.</p> <p>11 Q. Is there anything -- so a crew member then, in</p> <p>12 that situation, would be required to get in the water and</p> <p>13 drop the weight belt for the diver, correct?</p> <p>14 A. Yes. But in this instance, I mean, I'm sure</p> <p>15 we're talking about the incident that happened, the deck</p> <p>16 hand was in the middle of a triage incident on board the</p> <p>17 boat so he was unable to get into the water to go get</p> <p>18 Rob.</p> <p>19 Q. Okay. And we're going to get to this incident</p> <p>20 in a minute. I'm just discussing general procedures.</p> <p>21 A. Okay. I just want to make sure we're -- you</p> <p>22 know, there's a general procedure and then what happened</p> <p>23 that day. And there's --</p> <p>24 Q. And we're going to discuss --</p> <p>25 A. There's differences.</p>	<p>1 A. With everything else going on, the boat</p> <p>2 drifting and stuff like that? Just depends on the</p> <p>3 situation, currents involved.</p> <p>4 Q. Now, obviously, if a diver is non-responsive,</p> <p>5 throwing a line to the diver doesn't do much, right?</p> <p>6 A. If they're face down in the water and</p> <p>7 unresponsive, we're still going to throw a line because</p> <p>8 that also gives the deck hand something to come back to.</p> <p>9 Q. But I'm saying that throwing a rescue ball or a</p> <p>10 line to a non-responsive diver, we can agree that the</p> <p>11 diver is not going to grab onto it, right?</p> <p>12 A. I mean, there's a -- a lot of levels of</p> <p>13 unresponsiveness, you know. I mean, you could be staring</p> <p>14 at me and not talking to me and I don't know if you're</p> <p>15 not responsive. You know what I'm saying? If you're not</p> <p>16 communicating back to me, if you're giving me an okay</p> <p>17 signal, that's kind of a response that everything is</p> <p>18 okay.</p> <p>19 Q. Let me ask you this way.</p> <p>20 If you throw a line to a diver in the water and</p> <p>21 he doesn't grab onto it or respond in any sort of</p> <p>22 meaningful way, what does that indicate to you as a</p> <p>23 captain?</p> <p>24 A. Could be a couple things.</p> <p>25 Q. Okay.</p>

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<p>1 A. Not paying attention. Does he have a hood on</p> <p>2 and not hear me yelling at him to get the ball. Could be</p> <p>3 a lot of different stuff.</p> <p>4 Q. Okay. And what's --</p> <p>5 A. I mean, it could be an unresponsiveness.</p> <p>6 Q. Okay. And then what steps do you go --</p> <p>7 MR. FERTIG: I'm not sure he's through</p> <p>8 A. You know, I mean, there's a lot of different</p> <p>9 things that -- there's a lot of variables that go into</p> <p>10 this.</p> <p>11 Q. Okay.</p> <p>12 A. Okay? There's not one event that you can</p> <p>13 actually train for and prepare for. It's, it's a very,</p> <p>14 like I said earlier, it's a fluid, dynamic, changing</p> <p>15 environment every single time that something's going on.</p> <p>16 Q. Okay.</p> <p>17 A. Now, if you're unresponsive on the surface and</p> <p>18 you're floating on the surface and your head's above</p> <p>19 water, you know, and shoulders on the waterline, your</p> <p>20 head's above water, and you just gave an okay signal and</p> <p>21 I'm giving you the ball and you're not swimming to the</p> <p>22 ball, you're, you know, wearing a hood, don't know what's</p> <p>23 going on, you can't hear me. You know, I don't know if</p> <p>24 you -- you're not a diver. So, wearing a hood, you can't</p> <p>25 hear anything. It's completely shut off.</p>	<p>1 A. It's an O2 kit.</p> <p>2 Q. And if a diver gets on board in this situation</p> <p>3 after performing two very lengthy dives at 225 feet, and</p> <p>4 then a third bounce dive for fifteen minutes to depth and</p> <p>5 up, and he collapses, what's the first thing that you do,</p> <p>6 you give them oxygen?</p> <p>7 A. Well, now, we're not talking general, right?</p> <p>8 Q. What would you do in this situation?</p> <p>9 A. The first thing you do is, is oxygen.</p> <p>10 Q. Now, if there's a medical doctor on board, do</p> <p>11 you still expect the crew member to handle the situation</p> <p>12 or the doctor?</p> <p>13 A. The crew member.</p> <p>14 Q. Okay. And that, in this case, would have been</p> <p>15 Robert Steele?</p> <p>16 A. Yes.</p> <p>17 Q. And if that is happening and there's another</p> <p>18 diver in the water, what is the responsibility of the</p> <p>19 captain?</p> <p>20 A. To maneuver the boat, to make sure that the</p> <p>21 boat stays on station, close this person. Communicate</p> <p>22 and keep eyes on that diver in the water.</p> <p>23 Q. Okay.</p> <p>24 A. But when it came time in this scenario that we</p> <p>25 keep referencing back to, not generalized anymore, the</p>
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<p>1 So I don't know if maybe he's just not paying</p> <p>2 attention or what's going on. He got -- there's a</p> <p>3 possibility he could be unresponsive.</p> <p>4 Q. Okay. So tell me about -- and I'm not talking</p> <p>5 about this situation. A diver --</p> <p>6 A. Still general.</p> <p>7 Q. General. A diver surfaces. It could be very</p> <p>8 similar to this situation but I just want to talk</p> <p>9 general, okay. I don't want to talk about what was</p> <p>10 actually done here. I want to talk what the actual</p> <p>11 policies and procedures are.</p> <p>12 A diver surfaces, okay. Two divers surface.</p> <p>13 One diver gets on board, he has a medical emergency.</p> <p>14 It's your testimony that the crew members need to focus</p> <p>15 on him immediately, correct?</p> <p>16 A. That mate would get the medical kit out and</p> <p>17 start triage on that victim right there, yes.</p> <p>18 Q. Okay. Does that change depending on the other</p> <p>19 crew members or passengers on board?</p> <p>20 A. I'm not sure how to answer that question.</p> <p>21 Q. What's the medical emergency kit that's aboard</p> <p>22 a vessel?</p> <p>23 A. We have a first aid kit and we have a DAN</p> <p>24 oxygen kit.</p> <p>25 Q. Okay. And --</p>	<p>1 crew has to -- the captain has to maneuver that boat back</p> <p>2 around to pick up that diver because they're now driving</p> <p>3 farther and farther apart.</p> <p>4 Q. Regardless of how far he is?</p> <p>5 A. Regardless of how far he is. The captain</p> <p>6 cannot get in the water. His duty is to stay on board</p> <p>7 that boat at all times.</p> <p>8 Q. At what point would you have a crew member dive</p> <p>9 into the water and try to rescue a diver?</p> <p>10 A. Are we back to general now? I just want to --</p> <p>11 Q. General.</p> <p>12 A. I just want to clear -- okay.</p> <p>13 Q. Let's go general first.</p> <p>14 A. So you and I are diving -- I'll just kind of</p> <p>15 walk you through a scenario.</p> <p>16 You and I are diving. We come up. I'm getting</p> <p>17 on board the boat and you start not grabbing the mooring</p> <p>18 line and start kind of staring off in space, seem</p> <p>19 unresponsive. That point, while I'm on the ladder, the</p> <p>20 captain can help me get on the ladder because I'm still</p> <p>21 under my own will, and they would get in the water to</p> <p>22 help you get back to the ladder.</p> <p>23 Q. Okay.</p> <p>24 A. There's no other incidences going on. Nobody</p> <p>25 else needs any help, nothing like that, and there's</p>

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<p>1 nothing going on on the boat, that's how it's going to</p> <p>2 work out.</p> <p>3 Q. If the diver goes under the water before, goes</p> <p>4 under the surface before the crew member is able to dive</p> <p>5 in, what are the next steps that are taken?</p> <p>6 A. You mark the boat as an MOB so you have a</p> <p>7 location of where they -- you were at, they were last</p> <p>8 seen, and do your best to keep doing surface searches in</p> <p>9 case they come back up.</p> <p>10 Q. Okay.</p> <p>11 A. Maybe they went back down to make some</p> <p>12 adjustments, to do something different, who knows, and</p> <p>13 then pop back up, which happens all the time.</p> <p>14 Q. Okay.</p> <p>15 A. At that point, there's not really much anybody</p> <p>16 can do once they go back under water.</p> <p>17 Q. Can they dive into the water? Should there be</p> <p>18 an emergency tank on board?</p> <p>19 A. We do have an emergency tank on board.</p> <p>20 Q. Okay.</p> <p>21 A. But if a diver goes back down under water, by</p> <p>22 time you put that together, those -- that diver is down</p> <p>23 wherever.</p> <p>24 Q. Okay.</p> <p>25 A. And in this instance, at 220 feet with --</p>	<p>1 Q. So --</p> <p>2 A. Rob and Brock had their own divers, Claudia and</p> <p>3 Peter. They're his instructor, and then Claudia was the</p> <p>4 safety diver or however you guys want to call and</p> <p>5 classify it. They had their two professionals with them.</p> <p>6 Q. None of the -- and none of those individuals</p> <p>7 that you just mentioned were crew members, correct?</p> <p>8 A. They were -- none of them were crew members,</p> <p>9 no.</p> <p>10 Q. Okay. Now, going back to the mate's duties and</p> <p>11 responsibilities, Claimant's 7, and Claimant's 8, both of</p> <p>12 those require an emergency tank on board, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Now, that does not distinguish or that</p> <p>15 does not describe who's required to use that or who</p> <p>16 should be using it, correct?</p> <p>17 A. No.</p> <p>18 Q. But it's your testimony here today that that</p> <p>19 emergency kit is for a additional diver?</p> <p>20 A. Typically.</p> <p>21 Q. Not for a crew member --</p> <p>22 A. Not for a crew member.</p> <p>23 Q. -- if they need to go down?</p> <p>24 Okay. So it's not Horizon Divers' policies and</p> <p>25 procedures that if there's an extra tank on board, which</p>
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<p>1 there's no way you're going to find this person.</p> <p>2 Q. Well, we don't know how fast he descended,</p> <p>3 right? Or at least David Wilkerson and Bobby Steele did</p> <p>4 not know how fast Robert Stewart was descending, correct?</p> <p>5 A. No, we don't. But with the poor visibility</p> <p>6 that we had out there driving the boat around, once they</p> <p>7 went back around to go pick him up, couldn't see him.</p> <p>8 Q. Do you know if there was an emergency tank on</p> <p>9 board that day?</p> <p>10 A. There was a -- there was an air tank on board.</p> <p>11 Q. Okay.</p> <p>12 A. But we were only providing a boat to go out to</p> <p>13 this location. We weren't providing a diver to get into</p> <p>14 the water. They were not -- neither one of the two were</p> <p>15 qualified to go down to 220 feet of depth.</p> <p>16 Q. Okay. That was going to be my next question.</p> <p>17 So neither crew member was qualified to drive</p> <p>18 -- to dive to 225 feet?</p> <p>19 A. No. And even if -- even if David was</p> <p>20 qualified, he's the captain of the boat. He can't leave</p> <p>21 the boat.</p> <p>22 Q. Okay. But Robert Steele, if he was qualified,</p> <p>23 he could go down, correct?</p> <p>24 A. No, because we were providing a boat. That was</p> <p>25 it. We weren't providing a diver in the water.</p>	<p>1 there -- it's required to be, correct?</p> <p>2 A. Uh-huh.</p> <p>3 Q. A full set of scuba equipment?</p> <p>4 A. Well, it's not required. We just provide one.</p> <p>5 Q. Okay. But it's required by your own</p> <p>6 procedures?</p> <p>7 A. Our procedures, yes.</p> <p>8 Q. So even though there's an emergency tank on</p> <p>9 board or when there is an emergency tank on board, it is</p> <p>10 not to be utilized by the mate or the captain?</p> <p>11 A. No. They're not getting in the water.</p> <p>12 Q. Okay.</p> <p>13 A. They're doing surface rescues only.</p> <p>14 Q. Now, neither Robert Steele nor David Wilkerson</p> <p>15 made any effort to go into the water, right? We already</p> <p>16 discussed that?</p> <p>17 A. Well, Robert was triaging Peter and David can't</p> <p>18 leave the boat, so he had to maneuver the boat.</p> <p>19 Q. Okay. So Robert never entered the water?</p> <p>20 A. No.</p> <p>21 Q. The only person that entered the water to look</p> <p>22 for Rob was Brock, correct?</p> <p>23 A. Yes.</p> <p>24 Q. Based on your understanding what occurred?</p> <p>25 A. From what I was told, yes.</p>

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1 Q. Okay. And Brock was a passenger?

2 A. Brock was a passenger. And he went on his own

3 free will.

4 Q. Do you know, as you sit here today, whether

5 there was an emergency tank on board, a full emergency

6 set that someone could have used?

7 A. There was one air tank.

8 Q. Okay.

9 A. Which no one could have used to do anything

10 because once they get past 50, 60 feet, that tank is

11 worthless.

12 Q. Okay. So that tank does not, the tank that was

13 on board, would not have gone all the way down to --

14 would not have enabled a diver to go all the way to 225?

15 A. No.

16 Q. When you say that there's -- again, not beign a

17 diver. I just want to clarify so I have a full

18 understanding.

19 When you say there's a tank on board, that's

20 the scuba tank?

21 A. It's just an aluminum 80 air tank.

22 Q. Does it have a regulator and everything?

23 A. There's one on board. We always have one on

24 board the boat no matter where the boat goes.

25 Q. That was all connected and ready to go? I

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1 A. Yeah. It would be a set of doubles.

2 Q. Okay.

3 A. An open circuit, technical dive gear.

4 Q. And how long would that enable a diver to go

5 down?

6 A. Depends on their air consumption rate and how

7 big the tanks were. Typically, at 220 feet, a set of

8 aluminum, two aluminum 80s, fifteen minutes.

9 Q. Why didn't you put a set of two aluminum

10 eighties on a boat that was going to dive a 225-foot

11 wreck?

12 A. Because I didn't have anybody on board the boat

13 that was ever supposed to get in the water to do a dive.

14 Q. Okay.

15 A. These guys were all diving rebreathers. There

16 was no reason for me to have anything.

17 Q. I take it, based on your knowledge of what

18 occurred that day, you have no criticisms of how your

19 crew performed, correct?

20 A. None at all.

21 Q. Can we agree that Peter Sotis doesn't have a

22 very good reputation among the dive community?

23 MR. BAYER: Form.

24 A. I really -- I mean, he's a very good

25 instructor. He's been around for a long time.

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1 mean, ready to -- for a diver to put them on, or are they

2 scattered throughout the boat?

3 A. No. They're ready to be put together.

4 Q. Okay. And can you describe again, just very

5 specifically, what's 80? What does that reference?

6 A. Aluminum 80 is 80 cubic feet of air.

7 Q. So it's an aluminum tank, 80 cubic feet of air?

8 A. Yes.

9 Q. Has a regulator, right?

10 A. Has a regulator and a buoyancy control device,

11 a BCD.

12 Q. And that setup cannot take a diver to 225?

13 A. No. I mean, I guess it could, but it would be

14 a bad idea.

15 Q. Why is that?

16 A. Not enough air.

17 Q. Okay. So no matter how quickly you're going

18 down, that's probably not a safe thing to do?

19 A. No.

20 Q. Is there another type of tank -- and that's

21 just compressed air, correct?

22 A. That's just compressed air.

23 Q. Is there another type of compressed air tank

24 that would enable a diver to go to 225 for a period of

25 say, five or ten minutes?

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1 So, do I agree with that statement? Depends on

2 who you ask. That's going to be a personal question so

3 in my, my opinion, he's a good -- he's a good instructor,

4 good diver.

5 Q. Let me ask you this way.

6 Have you heard from people that Peter Sotis is

7 not or takes risks that he probably shouldn't?

8 MR. BAYER: Form.

9 MR. FERTIG: Let me just object to hearsay.

10 MR. BAYER: Yes.

11 BY MR. ECHARTÉ:

12 Q. Have you heard that?

13 A. So, do I still answer?

14 Q. Yes.

15 A. Yeah, I hear that. But I also hear that about

16 me, so.

17 Q. Okay. But prior to January 30th, 2017, you had

18 heard that Peter might take unnecessary risks, correct?

19 MR. BAYER: Form.

20 MR. FERTIG: Objection, form.

21 A. In the marketplace? Sure. People talk all the

22 time. It's a very egocentric industry.

23 Q. Understood.

24 A. People like to bash other instructors for

25 reasons or no reasons that they claim.

52 (Pages 202 to 205)

Page 206

1 Q. What are some of the things that you've heard  
2 about Peter Sotis prior to January 30th, 2017?  
3 MR. BAYER: Object to the form.  
4 MR. FERTIG: Join.  
5 A. I don't really -- can't recall. I mean, just,  
6 he's more aggressive than others, I guess, more than  
7 anything.  
8 Q. Okay.  
9 A. You know.  
10 Q. And aggressive in what way?  
11 A. On what -- how his --  
12 MR. BAYER: Object to form.  
13 MR. FERTIG: Form.  
14 THE WITNESS: -- his dive profiles or dive --  
15 ways he does dive, his diving.  
16 Q. Okay. And you heard that from other people in  
17 the industry prior to January 30th, 2017?  
18 MR. BAYER: Object to form.  
19 A. Yes.  
20 MR. FERTIG: Join.  
21 Q. You were aboard the vessel during the search  
22 efforts, correct?  
23 A. Yes, I was.  
24 Q. And so was Brock Cahill, correct?  
25 A. Yes.

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1 Q. And you guys spoke at times?  
2 A. Sure.  
3 Q. And did you ever express or do you recall  
4 expressing to Brock Cahill that when you found out Peter  
5 Sotis was involved, you were a little concerned?  
6 A. No.  
7 MR. BAYER: Object to form.  
8 Q. You did not express that to him?  
9 A. No, I wasn't -- I mean, he's doing his Revo  
10 instruction. He's kind of the Revo instructor. He's the  
11 guy that does all the Revo instruction in all of South  
12 Florida.  
13 Q. Okay.  
14 A. So that's the unit he wants to dive on, Peter's  
15 the guy to get trained by it -- on it.  
16 Q. But you were not -- you didn't express to Brock  
17 that you had any hesitations about Peter Sotis being  
18 aboard your vessel during those few days after the  
19 incident?  
20 MR. BAYER: Object to form.  
21 A. Of Peter being on board the boat?  
22 Q. Yes.  
23 A. No. And I think my text messages when Brock --  
24 when Peter says, "Is that okay?"  
25 I says, "Yeah, of course." So that kind of,

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1 you know, means that I -- I have no objection to him  
2 being on board the boat at all.  
3 Q. Did you express to Rob -- and my question  
4 wasn't about any objection, it was more about  
5 hesitations.  
6 Did you have any concerns about Peter Sotis  
7 being aboard one of your vessels when you found out he  
8 was going to be?  
9 A. No. Professionally wise, no. Not at all.  
10 Q. Do you know what Peter's relationship is with  
11 Revo?  
12 A. Just what you hear in the market, that he's  
13 kind of their instructor.  
14 MR. FERTIG: Object to form.  
15 MR. BAYER: Object to form.  
16 THE WITNESS: But --  
17 Q. Okay. You don't have personal knowledge?  
18 A. I -- no. I know nothing. I'm not Revo  
19 instructor. I'm not a Revo dealer. I'm not anything  
20 with Revo so I'm not really privy to that information,  
21 no.  
22 Q. What is he -- is he considered a Revo -- to the  
23 extent that you know. And if you don't know, just let me  
24 know.  
25 But is he a Revo, Revo dealer, a Revo

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1 distributor? What's your understanding.  
2 MR. BAYER: Object to form.  
3 A. I think he's just a Revo dealer.  
4 Q. Okay. So he sells Revo equipment and he --  
5 A. Yes.  
6 Q. -- trains people on Revo equipment?  
7 A. Yeah.  
8 Q. Is there any other Revo dealers in the State of  
9 Florida, to your knowledge?  
10 A. At that time?  
11 Q. Yes.  
12 A. I'm sure there's more than that but I --  
13 Q. Okay.  
14 A. -- really don't know. Again, I don't concern  
15 myself because I don't teach that unit so that really  
16 doesn't matter to me.  
17 Q. No, I know. I'm just asking --  
18 A. Okay.  
19 Q. -- for other reasons.  
20 A. Yeah. No.  
21 MR. BAYER: What might that be?  
22 MR. FERTIG: Are you okay?  
23 THE COURT REPORTER: Yeah. I just -- go ahead.  
24 I'm fine.  
25 MR. FERTIG: Do you need a break?

53 (Pages 206 to 209)



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<p>1 THE COURT REPORTER: No, I'm fine. I'm fine.</p> <p>2 MR. ECHARTE: You sure?</p> <p>3 THE COURT REPORTER: Yes.</p> <p>4 MR. ECHARTE: I can take a break if you want.</p> <p>5 THE COURT REPORTER: I'm fine.</p> <p>6 MR. ECHARTE: I don't have that much longer so</p> <p>7 if anyone needs a break, just let me know.</p> <p>8 Q. We talked about the manifest that day and I</p> <p>9 just want to show it to you and let me know if this is --</p> <p>10 I'm going to mark the manifest as Claimant's 14 -- 14.</p> <p>11 (Claimant's Exhibit Number 14 was marked.)</p> <p>12 Do me a favor. Take a look at that and let me</p> <p>13 know if you recognize that.</p> <p>14 A. Yes. This is the manifest that we use.</p> <p>15 Q. Okay. And the website, you said this is all</p> <p>16 online, correct?</p> <p>17 A. Yes, it is.</p> <p>18 Q. Is that through Scuba City?</p> <p>19 A. Scubaocity, yes.</p> <p>20 Q. Scubaocity, okay.</p> <p>21 And this is the manifest, the first page is for</p> <p>22 January 30th and the second page is for January 31st,</p> <p>23 correct?</p> <p>24 A. Yes, you are correct.</p> <p>25 Q. And you don't recall entering in this</p>	<p>1 A. In office, I keep a count of how many divers I</p> <p>2 take out every month, and this is how I account for it.</p> <p>3 Q. Okay.</p> <p>4 A. And then, I attach the releases to each one of</p> <p>5 these, and then I keep those documents.</p> <p>6 Q. The manifest on the 30th, it has five</p> <p>7 passengers, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And four of them, it appears, were diving,</p> <p>10 right?</p> <p>11 A. Yes.</p> <p>12 Q. And one of them was not?</p> <p>13 A. Yes.</p> <p>14 Q. That is Ben Sampson, right?</p> <p>15 A. Yes.</p> <p>16 Q. What does BW stand for?</p> <p>17 A. Bubble watcher.</p> <p>18 Q. What is that?</p> <p>19 A. It's a rider on the boat.</p> <p>20 Q. Okay. What does D stand for next to Peter</p> <p>21 Sotis?</p> <p>22 A. Diver.</p> <p>23 Q. Why doesn't Rob Stewart, Brock Cahill and</p> <p>24 Claudia Sotis have a D next to them?</p> <p>25 A. Because Peter Sotis has been on our boat</p>
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<p>1 information or who entered in this information, correct?</p> <p>2 A. No.</p> <p>3 Q. Let's look at the 30th first. It has a captain</p> <p>4 and a mate, David Wilkerson and Bobby Steele, right?</p> <p>5 A. Yes.</p> <p>6 Q. And this is the manifest for the Pisces, right?</p> <p>7 A. Yes.</p> <p>8 Q. And is every voyage or every excursion that is</p> <p>9 undertaken by a vessel that's under a COI from the Coast</p> <p>10 Guard required to have a manifest?</p> <p>11 A. I believe it is, yes.</p> <p>12 Q. Okay. So for every dive excursion that Horizon</p> <p>13 Divers performs, it creates a manifest?</p> <p>14 A. Yes, it does.</p> <p>15 Q. What is the purpose of this?</p> <p>16 A. What's my purpose of the manifest?</p> <p>17 Q. Your purpose or the general purpose.</p> <p>18 A. Well, first off, it gives the captain and crew</p> <p>19 to know how many passengers are on board the boat.</p> <p>20 Q. Okay.</p> <p>21 A. We call roll before we leave the dock. After</p> <p>22 the first dive site, after the second dive site, to make</p> <p>23 sure that we have the correct amount of passengers and</p> <p>24 everybody accounts for their name.</p> <p>25 Q. Okay.</p>	<p>1 multiple times before so was already classified as a</p> <p>2 diver. So he has a diver level.</p> <p>3 I don't know why Claudia's is not, but Rob and</p> <p>4 Brock -- these were just manifested that day. So we have</p> <p>5 to go and distinguish that.</p> <p>6 Q. So do you save the information of divers? I</p> <p>7 mean, does this automatically populate with the D if you</p> <p>8 put in Peter Sotis in two weeks?</p> <p>9 A. I believe so. Some, for some divers, not all.</p> <p>10 If you look at all my manifests, not all of them have a D</p> <p>11 or a bubble watcher next to it.</p> <p>12 Q. Okay. Has Peter Sotis been on any of your</p> <p>13 vessels since January 31st, 2017?</p> <p>14 A. Has he himself?</p> <p>15 Q. Yes.</p> <p>16 A. No.</p> <p>17 Q. Has Claudia Sotis?</p> <p>18 A. No.</p> <p>19 Q. Did you know Claudia Sotis prior to January</p> <p>20 30th, 2017?</p> <p>21 A. I met her once a couple years ago. Not very</p> <p>22 much conversation or anything with her.</p> <p>23 Q. Prior to January 30th, 2017, had Claudia Sotis</p> <p>24 ever dove off one of your vessels?</p> <p>25 A. Yes. I think it was the time before, sometime</p>

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<p>1 in 2015, with Peter.</p> <p>2 Q. Okay. There's some other informatino under</p> <p>3 each of these individuals' names, correct?</p> <p>4 A. As far as?</p> <p>5 Q. The TD60, TD60, the INST under Peter Sotis and</p> <p>6 TD100 under Claudia Sotis; do you see that?</p> <p>7 A. Yes. Those are the certification levels.</p> <p>8 Q. Okay. What does TD100 mean?</p> <p>9 A. Hundred meter.</p> <p>10 Q. Okay.</p> <p>11 A. Tech diver 100.</p> <p>12 Q. Oh, a tech diver?</p> <p>13 A. Uh-huh.</p> <p>14 Q. And who gives you this information or where</p> <p>15 does Horizon Divers get that information from?</p> <p>16 A. Well, that was what was told to us by those</p> <p>17 guys. We were told that they were 60 meters, which is</p> <p>18 the level previous to hundred meter. We knew Peter was</p> <p>19 an instructor, and Claudia has been out with us before</p> <p>20 and we have seen her certification card.</p> <p>21 Q. Okay. So Claudia was a technical diver up to a</p> <p>22 hundred meters, which would be 300 feet, right?</p> <p>23 A. Yes, or 330, depending on the agency you look</p> <p>24 at.</p> <p>25 Q. Peter Sotis, INST, that's instructor?</p>	<p>1 on the 30th, correct, which is why he told you tech diver</p> <p>2 60?</p> <p>3 A. I put that in there before they showed up.</p> <p>4 Q. Okay. Is it your understanding that they had</p> <p>5 completed their certification for the 100 meter?</p> <p>6 A. That's what we were told.</p> <p>7 Q. Okay.</p> <p>8 A. We were told, we relied on their information</p> <p>9 that they finished that class before the showed up down</p> <p>10 here.</p> <p>11 Q. And that came from Brock Cahill?</p> <p>12 A. That came from Brock Cahill.</p> <p>13 Q. Not Peter Sotis?</p> <p>14 A. That they were finishing their class and they</p> <p>15 were finishing their dives on that Saturday, and start</p> <p>16 diving with us on Monday.</p> <p>17 Q. And then the second page is the January 31st,</p> <p>18 2017 manifest, right?</p> <p>19 A. Yes.</p> <p>20 Q. This is the day that Robert Stewart went</p> <p>21 missing and died?</p> <p>22 A. Yes.</p> <p>23 Q. Have you reviewed the statements in this case</p> <p>24 that were handwritten by your crew members?</p> <p>25 A. Via a -- the Coast Guard didn't want us to take</p>
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<p>1 A. Yes.</p> <p>2 Q. And then Rob Stewart and Brock Cahill, they had</p> <p>3 technical diving qualifications up to 60 meters?</p> <p>4 A. Yes.</p> <p>5 Q. That would be 180 feet, right?</p> <p>6 A. About 200.</p> <p>7 Q. 200 feet. That is shallower than the Queen of</p> <p>8 Nassau wreck?</p> <p>9 A. It's to the top end of the Queen of Nassau,</p> <p>10 yes.</p> <p>11 Q. But if you go to the bottom, you're at 225,</p> <p>12 right?</p> <p>13 A. 220, yeah.</p> <p>14 Q. Okay. Did they tell you, did Brock Cahill or</p> <p>15 Robert Stewart -- did you have any communications with</p> <p>16 Robert Stewart at all?</p> <p>17 A. Zero.</p> <p>18 Q. Okay. Did Brock -- he told you they were doing</p> <p>19 classes with Peter Sotis, right?</p> <p>20 A. He told me they were doing their hundred meter</p> <p>21 class.</p> <p>22 Q. Okay.</p> <p>23 A. Which, to do that, you have to have the 60</p> <p>24 meter class.</p> <p>25 Q. Okay. But they did not have that qualification</p>	<p>1 the picture, but they took a picture of them, so I read</p> <p>2 them off of a phone.</p> <p>3 Q. Okay.</p> <p>4 A. It's been awhile.</p> <p>5 Q. Is that the last time you looked at them?</p> <p>6 A. Yeah. I haven't looked at them in a little</p> <p>7 while.</p> <p>8 Q. All your knowledge or understanding of what</p> <p>9 occurred on January 31st, 2017, that came from David</p> <p>10 Wilkerson and Bobby Steele, I assume?</p> <p>11 A. Yeah. Yes.</p> <p>12 Q. David Wilkerson no longer is affiliated with</p> <p>13 Horizon Divers, correct?</p> <p>14 A. He is not.</p> <p>15 Q. When did he stop working with Horizon Divers?</p> <p>16 A. February of this year.</p> <p>17 Q. So about two months ago?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know what he is doing now?</p> <p>20 A. He is working as a deck hand on a private</p> <p>21 yacht.</p> <p>22 Q. Do you know what yacht that is?</p> <p>23 A. I do not know the name of it.</p> <p>24 Q. Have you looked at the dive profiles from any</p> <p>25 of the computers' printouts?</p>

<p style="text-align: right;">Page 218</p> <p>1 A. That day, I asked Bobby to take pictures of 2 Peter Sotis' computer, so that's the only thing that I 3 seen pictures of. So, I mean, they're photograph on a 4 phone shots, the best I've seen. 5 I think we're getting an equipment inspection 6 in a week or so. I'm hoping to get more information 7 then. 8 Q. Do you intend on being there? 9 A. I do. 10 Q. Does anyone else from Horizon Divers intend on 11 being there? 12 A. No. 13 MR. ECHARTE: I'm going to mark this as 14 Plaintiff's [sic] 15. I'm going to mark it on the 15 back of the exhibit because there's writing all over 16 the front page. Is that okay with you? 17 THE COURT REPORTER: That's fine. 18 (Claimant's Exhibit Number 15 was marked.) 19 MR. ECHARTE: You know, I don't have an extra 20 copy so let me just pass this to defense counsel. 21 MR. FERTIG: Whose dive profile are you 22 representing that that comprises? 23 MR. ECHARTE: Well, that was provided by you, 24 so I was going to ask him. I assume it's Peter 25 Sotis', based on his testimony. But that entire</p>	<p style="text-align: right;">Page 220</p> <p>1 from the Pisces, that day? 2 A. They are -- well, they're all GPS coordinates 3 that are logged into the Pisces -- 4 Q. Okay. 5 A. -- as far as waypoints. 6 Q. Okay. 7 A. Yes. 8 Q. All right. 9 A. I believe Jeff Knapp took those off an SD card 10 to be able to print them out on a computer. 11 Q. Okay. Do you know when that was done? 12 A. I don't think it will say, but it was done 13 right afterwards. I know that, the file. 14 Q. Are these from the search and recovery efforts 15 or are these from the moments before Rob submerged? Do 16 you know what -- 17 A. Are these? These here? 18 Q. Yes, those waypoints. 19 A. These are just waypoints in the -- I mean, 20 these are all the different dive sites we go to. 21 Q. Oh, okay. So these are not -- 22 A. These have nothing to do with -- 23 Q. Understood. 24 A. There's the search patterns that we did the day 25 or the days of recovery.</p>
<p style="text-align: right;">Page 219</p> <p>1 packet was provided by Horizon Divers. 2 MR. FERTIG: Okay. I had not seen it yet. 3 That's why I asked. 4 MR. ECHARTE: No, feel free to flip through. 5 THE WITNESS: Those are all GPS coordinates. 6 MR. FERTIG: Yeah, this not a dive profile. 7 MR. ECHARTE: There are in the back. 8 MR. FERTIG: Oh, in the back. Okay. 9 MR. ECHARTE: Yeah. 10 MR. FERTIG: I'm sorry. I was looking at -- 11 MR. ECHARTE: No, it's an exhibit with multiple 12 things. I just wanted to get it over and done. I 13 don't think we're going to be on this very long so I 14 just figured I'll deal with it in one thing. 15 THE WITNESS: Okay. GPS coordinates. GPS 16 picture of the screen. Okay. Yeah. 17 BY MR. ECHARTE: 18 Q. Okay. So this is a -- what I'm going to refer 19 to as a Composite Exhibit, it's 15. I've stapled it all 20 together for purposes of this deposition. 21 But the first part of this packet is some GPS 22 coordinates, correct? 23 A. Yes. 24 Q. Do you know, were you involved in obtaining 25 these GPS coordinates off the GPS, I assume these are</p>	<p style="text-align: right;">Page 221</p> <p>1 Q. Understood. So these are the search patterns 2 that was done by the Pisces? 3 A. This is, yes. 4 Q. During the recovery efforts of Robert Stewart's 5 body, okay? Right? 6 A. Yes. 7 Q. Okay. And then, these waypoints here are just 8 markers that you have for different dive sites that you 9 guys go to and other points of interest, I guess? 10 A. Correct. 11 Q. Okay. Flipping through, then we get to -- 12 before we get to the dive profiles, these photos here, 13 these are just actual photos from the GPS screen? 14 A. These are pictures from the GPS screen on, I 15 believe, David's phone. 16 Q. David Wilkerson's phone? 17 A. David Wilkerson's phone, yes. 18 Q. And what are these pictures of, do you know? 19 A. These are just making the marks of the 20 waypoints or the man overboard. 21 Q. Okay. 22 A. The evening of the 31st, as the Coast Guard was 23 searching on the surface and David was still out there 24 doing surface searches, he was marking potential hits on 25 the bottom with his sonar.</p>

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1 Q. Okay. And just so that we're clear for the  
2 record, you're referring to HDA --  
3 A. -- 000085.  
4 Q. Okay. And these are similar, I mean 084 --  
5 A. I think so.  
6 Q. -- is similar photos?  
7 A. Sure.  
8 Q. Okay.  
9 A. Just so you know that these man overboard  
10 points are random numbers and that is because if there  
11 was a GPS point of say, 004044 and I delete that, there's  
12 now a gap in here. When I hit man overboard, that's  
13 where it in-fills first.  
14 Q. Okay. So let me -- let me go through this a  
15 little slower then. Getting past the waypoints, going to  
16 HDA79, this is search patterns, based on your  
17 understanding?  
18 A. Yes.  
19 Q. And do you know what days these are, or you  
20 wouldn't have any idea based on just this documentation,  
21 right?  
22 A. I would not have any idea.  
23 Q. Because the Pisces was out there for a couple  
24 days, correct?  
25 A. Three days. Three days after the event, yes.

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1 Q. So 79, 80 and 81 are search patterns for the  
2 Pisces, right?  
3 A. Yes.  
4 Q. Then we get to 82 and this is an actual image  
5 from the screen of the GPS, correct?  
6 A. Yes.  
7 Q. Okay. And this has -- what is this image up  
8 here in the top left?  
9 A. That is the actual position where the boat is.  
10 Q. Okay.  
11 A. You see the little boat right there, that's  
12 where the boat is, GPS coordinates.  
13 Q. Now, this, are these markers?  
14 A. Those are other markers that were put out  
15 there.  
16 Q. These are not man overboard markers?  
17 A. Those were man overboard markers of, you know,  
18 Coast Guard said, hey, there's a mark over here, come  
19 mark this. So David would go over and mark it.  
20 Q. Understood.  
21 What is 83?  
22 A. What is the picture?  
23 Q. Yes.  
24 A. Same thing. This is where the -- the circle or  
25 the "x" is where the boat is.

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1 Q. Okay.  
2 A. The flag right there would be whatever marker  
3 we were looking at, at that time, just directing the boat  
4 back to that point.  
5 Q. 84, similar photo?  
6 A. Same thing.  
7 Q. 85, similar?  
8 A. Same thing.  
9 Q. 86, same thing?  
10 A. Same thing, yeah.  
11 Q. What is 87?  
12 A. That is the actual man overboard point from  
13 that, that evening. At 5:02 p.m. is when David hit that  
14 man overboard mark.  
15 Q. Okay. At 5:02 p.m., David Wilkerson, that's  
16 when he hit the man overboard?  
17 A. That's when he hit the -- yeah.  
18 Q. And based on your understanding through  
19 conversations with him, that's the moment he realized  
20 that Robert had gone under the surface?  
21 A. Yes.  
22 Q. 88, what is this?  
23 A. That's the actual Queen of Nassau location.  
24 Q. Okay.  
25 A. According to our G -- so when we go out there,

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1 that's where we navigate to.  
2 Q. And this is done back in 2016, right?  
3 A. That was the last time we were out there.  
4 Q. And then the rest of these images, I believe,  
5 let me give this back to you in a second just to -- so 89  
6 -- 89 through 98, these are all images, to your  
7 understanding, taken from Peter Sotis' computer, dive  
8 computer?  
9 A. The day of the incident, yes.  
10 Q. Okay. And have you reviewed these?  
11 A. I saw them on Bobby's phone when he took them.  
12 Q. Okay. Is there anything that would -- that  
13 stood out to you, that was alarming to you or that peaked  
14 your interest in any of these images? And feel free to  
15 look through them again.  
16 A. I mean, my interest is peaked by a couple  
17 things, actually.  
18 Q. Okay. Let's go through those.  
19 A. Things that I wouldn't do myself personally.  
20 Q. Okay.  
21 A. His gradient factors are -- but that's his  
22 style diving. I can't say that's how I would do it, but  
23 that's how he does it.  
24 Q. Now, his gradient factors are 90/90, right?  
25 A. That's what it says.

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1 Q. Or 90?

2 A. That's what it says here, yes.

3 Q. And those are extremely aggressive, correct?

4 A. In some peoples' minds, yes. In mine, yes. In

5 other peoples' no.

6 Q. And you would not instruct any of your divers

7 to input that kind of gradient factor into -- or any of

8 your students to input that kind of gradient factor into

9 their computer, correct?

10 MR. BAYER: Object to form.

11 A. Personally, no, I would not.

12 Q. Okay. And if you were aboard a vessel and you

13 heard someone that was going to put in a 90/90 gradient

14 factor into their Shearwater computer onto that, this

15 depth on a rebreather, is that something that would

16 concern you?

17 A. I mean, it's personal choice. I wouldn't do

18 it.

19 Q. Okay.

20 A. But it's a personal choice.

21 Q. And you wouldn't do it because it's a safety

22 issues, correct? I mean, not because it's --

23 MR. BAYER: Object to form.

24 A. I'm -- I'm ultra conservative.

25 Q. Okay.

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1 THE COURT REPORTER: I've got to get the

2 objections.

3 MR. ECHARTE: I'm sorry.

4 THE WITNESS: I'm sorry.

5 MR. ECHARTE: I'm sorry. I'll slow down. I'm

6 just trying to get it over and done with.

7 THE WITNESS: Where do you want us to start.

8 THE COURT REPORTER: Just keep continuing.

9 MR. FERTIG: I think the last one was, I

10 personally would not do it.

11 MR. ECHARTE: Right.

12 A. I personally wouldn't do it because I'm a lot

13 more conservative.

14 Q. Okay.

15 A. I have a wife and three kids I want to go home

16 to every day so I will stay under water and do a whole

17 lot more decompression and slow my dive down compared to

18 what some others may do.

19 Q. That was my next question.

20 What does the gradient factor mean?

21 A. What does the gradient factor mean?

22 Q. Yes.

23 A. I mean, we can go into a whole long --

24 Q. Give me a simple explanation.

25 A. A very simple -- 100, if you were going a

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1 hundred line, is the hundred Buhlmann line.

2 Q. Uh-huh.

3 A. It's a very fast, very rapid ascent. 90/90

4 just means that you're getting within ten percent of that

5 mark at your deepest depth and your shallower depth.

6 The higher the number is, the faster you get

7 shallow, and the shorter you stay on at the shallower

8 surface.

9 Q. And anything beyond a hundred or approaching a

10 hundred, does that mean there's an increased risk for

11 decompression sickness?

12 A. Well, there's always an increased risk of

13 decompression sickness when we're doing dives of this

14 depth.

15 Q. But the concern, when you say you're ultra

16 conservative, the concern of increasing the gradient

17 factor to 90 or to a hundred is what?

18 A. Is, yeah, more in my -- more in my mind, I'm

19 going too much of a rapid ascent, which is -- it will be

20 a DCS issue.

21 Q. Okay. What else peaked your interest in this?

22 A. The lengths of the bottom times.

23 Q. Tell me about that.

24 A. They're long.

25 Q. Okay.

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1 A. I mean, I don't dive past 30 minutes. A 30-

2 minute bottom time on here, I'm in the water for almost

3 two hours.

4 Q. Okay.

5 A. He did a 45-minute bottom time here and he's

6 only in the water for 96 minutes.

7 Q. Okay. So he --

8 A. So he dove twice as long as I would and shorter

9 decompression.

10 Q. Okay.

11 A. But that will go to the 90/90 gradient factor.

12 Q. Okay. Is the --

13 A. And, again, that's personal preference. That's

14 not something I would do.

15 Q. Understood.

16 Is the third, the bounce dive --

17 A. That's in here, I'm assuming, right?

18 Q. Well, I'm asking you if you, if you've seen it.

19 A. Well, let me see. Okay.

20 Q. Can you tell me what time that dive concluded?

21 A. According to the computer, 4:56.

22 Q. Okay.

23 A. Again, these computers are set per the owner.

24 Q. Of course. So it might not coincide --

25 A. With the GPS time.

58 (Pages 226 to 229)

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<p>1 Q. Or with the actual time?</p> <p>2 A. Yeah.</p> <p>3 Q. Okay. The -- is there anything that you see in</p> <p>4 the fifteen-minute bounce dive that concerns you or that</p> <p>5 you would have done differently?</p> <p>6 A. The ascent.</p> <p>7 Q. Okay. Tell me about that.</p> <p>8 A. Took it rapid. The dive is only fifteen</p> <p>9 minutes long. And without having the -- a bar graph, an</p> <p>10 actual download, which I hope we get in two weeks, we'll</p> <p>11 be able to see this stuff a little bit better, it looks</p> <p>12 like he was down at the bottom for close to half of that</p> <p>13 duration, which would mean, say, seven or eight minutes.</p> <p>14 After doing two dives that day and a very short</p> <p>15 surface interval between dive two and dive three, he's</p> <p>16 going to have more decompression and a slower ascent rate</p> <p>17 then, coming up from there.</p> <p>18 Q. His surface interval between the second and</p> <p>19 third dives was about 40 minutes; is that your</p> <p>20 understanding?</p> <p>21 A. It should say, right?</p> <p>22 It looks like dive two ended at 4:07 and dive</p> <p>23 three started at 4:41, so it's going to be close to 40</p> <p>24 minutes.</p> <p>25 Q. Have you seen images from -- any other images</p>	<p>1 him how he was feeling. And I said, "Please go over and</p> <p>2 talk to the EMS," because they were there waiting. So he</p> <p>3 went over there and talked to them. Wasn't there very</p> <p>4 long.</p> <p>5 Came back and I says, how you doing? What did</p> <p>6 they say?</p> <p>7 He says, I feel fine. Everything's good. He</p> <p>8 did tell me, he goes, I want to let you know that your</p> <p>9 crew did an amazing job today, and they are awesome and</p> <p>10 wonderful, despite the circumstances.</p> <p>11 And at that point, the Coast Guard and the</p> <p>12 police officer were asking for -- you know, they had</p> <p>13 everybody in huddle. So he went down there and did that.</p> <p>14 I just kind of hung out on the dock.</p> <p>15 Then they were directed to each give a</p> <p>16 statement, I guess, from what I could see. So after they</p> <p>17 kind of huddled together, they all split apart and did</p> <p>18 their statements. When Peter was done, he handed it up</p> <p>19 and came up and he started loading his dive gear.</p> <p>20 Q. Did you ask him what happened?</p> <p>21 A. Yeah. He said, you know, everything seemed</p> <p>22 fine. We decided not to go out the third day so I</p> <p>23 volunteered to go pick up the grappling hook because we</p> <p>24 didn't want to have to leave it out there and come back</p> <p>25 again to get it tomorrow.</p>
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<p>1 than I've shown you here?</p> <p>2 A. No.</p> <p>3 Q. Okay. I mean, I'm talking about images of any</p> <p>4 dive computers, whether it was Claudio Sotis, Brock?</p> <p>5 A. No.</p> <p>6 Q. Rob's, you have not seen any to --</p> <p>7 A. No.</p> <p>8 Q. -- to this day?</p> <p>9 A. No. And these are the ones that I asked Bobby</p> <p>10 to take that day.</p> <p>11 Q. And you asked him to take that while they were</p> <p>12 still out on the water?</p> <p>13 A. Yeah. They were searching around for -- and</p> <p>14 Peter knew that he was taking them.</p> <p>15 Q. Okay. Have you talked to Peter since they got</p> <p>16 back on shore?</p> <p>17 A. That day?</p> <p>18 Q. Yes.</p> <p>19 A. I talked to them that night when they came back</p> <p>20 to shore. Since then, no.</p> <p>21 Q. Tell me about the substance of your</p> <p>22 conversation with Peter Sotis on January 31st, 2017, once</p> <p>23 they got back?</p> <p>24 A. It was late. Everybody was pretty tired and</p> <p>25 I'm sure they were hungry. He got off the boat. I asked</p>	<p>1 And we did our dive, came up, everything seemed</p> <p>2 normal, did our D-Co, got on the surface. I climbed on</p> <p>3 board the boat. I don't know what happened from there.</p> <p>4 It was about fifteen minutes later I kind of started</p> <p>5 realizing what's going on, so I don't know what happened</p> <p>6 to Rob. I don't know what -- I don't even know what</p> <p>7 happened to me, at that point, is what he said.</p> <p>8 Q. So he expressed to you that there was a period</p> <p>9 of time where he does not recall --</p> <p>10 A. Yes.</p> <p>11 Q. -- what was happening?</p> <p>12 A. Yeah. He wasn't sure of the time frame. He</p> <p>13 said close to fifteen minutes but, I mean, without a</p> <p>14 watch and the time, I mean, I don't know how anybody</p> <p>15 would know.</p> <p>16 Q. And your crew expressed to you that he visibly</p> <p>17 had a medical situation, correct?</p> <p>18 A. Yes.</p> <p>19 Q. What did they describe that as?</p> <p>20 A. Bobby's description was that when he came back</p> <p>21 on board the boat, climbed up the ladder on his own</p> <p>22 power, David handed him -- climbed up the ladder. David</p> <p>23 handed him to Bobby. Bobby kind of walked him to his</p> <p>24 seat. Typically, Peter is pretty quick about getting his</p> <p>25 bailout bottles and everything taken off before he sits</p>



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<p>1 down. In that moment, he collapsed. And this is all</p> <p>2 recollection from Bobby.</p> <p>3 Q. Yeah. No, I got you.</p> <p>4 A. So Bobby said he kind of collapsed into the</p> <p>5 seat, was kind of looking kind of weird, wasn't getting</p> <p>6 his bottles off, wasn't acting normal, that he has been,</p> <p>7 that we're used to.</p> <p>8 So Bobby and Claudia helped him get his stuff</p> <p>9 out and then he just kind of collapsed over in his seat</p> <p>10 and kind of collapsed over leaning to the side.</p> <p>11 So David's like, whoa, what's going on. Bobby,</p> <p>12 get the O2 kit.</p> <p>13 Bobby went down to the cabin, grabbed the O2</p> <p>14 kit, came out and put the O2 kit together real quick,</p> <p>15 started trying to administer oxygen.</p> <p>16 Bobby said, at that point, Claudia says, hey,</p> <p>17 let's get him out of his dry suit, because he had a</p> <p>18 really tight neck seal. So Bobby and Claudia, I believe,</p> <p>19 both helped him to get out of at least the neck seal part</p> <p>20 of the dry suit so that way he could breath better.</p> <p>21 And Bobby said that he was holding the oxygen</p> <p>22 mask to Peter's face and he was clawing at Peter's hand</p> <p>23 -- or, Peter was clawing at Bobby's hand to pull it away.</p> <p>24 You know, kind of fighting the -- you know, if you're</p> <p>25 unconscious, kind of out of it, you're not really sure</p>	<p>1 medical incident?</p> <p>2 A. Yes.</p> <p>3 Q. And is that the second okay signal?</p> <p>4 A. The second one.</p> <p>5 Q. Okay.</p> <p>6 A. They surf -- when they surfaced, they both gave</p> <p>7 an okay signal when they surfaced off the main line. And</p> <p>8 then, that was the second one that he gave David.</p> <p>9 David told me that he was trying to get him to</p> <p>10 grab the line. He wasn't -- they were drifting further</p> <p>11 apart because the current and the wind were going, were</p> <p>12 going different directions. So, for David to go pick up</p> <p>13 Rob, he had to maneuver the boat. So he told Brock,</p> <p>14 "Keep your eyes on Rob, I'm going spin the boat around,"</p> <p>15 was where he did the Williamson turn.</p> <p>16 And when David had to take his eyes off or</p> <p>17 Brock -- or, I mean, Rob, obviously, to turn the boat</p> <p>18 around, but he instructed Brock to do this, to look.</p> <p>19 Turned, spun the boat around and that's when Brock goes,</p> <p>20 "Where'd Rob go?"</p> <p>21 And then they -- they started their search</p> <p>22 patterns and Brock jumped in the water at some point.</p> <p>23 MR. ECHARTE: Why don't we take a -- one more</p> <p>24 break and then I'll wrap this up.</p> <p>25 THE VIDEOGRAPHER: Going off the video record .</p>
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<p>1 what's going on, you're going to fight somebody holding</p> <p>2 something at your mouth.</p> <p>3 Q. What was Claudia doing throughout that, based</p> <p>4 on what they told you?</p> <p>5 A. Bobby said she was just kind of sitting right</p> <p>6 there, trying to console her husband, trying to ask him</p> <p>7 if he was okay and see what's going on.</p> <p>8 Q. Where was the O2 tank located?</p> <p>9 A. It's in the cabin.</p> <p>10 Q. And that's at the front of the vessel?</p> <p>11 A. It is.</p> <p>12 Q. Why is it there?</p> <p>13 A. Because that's the safest place to have it.</p> <p>14 Not on the deck, not in the open, no open air, water</p> <p>15 splashing around.</p> <p>16 Q. What did David Wilkerson tell you about his</p> <p>17 recollection of the events?</p> <p>18 A. Pretty much the same exact thing except for he</p> <p>19 saw, when he told Bobby to go do that, he said, "Bobby,</p> <p>20 get this started."</p> <p>21 And at the time, he told me he turned around</p> <p>22 and Rob was sitting right there. He asked Rob, "Are you</p> <p>23 okay?" And Rob gave him another okay signal.</p> <p>24 Q. He told you that Rob gave him an okay signal</p> <p>25 after Peter exhibited signs of having some sort of</p>	<p>1 The time is 2:58 p.m.</p> <p>2 (Recess from 2:58 p.m. to 3:12 p.m.)</p> <p>3 THE VIDEOGRAPHER: We are back on the video</p> <p>4 record. The time is 3:12 p.m. You may proceed.</p> <p>5 BY MR. ECHARTE:</p> <p>6 Q. You were involved -- when did you first find</p> <p>7 out about Rob going missing?</p> <p>8 A. Sometime after 5:00 o'clock.</p> <p>9 Q. Okay.</p> <p>10 A. I couldn't -- maybe. I think David told me I</p> <p>11 was the next phone call after he conversed with the Coast</p> <p>12 Guard to let them know what was going on. So he gave me</p> <p>13 a heads up.</p> <p>14 Q. That was through cell phone?</p> <p>15 A. It was through a cell phone.</p> <p>16 Q. What did he tell you?</p> <p>17 A. That there was a missing diver.</p> <p>18 Q. Did he tell you which one?</p> <p>19 A. At that point in time, he did not. He was</p> <p>20 still contacting with the Coast Guard so he wanted to</p> <p>21 just give me a heads up, what was going on. It was</p> <p>22 probably another 20, 30 minutes later when I found out</p> <p>23 more information and who it was.</p> <p>24 Q. And was that also through David Wilkerson?</p> <p>25 A. Yes.</p>

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1 Q. What -- how did he contact you? What phone did  
2 he --  
3 A. It was on -- I think he called my office phone.  
4 Q. Okay.  
5 A. And then, after that was by cell phone because  
6 I was moving around.  
7 Q. What was the number of your office?  
8 A. (305) 453-3535.  
9 Q. 453?  
10 A. Yes. 453-3535.  
11 Q. I'm sorry. 3535?  
12 A. Yes.  
13 Q. I'm sorry. It's been a long day.  
14 That is your office phone number back on --  
15 A. That is the main office number, yes.  
16 Q. Back on January 31st, 2017, what provider  
17 service is that phone?  
18 A. Don't -- AT&T, I think.  
19 Q. Something you would have records of somewhere?  
20 A. Yeah.  
21 Q. And what cell phone did you have, what was your  
22 number?  
23 A. (305) 978-3380. And that is through AT&T.  
24 Q. And that was true as of January 31st, 2017?  
25 A. Yes.

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1 Q. When he called you back the second time, tell  
2 me what he told you.  
3 A. He was just, he goes, I think he told me, if I  
4 remember right, just what was going on. Who it was, who  
5 was missing. What he was doing. The communication he  
6 had with the Coast Guard.  
7 At that point in time, I kind of wanted -- I  
8 think I asked him for a time line of what was going on  
9 and kind of following those protocols of the stuff that  
10 we looked at earlier, just so I could start filling in  
11 the blanks.  
12 And I asked him, I says, okay, so what's your  
13 expected -- what are you supposed to be doing right now,  
14 how long is the Coast Guard wanting to have you there,  
15 have you talked to anybody on the boat. Because I think  
16 at that time, the boat was on its way out. Just trying  
17 to feel out, get a feel for what's going on.  
18 And I told him -- at that point, Peter, I  
19 think, was just coming out of it and he was saying he was  
20 fine. And I said, it doesn't matter. I'm still going to  
21 have the EMTs there to check him out.  
22 And I said, so you're going to come back at  
23 Caloosa Cove at some point. Just let me know what's  
24 going on, I'll meet you there.  
25 Q. What time did they come back?

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1 A. It was around 9:00 o'clock. I don't remember  
2 if it was right at 9:00 o'clock or just after, but it was  
3 right around 9:00 o'clock.  
4 Q. You did not go out there that day?  
5 A. That night on the boat?  
6 Q. Yeah.  
7 A. No, we did not go on the boat. It was -- it  
8 was dark. The Coast Guard told David and them to come  
9 back to shore.  
10 Q. Okay. Did any other boats go out there to  
11 assist in the search efforts on January 31st, 2017?  
12 A. I think it was FWC and the Coast Guard is all  
13 that was there. I'm unaware of any other boats in the  
14 area. Or private vessels is what you mean?  
15 Q. Yes.  
16 A. I'm unaware of any other private vessels,  
17 unless they happened to already be out there.  
18 Q. The next day, you went aboard the Pisces to go  
19 search?  
20 A. Yes, sir.  
21 Q. Who else was aboard the vessel on the 1st of  
22 February?  
23 A. That would have been myself, Jeff Knapp, Kurt  
24 Wagner, Bobby Steele, Dave Wilkerson.  
25 Q. Okay.

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1 A. I believe that was it.  
2 Q. And on that day, did you have the ROV?  
3 A. We did not.  
4 Q. How long were you out there? What time did you  
5 leave shore that day?  
6 A. Not super early because we had to get -- make  
7 sure our dive gear was prepped. 10:30 maybe.  
8 Q. Did you guys go out there and then dive down?  
9 A. Yes.  
10 Q. Okay.  
11 A. We went out and dove on a site that -- a mark  
12 that was -- we were told was very prominent.  
13 Q. And how was that determined?  
14 A. By the GPS coordinates from the night before,  
15 searching with the sonar.  
16 Q. And who was diving that day?  
17 A. Myself and Jeff Knapp, and Kurt Wagner was our  
18 safety diver who would meet us at a hundred feet.  
19 Q. Explain to me what a safety diver is.  
20 A. So the safety diver, for what our purpose of  
21 the safety diver is, is Jeff and I would do our dive, a  
22 planned bottom time of 25 minutes at 220 feet. And when  
23 our dive time was up, we would shoot a lift back or a  
24 marker to the surface with a reel, with a line, string  
25 attached to it.

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<p>1 And at that point, Kurt would come down and</p> <p>2 meet us to make sure that either one of us had enough gas</p> <p>3 and we were okay, and follow our procedures up to the</p> <p>4 surface.</p> <p>5 Q. Is that type of procedure or that type of diver</p> <p>6 utilized -- why was it utilized during those dives?</p> <p>7 A. Because we were under the purview of the fire</p> <p>8 department and that's part of the SOPs, the standard</p> <p>9 operating procedures for the fire department. And I was</p> <p>10 one of the people that set that up years back.</p> <p>11 Q. Why is that a standard operating procedure for</p> <p>12 the fire department and I presume it's not for Horizon</p> <p>13 Divers when they dive that wreck, correct?</p> <p>14 A. No.</p> <p>15 Q. Okay. Why is it standard operating procedures</p> <p>16 for one entity and not yours?</p> <p>17 A. Public safety diving.</p> <p>18 Q. Okay.</p> <p>19 A. It requires a little bit more backup for</p> <p>20 everything. And --</p> <p>21 Q. Why is that?</p> <p>22 A. It's just how the public safety world works.</p> <p>23 Everything has to be backed up. There's always a safety</p> <p>24 diver. There's always somebody on board the boat ready</p> <p>25 to go in, in case there's something going on.</p>	<p>1 time, there was a couple of other private boats out there</p> <p>2 kind of doing the same thing with their sonar. So we may</p> <p>3 have been on the surface piddling around for an hour</p> <p>4 before we did our dive to say, okay, this is a mark that</p> <p>5 seems very prominent and that's where we decided.</p> <p>6 So we needed to figure out where our set and</p> <p>7 drift was with the currents, the wind. So it took a</p> <p>8 little bit of time. So we may have been out there for an</p> <p>9 hour or so.</p> <p>10 Our dive profile, I can't remember, 25 minutes</p> <p>11 at the bottom. It was probably 90, 90 minutes to a</p> <p>12 hundred minutes.</p> <p>13 Q. Total?</p> <p>14 A. Total.</p> <p>15 Q. From the moment you go under the surface --</p> <p>16 A. Yeah.</p> <p>17 Q. -- to when you surface?</p> <p>18 A. To resurface, yeah.</p> <p>19 Q. The -- and then you said you need about three</p> <p>20 hours of a surface interval before your next dive?</p> <p>21 A. That's how I like to do it.</p> <p>22 Q. Okay.</p> <p>23 A. I like to make sure I have plenty of surface</p> <p>24 interval time before I go and do another dive, especially</p> <p>25 at that depth.</p>
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<p>1 And all it is, is a checking purpose to make</p> <p>2 sure that the divers that are doing a search are going to</p> <p>3 be okay.</p> <p>4 So he would -- when Kurt came down and saw that</p> <p>5 we were okay, he would shoot a lift back to the surface</p> <p>6 and that will tell the boat that we're okay, so it's kind</p> <p>7 of a communication thing.</p> <p>8 Q. The -- how many dives did you do that day?</p> <p>9 A. On the 1st?</p> <p>10 Q. On February 1st.</p> <p>11 A. One.</p> <p>12 Q. Why?</p> <p>13 A. Time of day, and I need a minimum of three</p> <p>14 hours before I go down and do another dive that deep.</p> <p>15 Q. What time did you guys go out there? What time</p> <p>16 did you leave the dock?</p> <p>17 A. 10:30, 11:00-ish maybe, 10:03.</p> <p>18 Q. Was that Caloosa Cove?</p> <p>19 A. Caloosa Cove.</p> <p>20 Q. So you go out at 10:30, and how long is the run</p> <p>21 to the Queen of Nassau?</p> <p>22 A. 30 minutes, give or take a few.</p> <p>23 Q. And then, that's when you perform your first</p> <p>24 dive so around 11:00 --</p> <p>25 A. Well, we searched around a little bit. At that</p>	<p>1 Q. How do you determine that surface interval?</p> <p>2 A. Experience.</p> <p>3 Q. Is it also based -- do you use the computer to</p> <p>4 assist you in that?</p> <p>5 A. I do.</p> <p>6 Q. Okay.</p> <p>7 A. I have a Shearwater computer on my rebreather</p> <p>8 that's just exactly like this, but it runs its operating</p> <p>9 system instead of the Revo operating system. I have it</p> <p>10 on my phone, a planning software on my phone.</p> <p>11 So for me to go do another dive like that and</p> <p>12 not be penalized on my D-Co for going to earlier, I need</p> <p>13 to be out of the water for a certain length of time. And</p> <p>14 again, like I said earlier, I'm very conservative on how</p> <p>15 I do things.</p> <p>16 MR. BAYER: I'm sorry. How long did you say</p> <p>17 you were down?</p> <p>18 THE WITNESS: 25 minutes at the bottom.</p> <p>19 MR. BAYER: No, I mean, I'm sorry. The surface</p> <p>20 time in between.</p> <p>21 THE WITNESS: In between my dives like that?</p> <p>22 MR. BAYER: Yeah, yeah.</p> <p>23 THE WITNESS: I do three hours minimum.</p> <p>24 Q. Do you know what the surface intervals were the</p> <p>25 day before? Not the -- I know we already discussed the</p>

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1 second and the third dive which was 40 minutes.

2 Do you know what the surface interval was  
3 between the first and second dive?

4 A. Can I look?

5 Q. Yeah.

6 A. I don't remember off the top of my head, but  
7 give me a second. It might be on here.

8 The dive ended at 12:59 and dive number two  
9 started at 2:36. So, an hour and 37 minutes.

10 Q. Okay. So about half of what you would expect?

11 A. Half of what I would do personally.

12 Q. Half of what you would do?

13 A. Yes.

14 Q. And you would even, your dive profiles would be  
15 far less aggressive than those, correct, on that first  
16 dive?

17 A. My run time for half the amount of bottom time  
18 was the same as their total run time. So I did 25  
19 minutes at the bottom where they did 45, according to  
20 this.

21 Q. Understood, okay.

22 A. And they were in the water for the same amount  
23 of run time as I was for a 25-minute bottom time.

24 Q. Run time is what you were -- what we --

25 A. Surface to surface.

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1 Q. Other than those four individuals,  
2 understanding that -- who was it, it was Troy?

3 A. Troy.

4 Q. Understanding that Troy would not be qualified  
5 on that day but previously was, was there any other  
6 Horizon Dive employees or contractors that could dive to  
7 that depth?

8 A. No. It was myself, Jeff Knapp and Kurt Wagner.

9 Q. Based on what you know about this case, what  
10 you've been told, what you've reviewed there,  
11 understanding you haven't looked at Rob Stewart's dive  
12 computers but you've see Peter Sotis', do you have any  
13 suspicion as to what medical emergency Peter Sotis  
14 underwent?

15 MR. FERTIG: Objection, form.

16 MR. BAYER: Join.

17 BY MR. ECHARTE:

18 Q. Or do you have any opinions about it?

19 A. No. I mean --

20 Q. You haven't tried to think about it at all?

21 A. Well, sure. But there's no substantial  
22 evidence pointing to one direction or the other. It  
23 could be anything.

24 Q. Have you reviewed the autopsy report in this  
25 case?

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1 Q. Okay. And you would do twice as much of a  
2 surface interface interval, about? Yes?

3 A. Yes.

4 Q. Neither David Wilkerson nor Bobby Steele have  
5 ever dove the Queen of Nassau wreck, correct?

6 A. Not with me, they haven't.

7 Q. As of January 31st, 2017, to the best of your  
8 knowledge, they weren't qualified to do that, right?

9 A. No.

10 Q. Other than yourself, Jeff Knapp and Troy, was  
11 there anyone else at Horizon Dive Adventures that could  
12 dive the Queen of Nassau Wreck back on January 31st,  
13 2017?

14 A. Kurt Wagner.

15 Q. Okay.

16 A. Troy has stopped diving, years ago. He still  
17 dives but not -- no, no technical diving. He had a  
18 little girl a couple years ago so his wife made him  
19 promise to stop tech diving. So he hasn't probably done  
20 a tech dive in six years.

21 Q. Okay.

22 A. So, if I asked him to go do it, he would not be  
23 qualified or readily available to do it.

24 Q. He used to be able to do it?

25 A. He used to.

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1 A. No.

2 Q. After February 1st, you go back out  
3 February 2nd, correct?

4 A. Yes.

5 Q. Okay. And that was aboard the Pisces as well?

6 A. It was.

7 Q. Who was aboard the Pisces that day?

8 A. Myself, Jeff Knapp, David Wilkerson, Brock  
9 Cahill came out that day. The previous day, he went on a  
10 private boat to help have another set of eyes on the  
11 surface, not on Pisces but another boat that day.

12 Q. Do you know what boat that was?

13 A. I do not know the name. It was a private boat.  
14 That's all I know. There was -- there were three or four  
15 other boats out there that day doing some stuff, I mean,  
16 so he hitched a ride that day, just to kind of be an  
17 extra set of eyes on another boat.

18 Q. Okay.

19 A. So on the 2nd, it was myself, Jeff Knapp, David  
20 Wilkerson, Joe O'Keefe.

21 Q. Who's that?

22 A. He was an employee of Rob Bleser.

23 Q. Okay.

24 A. Rob Bleser was on board the boat, as was Craig  
25 Jenni. And then also, Kell Levindorf.

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<p>1 Q. That day, did you have the ROV?</p> <p>2 A. We did.</p> <p>3 Q. And that's Rob Bleser's ROV?</p> <p>4 A. It is not. It was from Lab Atkins from Reef,</p> <p>5 which is a -- I'm not sure now. It's just an</p> <p>6 organization in Key Largo that does fish counts and</p> <p>7 things like that. He has an ROV that we borrowed.</p> <p>8 Q. Did -- did anyone get in the water that day?</p> <p>9 A. No.</p> <p>10 Q. It was primarily searching using --</p> <p>11 A. Yes.</p> <p>12 Q. -- the ROV?</p> <p>13 A. We figured, at that point, it was better to not</p> <p>14 risk other injury or stuff like what with divers until we</p> <p>15 knew exactly where, where we needed to go down and get.</p> <p>16 But we were prepared to go down in case we did -- Jeff</p> <p>17 and I were, again, prepared to go back in the water.</p> <p>18 Q. Had you already spoken with Donna Albert by</p> <p>19 February 2nd?</p> <p>20 A. Yes.</p> <p>21 Q. How did it come about that Rob Bleser and Joe</p> <p>22 O'Keefe got aboard the Pisces?</p> <p>23 A. Good friends of mine. Rob, captain of the dive</p> <p>24 team for Key Largo Fire Department, which I've been a</p> <p>25 member of for a long time as well, basically back to, I</p>	<p>1 A. I was -- believe so, yeah.</p> <p>2 Q. It's your understanding he did?</p> <p>3 A. Yeah. I don't think he got hired on the next</p> <p>4 day and came out, but yeah.</p> <p>5 Q. February 3rd, you guys -- you didn't see</p> <p>6 anything on the 2nd?</p> <p>7 A. We saw nothing. I don't recall even Rob saying</p> <p>8 he saw a fish at all that -- on the 2nd. So we were out</p> <p>9 there all day doing searches, patterns, drifting, ROV</p> <p>10 going everywhere.</p> <p>11 Q. How is the ROV powered?</p> <p>12 A. The ROV is powered by electrical, so we had --</p> <p>13 we rented a generator.</p> <p>14 Q. So there's a generator on board and it's a</p> <p>15 cable that goes down to --</p> <p>16 A. There's a generator on board the boat that</p> <p>17 powers up the whole system, and then there's a reel, like</p> <p>18 500, 600 feet of cable on this reel that we'd spool out</p> <p>19 and then we'd reel in to pull the ROV back.</p> <p>20 Q. So, on February 2nd, you guys did not see</p> <p>21 anything?</p> <p>22 A. No. Nothing.</p> <p>23 Q. What time did you go out that morning, if you</p> <p>24 recall?</p> <p>25 A. That morning, it was a little later because we</p>
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<p>1 think, 2009. I was one of the training members and set</p> <p>2 up the standard operating procedures.</p> <p>3 So, Rob, knowing how to conduct surface</p> <p>4 intervals and surface searches and things like that, and</p> <p>5 he's kind of the incident commander when it comes to</p> <p>6 diving, he and I were in communication.</p> <p>7 He told me that he could possibly have access</p> <p>8 to the ROV. He knew how to operate the ROV. I don't.</p> <p>9 So, when he talked to the lab and said it was available,</p> <p>10 he volunteered to come along.</p> <p>11 Joe came along as muscle. The ROV is not very</p> <p>12 light. It's heavy. And Joe also doubled as our safety</p> <p>13 diver because Kurt Wagner couldn't come that day. So Joe</p> <p>14 met us, would have met us at a hundred feet or whatever</p> <p>15 it was.</p> <p>16 Q. If you had --</p> <p>17 A. If we had to go diving.</p> <p>18 Q. How did it come about that Craig Jenni was</p> <p>19 aboard that boat that day?</p> <p>20 A. I believe Rob asked him to come. They've</p> <p>21 worked together on multiple rescue evolutions in the</p> <p>22 past.</p> <p>23 Q. And Kell Levindorf, who's that?</p> <p>24 A. He works for Craig or worked for Craig.</p> <p>25 Q. On January 31st, 2017, did he work for Craig?</p>	<p>1 had to pick up the generator, the ROV and get all that</p> <p>2 stuff taken care of. I don't -- I'll say we got off the</p> <p>3 dock around 10:00-ish again.</p> <p>4 Q. What time did you get back?</p> <p>5 A. Dark, so around 6:00. It was late, it was a</p> <p>6 late night, a long day.</p> <p>7 Q. February 3rd, you guys go back out again?</p> <p>8 A. Yes, we did.</p> <p>9 Q. Who was on board that day?</p> <p>10 A. Myself, Jeff Knapp, Brock Cahill, Craig Jenni,</p> <p>11 Rob Bleser, Joe O'Keefe, David Wilkerson, Kell Levindorf</p> <p>12 and another captain that's in the dive industry, Tuck.</p> <p>13 Tuck Hall is his last name.</p> <p>14 Q. Why was he on board that day?</p> <p>15 A. David asked him to come on board. The day</p> <p>16 before was a long day, a lot of emotions on David's part,</p> <p>17 and just kind of surface support and help.</p> <p>18 Q. Tell me how that day went? What time did you</p> <p>19 leave the dock?</p> <p>20 A. We left the dock a lot earlier that day. I</p> <p>21 want to say we left close to 9:00 o'clock.</p> <p>22 Q. Okay.</p> <p>23 A. You know, it was a nice day and the weather was</p> <p>24 even better than a couple days before. So we went out</p> <p>25 and, again, started our surface searches.</p>

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<p>1 Q. Who was going to be -- I assume before you left</p> <p>2 the dock, everyone's responsibilities were delegated,</p> <p>3 right?</p> <p>4 A. Pretty much.</p> <p>5 Q. And you knew who was going to be the divers in</p> <p>6 the water?</p> <p>7 A. Yes. Jeff and I were diving. Craig decided he</p> <p>8 was going to dive that day to help us just because he's</p> <p>9 been involved in a lot more of this, so he knew what to</p> <p>10 do to get the body to the surface better.</p> <p>11 Q. Was that determined, did Craig decide he was</p> <p>12 going to dive before the boat left the dock that day?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And then, so the three of you were going</p> <p>15 to be divers. Did you have a safety diver?</p> <p>16 A. Joe O'Keefe was going to be a safety diver</p> <p>17 again as well, meet us at a predetermined depth.</p> <p>18 Q. And that was all coordinated before you left</p> <p>19 shore?</p> <p>20 A. Yes, it was.</p> <p>21 Q. Did you guys, before you left shore, also</p> <p>22 discuss, you know, emergency procedures, protocols, if</p> <p>23 one diver goes down, this is what we're going to do,</p> <p>24 things of that nature?</p> <p>25 A. Sure, yeah. We're all in the dive industry and</p>	<p>1 the incident commander kind of took charge of everything</p> <p>2 and kind of everybody had their role.</p> <p>3 Q. Tell me what happened that day once you guys</p> <p>4 get out there?</p> <p>5 A. Well, we went back out and the day before, we</p> <p>6 eliminated a lot of different spots, potential hot spots</p> <p>7 where we thought Rob could have been. We eliminated all</p> <p>8 those with all these different transects with the ROV.</p> <p>9 So, on day three, we concentrated on a tighter</p> <p>10 search pattern right around the, the MOB mark. And the</p> <p>11 visibility was really poor so even on the ROV, if you</p> <p>12 literally, from you to me, it would be very hard. Less</p> <p>13 than ten feet, very tough to see anything, even with that</p> <p>14 camera.</p> <p>15 So the search patterns were difficult. The</p> <p>16 wind was kind of pushing us one way while the current was</p> <p>17 slowing pushing the other way, so the ROV -- it took a</p> <p>18 lot of effort to move, maneuver the boat on station and</p> <p>19 get the ROV where it went. So it took a while. We just</p> <p>20 kept searching as long as we could.</p> <p>21 It was late in the afternoon when I think we</p> <p>22 heard that the Coast Guard called off the search. And we</p> <p>23 still had the ROV in the water, and we all decided we</p> <p>24 were going to finish this transect on the ROV and try one</p> <p>25 more, just for good measure, at least today.</p>
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<p>1 we all know -- everybody is down in there so we all</p> <p>2 talked about it. We all kind of know it, but we also</p> <p>3 talked about it as well. You know, I let everybody know</p> <p>4 kind of what our dive profile was, what our plans are and</p> <p>5 what to expect.</p> <p>6 Q. Okay. And by let everyone know, it wasn't just</p> <p>7 the safety diver and the other two divers, you also let</p> <p>8 the people on board know --</p> <p>9 A. Yes.</p> <p>10 Q. -- what you guys would be --</p> <p>11 A. And every time we got in the water, actually,</p> <p>12 we had to call the Coast Guard as well because it was</p> <p>13 still their scene. So before we were able to splash in</p> <p>14 the water, and actually when we arrived there on the</p> <p>15 boat, we had to call. There was a cutter out there, I</p> <p>16 think it was the Charles Sexton, we had to call them and</p> <p>17 let them know we were on scene and doing what we were</p> <p>18 doing.</p> <p>19 Q. But the discussions you had among yourselves</p> <p>20 regarding everyone's roles, responsibilities, emergency</p> <p>21 preparedness, things of that nature, that was done not</p> <p>22 necessarily at the Coast Guard's direction, that was just</p> <p>23 done because that's proper procedure and practice, right?</p> <p>24 A. Yeah. Because we were still under the purview</p> <p>25 of the fire department so the SOPs meant that, you know,</p>	<p>1 And, you know, Brock was asking me, what does</p> <p>2 that mean, what are we going to do.</p> <p>3 And I told him we were going to keep coming out</p> <p>4 and searching until we found Rob.</p> <p>5 So -- we're all diving around, we're all kind</p> <p>6 of doing the thing, lifting the ROV back up and in onto</p> <p>7 the boat, doing our stuff, just, you know, sitting out</p> <p>8 there hoping, and Rob finally says, "Everybody get their</p> <p>9 dive gear on. I got him."</p> <p>10 Q. Rob Bleser?</p> <p>11 A. Rob Bleser.</p> <p>12 Q. Okay.</p> <p>13 A. So, you know, everything -- I mean, your</p> <p>14 adrenaline kicks in, obviously.</p> <p>15 He buried the ROV into the sand right next to</p> <p>16 Rob Stewart.</p> <p>17 Q. And I've seen the video.</p> <p>18 So he buries the ROV in the sand and that's for</p> <p>19 purposes of marking him and making sure they don't lose</p> <p>20 him, correct?</p> <p>21 A. Yes. Because if we did not know exactly where</p> <p>22 he was, we would have never found him.</p> <p>23 Q. Okay.</p> <p>24 A. The visibility, by this time it's 5:00 o'clock</p> <p>25 at night so the sun's pretty low. Visibility at 220 feet</p>



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1 was already really poor, let alone having no sunlight.  
 2 So we all got in our dive gear, you know, had  
 3 to get the wetsuits on because obviously, you can't be on  
 4 the surface in a wetsuit all day, you'd boil.  
 5 Q. Who got their dive gear on?  
 6 A. Jeff, myself and Craig.  
 7 Q. Okay.  
 8 A. We geared up. We were probably in the water in  
 9 about 20 minutes.  
 10 At this point in time, David is maneuvering the  
 11 boat, trying to get as much of the umbilical cord back  
 12 onto the boat for the ROV. Tuck Hall jumps into the  
 13 water and swims out and pulls the line, you know, gets  
 14 the line so it's going vertical and holds the slack so  
 15 that way, David doesn't pull the ROV off of Rob.  
 16 Q. Okay.  
 17 A. But that also gives us a line to go down. So  
 18 we -- we do our checks, do everything, make sure all of  
 19 our gear is good. Craig Jenni, Jeff Knapp and myself get  
 20 in the water. We swim 30, 40 feet over to where Tuck is  
 21 holding up the cord. Rob says, I'm still here. Get  
 22 going.  
 23 So we go down. It was getting dark so I had --  
 24 we had use our lights. I was the first one on top of  
 25 the, you know, going down the umbilical cord. We don't

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1 want to hold onto it and pull it off. So we get down to  
 2 the body. I'm on the left side on, you know, down on his  
 3 left side.  
 4 Q. He, when you found him, he was laying on his  
 5 back, correct?  
 6 A. He was laying on his back, face up.  
 7 Q. You were on his left?  
 8 A. His left.  
 9 Q. Okay. And then, someone else comes down on the  
 10 right?  
 11 A. That was Jeff.  
 12 Q. Okay.  
 13 A. And Craig was on the head side of his left  
 14 side. So it was -- if this is the body, I'm here, Craig,  
 15 Jeff.  
 16 Q. Okay. Wait, let me --  
 17 A. This is the head of Rob.  
 18 Q. Okay. He's lying on his back?  
 19 A. Lying on his back.  
 20 Q. Okay. And then where are you?  
 21 A. I'm right here.  
 22 Q. Okay. And then who is up here?  
 23 A. Jeff is on the right side.  
 24 Q. Okay.  
 25 A. And Craig is on his left side.

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1 Q. Okay. And then tell me what goes on next.  
 2 A. First thing you want to do is try and get him  
 3 up off the sand. He's buried in the sand pretty good.  
 4 Q. Okay.  
 5 A. So Jeff reaches over and grabs his inflator for  
 6 his wing and hits the button, and nothing inflates.  
 7 Q. Where is that inflated from?  
 8 A. We can inflate it from -- well, I don't know.  
 9 Usually, how I plumb mine is off my dil. So I don't know  
 10 how he has his plumbed.  
 11 Q. So when he tried to inflate it --  
 12 A. Nothing --  
 13 Q. -- it didn't --  
 14 A. Nothing happened.  
 15 Q. Does that then mean the tank was empty?  
 16 A. It could, or the tank was turned off.  
 17 Q. Okay.  
 18 A. Some divers, I hear some divers do this, I  
 19 would never do this, turn off their diluent when they get  
 20 to the bottom because they don't really need that gas at  
 21 the bottom anymore so maybe he turned it off. I don't  
 22 know.  
 23 Q. Well, he would need that to surface, correct?  
 24 A. No.  
 25 Q. Okay.

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1 A. He only needs oxygen on his way up.  
 2 Q. Understood. Okay. Got it.  
 3 A. Right. Diluent is a makeup volume gas. That's  
 4 really all it's for. So you only really need that on  
 5 the, on the descent.  
 6 So the inflator didn't work. We wanted to give  
 7 a little positive inflation in case the lift bag failed,  
 8 that he would still kind of be at the surface so -- on  
 9 his rig kit. At that point, I pulled out my lift --  
 10 because I had the two lift bags. I had a 50-pound lift  
 11 bag and a 140-pound lift bag.  
 12 So Craig takes the 50-pound lift bag and I had  
 13 started unrolling the 140-pound lift bag, and we attach  
 14 it to the frame of the rebreather.  
 15 Q. Okay.  
 16 A. You know, we made sure that the buckles and  
 17 everything were all clipped together because we didn't  
 18 want that to come -- get ripped off.  
 19 We inflate the 50-pound lift bag and he kind of  
 20 sits up but doesn't go anywhere. So --  
 21 Q. How did you inflate the 50-pound lift bag?  
 22 A. Jeff used his bailout tank. He had an aluminum  
 23 80 of bottle gas and he took his regulator out, because  
 24 he's on a rebreather, he took his regulator out and  
 25 inflated it.

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<p>1 Q. All three of you were on rebreathers?</p> <p>2 A. Yes -- well, Craig was not.</p> <p>3 Q. Okay. What was Craig using?</p> <p>4 A. Craig was on open circuit.</p> <p>5 Q. So he, Jeff, uses a bailout tank to fill the</p> <p>6 50-pound lift bag?</p> <p>7 A. Yes.</p> <p>8 Q. Okay.</p> <p>9 A. So then, Craig takes my 140-pound lift bag,</p> <p>10 attaches it right next to the 50-pound lift bag, and Jeff</p> <p>11 proceeds to inflate that until Rob starts lifting off and</p> <p>12 going to surface.</p> <p>13 Q. He inflated the 140 --</p> <p>14 A. The 140 pound.</p> <p>15 Q. -- lift bag, also using his bailout?</p> <p>16 A. Yes.</p> <p>17 Q. And you're certain about that?</p> <p>18 A. Positive.</p> <p>19 Q. Okay. And, at that point in time, what</p> <p>20 happens?</p> <p>21 A. Well, Rob starts doing his asset and, at that</p> <p>22 point, he's pretty much out of our control. There's no</p> <p>23 stopping him from going. We're clearing out of the way</p> <p>24 so we don't get attached to him and get ripped up to the</p> <p>25 surface as well.</p>	<p>1 Q. Okay.</p> <p>2 A. I wish he was found at 11:17 in the morning,</p> <p>3 but he was not.</p> <p>4 Q. Okay. He was found around 5:00 o'clock, right?</p> <p>5 A. It was close to 5:00 o'clock.</p> <p>6 Q. Do you know where those rumors have come from?</p> <p>7 A. I have no idea -- well, yes.</p> <p>8 Q. Do you want to say it here?</p> <p>9 A. A documentary writer is where I heard it from.</p> <p>10 Q. Who is that?</p> <p>11 A. Robert Osborne.</p> <p>12 Q. Do you know who that is?</p> <p>13 A. I've talked to him on the phone, told him to</p> <p>14 leave me alone and I'm not going to answer any questions.</p> <p>15 That's it.</p> <p>16 Q. Have you ever heard his name before?</p> <p>17 A. Only since this incident. He contacted me last</p> <p>18 summer and I told him, "No, thank you." And then he came</p> <p>19 to my shop three days in a row and I told him, "No, thank</p> <p>20 you."</p> <p>21 Q. Has he still been contacting you?</p> <p>22 A. Not since I told him, "No, thank you."</p> <p>23 Q. Do you know why he's contacting everyone</p> <p>24 involved in this case?</p> <p>25 A. He -- his reasoning was that he's putting</p>
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<p>1 From there, we just watched him go up. And</p> <p>2 what we did is -- by this time, the ROV had a problem</p> <p>3 The down motor, I guess, broke. So it surfaced. So the</p> <p>4 boat crew got it out of the way, got it back on board the</p> <p>5 boat. Rob went upto the surface, Rob Stewart. I was</p> <p>6 told that Tuck was already in the water so he went and</p> <p>7 grabbed him and brought him over to the boat and the</p> <p>8 Coast Guard was pulling up on the scene.</p> <p>9 Q. Okay.</p> <p>10 A. The three divers, we -- Jeff shot a lift bag to</p> <p>11 mark where we were, where we were going to come up, so</p> <p>12 the boat, you know, live boating doesn't get in our way.</p> <p>13 Joe met us back down about 110 feet or so, and he came up</p> <p>14 the rest of the dive with us to make sure that we, the</p> <p>15 three of us, were okay.</p> <p>16 Q. How long were you at depth?</p> <p>17 A. Twelve minutes.</p> <p>18 Q. Okay.</p> <p>19 A. Maybe. Maybe not even long.</p> <p>20 Q. There's been some rumors, I'm not sure if</p> <p>21 you've heard them or not, that Rob was originally found</p> <p>22 around 11:00 a.m. and divers went down, he was brought to</p> <p>23 the surface or not, I don't know. But he was not found</p> <p>24 at 11:00 a.m. on February 3rd, correct?</p> <p>25 A. I've heard that rumor.</p>	<p>1 together a documentary in the legacy of Rob Stewart and</p> <p>2 wants all the -- all the information he can to put in his</p> <p>3 documentary.</p> <p>4 Q. Give me one second. Let me just look through</p> <p>5 my notes. I think we're done.</p> <p>6 A. No problem.</p> <p>7 Q. Jeff Knapp was supposed to go on the boat on</p> <p>8 January 30th, right, up until just a few days before?</p> <p>9 A. Jeff and I both were going to go.</p> <p>10 Q. Okay. Why were you guys going to go?</p> <p>11 A. It was back and forth over the month-long</p> <p>12 coordination of this trip, who was going to be the safety</p> <p>13 divers or their support divers which would be diving with</p> <p>14 them, guiding them around, making sure everything got</p> <p>15 back to the surface. Located the wreck, help them with</p> <p>16 the camera, whatever needed to be done.</p> <p>17 So, it went all around, they needed one person,</p> <p>18 then it was two people. Then, I don't need you guys to</p> <p>19 do it at all, there's a third party coming in.</p> <p>20 Q. David Armstrong?</p> <p>21 A. Yeah, I think so.</p> <p>22 Q. Okay.</p> <p>23 A. Something like that. So there was a couple</p> <p>24 other people involved, that they were going to bring</p> <p>25 their own. Then it came back that we want two people so</p>

<p style="text-align: right;">Page 266</p> <p>1 can you guys do it. So Jeff and I, like, yeah, we'll do 2 it for you. No problem. 3 Then Peter got involved saying, I can go. Then 4 he couldn't go. So then, Jeff and I were back on. And 5 that's why I sent Peter that text, hey, who was coming. 6 Are you coming for sure or are you not, so Jeff and I 7 knew. 8 Q. Was it your understanding that they needed, 9 quote/unquote, "safety divers" because they had equipment 10 and tanks and things of that nature that needed to come 11 down, or was it because they weren't familiar with the 12 site, or was it because they were inexperienced, or all 13 of the above? 14 A. The way it was expressed to me, it was more of 15 a support diver role, which meant that we were going to 16 go down with them, help them out with the equipment, 17 guide them around the wreck. 18 Typically, a videographer literally is facing a 19 camera the whole entire time, so somebody is going to 20 make sure he's not swimming into the wreck or getting 21 lost, at that point. So that was what a support diver 22 would be. 23 Q. Okay. So that was your understanding of your 24 role? 25 A. That's what I thought my role was going to be</p>	<p style="text-align: right;">Page 268</p> <p>1 A. It was. 2 Q. And the reason that it was placed there was 3 what? 4 A. Peter wanted it. 5 Q. For what reason? 6 A. To be able to find the wreck a lot easier. 7 Q. Okay. My understanding is on the 30th, the 8 boat starts going out and then the boat turns around to 9 come back and get the grappling hook, correct? 10 A. Correct. 11 Q. And you were the one that brought the grappling 12 hook from the shop to the vessel? 13 A. Yes, I am. 14 Q. Okay. And then they go back out and I believe 15 they drop the hook, and I think it took a couple tries, 16 and then they finally got it hooked around the Queen of 17 Nassau, right? 18 A. Originally, it was scheduled to not have that 19 grappling hook. And I told Brock that we do not drop a 20 grappling hook on the wrecks anymore. 21 Q. Why? 22 A. We find it harder to get down to the wreck. If 23 you're in 200 feet of water, you're going to have 400- 24 plus feet of line. If there's current, you have to pull 25 yourself down. You're going to wear yourself out.</p>
<p style="text-align: right;">Page 267</p> <p>1 and Jeff's. We didn't know if we were going to be all as 2 a team or if I was going to go with one and he was going 3 to go with the other. That was never really laid out. 4 Q. Now, you didn't -- you were going to go on the 5 third day, correct? 6 A. Jeff and I, once we got kind of pulled back and 7 Peter and Claudia were coming to do their, their diver 8 role, Jeff and I were like, well, we're still going to go 9 out on the third day, the last day of their trip. 10 This is a wreck in a site location that we 11 don't dive very often. It is 28, 29 miles from our dock 12 so it's a two-hour-plus boat ride down there. So Jeff 13 and I were like, well, the boat's already going to be 14 down there and I already asked Brock if it was okay if 15 Jeff and I came for a fun dive whenever they were not -- 16 when they stayed on their surface interval, we would do a 17 dive. He said, yeah, no problem. 18 Q. Sorry, I know I said we were going to finish up 19 but I do have one other area I need to ask you about. 20 The purpose of the third dive on January 31st 21 was to recover a grappling hook, correct? 22 A. That's the reason why Peter went in the water, 23 yes. 24 Q. Was that -- that was, that piece of equipment 25 was owned by Horizon Dive Adventures, correct?</p>	<p style="text-align: right;">Page 269</p> <p>1 Q. Okay. 2 A. So we now hot-drop or sit and drift up current, 3 drop the divers in the water and they swing down with 4 that. It's a lot easier. And then they will shoot a 5 lift back to the surface and drift D-Co off so they don't 6 have to hang onto a line, they're not hanging onto 7 anything that's attached to the bottom and the current, 8 and then the boat picks them up. 9 Q. That -- you guys already had those procedures 10 put in place where you were hot-dropping these wrecks 11 prior to January 30th, 2017? 12 A. Yes. 13 Q. Okay. And then it was at Peter's request that 14 or demands that you guys, that your crew came back to get 15 the grappling hook? 16 A. Yes. 17 Q. Okay. And the grappling hook attaches to the 18 wreck, and there's a line that is attached then to a ball 19 at the surface? 20 A. Yeah, it's a big giant mooring line. 21 Q. And does a vessel tie off to it? 22 A. Normally, it doesn't. But the way Peter wanted 23 us to do it, he wanted us to tie to that so they could go 24 up and down the line without having to float to the line 25 and go down.</p>

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<p>1 Q. Okay. And if Peter had decided that he wasn't</p> <p>2 able to go down for the third dive, what would have</p> <p>3 happened to the grappling hook? It would have stayed</p> <p>4 there, right?</p> <p>5 A. Jeff and I would have picked it up the next</p> <p>6 day, because we were going to -- regardless, the boat had</p> <p>7 to go back to Caloosa Cove for that night because it was</p> <p>8 going to be late. And I wasn't going to have David drive</p> <p>9 a two-hour-plus boat ride up to our dock. So he was</p> <p>10 going to leave it there overnight. Jeff and I were going</p> <p>11 to drive down in the morning with David, have somebody</p> <p>12 pick up the car and go back. And we were going to drive</p> <p>13 out past the site and do a dive on it, because again,</p> <p>14 Jeff and I don't dive this site very often and it's a</p> <p>15 pretty awesome wreck, in our opinion, and then drive back</p> <p>16 with David back to the dock.</p> <p>17 Q. But you didn't know -- did you have any</p> <p>18 knowledge, after they surfaced after the second dive on</p> <p>19 January 31st, 2017, that they had decided not to go back</p> <p>20 out the next day?</p> <p>21 A. I was told by Karen from Sharkwater.</p> <p>22 Q. Okay.</p> <p>23 A. Because I was talking to her and she said, I</p> <p>24 just heard that they may not go out the third day. What</p> <p>25 do you want to do.</p>	<p>1 man -- there's a diver missing?</p> <p>2 A. Yes, it was.</p> <p>3 Q. Okay. And then, did you have a conversation</p> <p>4 with Jeff Knapp, prior to finding out that there was a</p> <p>5 diver missing, about going out to the wreck the next day</p> <p>6 to get the ball?</p> <p>7 A. No.</p> <p>8 Q. So when was this plan that you just told me</p> <p>9 about put in place?</p> <p>10 A. Jeff and I were going the third day regardless.</p> <p>11 So we knew that we were -- as far as we knew at that</p> <p>12 point, we were going to go back out and go diving.</p> <p>13 Q. Okay. So you were going to go diving</p> <p>14 regardless?</p> <p>15 A. Uh-huh.</p> <p>16 Q. Yes?</p> <p>17 A. Yes.</p> <p>18 MR. ECHARTE: That's all the questions I have,</p> <p>19 sir. Thank you.</p> <p>20 MR. FERTIG: Neil?</p> <p>21 MR. BAYER: No questions.</p> <p>22 MR. FERTIG: We have no questions and we'll</p> <p>23 waive. I take it back. Let me talk to -- can you</p> <p>24 turn off the --</p> <p>25 THE VIDEOGRAPHER: This concludes the</p>
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<p>1 Q. That was over the phone?</p> <p>2 A. That was over the phone.</p> <p>3 Q. Was that with your office phone?</p> <p>4 A. That was with my office phone.</p> <p>5 Q. Okay. So you were, before they get in the</p> <p>6 water or sometime shortly after the second dive, you find</p> <p>7 out that they're not going back out the next day?</p> <p>8 MR. FERTIG: objection, form.</p> <p>9 MR. BAYER: Join.</p> <p>10 MR. ECHARTE: What was the objection?</p> <p>11 MR. FERTIG: One, you're suggesting facts that</p> <p>12 aren't in evidence. You're identifying the time</p> <p>13 period as being either after they started the second</p> <p>14 dive and --</p> <p>15 MR. ECHARTE: Okay. I understand the</p> <p>16 objection.</p> <p>17 BY MR. ECHARTE:</p> <p>18 Q. At some point on the 31st, you were told,</p> <p>19 before you find out that Rob is missing, you were told by</p> <p>20 Karen that they're not going to go out the next day?</p> <p>21 A. She told me there was talk of it. She wasn't</p> <p>22 sure. She had to talk to, what she referred to as, the</p> <p>23 boys.</p> <p>24 Q. That conversation you had with Karen was before</p> <p>25 you got a call from David Wilkerson saying there was a</p>	<p>1 deposition. The time is 3:49 p.m.</p> <p>2 (Video record concluded at 3:49 p.m.)</p> <p>3 (Off-the-record discussion.)</p> <p>4 MR. FERTIG: We are going to waive. If he has</p> <p>5 it on expedite, we would like it on expedite. We</p> <p>6 would like a copy to be sent electronically to us as</p> <p>7 soon as it's ready. Expedite or not, I would like</p> <p>8 an E-Tran. If it is expedited, just send me the E-</p> <p>9 Tran first and then follow it with a regular, a</p> <p>10 mini, with exhibits attached to the full printing.</p> <p>11 MR. BAYER: And I will take the same thing.</p> <p>12 (Deposition concluded at 3:52 p.m.)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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## 1 CERTIFICATE OF OATH

2  
3 STATE OF FLORIDA )  
4 COUNTY OF MONROE )  
56 I, Suzanne F. Ex, Certified Verbatim Reporter,  
7 Florida Professional Reporter, Notary Public, State of  
8 Florida, certify that DANIEL DAWSON personally appeared  
9 before me on the 4th day of May, 2018, and was duly  
10 sworn.11 Signed this 6th day of May, 2018.  
12  
13  
1415 \_\_\_\_\_  
16 Suzanne F. Ex, CVR-M, FPR  
17 Notary Public, State of Florida  
18 Commission No.: GG115023  
19 Commission Expires: July 27, 2021  
20  
21  
22  
23  
24  
25

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## 1 CERTIFICATE OF REPORTER

2  
3 STATE OF FLORIDA )  
4 COUNTY OF MONROE )  
56 I, Suzanne Ex, Certified Verbatim Reporter and  
7 Florida Professional Reporter, certify that I was  
8 authorized to and did report the deposition of DANIEL  
9 DAWSON, pages 1 through 273; that the review of the  
10 transcript was not requested; and that the transcript is  
11 a true record.12 I further certify that I am not a relative,  
13 employee, attorney, or counsel of any of the parties, nor  
14 am I a relative or employee of any of the parties'  
15 attorneys or counsel connected with the action, nor am I  
16 financially interested in the action.  
1718 Dated this 6th day of May, 2018.  
19  
20  
2122 \_\_\_\_\_  
23 Suzanne Ex, CVR-M, FPR  
24 Certified Verbatim Reporter  
25 Florida Professional Reporter

70 (Pages 274 to 275)

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