

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: OIL SPILL BY THE OIL
RIG *DEEPWATER HORIZON* IN THE
GULF OF MEXICO ON APRIL 20,
2010

CIVIL ACTION NO. 10-MD-2179 "J"
NEW ORLEANS, LOUISIANA
MONDAY, FEBRUARY 25, 2013

THIS DOCUMENT RELATES TO:

CASE NO. 2:10-CV-02771,
*IN RE: THE COMPLAINT AND
PETITION OF TRITON ASSET
LEASING GmbH, ET AL*

CASE NO. 2:10-CV-4536,
*UNITED STATES OF AMERICA V.
BP EXPLORATION & PRODUCTION,
INC., ET AL*

DAY 1 MORNING SESSION

TRANSCRIPT OF NONJURY TRIAL PROCEEDINGS
HEARD BEFORE THE HONORABLE CARL J. BARBIER
UNITED STATES DISTRICT JUDGE

OFFICIAL TRANSCRIPT

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P-R-O-C-E-E-D-I-N-G-S

MONDAY, FEBRUARY 25, 2013

M O R N I N G S E S S I O N

(COURT CALLED TO ORDER)

07:22AM 5

08:02AM 6

08:02AM 7

THE DEPUTY CLERK: All rise.

08:02AM 8

THE COURT: All right. Good morning, everyone.

08:02AM 9

VOICES: Good morning, Your Honor.

08:02AM 10

THE COURT: Be seated.

08:02AM 11

All right, Stephanie, you may call the case,

08:02AM 12

please.

08:03AM 13

THE DEPUTY CLERK: Multidistrict Litigation 10-2179, *In*

08:03AM 14

re: Oil spill by the oil rig Deepwater Horizon in the Gulf of

08:03AM 15

Mexico on April 20, 2010; Civil Action 10-2771, In re: The

08:03AM 16

Complaint and Petition of Triton Asset Leasing GmbH, et al.;

08:03AM 17

Civil Action 10-4536, United States of America versus

08:03AM 18

BP Exploration and Production, Incorporated, et al.

08:03AM 19

THE COURT: All right. Counsel, I would like to have

08:03AM 20

those counsel who will be appearing during the trial to make an

08:03AM 21

appearance on the record right now, please.

08:03AM 22

MR. ROY: Your Honor, Jim Roy, good morning, PSC

08:03AM 23

coliaison.

08:03AM 24

MR. CUNNINGHAM: Your Honor, Robert Cunningham, PSC.

08:03AM 25

MR. WILLIAMS: Good morning, Your Honor. Duke

08:03AM 1 Williams, PSC.

08:03AM 2 MR. IRPINO: Anthony Irpino on behalf of the PSC.

08:03AM 3 MR. DEGRAVELLES: John DeGravelles, PSC.

08:04AM 4 MR. STERBCOW: Paul Sterbcow, Your Honor, PSC.

08:04AM 5 MR. HERMAN: Good morning, Your Honor. Steve Herman

08:04AM 6 for the plaintiff.

08:04AM 7 MR. LEGER: Walter Leger, Counsel for the PSC.

08:04AM 8 MR. WILLIAMSON: Jimmy Williamson, PSC.

08:04AM 9 MR. WATTS: Mikal Watts, PSC.

08:04AM 10 MR. THORNHILL: Good morning, Your Honor. Tom.

08:04AM 11 Thornhill, PSC.

08:04AM 12 MR. CERNICH: Scott Cernich, the United States.

08:04AM 13 MR. CALDWELL: Buddy Caldwell, Attorney General for the

08:04AM 14 State of Louisiana.

08:04AM 15 MR. STRANGE: Luther Strange, Attorney General, State

08:04AM 16 of Alabama.

08:04AM 17 MR. O'ROURKE: Steve O'Rourke for the United States.

08:04AM 18 MR. UNDERHILL: Good morning, Your Honor.

08:04AM 19 Mike Underhill on behalf of the United States of America.

08:04AM 20 MR. BREIT: Jeffrey Breit on behalf of the PSC,

08:04AM 21 Your Honor.

08:04AM 22 MR. KANNER: Allan Kanner for the State of Louisiana.

08:04AM 23 MR. MAZE: Corey Maze for the State of Alabama.

08:04AM 24 THE COURT: Anyone else on the plaintiffs' side?

08:04AM 25 Let's move to the defendants.

08:04AM 1 MR. BROCK: Mike Brock for BP.

08:04AM 2 MR. REGAN: Matthew Regan for BP, Your Honor.

08:05AM 3 MS KARIS: Hariklia Karis on behalf of BP.

08:05AM 4 MR. LANGAN: Andy Langan for BP.

08:05AM 5 MR. HAYCRAFT: Don Haycraft, BP.

08:05AM 6 MR. BECK: David Beck for Cameron.

08:05AM 7 MR. ROBERTS: Steve Roberts, Transocean.

08:05AM 8 MR. MILLER: Kerry Miller, Transocean.

08:05AM 9 MR. BRIAN: Brad Brian, Transocean.

08:05AM 10 MR. DOYEN: Michael Doyen, Transocean.

08:05AM 11 MR. Li: Luis Lee, Transocean.

08:05AM 12 MS. CLINGMAN: Rachel Clingman, Transocean.

08:05AM 13 MR. HYMEL: Richard Hymel, Transocean.

08:05AM 14 MR. GODWIN: Don Godwin, Halliburton.

08:05AM 15 MR. YORK: Alan York, also for Halliburton.

08:05AM 16 MR. HILL: Gavin Hill, also form Halliburton.

08:05AM 17 MR.: Floyd Hartley for Halliburton.

08:05AM 18 MR. VON STERNBERG: Jerry Von Sternberg, Halliburton.

08:05AM 19 MR. TANNER: Hugh Tanner for M-I.

08:05AM 20 MS. SCOFIELD: Denise Scofield for M-I.

08:05AM 21 MR. FUNDERBURK: John Funderburk, for M-I.

08:05AM 22 THE COURT: I'm sorry, what's your name, sir? I don't

08:05AM 23 have you on my list. What's your name?

08:05AM 24 MR. FUNDERBURK: John Funderburk.

08:05AM 25 THE COURT: Funderburk?

08:05AM 1 MR. FUNDERBURK: Yes, sir.

08:05AM 2 THE COURT: Okay, thank you.

08:05AM 3 MR. WITTMANN: Phil Wittmann, Cameron.

08:05AM 4 MR. JONES: David Jones for Cameron.

08:06AM 5 MR. GANNAWAY: Geoff Gannaway for Cameron.

08:06AM 6 MR. ROBERTS: Alan Roberts for Cameron.

08:06AM 7 MR. KINCHEN: John Kinchen for Transocean.

08:06AM 8 THE COURT: All right. Does that cover everyone?

08:06AM 9 All right. In a few moments, we will begin what
08:06AM 10 are called *opening statements* by counsel for the parties. It's
08:06AM 11 anticipated that these opening statements will take up the rest
08:06AM 12 of today.

08:06AM 13 These statements, of course, are not part of the
08:06AM 14 evidence in this trial, but are an opportunity for counsel for
08:06AM 15 each party to give us an overview or a preview of what they
08:06AM 16 believe the evidence will show.

08:06AM 17 At the conclusion of the opening statements
08:06AM 18 today, we will recess the trial and resume in the morning with
08:06AM 19 the first live witness.

08:06AM 20 Before counsel begin their opening statements,
08:06AM 21 however, I want to address a few matters regarding courtroom
08:07AM 22 conduct and, also, explain some other things about the trial
08:07AM 23 itself.

08:07AM 24 This is the first phase of what is expected to be
08:07AM 25 a multiphase trial. The parties have estimated that this first

08:07AM 1 phase will take approximately three months to complete.

08:07AM 2 Ordinarily, we will hold trial Monday through
08:07AM 3 Thursday beginning at 8:00 a.m. and recessing not later than
08:07AM 4 6:00 p.m.

08:07AM 5 This is a bench trial. As everyone can see, we
08:07AM 6 have no jury, which is customary in admiralty cases such as
08:07AM 7 this.

08:07AM 8 At this time, I ask everyone to make sure that
08:07AM 9 your cell phones, laptops, iPads, tablets or any other
08:07AM 10 electronic devices are either turned off or placed on silent
08:07AM 11 mode. If you need to use your phone, please step into the hall
08:07AM 12 and away from the courtroom doors to do so.

08:07AM 13 I also expect that proper decorum will be
08:07AM 14 maintained at all times during this lengthy trial. We, of
08:07AM 15 course, cannot have any sorts of verbal commenting or outbursts
08:08AM 16 during the trial or during a witness's testimony, so please
08:08AM 17 heed this caution.

08:08AM 18 No food or drinks are allowed in the courtroom.
08:08AM 19 An exception is that counsel for the parties may have water at
08:08AM 20 their tables.

08:08AM 21 I also remind everyone that the taking of any
08:08AM 22 type of photographs or video anywhere in the federal courthouse
08:08AM 23 complex is strictly prohibited. Any recording, broadcasting or
08:08AM 24 transmitting any part of a trial in a federal courthouse is
08:08AM 25 prohibited. These are not simply my rules. It is the policy

08:08AM 1 of the judicial conference of the United States.

08:08AM 2 Anyone who violates these rules may be subjected
08:08AM 3 to sanctions, including fines, seizure of the camera, phone or
08:08AM 4 other device, and possible ejection from the courtroom and
08:08AM 5 courthouse.

08:08AM 6 These rules and other matters regarding public
08:08AM 7 access to the trial are set forth in the Court's Order of
08:08AM 8 January 18, 2013, which is Record Document 8291. It's also
08:09AM 9 posted on the Court's public website on that date, and I
08:09AM 10 strongly encourage everyone to read this article.

08:09AM 11 Also, we have several overflow courtrooms where
08:09AM 12 there are audio feeds and evidence presentation screens. So
08:09AM 13 those of you who cannot get into the courtroom will nonetheless
08:09AM 14 be able to hear the live testimony, what is occurring in this
08:09AM 15 courtroom, and you'll be able to see whatever is on the
08:09AM 16 evidence presentation screens at the same time.

08:09AM 17 The same rules about what is prohibited in the
08:09AM 18 courthouse and in the courtroom apply to these overflow
08:09AM 19 courtrooms as well.

08:09AM 20 Now, I would like to give some brief context to
08:09AM 21 this trial, primarily to help the press and public understand
08:09AM 22 the nature of the current proceedings.

08:09AM 23 These comments are provided merely to establish
08:09AM 24 background and do not constitute rulings or findings by the
08:09AM 25 Court. So, for example, if my description of a particular

08:10AM 1 party's role is not entirely accurate or complete, that
08:10AM 2 statement is not binding.

08:10AM 3 As you are all probably aware, this trial
08:10AM 4 concerns the April 20, 2010 blowout, explosion and fire on the
08:10AM 5 mobile offshore drilling unit *Deepwater Horizon* as it was
08:10AM 6 preparing to temporarily abandon the Macondo well, an
08:10AM 7 exploratory well drilled in Block 252, Mississippi Canyon, on
08:10AM 8 the Outer Continental Shelf, approximately 50 miles south of
08:10AM 9 Louisiana.

08:10AM 10 That catastrophe took the lives of eleven men and
08:10AM 11 injured many others.

08:10AM 12 On April 22, after burning for two days, the rig
08:10AM 13 sank into the Gulf of Mexico. For roughly the next three
08:10AM 14 months, oil continuously discharged into the Gulf before the
08:10AM 15 well could be capped. Later, the well was permanently sealed
08:10AM 16 via a relief well.

08:10AM 17 There are a number of parties participating in
08:10AM 18 this Phase One of the trial. For example, the plaintiffs, or
08:10AM 19 claimants, include, among others, the United States of America,
08:11AM 20 the States of Louisiana and Alabama, and numerous private
08:11AM 21 individuals, businesses or other entities who have filed claims
08:11AM 22 in Transocean's limitation action.

08:11AM 23 There are also multiple defendants. BP was the
08:11AM 24 operator and leased the Macondo prospect site from the federal
08:11AM 25 government.

08:11AM 1 Transocean owned the *Deepwater Horizon* and was
08:11AM 2 contracted by BP to drill the Macondo well.

08:11AM 3 Halliburton was contracted by BP to provide
08:11AM 4 cement and related services for the Macondo well.

08:11AM 5 Cameron manufactured and sold to Transocean the
08:11AM 6 *Deepwater Horizon's* BOP, or blowout preventer, which was
08:11AM 7 installed near the wellhead.

08:11AM 8 M-I was contracted by BP to provide certain
08:11AM 9 drilling fluids, among other services and materials.

08:11AM 10 In August of 2010, numerous individual lawsuits
08:11AM 11 stemming from these events were consolidated before this Court
08:11AM 12 in what is called a multidistrict litigation, or commonly
08:11AM 13 called an MDL.

08:12AM 14 This Phase One trial concerns two of the cases
08:12AM 15 within this MDL: Case number 10-2771, which is the Transocean
08:12AM 16 entities limitation action, under what is known as the
08:12AM 17 Shipowners' Limitation of Liability Act, which I will further
08:12AM 18 discuss in a moment; also, Case Number 10-4536, the
08:12AM 19 United States' action for certain damages under the
08:12AM 20 Oil Pollution Act of 1990, or also called OPA, and for civil
08:12AM 21 penalties under Section 311 of the Clean Water Act.

08:12AM 22 Both of these cases are before the Court for all
08:12AM 23 purposes including trial, as opposed to some of the other cases
08:12AM 24 that were transferred here for pretrial purposes only under the
08:12AM 25 MDL statute.

08:12AM 1 The Shipowners' Limitation of Liability Act is an
08:12AM 2 1851 federal statute which permits a vessel owner to file a
08:12AM 3 complaint in federal court seeking exoneration from liability
08:12AM 4 or, alternatively, limitation of liability equal to the
08:13AM 5 post-casualty value of the vessel, plus any pending freight.

08:13AM 6 If the vessel owner complies with certain
08:13AM 7 requirements, claims against the vessel owner pending in other
08:13AM 8 courts are stayed, and the claims instead must be brought in
08:13AM 9 the limitation proceeding.

08:13AM 10 In this manner, all claims are marshaled together
08:13AM 11 in what is called a concursus. The vessel owner may also join
08:13AM 12 third parties it believes are liable to the plaintiffs, who may
08:13AM 13 likewise crossclaim against one another and/or counterclaim
08:13AM 14 against the vessel owner.

08:13AM 15 This is what happened here. Transocean filed a
08:13AM 16 limitation complaint. Claims were filed in the limitation
08:13AM 17 proceeding. Transocean brought third-party claims against BP,
08:13AM 18 Halliburton, Cameron, M-I and others, who then cross-claimed
08:13AM 19 against one another and counterclaimed against Transocean.

08:13AM 20 A vessel owner may limit its liability only if it
08:13AM 21 shows that the fault causing the loss occurred without its
08:14AM 22 privity or knowledge. Thus, the Court must determine what acts
08:14AM 23 of negligence or unseaworthiness caused the casualty and
08:14AM 24 whether the vessel owner had knowledge or privity of these
08:14AM 25 acts.

08:14AM 1 The burden of proving negligence or
08:14AM 2 unseaworthiness is on the claimants. The burden will then
08:14AM 3 shift to the vessel owner to prove lack of privity or
08:14AM 4 knowledge.

08:14AM 5 It should be noted that even if Transocean is
08:14AM 6 entitled to limit its liability, there would be unresolved
08:14AM 7 questions about what claims are subject to the limitation,
08:14AM 8 particularly with respect to claims under OPA.

08:14AM 9 Although Transocean is technically the plaintiff
08:14AM 10 in the limitation action, to simplify matters during this
08:14AM 11 trial, I will typically refer to the United States, the States
08:14AM 12 and the private plaintiffs as the plaintiffs, and I will refer
08:14AM 13 to Transocean and BP, Halliburton, Cameron and M-I as the
08:14AM 14 defendants.

08:14AM 15 As mentioned, the United States' action brings
08:14AM 16 claims under OPA and the Clean Water Act. This action is being
08:15AM 17 tried with Transocean's limitation action because there are
08:15AM 18 some overlapping issues, particularly whether BP or Transocean
08:15AM 19 acted with gross negligence or willful misconduct.

08:15AM 20 This is because the Clean Water Act imposes a
08:15AM 21 civil penalty for harmful discharge of oil, the maximum value
08:15AM 22 of which is determined primarily by two factors, how much oil
08:15AM 23 was discharged, and whether or not the discharger acted with
08:15AM 24 gross negligence or willful misconduct.

08:15AM 25 Phase One of this trial will address fault

determination and allocation relating to the loss of well control or blowout, the ensuing fire and explosion, capsizing and sinking of the *Deepwater Horizon*, and the initiation of the release of oil from the well.

Phase One will also include issues related to Transocean's exoneration, limitation and liability defenses, as well as the issues relating to various crossclaims, counterclaims, etcetera, between the various defendants.

It is important to understand that the particular losses or damages suffered by any one plaintiff will not be determined in this phase, nor will the Court determine the amount of any civil fines or penalties in this phase of the trial.

Also, the Court will not hear evidence relating to or decide in this phase issues regarding the response efforts following the spill or the quantity of oil that escaped before the well was capped. Those issues will be subjects of a later Phase Two trial.

Now, the Court has previously allocated time for opening statements and assigned the order in which they will occur.

The private claimants represented here today by the Plaintiffs' Steering Committee will have 75 minutes of opening statements. The United States will then follow for 45 minutes. The States of Louisiana and Alabama have a total

08:16AM 1 of 20 minutes. Transocean then has 60 minutes, Halliburton
08:17AM 2 60 minutes, BP 90 minutes, Cameron 10 minutes, and M-I
08:17AM 3 10 minutes. If my math is correct, that's a total of
08:17AM 4 370 minutes, or a little over six hours.

08:17AM 5 During the trial, the order of proof, the order
08:17AM 6 will generally go as follows: First, the PSC, the
08:17AM 7 United States and the States will present evidence in support
08:17AM 8 of their claims against all defendants.

08:17AM 9 Second, Transocean will present evidence on its
08:17AM 10 exoneration, limitation and liability defenses, as well as any
08:17AM 11 counter, cross or third-party claims against other defendants.

08:17AM 12 Third, the remaining defendants shall present
08:17AM 13 their evidence in support of their defenses in counter, cross
08:17AM 14 and third-party claims.

08:17AM 15 And fourth, the PSC, USA and States shall present
08:17AM 16 any rebuttal evidence.

08:17AM 17 Finally, a few notes regarding evidence
08:17AM 18 presentation. The parties deposed many, many witnesses prior
08:18AM 19 to trial. This means that witnesses were questioned by counsel
08:18AM 20 outside of court under oath, and those examinations were
08:18AM 21 recorded. Transcripts of these depositions have been submitted
08:18AM 22 to the Court in advance of trial.

08:18AM 23 During the trial, a witness's deposition
08:18AM 24 transcript may be introduced into evidence in lieu of having
08:18AM 25 that witness appear in person to testify live.

08:18AM 1 In addition, the parties may at times play
08:18AM 2 shorter video clips from certain depositions.

08:18AM 3 The parties have also prepared numerous exhibits
08:18AM 4 that will be submitted as the trial progresses.

08:18AM 5 The plan is to have Magistrate
08:18AM 6 Judge Sally Shushan assist the Court and the parties each
08:18AM 7 Thursday afternoon in marshalling the materials which were used
08:18AM 8 or introduced during that week.

08:18AM 9 All of the depositions and exhibits are in
08:18AM 10 electronic format and will be made available for the press and
08:18AM 11 public as follows.

08:18AM 12 During each week of the trial, the report and
08:18AM 13 résumé of each expert who testifies will be introduced into
08:19AM 14 evidence. The report will be a part of the expert's trial
08:19AM 15 testimony on direct examination.

08:19AM 16 At the first marshalling conference, the PSC will
08:19AM 17 tender for filing into the record fact witness deposition
08:19AM 18 transcripts and exhibits. Those will be proffered subject to
08:19AM 19 objections which have been lodged by various parties. That
08:19AM 20 procedure will continue through the course of the trial.

08:19AM 21 Let me provide the press and the public,
08:19AM 22 particularly, a caveat here about this. Because of the sheer
08:19AM 23 volume of evidence that the Court has already seen and will see
08:19AM 24 during the course of this trial, some of the testimony and
08:19AM 25 exhibits that will be admitted during the trial will be

08:19AM 1 admitted subject to certain objections. That means that the
08:19AM 2 Court may later exclude some of this evidence and not take it
08:19AM 3 into consideration in reaching its decisions in this case.

08:20AM 4 So I would just caution the press and public that
08:20AM 5 just because something is mentioned in testimony or an exhibit
08:20AM 6 is introduced at trial, if it is subject to an objection, that
08:20AM 7 does not preclude the possibility of it being excluded at a
08:20AM 8 later date.

08:20AM 9 This is being done as an accommodation, again,
08:20AM 10 because of the sheer volume of evidence that the parties and
08:20AM 11 the Court are working with in this case.

08:20AM 12 All right. Again, the plan is that all
08:20AM 13 deposition transcripts, related exhibits, expert reports and
08:20AM 14 résumés, and the exhibits that are marshalled each week will be
08:20AM 15 made available and posted each week on a public FTP Internet
08:20AM 16 website, which is www.MDL2179trialdocs.com. The link to that
08:21AM 17 will be posted on the Court's public website.

08:21AM 18 That is not a court-maintained website, however,
08:21AM 19 but it is a website where all of this information will be
08:21AM 20 posted weekly and will be available to the public or press.

08:21AM 21 So if anyone has any further questions about
08:21AM 22 public access to trial materials, you should refer to the
08:21AM 23 recent Order of the Court issued February 22nd, 2013, which
08:21AM 24 will be available on the Court's public website. The Court's
08:21AM 25 website, by the way, for the benefit of those who do not know,

08:21AM 1 is www.laed.uscourts.gov.

08:21AM 2 If you go there, that's the Court's home page,
08:21AM 3 there is a link to MDL 2179.

08:21AM 4 Please do not, do not call the Court or contact
08:21AM 5 the Court staff about this. All information you should have is
08:21AM 6 posted at the Court's website. There's really nothing else we
08:21AM 7 can tell you, so please do not call or contact the Court staff
08:22AM 8 with these questions.

08:22AM 9 I should also note that the parties have made
08:22AM 10 available to the Court and to the court reporters a glossary of
08:22AM 11 certain terms and acronyms that may be used from time to time
08:22AM 12 during the trial.

08:22AM 13 The oil and gas industry is a specialized and
08:22AM 14 highly technical industry, and there are a lot of acronyms that
08:22AM 15 will be used. I'm going to ask the parties and the attorneys
08:22AM 16 to try to avoid using acronyms as much as they can during the
08:22AM 17 trial; but, so that the press and the public can understand
08:22AM 18 what's going on, we do have a glossary that can be made
08:22AM 19 available that would be helpful.

08:22AM 20 With regard to the press corps, you will note
08:22AM 21 that we have two benches in the courtroom reserved for members
08:22AM 22 of the credentialed media.

08:22AM 23 In addition, at least for this first week, we
08:22AM 24 have arranged, in addition to the three normal overflow
08:22AM 25 courtrooms which we should have for the length of the trial,

08:23AM 1 just for the week only, we've arranged for the use of Courtroom
08:23AM 2 C-224, which is Judge Milazzo's courtroom directly across the
08:23AM 3 hall from my courtroom. She's been kind enough to move one
08:23AM 4 proceeding that she had scheduled this week to another
08:23AM 5 courtroom to allow us to use that courtroom.

08:23AM 6 This is going to be a week-to-week thing. If
08:23AM 7 there are courtrooms available, I'll try to make another
08:23AM 8 district court courtroom available.

08:23AM 9 In that courtroom, it's a no lawyer zone. We
08:23AM 10 figured out or counted that the lawyers have enough room
08:23AM 11 between taking up most of this courtroom and three other
08:23AM 12 courtrooms that we needed space reserved for the press and
08:23AM 13 public.

08:23AM 14 So if there are any members of the press who
08:23AM 15 could not get in this courtroom and/or would just like a more
08:23AM 16 convenient place to work, we have five tables reserved for use
08:23AM 17 by the press across the hall. The rest of the seating in there
08:24AM 18 is for the public.

08:24AM 19 All right. And again, that courtroom, like the
08:24AM 20 other overflow rooms, will have a live audio feed and evidence
08:24AM 21 screens for you to follow what's going on in this courtroom.

08:24AM 22 One more thing before we begin opening
08:24AM 23 statements. I want to announce to the lawyers and to everyone
08:24AM 24 else that I've looked at the calendar. We had already
08:24AM 25 announced that we would not work -- this trial, as I said, is

08:24AM 1 expected to last three months. We've already announced that we
08:24AM 2 would not work or hold court on the Thursday and Friday
08:24AM 3 immediately preceding Easter weekend.

08:24AM 4 And in thinking about it and looking at the
08:25AM 5 calendar, since a lot of the attorneys and parties in this case
08:25AM 6 are from out of town, to accommodate them, I've decided that we
08:25AM 7 would also not work on the Monday right after Easter, which I
08:25AM 8 think is April 1, so that way you all can make travel plans so
08:25AM 9 you don't have to travel back -- so those of you out of town
08:25AM 10 don't have to travel back on Sunday, if you care to stay home
08:25AM 11 for that weekend.

08:25AM 12 Okay. Does anybody have any other preliminary
08:25AM 13 matters before we begin opening statements?

08:25AM 14 All right. Who is going to make opening
08:25AM 15 statements? Mr. Roy?

08:25AM 16 OPENING STATEMENTS

08:25AM 17 BY MR. ROY:

08:25AM 18 Good morning, Your Honor. I'm Jim Roy for the
08:25AM 19 Plaintiffs' Steering Committee.

08:25AM 20 Why did this terrible tragedy happen? That's why
08:25AM 21 we're gathered. Let's begin with Transocean, the owner and the
08:25AM 22 operator of the *Deepwater Horizon*. They seek limitation of
08:25AM 23 their liability. The evidence is going to show Transocean
08:25AM 24 failed to discover a major gas kick and shut in the well on
08:25AM 25 April 20, 2010.

08:25AM 1 A critical part of the temporary abandonment
08:26AM 2 procedure from Macondo was a negative pressure test. This was
08:26AM 3 a shared responsibility between BP and Transocean. The test
08:26AM 4 was misinterpreted. This led to the mistaken belief that the
08:26AM 5 well was secure and that it was safe to go forward with
08:26AM 6 displacement of the heavy drill mud with much lighter seawater.

08:26AM 7 Richard Heenan, an expert petroleum engineer,
08:26AM 8 will describe the failure to interpret this test correctly as a
08:26AM 9 gross and extreme departure from the standards of good oilfield
08:26AM 10 practice.

08:26AM 11 Transocean's own standards state that a kick that
08:26AM 12 is over 20 barrels is code red and critical. The Macondo kick
08:26AM 13 is described as off the chart and unprecedented, exceeding not
08:26AM 14 20 barrels, but exceeding 700 barrels, and consuming 50 minutes
08:27AM 15 of time before the kick was detected and unsuccessful efforts
08:27AM 16 made to shut it in.

08:27AM 17 The evidence will show Transocean's failure to
08:27AM 18 discover this giant gas kick and to shut in the well was a
08:27AM 19 result of the willful failure of Transocean management to give
08:27AM 20 its *Deepwater Horizon* crew, and other crews on other rigs,
08:27AM 21 adequate training.

08:27AM 22 The evidence shows that despite a wealth of
08:27AM 23 information showing that this well was flowing, this Transocean
08:27AM 24 crew, BP and Halliburton Sperry logger totally missed the kick
08:27AM 25 on April 20, 2010, that according to BP's own expert,

08:27AM 1 Robert Grace, my dad would have caught.

08:27AM 2 The evidence will show the ultimate
08:27AM 3 responsibility at Transocean for this gross and extreme
08:27AM 4 departure from good oilfield practically rests with the
08:28AM 5 management of Transocean.

08:28AM 6 Transocean never specifically trained any member
08:28AM 7 of the drill crew, including the offshore installation manager,
08:28AM 8 the driller, the assistant driller or the toolpusher on how to
08:28AM 9 interpret a negative pressure test. Amazingly neither
08:28AM 10 Transocean's formal training, its training materials, nor its
08:28AM 11 well control handbook cover or even discuss negative pressure
08:28AM 12 tests.

08:28AM 13 The catastrophic failure of the *Deepwater Horizon*
08:28AM 14 crew and BP and Halliburton on April 20, 2010, to catch the
08:28AM 15 riser unloading, the kick, was no isolated event. The evidence
08:28AM 16 will show that Transocean had known for years that its rig
08:28AM 17 personnel were not adequately trained to recognize and shut in
08:28AM 18 gas kicks, especially riser unloading events like that involved
08:29AM 19 on the *Deepwater Horizon* disaster.

08:29AM 20 Transocean's investigation of an incident as far
08:29AM 21 back as 2004 on another semisubmersible concluded procedures
08:29AM 22 were not set up to effectively detect kicks. The team did not
08:29AM 23 heed warnings in the drill program. The team did not use
08:29AM 24 disciplined, coordinated procedures to monitor for well
08:29AM 25 influxes, and prophetically, alarms were turned off.

08:29AM 1 By March of 2008, the situation had deteriorated
08:29AM 2 such that Larry McMahon, Transocean's vice-president of
08:29AM 3 performance, wrote an e-mail to management teams about a series
08:29AM 4 of recent loss-of-control-type events, including, as an
08:29AM 5 example, loss of well control.

08:29AM 6 This is what he said, among other things, "We
08:30AM 7 cannot ignore what has happened in the area of loss of control.
08:30AM 8 This is very concerning to me. The problem is that we are
08:30AM 9 having events at a rate that is overwhelming. We would be
08:30AM 10 better off investing that time in the prevention side and more
08:30AM 11 effective risk assessment, as well as adherents to proceed."

08:30AM 12 And then McMahon prophetically concluded, "If we
08:30AM 13 do not change the way we operate, we will continue to have
08:30AM 14 these train wrecks."

08:30AM 15 That's in 2008. A year later, in March of 2009,
08:30AM 16 following yet another riser unloading incident in February
08:30AM 17 of '09, on a Transocean rig, Transocean determined, there was
08:30AM 18 no task risk assessment performed; that Management of Change
08:31AM 19 was not adequately addressed; well control training and the
08:31AM 20 well control manual does not adequately cover the procedures
08:31AM 21 for closing in a well during a blowout situation; also, the use
08:31AM 22 of the diverter is not adequately covered.

08:31AM 23 The report also found that there had been no
08:31AM 24 specific training given for handling a kick in the riser and a
08:31AM 25 lack of explanation about the proper use of the diverter. It

08:31AM 1 also recommended well control reference material and training
08:31AM 2 should adequately cover the use of the diverter and what to do
08:31AM 3 in the case of the riser unloading. And rig management should
08:31AM 4 use Management of Change procedures to ensure adequate risk
08:31AM 5 assessments are performed.

08:32AM 6 Transocean management refused to act on these
08:32AM 7 recommendations until the April 20th catastrophe.

08:32AM 8 Again, in late July of 2009, another well control
08:32AM 9 event on another Transocean rig, once again, demonstrated the
08:32AM 10 inadequacy of crew training problems to management. It
08:32AM 11 involved multiple failures to shut in the well when influxes
08:32AM 12 were clearly detected, and not shutting in the well during an
08:32AM 13 influx. Just five months before this disaster.

08:32AM 14 In December of 2009, another well control
08:32AM 15 incident occurred aboard the Transocean *Sedco 711*, involving an
08:32AM 16 uncontrolled release of hydrocarbons on the drill floor due to
08:32AM 17 Transocean crews failure to notice kick indicators.

08:32AM 18 The Transocean investigation of this incident
08:33AM 19 prophetically revealed that Transocean's mind-set is certainly
08:33AM 20 less vigilant regarding well control preparedness during the
08:33AM 21 completion phase as compared to the drilling phase.

08:33AM 22 Although the investigation again made the
08:33AM 23 recommendation that Transocean's well control handbook add a
08:33AM 24 section on performing fluid displacements, this was not done
08:33AM 25 until after the *Deepwater Horizon* catastrophe.

08:33AM 1 Randy Ezell, Transocean's senior toolpusher
08:33AM 2 aboard the *Deepwater Horizon*, will recall several declared well
08:33AM 3 control events on the *Deepwater Horizon* before this one where
08:33AM 4 hydrocarbons made it past the blowout preventer and to the
08:33AM 5 bottom of the rotary table thousands of feet up above on the
08:33AM 6 drill floor, and had the potential to endanger life in the
08:33AM 7 environment.

08:34AM 8 In fact, on March 8th of 2010, just a month
08:34AM 9 before this disaster, the Transocean crew on the
08:34AM 10 *Deepwater Horizon* failed to catch a gas kick for some 35 to
08:34AM 11 40 minutes. Once again, demonstrating a pattern that had
08:34AM 12 reflected itself over years, that lack of training in kick
08:34AM 13 detection and well control was no isolated incident with
08:34AM 14 Transocean rigs, but rather was a chronic problem, allowed by
08:34AM 15 Transocean management to go uncorrected.

08:34AM 16 The BP well team leader at the time, in March of
08:34AM 17 2010, in fact, commented, Transocean's drill crew had screwed
08:34AM 18 up by not catching it.

08:34AM 19 In its annual well control report for 2009,
08:34AM 20 Transocean management itself recognized the following: "The
08:35AM 21 increasing trend seen in 2009 of drilling risers being either
08:35AM 22 partially or completely evacuated or unloaded."

08:35AM 23 Again, from December of 2008 until year end 2009,
08:35AM 24 this type of event, that's riser unloading, occurred six times
08:35AM 25 on Transocean rigs.

08:35AM 1 "It is particularly hazard," it went on, "due to
08:35AM 2 the uncontrolled release of mud and gas through the rotary
08:35AM 3 table and the potential for ignition. Riser unloading events
08:35AM 4 can be avoided through the application of fundamental well
08:35AM 5 control practices, such as treating every positive indicator as
08:35AM 6 a kick, shutting in quickly, and taking returns through the
08:35AM 7 choke whenever in any doubt, any doubt whatsoever."

08:35AM 8 Transocean management knew about the widespread
08:36AM 9 nature of well control problems on its vessels, and that the
08:36AM 10 time spent on well control events had increased in 2009.

08:36AM 11 The failure of Transocean drill crews to know and
08:36AM 12 follow basic well monitoring kick detection and shut-in
08:36AM 13 procedures was well known to upper level management at
08:36AM 14 Transocean and continued unabated and uncorrected, despite
08:36AM 15 their knowledge, up to and including this tragedy.

08:36AM 16 The fateful April 20th, 2010, riser unloading was
08:36AM 17 at least the seventh that a Transocean rig had experienced in
08:36AM 18 just the previous 17 months. This chronic problem ultimately
08:36AM 19 led to the disaster of April 20th, 2010, which Larry McMahon,
08:36AM 20 Transocean's own vice-president operations and performance,
08:36AM 21 agreed was a train wreck of the largest magnitude.

08:37AM 22 The evidence is also going to show that
08:37AM 23 Transocean willfully failed to adequately train its crew in
08:37AM 24 other safety critical functions. There was no competence
08:37AM 25 assurance system in place aboard the *Deepwater Horizon*.

08:37AM 1 In fact, Lloyd's Register, an entity trusted by
08:37AM 2 drillers across the world to tell them what their problems are,
08:37AM 3 Lloyd's Register issued a report covering an assessment from
08:37AM 4 March 9th to 26th of 2010, just weeks before this catastrophe,
08:37AM 5 in which it discussed Transocean's safety management and safety
08:37AM 6 culture.

08:37AM 7 Among the supervisors' comments recounted in the
08:37AM 8 report were the following ominous indications of training
08:37AM 9 failures: "The workforce was not always aware of the hazards
08:38AM 10 they were exposed to, relating to both their job and to other
08:38AM 11 jobs in the same/adjoining work areas."

08:38AM 12 "The risk posed by identified hazards were not
08:38AM 13 fully understood, and the subsequent control measures were not
08:38AM 14 always appropriate. They don't know what they don't know."

08:38AM 15 The report concluded this section with the
08:38AM 16 comment, "This clearly demands attention, as frontline crews
08:38AM 17 are potentially working with a mind-set that they are fully
08:38AM 18 aware of all the hazards when it's highly likely that they are
08:38AM 19 not."

08:38AM 20 The International Safety Management Code, ISM for
08:38AM 21 short, required Transocean to appoint a designated person
08:39AM 22 ashore who has responsibility for safety on a given rig, and
08:39AM 23 has access to the highest levels of management.

08:39AM 24 Gerald Canducci was Transocean's designated
08:39AM 25 person ashore for the *Deepwater Horizon*.

08:39AM 1 Jeff Webster, a marine expert testifying on
08:39AM 2 behalf of the PSC, will testify that Mr. Canducci was not even
08:39AM 3 minimally competent for this job. His training consisted of a
08:39AM 4 three-day course. Amazingly Mr. Canducci had never been on
08:39AM 5 board the *Deepwater Horizon*. And this is the man with the
08:39AM 6 responsibility for safety that management had entrusted to that
08:39AM 7 job.

08:39AM 8 The captain of the *Deepwater Horizon*,
08:39AM 9 Carl [verbatim] Kutcha, was also woefully under trained. Good
08:40AM 10 guy, good captain, but under trained in the safety management
08:40AM 11 system of the vessel, despite the ISM requirement that he, no
08:40AM 12 one else, he be in charge of implementing it, and he had never
08:40AM 13 been trained in it adequately. He had never been trained in
08:40AM 14 the operation of the vessel's emergency disconnect system
08:40AM 15 either.

08:40AM 16 Compounding this problem was the
08:40AM 17 *Deepwater Horizon's* dual command structure, which prevented
08:40AM 18 Captain Kutcha, the captain of the vessel, from activating the
08:40AM 19 emergency disconnect system until Jimmy Harold, the offshore
08:40AM 20 installation manager arrived.

08:40AM 21 The evidence will show that if Captain Kutcha had
08:40AM 22 been given the requisite training and authority by Transocean
08:40AM 23 management, earlier activation of this emergency disconnect
08:40AM 24 system could have averted much of the catastrophe, either
08:41AM 25 altogether or at the very least mitigating it by reducing loss

08:41AM 1 of life, injuries, the vessel, and pollution.

08:41AM 2 Amazingly, the offshore installation manager,
08:41AM 3 Jimmy Harold's certificate did not allow him to be the OIM and
08:41AM 4 the person in charge on this vessel.

08:41AM 5 Senior dynamic positioning officer, DPO,
08:41AM 6 Yancy Keplinger had no training on the safety equipment on the
08:41AM 7 bridge of the vessel where he acted as senior watch keeping
08:41AM 8 officer and held no proper license for the job he was
08:41AM 9 performing. Neither he nor dynamic positioning officer
08:41AM 10 Andrea Fleytas had ever received training on a scenario like
08:41AM 11 the one which occurred on the day of this fateful disaster
08:41AM 12 where there was a contemporaneous activation of numerous gas
08:42AM 13 detection alarms.

08:42AM 14 The evidence will establish that this overarching
08:42AM 15 Transocean management failure to adequately train this crew
08:42AM 16 directly contributed to the events leading to the blowout
08:42AM 17 explosion, deaths, the loss of *Deepwater Horizon*, and the
08:42AM 18 ensuing pollution.

08:42AM 19 The evidence will also show that Transocean's
08:42AM 20 crew recklessly misused equipment by diverting the blowout
08:42AM 21 through the mud-gas separator, instead of the rig's diverter
08:42AM 22 system.

08:42AM 23 The mud-gas separator is a low-pressure system,
08:42AM 24 Judge, used to separate small amounts of gas coming up in the
08:42AM 25 mud returns and taking them out. It's not designed or intended

08:42AM 1 to handle large amounts of gas or gas under high pressure in an
08:42AM 2 emergency.

08:42AM 3 Transocean's policy on this thing did dictate
08:42AM 4 that the gas diverter system, not the mud-gas separator, be
08:43AM 5 used in the event of a well control event requiring diversion
08:43AM 6 of large amounts of gas.

08:43AM 7 The evidence will show that when the poorly
08:43AM 8 trained crew of the *Deepwater Horizon* failed to divert the kick
08:43AM 9 through the emergency diverter system, the mud-gas separator
08:43AM 10 was quickly overwhelmed by the high volume of gas and pressure
08:43AM 11 and the entire vessel was engulfed in flammable gas.

08:43AM 12 The evidence will show had the emergency diverter
08:43AM 13 system be used instead of the mud-gas separator, the
08:43AM 14 *Deepwater Horizon* crew would likely have survived without
08:43AM 15 casualty and the vessel not been destroyed.

08:43AM 16 This lack of adequate training in the proper use
08:43AM 17 of the diverter system was once again evidence of a chronic
08:43AM 18 problem known to senior management in failure to train but
08:43AM 19 which remained uncorrected for years.

08:43AM 20 The evidence will also show Transocean willfully
08:44AM 21 overrode several automatic functions of the integrated alarm
08:44AM 22 and control system. In the course of this trial, Judge, you
08:44AM 23 may have people refer to that as the I-A-C-S or IACS or the
08:44AM 24 Kongsberg system. It's one in the same.

08:44AM 25 By overriding the automatic functions, it

08:44AM 1 required human intervention to activate the shutdown system.
08:44AM 2 Specifically, the integrated alarm and control system was
08:44AM 3 designed to control a number of safety critical functions
08:44AM 4 automatically upon the detection of combustible gas, including
08:44AM 5 the sounding of a general alarm, and the activation of an
08:44AM 6 emergency shutdown system, and activation of a fire and gas
08:44AM 7 safety system.

08:44AM 8 The emergency shutdown system, or ESD, as some
08:44AM 9 call it, would in turn stop gas from entering the engine room,
08:45AM 10 which was the major potential source of gas ignition on this
08:45AM 11 rig, by closing dampers that allowed -- stopped air from
08:45AM 12 entering the room itself where the engines were, sounding
08:45AM 13 audible alarms and actually shutting down the over-speeding
08:45AM 14 engines to deny an ignition source to all the natural gas that
08:45AM 15 had set the alarms off to begin with.

08:45AM 16 By Transocean's inhibiting these alarms in this
08:45AM 17 alarm and control system and requiring human intervention to
08:45AM 18 activate the shutdown system, while the alarm signalling the
08:45AM 19 influx of gas would be reported to the bridge, it would no
08:45AM 20 longer automatically activate these other safety critical
08:45AM 21 functions. And this meant a lot when time was of the essence
08:45AM 22 on the fateful day of April 20th of 2010.

08:45AM 23 In addition, many of the centers which served as
08:46AM 24 the origination point for signalling an influx of gas amazingly
08:46AM 25 had either been set into passive mode or otherwise had their

08:46AM 1 sensors set basically into what is functionally a passive mode
08:46AM 2 and removed from service.

08:46AM 3 This inhibition of the integrated alarm and
08:46AM 4 control system was Transocean company policy. Why? Transocean
08:46AM 5 chief electronics technician, Mike Williams, will testify in
08:46AM 6 this courtroom that inhibiting the alarms was done to avoid
08:46AM 7 waking people up at night.

08:46AM 8 Transocean personnel failed to activate the
08:46AM 9 emergency shutdown system fast enough to do any good. Why?
08:46AM 10 Even with the automatic function inhibited, the crew could have
08:47AM 11 activated the emergency shutdown system, but why didn't they?

08:47AM 12 Because after the blowout there was chaos and
08:47AM 13 mayhem on the bridge, shouts, directions being yelled that
08:47AM 14 weren't being enacted. Captain Kutcha had a
08:47AM 15 deer-in-the-headlights look, was overwhelmed, dazed and
08:47AM 16 confused.

08:47AM 17 Even after the second explosion, it took three
08:47AM 18 requests from Chris Pleasant, another crewmember, to the
08:47AM 19 captain to allow him to activate the emergency disconnect
08:47AM 20 system before the captain finally authorized him to do it.

08:47AM 21 During this critical time when the captain could
08:47AM 22 have activated the emergency disconnect system, but under the
08:47AM 23 then existing dual command structure, he was prevented from
08:47AM 24 doing so until the offshore installation manager, Jimmy Harold,
08:48AM 25 arrived and gave his approval.

08:48AM 1 Had this been done promptly, the vessel probably
08:48AM 2 would have been saved and pollution minimized. But because of
08:48AM 3 the dysfunctional dual command structure and lack of adequate
08:48AM 4 training, the emergency disconnect system was not even
08:48AM 5 activated manually. Certainly not timely.

08:48AM 6 The evidence will show the master of the
08:48AM 7 *Deepwater Horizon*, in other words, did not have overriding
08:48AM 8 authority and responsibility from Transocean management to take
08:48AM 9 the decisive action he needed to take to protect the crew, the
08:48AM 10 vessel, and the environment. This constituted a major
08:48AM 11 nonconformity with the ISM code and contributed significantly
08:48AM 12 to the magnitude of the disaster.

08:48AM 13 Transocean executive management had been warned
08:48AM 14 about this problem. They had been warned about this since the
08:49AM 15 first days of the *Deepwater Horizon's* operation nine years
08:49AM 16 earlier.

08:49AM 17 In the initial ISM certification by an
08:49AM 18 organization called Det Norske Veritas or DNV, an international
08:49AM 19 respected organization that does inspections for vessel and
08:49AM 20 owners, for compliance. They identified that the authority and
08:49AM 21 responsibilities of the master and OIM were in conflict.

08:49AM 22 DNV raised this ISM code nonconformity issue,
08:49AM 23 requiring action to be taken by August of 2002. Seven years
08:49AM 24 later, in 2009, DNV again cautioned Transocean management about
08:49AM 25 this problem. The company was requested to address it.

08:50AM 1 For seven years before this tragedy, this
08:50AM 2 critical problem had been known to Transocean executive
08:50AM 3 management but Transocean still had not corrected the situation
08:50AM 4 as of April 20th, 2010.

08:50AM 5 Other key members of the Transocean bridge team
08:50AM 6 were poorly trained and failed to act in a timely manner. When
08:50AM 7 the cascading alarms did sound, in fact, dynamic positioning
08:50AM 8 officer Andrea Fleytas failed to announce, "This is not a
08:50AM 9 drill," because she was too nervous.

08:50AM 10 Even worse, the more senior DPO, dynamic
08:50AM 11 positioning officer, Yancy Keplinger failed to intervene and
08:50AM 12 allowed this to happen. Indeed, Keplinger agrees that he had
08:50AM 13 never received training for a scenario where there was a
08:50AM 14 contemporaneous activation of numerous detections and alarms
08:51AM 15 going off.

08:51AM 16 Transocean's design involvement and willful
08:51AM 17 refusal to upgrade and maintain the *Deepwater Horizon* blowout
08:51AM 18 preventer was also a major cause of this disaster. The blowout
08:51AM 19 preventer or BOP, is a safety critical piece of
08:51AM 20 *Deepwater Horizon* vessel equipment, owned by Transocean.

08:51AM 21 And the evidence will establish that because it's
08:51AM 22 the main barrier protecting human life, equipment and the
08:51AM 23 environment, it must function without fail. BOPs are viewed in
08:51AM 24 the field as the last line of defense to a blowout.

08:51AM 25 Transocean participated with BP and Cameron in

08:51AM 1 the original design of the *Deepwater Horizon* blowout preventer
08:51AM 2 and the selection and configuration of the component parts.
08:51AM 3 Under the drilling contract, Transocean was to furnish the
08:52AM 4 blowout preventer and ensure that it was adequately maintained
08:52AM 5 in such a condition as to permit its continuous and efficient
08:52AM 6 operation.

08:52AM 7 As stated by Transocean's CEO, Steve Newman, "The
08:52AM 8 BOP on the *Deepwater Horizon* is a piece of Transocean
08:52AM 9 equipment, and we are responsible for the maintenance of that
08:52AM 10 piece of equipment."

08:52AM 11 Multiple audits warned BP and Transocean that the
08:52AM 12 BOP was out of certification and in violation of industry
08:52AM 13 standards.

08:52AM 14 Transocean's well control handbook required the
08:52AM 15 BOP to be able to handle the maximum pressure and temperature
08:52AM 16 conditions for any well where it was to be used. Yet the
08:52AM 17 evidence will show that this BOP could not.

08:52AM 18 If Transocean concluded that the BOP was unfit
08:53AM 19 for a particular well, it, Transocean, was obligated to either
08:53AM 20 change the BOP or not drill the well.

08:53AM 21 Now, the converse is true, too, Your Honor. The
08:53AM 22 evidence will also show that if BP realized that the equipment
08:53AM 23 of the rig was not fit for the well it wanted the rig to drill,
08:53AM 24 then BP, too, had the obligation not to take that rig but to
08:53AM 25 get another or make them change it.

08:53AM 1 Transocean knew that drilling crews frequently
08:53AM 2 confronted situations where the blind shear rams on the BOP
08:53AM 3 would encounter off-center piping. Yet Transocean chose not to
08:53AM 4 upgrade the blind shear rams with better cutting blades even
08:53AM 5 those they were cheap, easily available and easily installed.

08:53AM 6 Transocean knew as early as 2001, that a single
08:53AM 7 blind shear ram represented a single point of failure, and knew
08:54AM 8 that double-blind shear rams were available and becoming more
08:54AM 9 common in 2009 and 2010, yet Transocean chose to continue with
08:54AM 10 the single ram.

08:54AM 11 Transocean knew of the potential for the BOP
08:54AM 12 failure under dynamic flow conditions. Dynamic flow
08:54AM 13 conditions, oil, gas, high-pressure liquids or distillate
08:54AM 14 actually flowing rapidly through it and you try to close it.
08:54AM 15 That's a dynamic condition versus a static condition, it's
08:54AM 16 already closed and it's just holding the pressure back.

08:54AM 17 Transocean knew of the potential for BOP failure
08:54AM 18 under these dynamic flow conditions and knew that blind shear
08:54AM 19 rams had not been tested under dynamic flow conditions, and
08:54AM 20 willfully chose not to do that testing itself to see if they
08:54AM 21 would work and under what dynamic flow conditions. For that
08:54AM 22 matter, there was no BOP shear testing at all.

08:55AM 23 Transocean management knew that the batteries on
08:55AM 24 the pods of the BOP could not be monitored, checked or charged
08:55AM 25 while the BOP was 5000 feet underwater on the sea floor, and

08:55AM 1 knew that its maintenance and recordkeeping system regarding
08:55AM 2 the batteries was seriously flawed such that one could not tell
08:55AM 3 when the batteries had been changed. Yet Transocean did not
08:55AM 4 change its recordkeeping system.

08:55AM 5 Transocean knew the potential danger of running
08:55AM 6 the cables, they are called MUX cables, that powered and
08:55AM 7 controlled it and give feedback to the surface and vice versa,
08:55AM 8 Transocean knew that by running the MUX cable through the
08:55AM 9 Moonpool, the hole in the rig, that it created a single failure
08:55AM 10 point if there was an explosion that could knock out both
08:55AM 11 redundant cables from the same explosion. It chose not to take
08:56AM 12 steps to correct that. It also failed to add an acoustic
08:56AM 13 trigger system to the blowout preventer activation, which
08:56AM 14 Transocean, in fact, utilized on other rigs in other places in
08:56AM 15 the world.

08:56AM 16 In violation of the ISM code, the
08:56AM 17 *Deepwater Horizon* had not been in for drydocking inspections
08:56AM 18 and repair during its entire nine years of existence. PSC
08:56AM 19 expert Geoff Webster says that was reckless and inexcusable.

08:56AM 20 Furthermore, Transocean had a reactive, rather
08:56AM 21 than a proactive, condition-based maintenance system, which,
08:56AM 22 from the view of Transocean Chief Mechanic Doug Brown,
08:56AM 23 translated to a run it till it breaks philosophy.

08:56AM 24 Yet, barely six months before this disaster,
08:56AM 25 Paul Johnson, the Transocean Rig Manager - Performance, when

08:57AM 1 asked about one of the *Deepwater Horizon*'s -- when asked about
08:57AM 2 its readiness to commence operations, he told BP, Transocean is
08:57AM 3 satisfied we can start up operations safely.

08:57AM 4 Less than a month after making that safe to start
08:57AM 5 up representation to BP, he was telling his own team that he
08:57AM 6 understood why the *Deepwater Horizon* was in its current bad
08:57AM 7 condition, a condition that Steve Bertone, the
08:57AM 8 *Deepwater Horizon* Maintenance Supervisor, had just told the
08:57AM 9 same Mr. Johnson the day before. "The issue that the
08:57AM 10 *Deepwater Horizon* is currently experiencing, in my opinion, is
08:57AM 11 a lack of proper maintenance on the equipment for many years
08:57AM 12 check. The drive behind this has been from a performance
08:57AM 13 induced standpoint."

08:57AM 14 "When the rig does receive maintenance time, that
08:58AM 15 time is generally taken up by repairing the equipment that was
08:58AM 16 broke."

08:58AM 17 "Once again, limping along with equipment
08:58AM 18 failures."

08:58AM 19 He goes on, "There is just too much equipment in
08:58AM 20 need of repairs or maintenance performed and not enough
08:58AM 21 personnel or time to do it" -- "to throw at it."

08:58AM 22 "The rig has an overloaded amount of work that
08:58AM 23 could not be completed even by doubling the amount of workers
08:58AM 24 on the rig."

08:58AM 25 "The engineering department has been going down

08:58AM 1 for some time now due to lack of knowledge, motivation and
08:58AM 2 supervision."

08:58AM 3 Yet, Transocean said it was safe to start up
08:58AM 4 operations in the fall of 2009.

08:58AM 5 Transocean's condition-based maintenance system
08:58AM 6 had been audited on multiple occasions and found to be
08:58AM 7 seriously deficient, yet Transocean never corrected the
08:59AM 8 deficiencies, at least not many of the substantial ones.

08:59AM 9 The evidence will show one significant casualty
08:59AM 10 of its broken maintenance system was the blowout preventer.
08:59AM 11 Inspections following the disaster found that it had multiple
08:59AM 12 deficiencies which contributed to the blowout preventer not
08:59AM 13 properly functioning on the day of the explosion and in the
08:59AM 14 days that followed. Both Transocean and BP knew of many of
08:59AM 15 these deficiencies before April 20 and did not act on them.

08:59AM 16 The *Deepwater Horizon* BOP was not the best
08:59AM 17 available and safest technology. Transocean, BP, and Cameron
08:59AM 18 knew this.

08:59AM 19 In fact, the BOP was out of certification.
08:59AM 20 Inspections in 2008, '9 and spring of 2010 clearly made
08:59AM 21 Transocean and BP aware of this.

08:59AM 22 Transocean willfully continued to lease the
09:00AM 23 *Deepwater Horizon*, making over a half million dollars a day,
09:00AM 24 instead of bringing the vessel into a shipyard for repairs of
09:00AM 25 the BOP and other critical equipment.

09:00AM 1 No one disputes that the blowout preventer was
09:00AM 2 ship's equipment on the *Deepwater Horizon* essential to fulfill
09:00AM 3 its mission, and that Transocean had a responsibility to have
09:00AM 4 it working properly at all times in order to maintain a
09:00AM 5 seaworthy vessel. It did not.

09:00AM 6 By the way, BP knew about the design and
09:00AM 7 maintenance problems of the *Deepwater Horizon*, and especially
09:00AM 8 the BOP. BP knew all of this and still, in late 2009,
09:00AM 9 chartered the *Deepwater Horizon* to finish the Macondo well.

09:00AM 10 Every time BP chartered the *Deepwater Horizon* to
09:00AM 11 drill a well, the evidence will show BP had the primary duty to
09:00AM 12 determine whether that vessel was adequate to drill that well,
09:01AM 13 including the adequacy of the operational -- or, rather, the
09:01AM 14 operational requirements of the BOP for a particular well,
09:01AM 15 pressure, temperature, the competence of the crews and
09:01AM 16 management systems such as safety management.

09:01AM 17 BP alone knew what unique risks awaited in terms
09:01AM 18 of pore pressures, fracture gradients and temperatures.

09:01AM 19 The evidence will show that a longstanding failed
09:01AM 20 safety culture at Transocean was a substantial cause of this
09:01AM 21 disaster.

09:01AM 22 Following four fatalities of four different
09:01AM 23 Transocean rigs, on October 21 of 2009, Transocean's top
09:01AM 24 executives, CEO Steve Newman and Bob Long, sent a news bulletin
09:01AM 25 out to employees of Transocean. This is what they said, among

09:01AM 1 other things: "Something's not right. We're clearly not
09:01AM 2 executing our safety processes as well as we once thought --
09:02AM 3 and we need to find out why."

09:02AM 4 "It is vital that we learn from these recent
09:02AM 5 experiences so that no one else is injured or killed."

09:02AM 6 "We must learn why we cannot seem to operate
09:02AM 7 without serious incidents and injury to our people."

09:02AM 8 A couple of months later, a December 2009
09:02AM 9 Transocean Engineering PowerPoint put it even more bluntly.
09:02AM 10 "We have lost our safety culture."

09:02AM 11 "There is no quick fix; we have to rebuild it."

09:02AM 12 Transocean's maintenance system had been audited
09:02AM 13 on multiple occasions and found to be woefully deficient. The
09:02AM 14 evidence will show that the maintenance processes and systems
09:02AM 15 within Transocean were by no means the best in the class, yet
09:02AM 16 Transocean never corrected the major deficiencies.

09:03AM 17 Their May 1, 2009 Asset Reliability Project was
09:03AM 18 brutally candid. Personnel at a division level stated that:
09:03AM 19 "We often have such a focus on saving money in the short term
09:03AM 20 that it affects the philosophy of looking after our equipment
09:03AM 21 and following our policies."

09:03AM 22 The lost safety culture of Transocean was clearly
09:03AM 23 not a recent thing. Transocean's Director of the Performance
09:03AM 24 Group summed it up well in 2009, when he recognized the
09:03AM 25 difficulties Transocean had experienced with task planning and

09:03AM 1 risk management in 2004, and observed that the 2009
09:03AM 2 company-wide Offshore Installation Manager's survey on the same
09:03AM 3 subjects resonated to be many of the same results noted in
09:03AM 4 2005.

09:03AM 5 His conclusion: "The definition of insanity,
09:04AM 6 doing the same things over and over and expecting a different
09:04AM 7 result."

09:04AM 8 In August of 2009, a BP audit of Transocean's
09:04AM 9 Health Safety, Security and Environment management systems was
09:04AM 10 so poor that Transocean was only conditionally approved to work
09:04AM 11 for BP's Gulf of Mexico Strategic Performance Unit.

09:04AM 12 The unfortunate reality is that since the
09:04AM 13 *Deepwater Horizon* was first put into service in 2001, the
09:04AM 14 evidence is going to show it had never, ever been to port for
09:04AM 15 maintenance, repairs, refitting. Not one single time; nine
09:04AM 16 years.

09:04AM 17 Transocean's safety culture was broken, and the
09:04AM 18 evidence will show that management's willful refusal to fix it
09:04AM 19 led directly to the *Deepwater Horizon* disaster.

09:04AM 20 The *Deepwater Horizon* kept drilling, and BP kept
09:05AM 21 hiring.

09:05AM 22 Now, let's turn to Cameron and its blowout
09:05AM 23 preventer.

09:05AM 24 In 2007, Melvin Whitby, as Cameron's Director of
09:05AM 25 Engineering, drilling, said: "In all cases, however, when the

09:05AM 1 BOP is called on to function in an emergency situation, it is
09:05AM 2 the main barrier protecting human life, capital equipment and
09:05AM 3 the environment. Therefore, it must function without fail."

09:05AM 4 The evidence will show this blowout preventer
09:05AM 5 failed partly due to the serious neglect of Transocean with
09:05AM 6 knowledge of BP, but also due to willful decisions of Cameron.

09:05AM 7 Cameron will blame the men on the drill floor who
09:05AM 8 died for not trying close the BOP shear rams fast enough
09:05AM 9 because they will say the blowout preventer rams were not
09:06AM 10 designed to close after the flow begins to go up into the
09:06AM 11 riser.

09:06AM 12 Well, in any of the BOP materials of Cameron,
09:06AM 13 that admonition is not given.

09:06AM 14 The evidence will show that BP, Transocean and
09:06AM 15 Halliburton personnel clearly missed the fact that a blowout
09:06AM 16 was beginning, but the evidence will also show that Transocean
09:06AM 17 personnel ultimately did try to use the blowout preventer
09:06AM 18 shear rams -- to no avail in either saving their lives or
09:06AM 19 stopping millions of gallons of oil from entering the Gulf.

09:06AM 20 The BOP, in other words, did not function without
09:06AM 21 fail as Cameron's Director of Engineering said it must.

09:06AM 22 There are four primary problems with Cameron's
09:06AM 23 BOP other than Transocean's neglect of it.

09:07AM 24 First, the blind shear ram cutting blades did not
09:07AM 25 cover the entire wellbore. Cameron knew that its BOP would

09:07AM 1 likely not be able to shear and seal drill pipe if it was off
09:07AM 2 center in the wellbore, a common occurrence and completely
09:07AM 3 foreseeable situation.

09:07AM 4 The evidence will show Cameron had no idea
09:07AM 5 whether the blind shear rams it sold would seal under dynamic
09:07AM 6 flow conditions, yet Cameron sold it as a preventer.

09:07AM 7 Cameron did not know and never even tried to find
09:07AM 8 out whether its blowout preventer blind shear rams would
09:07AM 9 successfully shear pipe and fully seal a well against -- and
09:07AM 10 this is the key phrase, Your Honor -- against a high pressure
09:07AM 11 dynamic flow plus an off center pipe, neither one, even though
09:07AM 12 both were known foreseeable environment conditions the BOP
09:08AM 13 could be called upon to function in.

09:08AM 14 The third problem, Cameron knew rig personnel
09:08AM 15 could not monitor the batteries to see if they were charged or
09:08AM 16 dead.

09:08AM 17 Cameron's signal light system was powered from
09:08AM 18 the surface, 5000 feet above it. That's the power that ran the
09:08AM 19 controls that indicated to the operators on the drill floor
09:08AM 20 that the automatic emergency BOP functions were armed and
09:08AM 21 therefore available; but, if that power was on all the time, it
09:08AM 22 wouldn't tell whether or not the batteries were dead, and it
09:08AM 23 couldn't function.

09:08AM 24 In other words, the driller could be getting a
09:08AM 25 green, everything is okay light, and yet his batteries be

09:08AM 1 totally dead, that he's showing it's armed.

09:08AM 2 The result on April 20 was the battery in the
09:08AM 3 Blue Pod was dead, and nobody knew it was dead.

09:09AM 4 The fourth issue, the multiple BOP emergency
09:09AM 5 systems were not separate emergency systems because all of them
09:09AM 6 would fail if a single component, the blind shear rams, failed.

09:09AM 7 Cameron knew of this single point failure hazard,
09:09AM 8 yet willfully chose to ignore it in design and instructions.

09:09AM 9 Now, in fairness, Transocean requested that
09:09AM 10 design, and Cameron cooperated. Whether they should or
09:09AM 11 shouldn't have is going to be up to Your Honor.

09:09AM 12 Now, what about Halliburton's conduct?

09:09AM 13 As the self-described world leader in cementing
09:09AM 14 services, what were Halliburton's obligations?

09:09AM 15 The evidence will show that Halliburton was
09:09AM 16 contractually responsible to BP for the design, testing, and
09:09AM 17 execution of cementing the production casing, and to provide
09:10AM 18 mud pit monitoring through its Sperry division for signs of a
09:10AM 19 kick or blowout.

09:10AM 20 Halliburton recommended the type of cement to be
09:10AM 21 used for each casing string and the volumes and spacers to be
09:10AM 22 used.

09:10AM 23 BP did not tell Halliburton which cement to use.

09:10AM 24 Halliburton's contractual obligations included
09:10AM 25 sole responsibility for pressure testing and pumping the cement

09:10AM 1 as well as a safety leadership role. The contract between BP
09:10AM 2 and Halliburton required Halliburton to create a lightweight
09:10AM 3 slurry mixture with very specific characteristics.

09:10AM 4 Halliburton was required to provide BP and
09:10AM 5 Halliburton management the final cement slurry details at least
09:10AM 6 24 hours prior to BP running the production casing. It did
09:10AM 7 not.

09:10AM 8 Indeed, Halliburton's Jesse Gagliano never even
09:11AM 9 checked the cement test results before the blowout, despite
09:11AM 10 being notified they were ready the day before.

09:11AM 11 The evidence will show that the gas flowed
09:11AM 12 prematurely at Macondo due to a failure of the Halliburton
09:11AM 13 cement.

09:11AM 14 In connection with its obligations to BP,
09:11AM 15 Halliburton assigned cement engineer Jesse Gagliano to be
09:11AM 16 embedded in BP's Houston offices as BP's what will be described
09:11AM 17 as in-house cementing expert.

09:11AM 18 The evidence will show that prior to April 20 of
09:11AM 19 2010, both Halliburton and Gagliano had histories of problems
09:11AM 20 with BP as far as modeling inputs and timeliness were
09:11AM 21 concerned.

09:11AM 22 Indeed, in the weeks leading up to the blowout,
09:11AM 23 BP engineers voiced serious concerns -- questions about his
09:11AM 24 competency as it affected the timeliness and quality of his
09:11AM 25 reports to BP.

09:11AM 1 In fact, BP Drilling Engineer Team Leader Greg
09:12AM 2 Walz believed that the decision had already been made to fire
09:12AM 3 Gagliano from his embedded position with BP in its Houston
09:12AM 4 office.

09:12AM 5 Halliburton compounded the problem by refusing to
09:12AM 6 provide technical supervision of Gagliano, thus leaving the
09:12AM 7 inadequacies of his work undetected.

09:12AM 8 Yet, Mr. Gagliano, in Houston, was virtually the
09:12AM 9 final word on what Halliburton did or did not do regarding the
09:12AM 10 Macondo cement job; yet he had no supervision.

09:12AM 11 In fact, Ronnie Faul, Gagliano's immediate
09:12AM 12 supervisor, did not even know what Mr. Gagliano was doing, much
09:12AM 13 less that there was a critical cementing job about to take
09:12AM 14 place in Macondo.

09:12AM 15 The evidence will show that Halliburton created
09:12AM 16 cement that was poorly designed, not properly tested, and was
09:13AM 17 unstable.

09:13AM 18 Cement in a well like Macondo should have
09:13AM 19 provided a barrier to hydrocarbon flow that was high pressure,
09:13AM 20 high temperature. Halliburton did not provide that barrier.

09:13AM 21 The cement used at Macondo was a foam cement
09:13AM 22 which is known to present risks and potential complications not
09:13AM 23 found with conventional cement, thus requiring additional
09:13AM 24 expertise and care.

09:13AM 25 The evidence will show that every investigation

09:13AM 1 which has considered the question, except Halliburton's, and
09:13AM 2 every expert, except Halliburton's, who has opined about it,
09:13AM 3 has concluded that the Halliburton cement was poorly designed
09:13AM 4 and did not seal the well.

09:13AM 5 In designing the cement for Macondo, Halliburton
09:13AM 6 used the cement from another well, Judge, the Kodiak well.
09:13AM 7 That blend had been on the *Deepwater Horizon* since November of
09:14AM 8 2009, and had aged at least five months since the
09:14AM 9 *Deepwater Horizon* had left the Kodiak and come and been working
09:14AM 10 on the Macondo.

09:14AM 11 More significantly, Kodiak cement contained a
09:14AM 12 Halliburton proprietary additive called D-Air 3000, a defoamer,
09:14AM 13 emphasis, defoamer that destabilizes and is incompatible with
09:14AM 14 foam cement.

09:14AM 15 Halliburton's own expert, David Bolado, in fact,
09:14AM 16 will admit that the slurry Halliburton used at Macondo would
09:14AM 17 not have included a defoamer agent, as the Kodiak did, if
09:14AM 18 Halliburton had designed the cement from scratch.

09:14AM 19 So why would Halliburton risk using this leftover
09:14AM 20 Kodiak cement on Macondo well and try to convert it to a foam
09:15AM 21 cement when it had defoamer in it? The evidence will show
09:15AM 22 Halliburton was able to save time and save money by doing so.

09:15AM 23 BP was not charged for extra testing, regardless
09:15AM 24 of the amount of testing.

09:15AM 25 Halliburton also had already given BP about

09:15AM 1 \$100,000, in fact, \$139,000 credit, for that Kodiak cement that
09:15AM 2 went unused at the Kodiak well that was still sitting on the
09:15AM 3 *Deepwater Horizon*, so Halliburton had a monetary incentive to
09:15AM 4 use that stuff, to then charge BP and get paid some of what it
09:15AM 5 already on hand without incurring the cost of shipping new
09:15AM 6 stuff out there, mixing new stuff and so forth, much less
09:15AM 7 hauling off the leftover Kodiak.

09:15AM 8 The evidence will show that Halliburton's
09:15AM 9 employees also admit that Halliburton failed to run many
09:15AM 10 required tests and did not have a single successful stability
09:16AM 11 test on the actual slurry pumped down the Macondo before it was
09:16AM 12 pumped. Their lab was overworked, understaffed and
09:16AM 13 undersupervised.

09:16AM 14 The evidence will also show the testing performed
09:16AM 15 by Halliburton was essentially useless because all those tests
09:16AM 16 failed except one that was manipulated to not mimic Macondo's
09:16AM 17 downhole condition.

09:16AM 18 Halliburton performed fewer than the full suite
09:16AM 19 of tests required by the American Petroleum Institute, BP,
09:16AM 20 Halliburton itself, and the BP-Halliburton contract, and failed
09:16AM 21 to utilize standard testing protocols.

09:16AM 22 In fact, Halliburton's own expert, Dr. Sam Louis,
09:16AM 23 will admit the fluid loss and static gel strength development
09:16AM 24 tests were indeed important for this job, and Halliburton
09:16AM 25 failed to perform either test.

09:17AM 1 The evidence will show Halliburton's Sperry Sun
09:17AM 2 division mudloggers were not adequately trained and missed the
09:17AM 3 kick that blew up the *Deepwater Horizon*.

09:17AM 4 In October of 2009, while the *Marianas* drilling
09:17AM 5 vessel had started on the Macondo, BP told Halliburton that one
09:17AM 6 of its mudloggers was not getting the job done and was not
09:17AM 7 getting the basics right. Halliburton pulled him from the job.

09:17AM 8 Prior to the Macondo, because BP felt
09:17AM 9 Halliburton's Sperry Sun's performance was so poor, the
09:17AM 10 evidence will show BP was considering pulling its business.

09:17AM 11 The March 8, 2010, kick on this well went
09:17AM 12 undetected for 33 minutes by the Halliburton Sperry mudlogger
09:17AM 13 on duty.

09:17AM 14 Following that go kick, Halliburton-Sperry did no
09:18AM 15 lesson learned investigation and did not provide its mudloggers
09:18AM 16 with any additional training.

09:18AM 17 The evidence will show that on April 20 of 2010,
09:18AM 18 the Halliburton Sperry mudlogger ignored signs the well was
09:18AM 19 flowing.

09:18AM 20 The Halliburton Sperry-Sun mudlogger testified
09:18AM 21 that the first time he realized there was a kick was when mud
09:18AM 22 started raining down on the mudlogger's shack.

09:18AM 23 Why? The evidence will show that the Halliburton
09:18AM 24 Sperry mudlogger, Joe Keith, left his mudlogger's monitoring
09:18AM 25 pit unmanned while he took a 30-minute smoke break just as the

09:18AM 1 well began to give clear signs that it was flowing, signs he
09:18AM 2 would have seen if he had been paying attention and not
09:18AM 3 recklessly abandoned his post.

09:18AM 4 Halliburton had a contractual obligation under
09:19AM 5 its 2009 contract with BP to provide, in connection with its
09:19AM 6 cement work, a complete safety analysis in writing called a
09:19AM 7 Basis of Design.

09:19AM 8 The April 2009 BP/Halliburton contract required
09:19AM 9 Halliburton to, among other things, continuously, emphasis,
09:19AM 10 continuously reassess and update these risk assessments on an
09:19AM 11 ongoing basis. They didn't do it.

09:19AM 12 When David King, Halliburton's Division
09:19AM 13 President, signed that contract on April 16 of 2009, the
09:19AM 14 evidence will show that Halliburton knew it had no way of
09:19AM 15 complying with this contract provision because no such process
09:19AM 16 safety system was in place that would have been required to
09:19AM 17 fulfill this ongoing contractual requirement.

09:19AM 18 The evidence will show that between April of 2009
09:19AM 19 and April 20 of 2010, Halliburton did not have a formal Basis
09:20AM 20 of Design standard, nor did it have a formal Management of
09:20AM 21 Change standard, both of which are essential to timely
09:20AM 22 identification of process safety risk effectively required to
09:20AM 23 be recognized on an ongoing basis under the contract.

09:20AM 24 The evidence will establish that at the time of
09:20AM 25 the Macondo well blowout, Halliburton had failed to comply with

09:20AM 1 this express contractual requirement to have in place and
09:20AM 2 provide complete continuing process risk analysis to BP.

09:20AM 3 The evidence will show that if Halliburton had
09:20AM 4 updated the Basis of Design as required by its contract, it
09:20AM 5 would, of necessity, have identified the catastrophic risk of
09:20AM 6 using Kodiak blend.

09:21AM 7 Let's now turn our attention to BP.

09:21AM 8 Financial pressure drove BP to rush the
09:21AM 9 completion of the Macondo well.

09:21AM 10 Because BP's production was down in 2010, BP did
09:21AM 11 not have the cash to fund its commitment to pay dividends to
09:21AM 12 its shareholders. The evidence will show BP calculated
09:21AM 13 Exploration and Production Division portion of the amount
09:21AM 14 needed to pay the dividend to be about \$7 billion.

09:21AM 15 In order to raise this \$7 billion and meet its 4
09:21AM 16 to 5 percent profit growth commitment to shareholders, BP
09:21AM 17 Exploration and Production was under pressure to raise these
09:21AM 18 dollars by driving efficiency in a year where production was
09:21AM 19 lower.

09:21AM 20 It chose to do so by spending fewer days in the
09:21AM 21 drilling of its wells.

09:22AM 22 According to BP, without major project startups,
09:22AM 23 2010 was expected to be "a year where every barrel counts and
09:22AM 24 every dollars counts."

09:22AM 25 Macondo was more than \$50 million over budget and

09:22AM 1 behind schedule. The *Deepwater Horizon* was committed to drill
09:22AM 2 two more wells for BP within a short time, and it had to get
09:22AM 3 one right away started or BP risked losing an expensive Gulf
09:22AM 4 lease.

09:22AM 5 The evidence will show BP executive management
09:22AM 6 placed huge financial pressure on BP rig management to cut
09:22AM 7 costs by cutting corners and to rush the job.

09:22AM 8 The Macondo well bottom was under 5000 feet of
09:22AM 9 water and then another about 13,000 feet of earth below that,
09:23AM 10 total of around 18,000 feet, in a formation known to BP for
09:23AM 11 being high pressure, high temperature, and, most importantly,
09:23AM 12 an unstable, no-salt formation.

09:23AM 13 As Jonathan Bellow, a BP Operations Geologist for
09:23AM 14 Deepwater Exploration at BP, confirms, wells without a thick
09:23AM 15 sequence of salt require more casing for a given depth than
09:23AM 16 those that do penetrate salt.

09:23AM 17 The drilling window between the pore pressure and
09:23AM 18 the frac gradient is generally narrower in no-salt wells which
09:23AM 19 requires more casing.

09:23AM 20 BP had drilled wells with no salt previously
09:23AM 21 before Macondo, but, as he says, "it had just been a few
09:24AM 22 wells."

09:24AM 23 So, with the rush of financial urgency combined
09:24AM 24 with BP concerns about the Macondo well situation, how did BP
09:24AM 25 proceed with its Macondo well?

09:24AM 1 Petroleum engineering expert David Pritchard
09:24AM 2 says: "BP repeatedly chose speed over safety."

09:24AM 3 When asked for feedback following the March 8th
09:24AM 4 Macondo kick, BP Tiger Team member Kate Paine says: "I'm not
09:24AM 5 sure it was a lack of communication nor awareness as much as a
09:24AM 6 'we can get away with this' attitude."

09:24AM 7 Dr. Allen Huffman, a geophysicist, will testify
09:24AM 8 that BP failed to disclose information to MMS that it was
09:25AM 9 required to disclose on an ongoing basis. The evidence will
09:25AM 10 show that on multiple occasions BP falsely reported its
09:25AM 11 fracture gradients and pressure integrity test results to the
09:25AM 12 MMS by drilling ahead without a safe drilling margin and
09:25AM 13 without seeking prior MMS approval.

09:25AM 14 Macondo was described variously by BP personnel
09:25AM 15 as the "well from hell," a "nightmare" well, and a "crazy"
09:25AM 16 well. In the months preceding the disaster, there were four
09:25AM 17 kicks and ten incidents of lost returns resulting in the loss
09:25AM 18 of 668,000 gallons of mud.

09:25AM 19 The push to complete the "nightmare" well caused
09:25AM 20 so many last-minute changes to the temporary abandonment
09:26AM 21 procedure plan that BP's John Guide told David Sims just
09:26AM 22 three days before the disaster, "David, over the past
09:26AM 23 four days, there has been so many last-minute changes to the
09:26AM 24 operation, that the well site leaders have finally come to
09:26AM 25 their wits' end." The quote is, "Flying by the seat of our

09:26AM 1 pants."

09:26AM 2 "Everybody wants to do the right thing, but this
09:26AM 3 huge level of paranoia from engineering leadership is driving
09:26AM 4 chaos. This operation is not *Thunder Horse*. Brian has called
09:26AM 5 me numerous times trying to make sense of all the insanity."
09:26AM 6 And then later he concludes, "The operation is not going to
09:26AM 7 succeed if we continue in this manner."

09:26AM 8 Now, put that into context, March 29th -- excuse
09:27AM 9 me -- just 22 days before the Macondo disaster Robert Bodek,
09:27AM 10 the BP operations geologist -- March 27th, Robert Bodek, a BP
09:27AM 11 operations geologist told his boss that, "If BP continued to
09:27AM 12 total depth on Macondo, it will all be in God's hands."

09:27AM 13 Two days later, just 22 days before the Macondo
09:27AM 14 disaster, Bodek again told his boss that, "If they really
09:27AM 15 believe that the poor pressure can be as high as projected, we
09:27AM 16 need to start having some serious discussions about pulling the
09:27AM 17 plug early."

09:28AM 18 The evidence will show that during BP's rush to
09:28AM 19 temporarily abandon this well, BP made a series of decisions to
09:28AM 20 save time and money but substantially increased risk and
09:28AM 21 reduced safety. Here are some examples:

09:28AM 22 BP used a long string casing rather than a liner
09:28AM 23 with a tieback, which it was originally designed to be until
09:28AM 24 about a month before the disaster, to save time and at least
09:28AM 25 seven to \$10 million and seven to ten days in time.

09:28AM 1 BP failed to perform a bottoms up circulation
09:28AM 2 test prior to allowing Halliburton to pump its cement.

09:28AM 3 Third, BP refused to use the recommended and
09:28AM 4 originally planned -- and originally planned 21 centralizers,
09:28AM 5 ended up using many less.

09:28AM 6 BP failed to wait for the completion of the foam
09:29AM 7 stability test before pouring -- or allowing to pour the
09:29AM 8 cement.

09:29AM 9 Fifth, BP began its positive pressure test just
09:29AM 10 12 hours after the cementing operation and refused to wait for
09:29AM 11 the cement to fully cure.

09:29AM 12 Six, BP displaced the riser before setting a real
09:29AM 13 barrier, the cement plug.

09:29AM 14 Seventh, BP displaced the riser over 3,000 feet
09:29AM 15 below the surface.

09:29AM 16 BP used a untried experimental spacer from
09:29AM 17 leftover lost circulation materials.

09:29AM 18 BP ran the safety critical negative pressure test
09:29AM 19 without a written procedure and with personnel who had never
09:29AM 20 been given formal training in how to perform the test.

09:29AM 21 Tenth, BP refused to run a cement bond log to
09:30AM 22 confirm the success or failure of the cement job despite the
09:30AM 23 presence of a Schlumberger crew they had on the rig ready to
09:30AM 24 run it. Once again, BP did this to save time and money.

09:30AM 25 Finally, BP conducted simultaneous operations

09:30AM 1 during the displacement without doing the required risk
09:30AM 2 assessment, which significantly impaired the ability to
09:30AM 3 recognize that a kick, a serious kick was happening.

09:30AM 4 The evidence will show the actions of BP
09:30AM 5 executive management were a substantial cause of the disaster.
09:30AM 6 BP will place great reliance on its Bly Report to try to
09:30AM 7 diminish its culpability. Yet the evidence will show that the
09:30AM 8 Bly Report was not as thorough as represented by BP to be.

09:30AM 9 BP's CEO Tony Hayward claimed BP conducted an
09:31AM 10 open, complete and transparent investigation that would cover
09:31AM 11 everything. Rather, contrary to BP's standard protocol for
09:31AM 12 investigating serious accidents, and certainly no one will
09:31AM 13 contest that this wasn't a serious accident, BP's investigation
09:31AM 14 of the Macondo disaster, the Bly Report failed to investigate
09:31AM 15 systemic management causes.

09:31AM 16 The evidence will show BP's executive management
09:31AM 17 directly controlled BP's Worldwide Risk Management and
09:31AM 18 encouraged a culture which placed profit and production over
09:31AM 19 safety and protection.

09:31AM 20 Process safety and risk engineering expert
09:31AM 21 Professor Bob Bea will make it clear, starting tomorrow when he
09:31AM 22 takes the stand, that effective process safety only happens if
09:31AM 23 a company creates a safety culture that reflects the
09:31AM 24 seriousness with which that company attempts to manage risks.

09:32AM 25 Effective process safety is reflected by what a

09:32AM 1 company actually does, not what it says. It's also reflected
09:32AM 2 by its commitment to learn lessons from past events. That
09:32AM 3 commitment is critical, because in the words of Dr. Bea, "It
09:32AM 4 has a major effect on how the company balances between
09:32AM 5 production and protection."

09:32AM 6 Dr. Bea will explain how BP knew from previous
09:32AM 7 disasters to place relatively high emphasis on short-term
09:32AM 8 benefits of cost and speed could cause major loss of life and
09:32AM 9 property. And that cost cutting, failure to invest, and
09:32AM 10 production pressures from BP executive managers, impairs
09:32AM 11 process safety performance.

09:32AM 12 Nonetheless, the evidence will show that in 2010
09:32AM 13 for Macondo, BP was still putting production over protection,
09:33AM 14 profits over safety.

09:33AM 15 In 2007, BP's CEO Tony Hayward acknowledged that
09:33AM 16 he had two years to turn the company's financial performance
09:33AM 17 around. The evidence will show BP's executive management
09:33AM 18 issued directives to cut billions and billions of dollars from
09:33AM 19 the costs of BP operations.

09:33AM 20 From 2008 to 2009, BP management slashed costs by
09:33AM 21 \$4 billion, with plans for another 1.4 billion in 2010. This
09:33AM 22 resulted in massive layoffs, 20 percent of BP's entire
09:33AM 23 worldwide force.

09:33AM 24 Former BP vice-president of drilling and
09:33AM 25 completions Kevin Lacy, will describe for the Gulf of Mexico

operating unit, incredibly pressured with respect to cost production during 2008 and 2009.

Beginning in 2008, Lacy received directives from BP's senior vice-president global projects, Neil Shaw, and CEO of BP Exploration and Production, Andy Inglis, to cut the costs.

One of Shaw's first decisions was to eliminate the safety and technical director, 290 BP personnel, 93 contractors. After eliminating the safety and technical director, there was no one person in the Gulf of Mexico unit whose sole job was administer or oversee process safety.

In 2009, BP cut between 250 and 350 million from the Gulf of Mexico Drilling & Completion organization with further cost cutting directed for 2010. Many key safety personnel lost their jobs -- or rather, saw their jobs eliminated.

Cost cutting was further incentivized but did not include incentives for effective measurable process safety. BP's safety culture will be shown by the evidence, according to BP's Kate Payne, to be a "we can get away with this" attitude. According to Dr. Bea, a culture of entrepreneurial risk taking and a culture of production over protection.

Even Halliburton process safety expert Patrick Hudson will testify that BP was a highly risk tolerant culture and an opportunistic and speed-driven culture and a

09:35AM 1 culture of being loss averse rather than risk averse.

09:35AM 2 In other words, the evidence will show that BP
09:35AM 3 management incentivized a culture of cost cutting, profits over
09:36AM 4 safety, and taking high risk with a conscious disregard for
09:36AM 5 dire potential risks.

09:36AM 6 The evidence will show BP executive management
09:36AM 7 intentionally refused to change its past behavior and instead
09:36AM 8 willfully exclude its process safety requirements, its OMS
09:36AM 9 program, from leased vessels like the *Deepwater Horizon*.

09:36AM 10 At BP's invitation -- let's give some context to
09:36AM 11 this. At BP's own invitation, renowned process safety and risk
09:36AM 12 engineering expert, Dr. Bob Bea himself, was retained directly
09:36AM 13 and advised BP on three separate occasions, in 2001, 2002, and
09:36AM 14 2005, what it was doing wrong with process safety and what
09:36AM 15 needed to be done to correct it. Dr. Bea will explain how BP
09:37AM 16 did not listen and how that was a substantial cause of the
09:37AM 17 Macondo disaster.

09:37AM 18 Dr. Bea will also explain how the organizational
09:37AM 19 and systemic causes of previous disasters, major accidents, are
09:37AM 20 virtually identical to the systemic and organizational causes
09:37AM 21 of the Macondo blowout.

09:37AM 22 BP's then head of safety, John Mogford, predicted
09:37AM 23 in 2006, that if BP did not improve its process safety, it was
09:37AM 24 going to have another disaster every 10 to 15 years. In fact,
09:37AM 25 it only took four.

09:37AM 1 Long before the *Deepwater Horizon* disaster, BP
09:37AM 2 was aware of specific recommendations of how it could fix its
09:37AM 3 process safety problem in order to avoid future disasters.

09:37AM 4 In an effort to improve its process safety, BP
09:38AM 5 executive management in London implemented the operations
09:38AM 6 management system, or OMS, which was indeed a comprehensive
09:38AM 7 management system that integrates and improves existing
09:38AM 8 management systems and provides the framework to achieve safe
09:38AM 9 and reliable operations across its worldwide operations.

09:38AM 10 But the evidence will show that in willfully
09:38AM 11 failing to extend its OMS program to its leased drilling
09:38AM 12 vessels, like the *Deepwater Horizon*, BP failed to keep the
09:38AM 13 following factors present in previous disasters from playing a
09:38AM 14 role in Macondo: Ignoring process safety risks, failing to
09:38AM 15 perform effective audits, engaging in mindless, pointless and
09:38AM 16 counterproductive organizational restructuring, and failing to
09:38AM 17 maintain safety critical equipment.

09:38AM 18 Prior to the Macondo disaster, BP executive
09:39AM 19 management promised to change, to learn lessons. The evidence
09:39AM 20 will show that for BP's leased vessels in the Gulf of Mexico,
09:39AM 21 like the *Deepwater Horizon*, BP's culture regarding safety
09:39AM 22 remained the same.

09:39AM 23 The evidence will show that when BP's Gulf of
09:39AM 24 Mexico drilling engineering manager, Jonathan Sprague, in fact,
09:39AM 25 received an e-mail from a lower level BP employee regarding

09:39AM 1 process safety, lessons learned, he passed it off as clutter.

09:39AM 2 In late 2009, BP conducted a rig safety audit of
09:39AM 3 the *Deepwater Horizon* and discovered an astounding 390
09:39AM 4 outstanding maintenance issues requiring 3,545 man-hours to
09:39AM 5 repair, some of which had been outstanding since another 2008
09:40AM 6 audit by BP.

09:40AM 7 But the evidence will show that BP kept
09:40AM 8 chartering and using the *Deepwater Horizon* year in and year out
09:40AM 9 despite actual knowledge of many problems with the vessel,
09:40AM 10 keeping it at sea, driving it hard, when BP knew it should have
09:40AM 11 been taken to a shipyard for repairs.

09:40AM 12 BP Tiger Team member Kate Payne, who being
09:40AM 13 requested to participate in a "lessons learned" inquiry in a
09:40AM 14 March 8th kick, 2010, said, "I don't think this is going to be
09:40AM 15 a lesson learned. I'm sorry to push back on the lessoned
09:40AM 16 learned. I know you've got to get something out there to make
09:40AM 17 it look like we won't do this again. I don't see us really
09:40AM 18 learning."

09:40AM 19 Commenting on apartments, *Deepwater Horizon*
09:40AM 20 repair cost concerns, in September 2009, BP Houston operations
09:41AM 21 engineer, Brett Cocalles responded internally, "Don't worry
09:41AM 22 about this small stuff. We're not going to tear anything else
09:41AM 23 apart unless absolutely necessary and we are ready to kick some
09:41AM 24 serious ass. Don't worry, be happy."

09:41AM 25 BP Drilling Engineer, Nicholas Lirette replied

09:41AM 1 saying, prophetically, "This rig is not in appropriate
09:41AM 2 condition to start a well." But of course, it did.

09:41AM 3 Just five days before the blowout, BP Houston
09:41AM 4 engineer, Brett Cocalles, sent 15 extra centralizers to the
09:41AM 5 *Deepwater Horizon* in addition to the six already on board. And
09:41AM 6 the extra centralizers were intended to reduce cement
09:41AM 7 channeling and thus reduce the risk of a blowout.

09:41AM 8 The next day BP's John Guide's boss demanded that
09:42AM 9 the extra centralizers not be used. Why? The evidence will
09:42AM 10 show to save time and money for BP.

09:42AM 11 Cocalles succumbed to Guide's demand and e-mailed
09:42AM 12 another BP Houston engineer, "But who cares, it's done. End of
09:42AM 13 story. We'll probably be fine."

09:42AM 14 Dr. Bea will explain how the failure of BP to
09:42AM 15 implement OMS on its riskiest enterprise, deepwater drilling in
09:42AM 16 the Gulf of Mexico, played a substantial role in the disaster
09:42AM 17 at Macondo.

09:42AM 18 Whatever benefit the system might have brought
09:42AM 19 was lost. At the time of the blowout there was no individual
09:42AM 20 in charge of process safety of the Macondo well.

09:42AM 21 THE COURT: Mr. Roy, you need to bring it to a close.
09:43AM 22 Your time is about up.

09:43AM 23 MR. ROY: I have one-and-a-half pages, Your Honor.

09:43AM 24 THE COURT: Go ahead.

09:43AM 25 MR. ROY: Dr. Bea will explain that the Macondo

09:43AM 1 Drilling Team was blind to major process safety risks because
09:43AM 2 of the lack of OMS.

09:43AM 3 Ironically, BP board member Sir William Castell
09:43AM 4 denies knowing the high risk of drilling in the Gulf of Mexico
09:43AM 5 prior to the Macondo disaster. But he testifies, "If I had
09:43AM 6 known the risk in the Gulf of Mexico, we would have never
09:43AM 7 drilled that well in the Gulf of Mexico."

09:43AM 8 Kevin Lacy, the former vice-president of Drilling
09:43AM 9 & Completions summed up the Macondo disaster best when he said,
09:43AM 10 "It was entirely preventable."

09:43AM 11 In conclusion, Your Honor, we respectfully
09:44AM 12 suggest that the evidence will prove the *Deepwater Horizon* was
09:44AM 13 unseaworthy on April 20th of 2010, and had been for many
09:44AM 14 months, if not years, before. And Transocean and BP both knew
09:44AM 15 it.

09:44AM 16 It will also prove the negligence -- the evidence
09:44AM 17 will also prove the negligence of BP, Transocean, Halliburton
09:44AM 18 and Cameron.

09:44AM 19 And finally, the evidence will prove the
09:44AM 20 defendants' gross negligence and willful and reckless conduct.

09:44AM 21 The limitation should be denied. The evidence in
09:44AM 22 this trial will demonstrate to Your Honor why this tragedy
09:44AM 23 occurred and who is responsible.

09:44AM 24 Thank you.

09:44AM 25 THE COURT: All right. I was planning on taking a

09:44AM 1 break after the United States' presentation, but we are going
09:44AM 2 to do it right now because we have a technical problem, I
09:44AM 3 understand.

09:44AM 4 They still have that going on, Stephanie?

09:44AM 5 THE DEPUTY CLERK: Yes, sir.

09:44AM 6 THE COURT: In one of the overflow courtrooms, there is
09:44AM 7 a problem with the sound, and someone needs to come here and
09:45AM 8 fix something.

09:45AM 9 So we're going to take about a 15-minute recess
09:45AM 10 right now.

09:45AM 11 THE DEPUTY CLERK: All rise.

09:45AM 12 (WHEREUPON, at 9:45 a.m. the Court took a recess.)

10:03AM 13 THE COURT: All right. I think they tell me we have
10:03AM 14 our technical problem in one of the other courtrooms repaired,
10:03AM 15 so we're ready to proceed.

10:03AM 16 Mr. Underhill.

10:03AM 17 OPENING STATEMENTS

10:03AM 18 BY MR. UNDERHILL:

10:03AM 19 Thank you, Your Honor. Good morning.

10:03AM 20 Your Honor, before I start, my good friend,
10:03AM 21 Mr. Roy, asked me to say that he made a mistake that he would
10:03AM 22 like me to correct, and I certainly agree to do that.

10:03AM 23 He indicated that Mr. Keith, the Sperry-Sun
10:03AM 24 mudlogger took a 30-minute smoke break or whatever kind of
10:03AM 25 break, and Mr. Roy indicated it should have been 10 minutes.

10:03AM 1 He didn't want to mislead the Court or any of the parties.

10:03AM 2 So is that good, Jim? Thank you.

10:03AM 3 THE COURT: Okay.

10:03AM 4 MR. UNDERHILL: Your Honor, good morning.

10:03AM 5 This was the *Deepwater Horizon* on April 22, two
10:03AM 6 days after the Macondo well blew out. The job of the parties
10:03AM 7 in this courtroom today, myself, my colleagues from both the
10:04AM 8 plaintiff and defense side, is to try to give the evidence to
10:04AM 9 the Court so you can decide how this tragedy happened, why it
10:04AM 10 happened, and who caused it to happen.

10:04AM 11 The evidence in this trial will show that,
10:04AM 12 despite BP's attempts to shift blame to other parties in this
10:04AM 13 lawsuit, by far and away, the primary fault for this disaster
10:04AM 14 lies with BP.

10:04AM 15 BP was the owner of the Macondo well. It
10:04AM 16 designed the Macondo well. It was the operator of the
10:04AM 17 Macondo well.

10:04AM 18 The evidence will show that critical decisions
10:04AM 19 that caused the blowout and disaster up on that screen,
10:04AM 20 decisions about narrow and dangerous drilling margins, about
10:04AM 21 cement design and placement, the all critical negative pressure
10:04AM 22 test you'll hear a great deal about in this case, about well
10:05AM 23 monitoring and well control, about the BOP, those decisions,
10:05AM 24 Your Honor, were made by BP.

10:05AM 25 We will show that a long series of missteps and

10:05AM 1 reckless decisions made by BP taken together demonstrate
10:05AM 2 willful misconduct.

10:05AM 3 THE COURT: Stop, I'm sorry, one second. Did something
10:05AM 4 happen to the sound? I can still hear you, but I'm not sure
10:05AM 5 everyone else can. Excuse me.

10:05AM 6 Is your Lavalier mic not working? Is that what
10:05AM 7 it is? Is that not working?

10:05AM 8 MR. GODWIN: It's your battery.

10:05AM 9 MR. UNDERHILL: There might be another one right there
10:05AM 10 next to you. There is a backup.

10:05AM 11 THE COURT: See if the other one works.

10:05AM 12 MR. UNDERHILL: Certainly, Your Honor.

10:05AM 13 THE COURT: Isn't technology wonderful, as long as it
10:05AM 14 works.

10:06AM 15 That sounds like it's working.

10:06AM 16 MR. UNDERHILL: How are we doing?

10:06AM 17 THE COURT: That's better.

10:06AM 18 MR. UNDERHILL: Thank you very much, Your Honor.

10:06AM 19 THE COURT: Thank you.

10:06AM 20 MR. UNDERHILL: We will show that a long series of
10:06AM 21 missteps and reckless decisions by BP taken together
10:06AM 22 demonstrate willful misconduct. We will show that individual
10:06AM 23 decisions made by BP standing alone constitute gross
10:07AM 24 negligence.

10:07AM 25 Especially among those individual decisions was

10:07AM 1 the incomprehensible decision to declare the negative pressure
10:07AM 2 test a success only two hours before the first of the
10:07AM 3 explosions that wracked the rig.

10:07AM 4 The evidence will show that at 8:52 p.m., on
10:07AM 5 April 20, less than an hour before oil and gas exploded in a
10:07AM 6 fireball aboard that rig that was up on the screen a moment
10:07AM 7 ago, BP Senior Drilling Engineer in Houston, Mark Hafle, and
10:07AM 8 its Senior Well Site Leader on the rig, Don Vidrine, had a
10:07AM 9 telephone conversation. Both men subsequently took the Fifth
10:07AM 10 Amendment in this case.

10:07AM 11 That conversation, we will show, should have
10:07AM 12 prevented the tragedy, the need for any of us to be in this
10:07AM 13 courtroom today and for the next three months.

10:08AM 14 They had a conversation that could have saved
10:08AM 15 eleven lives, saved the Gulf, saved the people of the Gulf from
10:08AM 16 a catastrophe, despite all of the BP failures that had happened
10:08AM 17 before that day on API 20 and in the days before.

10:08AM 18 The evidence will show that when those two men
10:08AM 19 hung up the phone at 9:02 p.m., eleven men, eleven souls, had
10:08AM 20 47 minutes to live the rest of their lives, 47 minutes in which
10:08AM 21 BP failed to take any action that could have prevented that
10:08AM 22 tragedy that's on the screen and our need to be here today.

10:08AM 23 The evidence and testimony will show that with as
10:08AM 24 little as a ten-second phone call from Mr. Vidrine to the
10:08AM 25 toolpusher or the driller, as little as a 30-second walk down

10:08AM 1 to the rig floor to those two men, the toolpusher, the driller,
10:09AM 2 we could have avoided all of this, all of this.

10:09AM 3 The evidence will show, Your Honor, that BP's
10:09AM 4 failure to take that action, that simple action, that act alone
10:09AM 5 constituted willful misconduct.

10:09AM 6 In an opening like this, and with the volume of
10:09AM 7 the record that we have, Your Honor, the best we can do as
10:09AM 8 attorneys is present a snapshot of the evidence to the Court;
10:09AM 9 but, if we're looking for a snapshot that shows how and why BP
10:09AM 10 is the primary cause for this disaster, we point to evidence of
10:09AM 11 a corporate culture of disregard for safety that laid the
10:09AM 12 foundation for all that happened on April 20 on that rig.

10:09AM 13 The evidence will show that BP made John Guide
10:10AM 14 the well team leader for the Macondo well. It will show that
10:10AM 15 the well site leaders, Mr. Vidrine and Mr. Kaluza, reported
10:10AM 16 directly to Mr. Guide in Houston.

10:10AM 17 The evidence will show that the well team leader,
10:10AM 18 Guide, reported to David Sims, his boss at BP headquarters in
10:10AM 19 Houston.

10:10AM 20 It will show that on April 17, 2010, only three
10:10AM 21 days before the blowout, Guide sent Sims an extraordinary
10:10AM 22 document that explains as much as any single piece of evidence
10:10AM 23 in this entire case that Your Honor will hear why eleven men
10:10AM 24 needlessly lost their lives and why this catastrophe of an oil
10:10AM 25 spill began.

10:10AM 1 Mr. Roy mentioned this e-mail. I'll very briefly
10:10AM 2 going through it. On April 17, Guide told Sims that the BP
10:10AM 3 well site leaders had finally come to their wits end, that BP
10:11AM 4 well site leaders were flying by the seat of their pants.

10:11AM 5 Guide described a huge level of paranoia that was
10:11AM 6 driving chaos. He talked about another BP Macondo engineer
10:11AM 7 trying to make sense of all the insanity. In a sentence that
10:11AM 8 within three days became literal prophecy, Guide finished, "the
10:11AM 9 operation is not going to succeed if we continue in this
10:11AM 10 manner."

10:11AM 11 The evidence will show that the same day, Sims,
10:11AM 12 Guide's boss, responded to Guide by telling him that he had to
10:11AM 13 go to dance practice in a few minutes. It will show that Sims
10:11AM 14 told him that the engineer who used the word "insanity" to
10:11AM 15 describe this operation needed to be reminded that, quote, it
10:11AM 16 was a great learning opportunity. It will be over soon. That
10:12AM 17 the same issues or worse exist anywhere else.

10:12AM 18 He finished by telling Guide, I'll be back soon,
10:12AM 19 and we can talk. We are dancing to the Village People.

10:12AM 20 Well, the operation, as we know, Your Honor,
10:12AM 21 didn't succeed. The evidence will show through the sworn
10:12AM 22 testimony of BP's own witnesses that BP should have shut down
10:12AM 23 the Macondo operation at the moment, that moment, when Guide
10:12AM 24 sent the e-mail to Sims.

10:12AM 25 The evidence will show in Sims's own testimony

10:12AM 1 that he didn't shut down the operation either after dance
10:12AM 2 practice or before the well blew out, even in response to words
10:12AM 3 like paranoia, chaos and insanity.

10:12AM 4 In fact, Sims's testimony will show that he
10:12AM 5 refused to give a straight answer in deposition to the simple
10:12AM 6 question of whether he and Guide, the Macondo well team leader,
10:13AM 7 had more responsibility for safety aboard the *Deepwater Horizon*
10:13AM 8 than the rig's cook or its bed maker.

10:13AM 9 But the evidence will show that a BP operation
10:13AM 10 that was, to use their words, flying by the seat of the pants,
10:13AM 11 had far deeper problems, that stopping the operation was not
10:13AM 12 the BP way.

10:13AM 13 The evidence will show that BP put profits before
10:13AM 14 people, profits before safety, and profits before the
10:13AM 15 environment. It will show that the BP way, the way that BP
10:13AM 16 drove its people, was, as Mr. Roy mentioned, time is money, and
10:13AM 17 every dollars counts.

10:13AM 18 The story that will be told by this evidence will
10:13AM 19 be that time is money, and every dollars counts were the
10:13AM 20 bludgeons that sacrificed safety, the weapons that drove people
10:14AM 21 to save money at the cost of people's lives.

10:14AM 22 If we want to grasp this culture of profit over
10:14AM 23 safety and what drove people to use words like "chaos" and
10:14AM 24 "insanity" to describe this high hazard, high risk BP
10:14AM 25 operation, the easiest example is the Macondo well itself.

10:14AM 1 The evidence will show that BP was tens of
10:14AM 2 millions, 50 million according to Mr. Roy, over its budget of
10:14AM 3 one hundred million dollars to drill the Macondo well, and that
10:14AM 4 it was spending nearly a million dollars a day for every day
10:14AM 5 the rig stayed onsite.

10:14AM 6 So a safety corner cut, a day saved was a million
10:14AM 7 dollars saved for BP. 10 days, 10 million. 20 days, 20
10:14AM 8 million.

10:14AM 9 Decisions that any safety minded company would
10:14AM 10 have made during the last days of the rig, such as those
10:14AM 11 dealing with the cement job, with the float collar, with the
10:15AM 12 negative pressure test, with the Guide/Sims e-mail, the
10:15AM 13 evidence will show that those decisions were not made because
10:15AM 14 they would have caused delayed and, most importantly to BP,
10:15AM 15 money.

10:15AM 16 BP's own words: "The evidence that we'll see in
10:15AM 17 this trial make the point about profit over safety better than
10:15AM 18 anyone in this courtroom ever can or ever could."

10:15AM 19 As an example, and I stress this is only an
10:15AM 20 example, one example of the culture that pervaded BP's
10:15AM 21 operation of the Macondo, the evidence will show that Mark
10:15AM 22 Hafle, the same BP engineer in Houston who talked to the rig in
10:15AM 23 its last and final hour, Hafle knew before the disaster, quote,
10:15AM 24 the cement design was on the ragged edge, closed quote -- and
10:15AM 25 pardon the language, Your Honor -- that he knew that, quote, we

10:15AM 1 are going to get a shitty cement job, closed quote. That's
10:16AM 2 Mr. Hafle.

10:16AM 3 The evidence will show that to BP that wasn't an
10:16AM 4 alarm ringing down the halls of BP headquarters, not even
10:16AM 5 close.

10:16AM 6 The evidence will show that doing it right and
10:16AM 7 redoing it with a new cement job could have cost delays worth
10:16AM 8 millions of dollars to BP.

10:16AM 9 Instead, the evidence will show that only days
10:16AM 10 before the blowout and eleven deaths, another BP engineer in
10:16AM 11 Houston, Brett Cocalles -- e-mail is up on the screen -- made
10:16AM 12 the infamous, unforgiveable statement that by the end of this
10:16AM 13 trial will stand as the summation of BP's safety culture at
10:16AM 14 Macondo: "But who cares, it's done, end of story, will
10:16AM 15 probably be fine, and we'll get a good cement job."

10:16AM 16 But it wasn't only millions of dollars that BP
10:16AM 17 was concerned about. The evidence will also show, through the
10:16AM 18 testimony of Dr. Allen Huffman, that BP violated mandatory
10:17AM 19 federal regulations and critical safety practices over the
10:17AM 20 course of drilling the Macondo well, regulations and safety
10:17AM 21 procedures that require operators to maintain what is called a
10:17AM 22 safe drilling margin.

10:17AM 23 Dr. Huffman will explain what drilling margin
10:17AM 24 means in terms of fundamental drilling and safety issues; but
10:17AM 25 what will become apparent through the evidence is that BP

1 drilled and pushed this well beyond safe drilling margin
2 limits, in violation of law, all because it feared that if it
3 told the MMS what it was doing on this well, MMS could shut
4 down the operation, and BP would stand to lose not only the one
5 hundred million or whatever the amount is plus that it had
6 already spent drilling Macondo, but it could loose the
7 potential of billions, that's billions with a B, billions of
8 dollars of profit from the production well they hoped to get.

9 Now, no plaintiff here in this courtroom will
10 ever begrudge BP or anyone from wanting to make a profit.
11 That's not an issue in the case, not even remotely.

12 Instead, what the evidence and the testimony will
13 show is that reckless actions amounting to gross negligence and
14 the willful misconduct were tolerated by BP, sometimes
15 encouraged by BP to squeeze extra profit out of every decision,
16 out of every well, including this well.

17 That repeated multiple times in the operation of
18 this well, and especially in the final days and hours of the
19 *Deepwater Horizon*, the evidence will show that at every fork in
20 the road, BP chose time and money over safety in the operation
21 of what the rig crew called this "well from hell."

22 Witnesses will testify in this courtroom that BP
23 needed to do have the integrity and the responsibility to own
24 up to the ongoing dangers and its own mistakes, just like Hafle
25 and Vidrine needed to do in the last hour of the rig.

10:19AM 1 But it will show that BP, from company men in the
10:19AM 2 well to senior managers ashore, refused to deviate from a
10:19AM 3 course of a corporate culture of recklessness that was
10:19AM 4 chartered in board rooms in Houston and London.

10:19AM 5 As people BP's men continued on that course, the
10:19AM 6 evidence will show that their actions spoke louder than words
10:19AM 7 and demonstrated the same reckless behavior that's shown in the
10:19AM 8 words, "who cares, it's done, probably be fine," written on
10:19AM 9 that screen and the Guide/Sims e-mails and in Hafle's and
10:19AM 10 Vidrine's abdication of responsibility in the last hour.

10:19AM 11 During the course of this trial, Your Honor will
10:20AM 12 find that BP put people in charge of the Macondo well that
10:20AM 13 weren't functionaries. They weren't guys pumping gas and
10:20AM 14 changing oil at the BP corner service station. They headed the
10:20AM 15 BP operation, deepwater drilling of a well like Macondo that
10:20AM 16 had the destructive power to do exactly what we've seen in this
10:20AM 17 case, deaths, injuries, a rig at the bottom of the Gulf of
10:20AM 18 Mexico, economic and environmental devastation, along the swath
10:20AM 19 of Gulf Coast states and communities, and the power to cause an
10:20AM 20 oil spill that even has its own name.

10:20AM 21 But the tragedy of this case, Your Honor, the
10:20AM 22 tragedy of this case, and as the evidence will show, is that
10:20AM 23 the explosions, the death, everything that followed, could be
10:20AM 24 explained as being caused by some of the simple, easiest to
10:20AM 25 understand things imaginable that we'll understand in this

10:20AM 1 court by the end of trial, failures that should not have
10:21AM 2 happened, that with even a simple amount of care should never
10:21AM 3 have happened.

10:21AM 4 At worst, the evidence will show that the amount
10:21AM 5 of money saved to execute so many of the cost cutters, the cost
10:21AM 6 savings, the short cuts, didn't even amount to pocket change in
10:21AM 7 the operation of this magnitude with this many millions of
10:21AM 8 dollars.

10:21AM 9 Now, BP published its internal investigation and
10:21AM 10 put out its story of why this strategy happened. The Bly
10:21AM 11 Report, as Mr. Roy pointed out, that will be Exhibit 1 in this
10:21AM 12 trial. It consists of 190 pages and another 569 pages of
10:21AM 13 appendices.

10:21AM 14 But, Your Honor, if you read every page of that
10:21AM 15 exhibit, all 769 of them, all the footnotes and all the fine
10:21AM 16 print, you won't find a mention, not a whisper, not a hint, of
10:21AM 17 the deeper systemic and corporate management causes, BP culture
10:22AM 18 of corporate recklessness like we see in the Guide/Sims
10:22AM 19 e-mails, the Cocalis e-mail and the ones like it.

10:22AM 20 Much of this trial, the evidence will look at
10:22AM 21 events that happened on the rig during its last few days and
10:22AM 22 hours. As for the immediate rig-based causes, the evidence
10:22AM 23 will show that when BP declared the negative pressure test a
10:22AM 24 success, it was wrong, recklessly and grossly wrong. But that
10:22AM 25 one failed test isn't even close to being the only cause of the

10:22AM 1 *Deepwater Horizon* tragedy.

10:22AM 2 This evidence up on the screen, Your Honor, is
10:22AM 3 taken from BP's own internal investigation, the Bly Report,
10:22AM 4 which claimed to trace the causes of the *Deepwater Horizon*
10:22AM 5 tragedy to a series of interrelated causes, when taken
10:22AM 6 together, caused the accident.

10:22AM 7 For example, the failure of cement, which isn't
10:23AM 8 coming up, but it's the far left slice; the failure of the
10:23AM 9 float collar, the second from the left; the failed negative
10:23AM 10 test; the failure to monitor and control the well; all the way
10:23AM 11 to the far right, the failure of the BOP to close in the well.

10:23AM 12 Now, according to BP's own accident model, which
10:23AM 13 you see on the screen, each causation slice lined up in an
10:23AM 14 unbroken sequence and created a chain of causation, a direct
10:23AM 15 line through all of these holes that led to the disaster.

10:23AM 16 According to BP's own model, this evidence on the
10:23AM 17 screen, and according to the testimony you'll hear from the Bly
10:23AM 18 Report's namesake, if even one of the causation holes hadn't --
10:23AM 19 or slices hadn't lined up, then the Gulf oil spill never would
10:23AM 20 have happened.

10:23AM 21 For example, if the negative pressure test had
10:24AM 22 been interpreted correctly by BP and it was discovered the
10:24AM 23 cement job had failed, BP's own highly respected drilling
10:24AM 24 expert, Dr. Azar, and BP's own cement expert, Mr. Calvert, will
10:24AM 25 testify that this blowout and all that followed never would

10:24AM 1 have happened. Your Honor, this is what BP's expert witnesses
10:24AM 2 will say.

10:24AM 3 We'll come back to the negative pressure test
10:24AM 4 because it, more than any one single reason, was the immediate
10:24AM 5 rig-based cause of this tragedy.

10:24AM 6 Leaving aside the model's emission of the
10:24AM 7 systemic corporate and management causes that allowed the
10:24AM 8 separate mechanical failures to happen, the evidence will also
10:24AM 9 prove BP's liability for willful misconduct.

10:24AM 10 United States, as Your Honor has pointed out, has
10:24AM 11 sued BP for simple penalties under the Clean Water Act, which
10:24AM 12 is consequences for willful misconduct as well as gross
10:25AM 13 negligence.

10:25AM 14 If we think of the factual evidence and the legal
10:25AM 15 standards as two pieces of a jigsaw puzzle, the evidence that
10:25AM 16 we'll present at trial and BP's own accident model, this model,
10:25AM 17 fit the law of willful misconduct under the Clean Water Act is
10:25AM 18 perfectly matched pieces.

10:25AM 19 When we present this evidence during the trial,
10:25AM 20 Your Honor, we ask that the Court examine each piece of
10:25AM 21 evidence against the Clean Water Act's legal standard of
10:25AM 22 willful misconduct, which says that an accumulation of acts, a
10:25AM 23 chain of circumstances that were contributing causes, like
10:25AM 24 those we see in BP's own Bly Report and this model, this
10:25AM 25 accumulation of acts constitute willful misconduct even if no

10:25AM 1 single one of those causes was the immediate cause, and even if
10:25AM 2 no single one of them standing alone would rise to the level of
10:26AM 3 willful misconduct.

10:26AM 4 This legal standard of the chain of causation and
10:26AM 5 willful misconduct under the Clean Water Act is describing BP's
10:26AM 6 own accident model.

10:26AM 7 Now, in the limited time for this opening, we can
10:26AM 8 only skim the surface of the evidence that will establish BP's
10:26AM 9 ownership of each of these interrelated pieces of the willful
10:26AM 10 misconduct chain of liability.

10:26AM 11 I don't think my arrow is working. There we go.

10:26AM 12 The first, on the left, Your Honor, is BP's
10:26AM 13 representation of the first causal chain in their model, which
10:26AM 14 is cement.

10:26AM 15 BP was in the process of temporarily abandoning
10:26AM 16 the well until a production rig would later come and start
10:26AM 17 pumping oil. The purpose of the cement job, as we'll hear
10:26AM 18 during trial, is to prevent oil and gas from pressuring into
10:26AM 19 the casing and causing a blowout during the temporary
10:27AM 20 abandonment.

10:27AM 21 Now, BP will attempt to shift blame to others by
10:27AM 22 focusing on the cement job. I'll suggest that that attempt is
10:27AM 23 disingenuous, at best.

10:27AM 24 The evidence will show that it's simply a fact
10:27AM 25 that cement jobs sometimes are unsuccessful, but a bad cement

10:27AM 1 job doesn't equal a blowout.

10:27AM 2 Before safe operators rely upon a cement job to
10:27AM 3 provide a barrier to hydrocarbons, they test it. They test it
10:27AM 4 with a negative pressure test. BP tested the Macondo cement
10:27AM 5 with a negative pressure test and botched the test.

10:27AM 6 The evidence will show that BP took multiple
10:27AM 7 risks that compromised the cement job and that it ignored
10:27AM 8 warnings from Halliburton and its own in-house BP cement
10:27AM 9 expert. BP's attitude was epitomized in the callous "who
10:28AM 10 cares, it's done, probably be fine" e-mail. It acknowledged
10:28AM 11 the risk as running fewer centralizers that had been
10:28AM 12 recommended by Halliburton.

10:28AM 13 Considering the risks that BP had undertaken to
10:28AM 14 that point, particularly on the cement job, witnesses will
10:28AM 15 testify that BP should have put the rig crew on heightened
10:28AM 16 alert before the negative pressure test; that BP should have
10:28AM 17 warned them, had the duty, the obligation, the responsibility
10:28AM 18 to warn them before the negative pressure test of BP's own
10:28AM 19 concerns about the cement job. The evidence will show they did
10:28AM 20 not do that.

10:28AM 21 BP also bears responsibility for the flow collar.
10:28AM 22 Again, my pointer doesn't work. It's this second slice from
10:28AM 23 the left is the flow collar, Your Honor.

10:28AM 24 The flow collar was supposed to keep the cement
10:28AM 25 in place and prevent it from flowing back into the casing while

10:29AM 1 the cement set up and formed a barrier to hydrocarbons.

10:29AM 2 As the witnesses will explain, BP had severe
10:29AM 3 problems in what is called *converting* the flow collar and
10:29AM 4 making it work. Nine different attempts were made to convert
10:29AM 5 the device. Each of those attempts involved applying
10:29AM 6 increasing amounts of pressure to the flow collar.

10:29AM 7 But one of the design limitations of the
10:29AM 8 equipment was that a critical component could fail at
10:29AM 9 1,300 pounds per square inch. As a point of reference, when we
10:29AM 10 go to the service station, fill the tires in our car, call it
10:29AM 11 32, 40 pounds. 1,300 pounds was the design limitation.

10:29AM 12 BP applied 3,142 pounds of pressure. Over
10:29AM 13 1,800 pounds of pressure above the 1,300-pound design
10:29AM 14 limitation.

10:29AM 15 Testimony will show that at that point, one of
10:30AM 16 BP's well site leaders, Mr. Kaluza, told people aboard the rig,
10:30AM 17 quote, I was afraid something had blown, close quote. His
10:30AM 18 words.

10:30AM 19 The evidence will show that yet another BP
10:30AM 20 engineer, Brian Morel, who was also on the rig and who has also
10:30AM 21 taken the Fifth Amendment, stated, as we see, quote, Yeah, we
10:30AM 22 blew it at 3,140. Still not sure what we blew yet, close
10:30AM 23 quote. That's Mr. Morel.

10:30AM 24 The evidence will show that despite BP's own
10:30AM 25 concerns, as we've just seen, about having blown something, to

10:30AM 1 use their words, BP did not standdown the operation and take
10:30AM 2 the time to see what they had blown.

10:30AM 3 Dick Heenan, the United States' drilling expert,
10:30AM 4 will testify about BP's responsibility for the negative
10:30AM 5 pressure test, well monitoring and well response; third, fourth
10:30AM 6 and fifth slices of the causal chain until BP's accident model.

10:31AM 7 For now it's enough to come back and point out
10:31AM 8 the central and obvious evidence. Oil and gas traveled
10:31AM 9 three nautical miles, from the bottom of the well up to the
10:31AM 10 rig, 18,000 feet. Point of reference, roughly the distance
10:31AM 11 from here to City Park in New Orleans. Up 13,000 feet of well
10:31AM 12 casing through 5,000 feet of ocean and marine riser, and
10:31AM 13 finally blew out on to the *Deepwater Horizon* before either of
10:31AM 14 BP's well site leaders were aware of the blowout.

10:31AM 15 Despite, despite the mandate of a federal
10:31AM 16 regulation 30 C.F.R. 250.401, which required BP, required BP to
10:31AM 17 take all necessary precautions to keep the well under control
10:31AM 18 at all times.

10:31AM 19 The evidence will show that a kick less than
10:31AM 20 40 barrels of oil is considered a major kick that must be
10:32AM 21 discovered in time to take action to prevent an uncontrolled
10:32AM 22 blowout.

10:32AM 23 The evidence will show that BP has admitted that
10:32AM 24 by the moment the rig exploded a kick had become a blowout of
10:32AM 25 approximately 2,000 barrels, 84,000 gallons, 50 times more than

10:32AM 1 a 40-barrel kick they considered to be a major well control
10:32AM 2 event.

10:32AM 3 We'll hear other evidence concerning BP's
10:32AM 4 responsibility for other causation slices, including the BOP's
10:32AM 5 failure to shut in the well.

10:32AM 6 Since my pointer isn't working, I'll use this,
10:32AM 7 Your Honor. The BOP on BP's accident model is that last and
10:32AM 8 final slice.

10:32AM 9 In an emergency, as Mr. Roy has pointed out
10:32AM 10 already, the BOP is the last barrier to protect human life in
10:32AM 11 the environment. So it has to function, has to function
10:32AM 12 without fail. Precisely for that reason, BP was required by
10:33AM 13 federal regulation as the operator of the Macondo well to,
10:33AM 14 quote, Maintain your BOP system to ensure that the equipment
10:33AM 15 function properly, close quote.

10:33AM 16 Now, BOP -- pardon me, BP will attempt to blame
10:33AM 17 Transocean for the BOP, but the evidence will establish that
10:33AM 18 for five years, stemming from rig audits in 2005, 2008, and
10:33AM 19 2009, BP believed and understood that it had significant
10:33AM 20 maintenance problems with the BOP. Yet, despite knowing it was
10:33AM 21 drilling the "well from hell," in an area with no kick
10:33AM 22 tolerance and little to no room for mistakes, BP barreled ahead
10:33AM 23 and gambled with a piece of major equipment that was the last
10:33AM 24 line of defense to protect against an uncontrolled blowout.

10:33AM 25 But of all the evidence the Court will hear, and

10:34AM 1 all the different slices of the causal chain of failures in
10:34AM 2 BP's own accident model, the evidence will show that none was
10:34AM 3 so critical and none was so thoroughly and grossly botched as
10:34AM 4 the negative pressure test.

10:34AM 5 As even BP's own witnesses will testify, if this
10:34AM 6 one test had been the done right, this one simple test, it
10:34AM 7 would have prevented the blowout, the deaths, and everything
10:34AM 8 else that followed, despite the things that had already gone
10:34AM 9 wrong, like the cement job.

10:34AM 10 The evidence will show that shortly before
10:34AM 11 8:00 p.m. on April 20th, BP and Transocean completed the
10:34AM 12 negative pressure test of the Macondo well's casing. The
10:34AM 13 negative pressure test was a safety critical test. The last
10:34AM 14 safety critical test to determine whether the cement pumped
10:35AM 15 into the bottom of the hole less than 18 hours before would
10:35AM 16 stop oil and gas from pressuring into the casing, and if
10:35AM 17 unchecked, create an uncontrolled blowout.

10:35AM 18 The Court will hear a great deal about the
10:35AM 19 negative pressure test, and there is simply not enough time now
10:35AM 20 to describe the different tests and all that occurred. For our
10:35AM 21 purposes now, the evidence will show that all BP needed to know
10:35AM 22 is what's on the right-hand side of this slide.

10:35AM 23 Once the test was set up, there should have been:
10:35AM 24 One, no flow out of the well when it was opened up during the
10:35AM 25 test; or, two, no pressure buildup when the well was closed in.

10:35AM 1 As witnesses will explain, this test is
10:35AM 2 exceedingly simple and is pass/fail. It's not multiple choice.
10:35AM 3 It's not an essay exam. If either of those elements are
10:36AM 4 present, flow or pressure buildup, the test is a failure.

10:36AM 5 The evidence will show that the final negative
10:36AM 6 pressure test monitored pressures on two pipes: The drill pipe
10:36AM 7 and the kill line.

10:36AM 8 Using the example here, Your Honor, the drill
10:36AM 9 pipe is the center of the casing going up, and on this
10:36AM 10 right-hand slide has an pressure reading of zero. There are
10:36AM 11 other lines here that we aren't going to be going through for
10:36AM 12 the negative test.

10:36AM 13 The kill line, which they are also monitoring,
10:36AM 14 finally, is this other one here on the very right-hand side,
10:36AM 15 that on the right-hand side of the slide also has a zero
10:36AM 16 pressure reading.

10:36AM 17 To have a successful test when it was lined up
10:36AM 18 like this, the evidence will show that all BP needed to know
10:36AM 19 was that the pressure on both pipes had to be zero; repeat,
10:36AM 20 zero.

10:36AM 21 The evidence will show that if one pipe read zero
10:37AM 22 and the other pipe had pressure, like the graphic on the
10:37AM 23 left-hand side of the slide, then the test was a failure.
10:37AM 24 Because pressure potentially meant that oil and gas were
10:37AM 25 pressuring into the well and threatening to blow it out, which

10:37AM 1 is exactly what happened.

10:37AM 2 Every fact witness who will testify in this
10:37AM 3 courtroom, Your Honor, every expert witness who will testify in
10:37AM 4 this courtroom, every investigative report that is admitted
10:37AM 5 into evidence by Your Honor in this trial, and every witness
10:37AM 6 who was asked the question in deposition, testified that you
10:37AM 7 can't have a successful negative pressure test if both
10:37AM 8 pressures aren't zero.

10:37AM 9 BP's own drilling expert, Dr. Azar, testified
10:37AM 10 that this is something he would expect his first-year students
10:37AM 11 to understand. But instead of pressure, zero pressure on both
10:38AM 12 lines, as in the graphic on the right, the evidence will show
10:38AM 13 that BP saw 1,400 pounds of pressure on the drill pipe and zero
10:38AM 14 on the kill line, what's up there on the left-hand side of the
10:38AM 15 slide. That meant, without any doubt, that the test could not
10:38AM 16 be considered a success and that the well could be flowing.

10:38AM 17 Instead, the evidence will be undisputed that
10:38AM 18 BP's two company men, well site leaders Kaluza and Vidrine,
10:38AM 19 disregarded the differential pressure and approved the test
10:38AM 20 based upon a nonexistent theory called the *bladder effect*.

10:38AM 21 Now, we expect BP to claim that the theory was
10:38AM 22 proposed by Transocean crewmen. But whatever the source of
10:38AM 23 this nonexistence phenomenon, BP's two well site leaders bought
10:38AM 24 into it lock, stock and barrel.

10:38AM 25 As the experts and the percipient witnesses will

10:39AM 1 testify, without any exception, the theory is incomprehensible
10:39AM 2 and makes absolutely no sense from engineering, drilling or
10:39AM 3 even common sense perspectives.

10:39AM 4 As we'll show, BP's Bly Report admits, without
10:39AM 5 equivocation, that no such phenomenon could be discovered. In
10:39AM 6 fact, Mr. Bly himself is expected to testify that his
10:39AM 7 investigation spent approximately \$10 million and used
10:39AM 8 approximately 50 people, yet still could find no evidence, no
10:39AM 9 evidence whatsoever, of the bladder effect, and that BP's well
10:39AM 10 site leaders, what they had used to justify to turn out, turned
10:39AM 11 out to be a deadly decision.

10:39AM 12 As BP's own report explained, the investigation
10:39AM 13 team could find no evidence this phenomenon is possible,
10:39AM 14 leaving the 1,400 psi unexplained unless it was caused by
10:39AM 15 pressure from the reservoir.

10:40AM 16 One BP executive, who is expected to testify in
10:40AM 17 this case, looked at well site leader Kaluza's attempt to
10:40AM 18 explain the nonexistent bladder effect and summed it up here,
10:40AM 19 eloquently, with nothing but question marks, 560 of them.

10:40AM 20 The evidence will show that BP's well site
10:40AM 21 leaders, who had the final authority to approve the test or
10:40AM 22 reject it, called it successful. They declared the test a
10:40AM 23 success despite the 1,400 on the drill pipe.

10:40AM 24 And the evidence will then show that BP proceeded
10:40AM 25 with its next decision, which displaced mud in the riser to

10:40AM 1 lighter seawater and severely underbalanced the well and
10:40AM 2 allowed it to flow. The action that set in motion the blowout
10:40AM 3 and explosions and set the rig afire like a Roman candle.

10:40AM 4 The evidence will establish that this approval by
10:40AM 5 BP of the negative pressure test under these circumstances was
10:41AM 6 so far outside the bounds of any reasonable judgment to be
10:41AM 7 constituted gross negligence, but the evidence against BP will,
10:41AM 8 in fact, show far, far more.

10:41AM 9 Documents and testimony will show that at
10:41AM 10 8:52 p.m., less than an hour after the approval of the negative
10:41AM 11 pressure test, and less than an hour before the first explosion
10:41AM 12 on the rig, Hafle and Vidrine had a telephone conversation that
10:41AM 13 should have stopped the chain of events, prevented the need for
10:41AM 14 this trial. Instead, both men, armed with knowledge that could
10:41AM 15 save 11 lives and prevent the Gulf oil spill, did absolutely
10:41AM 16 nothing.

10:41AM 17 At 8:52, at almost the exact same moment the two
10:41AM 18 men began their call, the evidence will show and BP's Bly
10:41AM 19 Report admits, that high pressure oil began flowing into the
10:42AM 20 well approximately three miles below the rig floor on the
10:42AM 21 *Deepwater Horizon*.

10:42AM 22 At that same moment, according to what BP's own
10:42AM 23 documents will show, the BP man in Houston, Hafle, called the
10:42AM 24 well site leader on the rig, Vidrine, and the two men talked
10:42AM 25 for ten full minutes.

10:42AM 1 The evidence will show that Vidrine talked to
10:42AM 2 Hafle about the negative pressure tests; that Vidrine told
10:42AM 3 Hafle that the crew had zero pressure on the kill line, but
10:42AM 4 that they still had pressure on the drill pipe. Hafle told
10:42AM 5 Vidrine that he couldn't have pressure on the drill pipe and
10:42AM 6 zero pressure on the kill line in a test that's properly lined
10:42AM 7 up.

10:42AM 8 This exchange between these two BP men and other
10:42AM 9 evidence concerning the actions and inactions of BP's well site
10:43AM 10 leaders, the senior drilling engineer in Houston, in that final
10:43AM 11 hour of the rig, will be among the clearest, most irrefutable
10:43AM 12 pieces of evidence in this trial that show BP's primary
10:43AM 13 responsibility for the blowout and everything that followed.

10:43AM 14 The evidence will show that BP's man in Houston,
10:43AM 15 Hafle, understood the obvious and correctly told the well site
10:43AM 16 leader on the rig that the negative pressure test that BP had
10:43AM 17 approved only an hour before couldn't be considered a success.

10:43AM 18 But the evidence will show that Hafle did
10:43AM 19 absolutely nothing to countermand the well site leader's
10:43AM 20 disastrous conclusion that, quote, He was fully satisfied that
10:43AM 21 the rig crew had performed a successful negative test.

10:43AM 22 The evidence will show that Hafle, who already
10:43AM 23 believed that the cement design was on the ragged edge and had
10:43AM 24 used a swear word to describe the cement job that the negative
10:44AM 25 pressure test was supposed to be testing. It will show that

10:44AM 1 Hafle didn't tell Vidrine the obvious: Full stop. Shut it in.
10:44AM 2 Do it again.

10:44AM 3 The evidence will show that Hafle did nothing
10:44AM 4 like that.

10:44AM 5 Now, what about well site leader Vidrine? The
10:44AM 6 evidence will show that he already knew that the final negative
10:44AM 7 pressure test had 1,400 on the drill pipe and zero on the kill
10:44AM 8 line, and he had just been told by one of BP's senior men in
10:44AM 9 Houston that that can't be.

10:44AM 10 In other words, the evidence will establish that
10:44AM 11 BP's well site leader flunked the all-critical safety test when
10:44AM 12 he approved it shortly before 8:00 p.m.; but, worse, he was
10:44AM 13 given the right answer, the right answer by Hafle an hour
10:44AM 14 later, and he was given a chance to undo the previous
10:44AM 15 disastrous mistake he had already made.

10:44AM 16 So did BP's well site leader get off the phone
10:45AM 17 and immediately order the test be rerun? The evidence will
10:45AM 18 show that he didn't. Did he protect the rig and the crew by
10:45AM 19 ordering the well shut in while he investigated what it was
10:45AM 20 doing? The evidence, Your Honor, will be that he didn't.

10:45AM 21 Did he warn the driller? Did he warn the
10:45AM 22 toolpusher? Did he warn anybody on the rig floor? Anybody on
10:45AM 23 the rig anywhere? The evidence will show that he didn't.

10:45AM 24 In fact, there won't be a scrap of evidence, no
10:45AM 25 testimony, any document at all to show that Vidrine did

10:45AM 1 anything at all in that last hour after hanging up the phone
10:45AM 2 with Vidrine -- with Hafle, to take any action to reverse the
10:45AM 3 deadly blowout that was already underway miles below the floor
10:45AM 4 of the rig.

10:45AM 5 In a case that is already filled with tragedy,
10:46AM 6 the evidence will show that the greatest tragedy, the saddest
10:46AM 7 tragedy and the tragic irony is the fact that if Hafle had
10:46AM 8 ordered Vidrine immediately to find the reason for the failed
10:46AM 9 negative test, or if Vidrine had done it on his own as he was
10:46AM 10 supposed to, the very actions that would have been taken would
10:46AM 11 have saved the rig, the men's lives and the oil spill,
10:46AM 12 prevented the oil spill.

10:46AM 13 And the reason for that is, the evidence will
10:46AM 14 show, that in order to re-perform the negative pressure test,
10:46AM 15 the BOP would have been shut in, just as it had been during the
10:46AM 16 earlier negative pressure test. That would have shut in the
10:46AM 17 well before oil and gas passed above the BOP stack and barreled
10:46AM 18 up the riser like an explosive time bomb counting down to zero,
10:46AM 19 which is exactly what the well had become.

10:46AM 20 Make no mistake, the evidence will show that if
10:46AM 21 BP's two men, or either one of them had done their jobs, simple
10:47AM 22 jobs, jobs that were their responsibility, *Deepwater Horizon*
10:47AM 23 tragedy and an environmental disaster we call the *Gulf Oil*
10:47AM 24 *Spill* would never have happened.

10:47AM 25 The blowout would have stopped right here at the

10:47AM 1 end of the negative pressure test, on this slice of BP's own
10:47AM 2 accident model. Instead BP did nothing.

10:47AM 3 The evidence will show that Hafle and Vidrine
10:47AM 4 ended their call at 9:02 p.m., ten minutes after the well began
10:47AM 5 to flow. The evidence, such as BP's Bly Report, will show that
10:47AM 6 the explosive mass of oil and gas didn't pass the BOP and enter
10:47AM 7 the riser until approximately 9:38 p.m.

10:47AM 8 Witnesses will testify that that means both BP
10:47AM 9 and the rig crew would have had over a full half hour after the
10:48AM 10 conclusion of the phone call between BP Houston and its well
10:48AM 11 site leader to close in the well through normal operation of
10:48AM 12 the BOP.

10:48AM 13 The evidence will show that when BP's two men
10:48AM 14 hung up the phone at 9:02 p.m., the people on the rig, the rig
10:48AM 15 itself, and the Gulf and its people had 47 minutes before oil
10:48AM 16 and gas exploded out of the riser and changed, in some cases
10:48AM 17 ended, lives.

10:48AM 18 The evidence will show that those actions we've
10:48AM 19 just described weren't the result of an accident, or mere
10:48AM 20 negligence or even gross negligence, which it was, but it was
10:48AM 21 the result of willful misconduct, for not only was it within
10:48AM 22 BP's power to prevent the tragedy, it was its responsibility.

10:48AM 23 Now, to be sure, BP will argue that the blowout
10:48AM 24 was the fault of the Transocean crewmen, who worked under BP's
10:48AM 25 well site leaders and followed their orders during the negative

10:49AM 1 pressure test that went so horribly wrong. But the evidence
10:49AM 2 will show, it will be proved that if even some of those
10:49AM 3 Transocean crewmen bore responsibility for what happened, they
10:49AM 4 paid for those mistakes with their lives. And other men, some
10:49AM 5 employed by Transocean, some not, had nothing to do with the
10:49AM 6 negative pressure test and made no mistakes for which they
10:49AM 7 could ever be held to pay.

10:49AM 8 But the point is that none of them, not a single
10:49AM 9 one of those men should have paid for any mistake with their
10:49AM 10 lives when the evidence will show, without a sliver or a shadow
10:49AM 11 of a doubt, that BP could have saved them, could have saved
10:49AM 12 every plaintiff in this courtroom, every defendant in this
10:49AM 13 courtroom, the Gulf from this disaster, with something as short
10:49AM 14 as a ten-second phone call to the rig floor, to the driller,
10:50AM 15 Dewey Rivette; the toolpusher, Jason Anderson, saying something
10:50AM 16 as simple as: Shut it in. We're doing the test again.

10:50AM 17 We don't use words like gross negligence and
10:50AM 18 willful misconduct lightly, Your Honor. We understand the
10:50AM 19 seriousness of those allegations. But the fact that remains is
10:50AM 20 11 people died as a result of multiple interconnected faults of
10:50AM 21 BP and others.

10:50AM 22 As a further consequence, many tens of thousands
10:50AM 23 of people across the Gulf States suffered injuries to their
10:50AM 24 livelihood. The Gulf and the environment upon which tens of
10:50AM 25 millions of people depend, directly and indirectly, for their

10:50AM 1 food, their livelihoods, and their recreation, as well as the
10:50AM 2 birds, the fish, the marine and shoreline organisms, which
10:50AM 3 sustains the Gulf's complex ecosystem, sustain damage and
10:51AM 4 injuries which are still being measured, and will be tried in
10:51AM 5 later phases of this trial.

10:51AM 6 These damages, and not least the deaths to the
10:51AM 7 people aboard the *Deepwater Horizon*, were caused by actions on
10:51AM 8 and prior to April 20th, that cannot be seen as anything but
10:51AM 9 utterly inexcusable behavior.

10:51AM 10 We look forward to putting on this evidence, Your
10:51AM 11 Honor. And by the end of the phases of trial, securing answers
10:51AM 12 for the benefit of the families of the men who were killed,
10:51AM 13 justice for the people of the Gulf and for the money to help
10:51AM 14 heal and restore the precious environment that sustains this
10:51AM 15 Crescent City and the states, the cities, and the communities
10:51AM 16 all across the Gulf of Mexico.

10:51AM 17 Thank you very much.

10:51AM 18 THE COURT: All right. Thank you.

10:51AM 19 Alabama.

10:51AM 20 OPENING STATEMENTS

10:51AM 21 BY MR. STRANGE:

10:52AM 22 May it please the Court, Your Honor. I'm
10:52AM 23 Luther Strange, the Attorney General of the State of Alabama
10:52AM 24 and the liaison counsel for the Gulf States in this historic
10:52AM 25 litigation. It's my privilege to stand before you today on

10:52AM 1 behalf of Alabama and its nearly five million citizens.

10:52AM 2 In due course, Your Honor, I'll have the opportunity to
10:52AM 3 detail the lingering economic and environmental devastation the
10:52AM 4 defendants inflicted on Alabama. I'll have a great deal to say
10:53AM 5 about those damages at the appropriate time, for they are
10:53AM 6 indeed great.

10:53AM 7 But today I'll be brief. In this phase one we address
10:53AM 8 just one issue, who was at fault for the explosion and spill
10:53AM 9 that caused such unprecedented and catastrophic damages to the
10:53AM 10 Gulf Coast?

10:53AM 11 On this issue, Alabama's interests align perfectly with
10:53AM 12 the interest of the United States and the private plaintiffs.
10:53AM 13 Alabama, therefore, supports and affirms the descriptions of
10:53AM 14 facts and laws so well outlined by Mr. Roy and Mr. Underhill,
10:53AM 15 and I don't plan to duplicate their efforts this morning.

10:53AM 16 Instead, I offer two points that summarize our collective
10:53AM 17 case against BP: One, the spill was both predictable and
10:53AM 18 preventable. Two, BP's culture of corporate callousness
10:53AM 19 towards the Gulf caused the spill.

10:54AM 20 On this first point, the evidence will show that BP knew
10:54AM 21 that the risks of a deep-water blowout in the Gulf of Mexico
10:54AM 22 was great. In fact, it was nine times greater than in the
10:54AM 23 North Sea.

10:54AM 24 BP also knew, and certainly should have known before the
10:54AM 25 blowout, that the centralizers would not centralize, the cement

will not cement, the controllers will not control, and the blowout preventer would not prevent. We'll show that BP knew all of this, but BP was blinded by their bottom line.

Which leads me, Judge, to my second point, the spill was tragically inevitable due to BP's corporate culture.

The evidence will show that at BP money mattered most. Money mattered more than the environment. Money mattered more than the thousands of jobs and businesses that were destroyed all along the Gulf Coast. Money even mattered more than the lives of the 11 workers who lost their lives on the *Horizon* rig. Money mattered more to BP than the Gulf, much more.

Your Honor, the evidence will be clear and unmistakable, greed devastated the Gulf.

Finally, Your Honor, I agree with Mr. Roy, that in the coming weeks we will prove that BP acted with gross negligence and willful misconduct, and that we'll prove the same level of fault against two of BP's partners, Transocean and Halliburton.

For that reason, we'll ask the Court at the end of this trial to rule that all three, BP, Transocean, and Halliburton are liable for punitive damages to the State of Alabama.

Again, Your Honor, it's a privilege to stand here on behalf of the victims of the Gulf disaster as this historic case gets underway.

Thank you.

THE COURT: All right. Thank you, Mr. Strange.

10:56AM 1 Mr. Caldwell. Louisiana.

10:56AM 2 OPENING STATEMENTS

10:56AM 3 BY MR. CALDWELL:

10:56AM 4 Your Honor, Judge Barbier, if it please the
10:56AM 5 Court, I want to thank you and Magistrate Shushan and your
10:56AM 6 staff for consuming and exhaustive efforts in bringing this
10:56AM 7 landmark case to trial. The courtroom staff, the law clerks,
10:56AM 8 and those involved are all part of an effort for your entire
10:57AM 9 hard-working team.

10:57AM 10 But I would also like to thank Special Master
10:57AM 11 McGovern and the parties for handling their clients' interests
10:57AM 12 in a professional manner, but after all, none of the lawyers so
10:57AM 13 far, as I know, were witnesses to this event. And everybody
10:57AM 14 here has a job to do. And having said that, I want to thank my
10:57AM 15 own counsel and staff. And we're here to do justice.

10:57AM 16 Trials are important. This court has stated for
10:57AM 17 the benefit of the press and those who are watching, that we're
10:57AM 18 having a trial and it's important for the general public to
10:57AM 19 understand what we're doing.

10:57AM 20 All citizens and workers should feel confident,
10:57AM 21 as far as we're concerned, that our oil companies -- and
10:58AM 22 Louisiana is an oil and gas state -- that our companies are
10:58AM 23 conducting business in the safest possible manner. When they
10:58AM 24 don't do that, then it's our job as Attorney General
10:58AM 25 Luther Strange, myself, and the other lawyers, too, do what

10:58AM 1 we're supposed to do so that they have to answer.

10:58AM 2 I have personally been executing my
10:58AM 3 responsibility as Attorney General from a couple of days out
10:58AM 4 when this rig happened, along with the other Attorney Generals
10:58AM 5 from the Gulf States; and with the help, I should say, of BP.
10:58AM 6 Mr. Jack Lynch is in the courtroom today from Texas.

10:58AM 7 We worked together to try to solve what everybody
10:58AM 8 knows, and in retrospect and in hindsight, is a tragic,
10:58AM 9 horrible event.

10:59AM 10 But this case is really about the cost of doing
10:59AM 11 business, not just in the Gulf of Mexico, but in the world.

10:59AM 12 The second thing about this case is the gross
10:59AM 13 underestimating the cost of doing that business.

10:59AM 14 For example, on the application to drill, BP told
10:59AM 15 Louisiana, this was a no risk proposition for any oil to reach
10:59AM 16 Louisiana shores 48 miles away.

10:59AM 17 The disaster has damaged Louisiana's people, its
10:59AM 18 economy, and its ecology. I think that's clear. But most
10:59AM 19 importantly, this disaster continues in various forms,
10:59AM 20 including continued pollution, higher unemployment, and the
10:59AM 21 need for increased social service. And today, less than
10:59AM 22 30 miles from the door of this courthouse, Your Honor, over
11:00AM 23 212 miles of Louisiana coast are being polluted and continue to
11:00AM 24 be oiled, and in Gulf waters, especially Barataria Bay and
11:00AM 25 Breton Sound. We continue to be adversely affected.

11:00AM 1 Our culture, of course, we know is unique in our
11:00AM 2 reliance on the Gulf; but, the other states, to a certain
11:00AM 3 extent, as well, our natural resources, our livelihood and
11:00AM 4 recreation.

11:00AM 5 This trial can't bring back the 11 workers, and
11:00AM 6 it can't restore the ecosystem; but this trial can and will
11:00AM 7 show that BP and its contractors, all of them, all of the
11:00AM 8 contractors bear some responsibility. They acted in a grossly
11:00AM 9 negligent manner.

11:01AM 10 This disaster was totally and wholly avoidable,
11:01AM 11 as we heard Mr. Roy, Mr. Underhill state.

11:01AM 12 We've heard a lot about the problem of BP's
11:01AM 13 culture, but the law doesn't penalize culture, it penalizes
11:01AM 14 gross negligence. The culture, of course, causes an atmosphere
11:01AM 15 of negligence.

11:01AM 16 It recognizes that elevated risks warrant
11:01AM 17 elevated care.

11:01AM 18 BP has admitted liability under OPA and waived
11:01AM 19 OPA's limitation of liability, and certainly we appreciate
11:01AM 20 that. Nevertheless, the evidence in this case is going to show
11:01AM 21 the willful and wanton misconduct, and that this imposition of
11:01AM 22 punitive damages should be in the highest amount allowed by
11:01AM 23 law.

11:01AM 24 We want the Court to focus on, and we know it
11:02AM 25 will, the chaos that was BP's planning process and operations,

11:02AM 1 and including the botched negative pressure test that we know
11:02AM 2 is central, a central feature, the cement job disaster, and the
11:02AM 3 failed control and the well response.

11:02AM 4 What about Transocean? Well, you've heard a lot
11:02AM 5 about that, especially in detail from Mr. Roy. I won't go into
11:02AM 6 that much, just that show that Transocean is liable under OPA
11:02AM 7 jointly and severally.

11:02AM 8 Transocean, the owner of the *Deepwater Horizon*,
11:02AM 9 failed to operate the vessel safely and to protect personnel
11:02AM 10 onboard and the marine environment.

11:02AM 11 Transocean oil was the first oil to reach
11:02AM 12 Louisiana. The first oil may be the worst oil. It wasn't
11:02AM 13 burned off, and no attempt was made to capture this oil.

11:03AM 14 Transocean must also be held accountable for its
11:03AM 15 failure to monitor the well, to control the well, and for its
11:03AM 16 conduct, along with BP's, in the negative pressure test.

11:03AM 17 BP and Transocean worked together to botch the
11:03AM 18 negative pressure test. Prior to that, they botched the
11:03AM 19 September 2009 rig audit, which documented 390 jobs of overdue
11:03AM 20 and inadequate maintenance equaling 3,545 overdue hours of
11:03AM 21 maintenance that Mr. Roy referred to. *Deepwater Horizon* was
11:03AM 22 not even seaworthy.

11:03AM 23 A final word about Transocean, almost every
11:03AM 24 deposition, Transocean asked its witnesses if its employees
11:03AM 25 would really act so as to endanger themselves. Well, that's

11:04AM 1 the wrong question. The right question is did the employees do
11:04AM 2 the best with what Transocean made available to them, and was
11:04AM 3 what Transocean made available enough?

11:04AM 4 The evidence will show these deaths and economic
11:04AM 5 and ecological disaster could have been avoided as well by
11:04AM 6 Transocean. So we've got BP and Transocean.

11:04AM 7 What about Anadarko? Nobody said much about
11:04AM 8 them, if anything at all. Evidence will show that they're
11:04AM 9 strictly, jointly and severally liable under OPA. Anadarko is
11:04AM 10 a 25 percent owner of the --

11:04AM 11 THE COURT: Mr. Caldwell, excuse me, Anadarko is not a
11:04AM 12 party to this phase of the trial, so you might want to talk
11:04AM 13 about another party, okay.

11:04AM 14 MR. CALDWELL: All right, Your Honor.

11:04AM 15 Halliburton. Halliburton was grossly negligent,
11:05AM 16 as we've seen and has been referred to, using leftover rig
11:05AM 17 blend from a prior job that contained a defoaming agent
11:05AM 18 incompatible with the slurry.

11:05AM 19 It failed to run critical safety tests to confirm
11:05AM 20 the cement stability, and without the results of that test that
11:05AM 21 showed that the slurry was also unstable.

11:05AM 22 The evidence will show Halliburton failed to
11:05AM 23 perform the production casing cement job in accordance with the
11:05AM 24 industry accepted recommendations was another but for cause.
11:05AM 25 Each one of these things on their own could be deemed to have

11:05AM 1 caused this disaster.

11:05AM 2 Cameron redesigned the BOP, and it was grossly
11:05AM 3 negligent. The emergency battery system for Transocean and BP,
11:05AM 4 it designed that for them, but did not install rechargeable
11:06AM 5 batteries.

11:06AM 6 More troubling is Cameron's system erroneously
11:06AM 7 led the operator to believe that the automatic emergency BOP
11:06AM 8 function was armed, even when the batteries were dead, and
11:06AM 9 could not function.

11:06AM 10 M-I Swaco was also grossly negligent. It had a
11:06AM 11 displacement procedure that was improper. It did not use
11:06AM 12 normal spacer procedure.

11:06AM 13 BP and each of every one of its contractors
11:06AM 14 violated their duties, as Mr. Underhill has stated, under
11:06AM 15 30 CFR 250.401 to take all necessary precautions to keep the
11:06AM 16 well under control at all times.

11:06AM 17 Management for each of these defendants ignored
11:06AM 18 the critical warning signs and failed to take precautions that
11:07AM 19 would have delayed the completion of the well, but also would
11:07AM 20 have averted this entire environmental disaster.

11:07AM 21 BP's team goal was to save money, and to heck
11:07AM 22 with the consequences. Macondo was behind schedule and some
11:07AM 23 \$50 million over budget. Corners were not cut, they were
11:07AM 24 ignored.

11:07AM 25 Your Honor, finally, I would like to say that

11:07AM 1 Louisiana has been ground zero for this disaster.

11:07AM 2 Based on an inspection of one-half of Louisiana
11:07AM 3 shoreline -- BP refused to inspect the other half -- we've got
11:07AM 4 660 miles of marsh and shoreline oiled in Louisiana. One
11:07AM 5 million barrels of oil are unaccounted for. 28 new oil mats
11:07AM 6 have been discovered and removed in 2012 from Louisiana's
11:08AM 7 shore. Since January 1, 2013, 93 percent of all oil removed in
11:08AM 8 2012 was from Louisiana's shores.

11:08AM 9 60 percent of all Gulf oiling occurred in the
11:08AM 10 State of Louisiana, in our waters. The number is even higher,
11:08AM 11 nearly one hundred percent, when you look at heavy and moderate
11:08AM 12 oiling.

11:08AM 13 To date, retrievable, visible oil is recovered
11:08AM 14 weekly from Louisiana's shores and beaches in the form of oil
11:08AM 15 balls and oil mats.

11:08AM 16 In 2011, operations crews removed over one
11:08AM 17 million pounds of oily material from subsurface mats on Elmer's
11:08AM 18 Island. 2.1 million pounds of oil material has been removed in
11:09AM 19 Louisiana since 2012; but, over 9 million pounds of oil and
11:09AM 20 material collected have been removed since June of 2011 through
11:09AM 21 December 2012. Post-Hurricane Isaac, between September 7th and
11:09AM 22 November 21st of 2012, 1,720,000 pounds have been recovered.

11:09AM 23 58 percent of all wildlife injured and collected
11:09AM 24 in state identifiable waters were recovered in Louisiana.

11:09AM 25 Your Honor, finally, I know the Court has lived

11:09AM 1 and breathed this case. I would like to say that if we could
11:09AM 2 take every lawyer in this courtroom and every person that
11:09AM 3 wanted to out to Louisiana oil and drop them off, we'd see what
11:10AM 4 a 10W90 smog would look like. The point is this a continuing
11:10AM 5 tragedy to this very day and tomorrow.

11:10AM 6 It's crucial for this Court to keep an open mind
11:10AM 7 and to judge the case on live witness testimony, not just
11:10AM 8 wholesale reference as well to depositions and documents. I'm
11:10AM 9 sure the lawyers are going to produce that for the Court; but,
11:10AM 10 the direct and cross-examination has got to be critically
11:10AM 11 assessed by the Court in the event that there is some change in
11:10AM 12 what the Court expects.

11:10AM 13 Because it's the Court's responsibility to
11:10AM 14 determine the real truth in this case, that is, what happened,
11:10AM 15 why, who is responsible, and to what degree and who is still
11:10AM 16 responsible for the continuous oiling. In short, this Court is
11:11AM 17 the one to separate the chaff from the grain and apply the law
11:11AM 18 accordingly.

11:11AM 19 We need to get to the proof, Your Honor. The
11:11AM 20 whole world is watching what we're doing.

11:11AM 21 Again, I want to thank Your Honor for the
11:11AM 22 opportunity to address the Court.

11:11AM 23 THE COURT: All right. Thank you, Mr. Caldwell.

11:11AM 24 All right. Transocean.

11:11AM 25 MR. BRIAN: Your Honor, I'm going to put up an exhibit

11:11AM 1 later. May Mr. Miller approach and readjust the easel?

11:11AM 2 THE COURT: Sure.

11:12AM 3 With all the technology we have here, Mr. Brian,
11:12AM 4 you're going to use a pad, low tech. Okay. Haven't seen this
11:12AM 5 in a while in court, but that's okay.

11:12AM 6 MR. BRIAN: Mr. Roy told me he was low tech, and I told
11:12AM 7 him I could out low tech him, Your Honor.

11:12AM 8 OPENING STATEMENTS

11:12AM 9 BY MR. BRIAN:

11:12AM 10 Your Honor, Brad Brian for Transocean.

11:12AM 11 At 8:52 p.m. on April 20, 2010, a conversation
11:12AM 12 took place on the *Deepwater Horizon* that explains virtually
11:12AM 13 everything you need to know about what happened on the rig that
11:12AM 14 night.

11:12AM 15 There was a conversation between Don Vidrine,
11:12AM 16 BP's onsite well site leader, and Mark Hafle, their onshore
11:12AM 17 engineer.

11:12AM 18 Mr. Vidrine had supervised the negative pressure
11:12AM 19 test. He had declared the negative pressure test a success,
11:12AM 20 but he thought the results were squirrely. So he called
11:12AM 21 Mr. Hafle, who called him back at 8:52 p.m., before the gas had
11:12AM 22 gotten above the BOP, and early enough that if they had shut
11:13AM 23 down the job then, none of us would be here today.

11:13AM 24 Who was Mr. Hafle? Mr. Hafle was one of three
11:13AM 25 onshore engineers, part of the BP team. Mr. Hafle knew better

11:13AM 1 than anybody how problematic this well had been and the risks
11:13AM 2 that BP had taken.

11:13AM 3 Mr. Hafle understood better than anybody what a
11:13AM 4 negative pressure test is and what it should show. He listened
11:13AM 5 to Mr. Vidrine, and he knew immediately that there was a
11:13AM 6 problem.

11:13AM 7 He told Mr. Vidrine that you could not have the
11:13AM 8 test results that Mr. Vidrine had explained if the test had
11:13AM 9 been done right.

11:13AM 10 Mark Hafle told Don Vidrine that you can't have
11:14AM 11 pressure on the drill pipe and zero pressure on the kill line
11:14AM 12 in a test that's properly lined up.

11:14AM 13 So what did they do? Your Honor, the PSC's
11:14AM 14 expert, the DOJ's expert, just about everybody's expert
11:14AM 15 believes that that should have shut in the well, then, shut
11:14AM 16 down the job. If they had done that, we wouldn't be here.

11:14AM 17 But Hafle did not do that. Instead, Mark Hafle
11:14AM 18 did what he and the other engineers at BP had been doing for
11:14AM 19 two months in the face of risk; he did nothing.

11:14AM 20 Mr. Vidrine did worse. Mr. Vidrine got off the
11:14AM 21 phone and walked to the drill floor. He walked into the drill
11:14AM 22 shack, and he talked to the three men on Transocean's crew. He
11:14AM 23 told them to proceed with the displacement, to remove from the
11:15AM 24 well the drilling mud, the only thing that was at that point
11:15AM 25 standing in the way between those men and a blowout.

11:15AM 1 He left them alone in the drill shack to face
11:15AM 2 those risks. He never saw them alive again.

11:15AM 3 Transocean's drill crew followed those
11:15AM 4 instructions. They did it attentively. They were not
11:15AM 5 complacent. Twice during the next 30 minutes they shut down
11:15AM 6 the pumps when they saw abnormalities.

11:15AM 7 They spent crucial minutes trying to figure out
11:15AM 8 what Mr. Hafle already knew, that you can't have pressure on
11:15AM 9 the drill pipe and zero pressure on the kill line in a test
11:15AM 10 that's properly lined up.

11:15AM 11 These men on the drill crew made the mistake of
11:15AM 12 putting too much trust in BP, and they paid for that trust with
11:16AM 13 their lives.

11:16AM 14 Under these facts, Your Honor, BP's continuing
11:16AM 15 effort to shift the blame to the Transocean drill crew and to
11:16AM 16 avoid its indemnity obligation is shameful.

11:16AM 17 Your Honor knows that both BP and Transocean have
11:16AM 18 entered guilty pleas as a result of some of the conduct on
11:16AM 19 April 20, 2010, but that's where the comparison ends.

11:16AM 20 BP pled guilty to eleven counts of seamen's
11:16AM 21 manslaughter for not only causing the largest oil spill in
11:16AM 22 history, but for causing the deaths of eleven people, including
11:16AM 23 nine of our crewmen.

11:16AM 24 Transocean Deepwater, Inc., the employer of the
11:16AM 25 men offshore, pled guilty to one ordinary negligence

11:16AM 1 misdemeanor count for discharging oil into the Gulf.

11:17AM 2 We have admitted, Your Honor, that our crew
11:17AM 3 should have investigated more in response to Mr. Vidrine's
11:17AM 4 instruction, and we pled guilty for that; but they put their
11:17AM 5 trust into BP, and they were betrayed.

11:17AM 6 Your Honor, it's my privilege to represent the
11:17AM 7 Transocean defendants in this case. I'm honored and humbled to
11:17AM 8 be working alongside some of the best lawyers I've ever had the
11:17AM 9 privilege to work with, Kerry Miller, Steve Roberts,
11:17AM 10 Rachel Clingman, Richard Hymel; my own colleagues, Mike Doyen
11:17AM 11 and Luis LI and, back in the courtroom somewhere, John Kinchen.

11:17AM 12 I've tried to organize my opening remarks around
11:17AM 13 the two questions Your Honor will have to decide with respect
11:17AM 14 to Transocean in, I think, Phase One of the trial: Was the
11:17AM 15 drill crew or the company that employed them so consciously
11:18AM 16 indifferent to danger that their conduct can be deemed to be
11:18AM 17 grossly negligent; and, was the conduct of those men or the
11:18AM 18 company so deliberately deviant such that Transocean is deemed
11:18AM 19 to have committed a core breach of conduct that might
11:18AM 20 conceivably void BP's unambiguous indemnity obligation?

11:18AM 21 I would submit that the answer to both of those
11:18AM 22 questions is no.

11:18AM 23 The evidence will show at this trial that the
11:18AM 24 crew and Transocean were not consciously indifferent to danger.
11:18AM 25 Their conduct does not come close to the sort of deliberate

11:18AM 1 misconduct that has to be shown to establish a core breach of
11:18AM 2 contract.

11:18AM 3 I would submit that that 8:52 p.m. call lies at
11:18AM 4 the heart of the facts that Your Honor must wrestle with in
11:18AM 5 answering both of those questions. In many ways, it's a
11:19AM 6 microcosm of what BP did wrong on this well and why we believe
11:19AM 7 that Transocean and our crewmen truly are victims of that
11:19AM 8 misconduct.

11:19AM 9 When the BP onshore engineer and the BP well site
11:19AM 10 leader had that conversation, and they realized that the test
11:19AM 11 was no good, their instructing the crew to proceed with
11:19AM 12 displacement of the well was in utter disregard to the facts.
11:19AM 13 Nothing remotely similar was done by Transocean.

11:19AM 14 Did the crew make a mistake in thinking the test
11:19AM 15 was good and relying on Mr. Vidrine? Yes. We've admitted
11:19AM 16 that. In hindsight, everybody knows they made a mistake.

11:19AM 17 But did they know the test was wrong, as
11:19AM 18 Mr. Hafle indicated in those notes of his interview? No.

11:19AM 19 Mr. Hafle had an eight-minute conversation with
11:20AM 20 Mr. Vidrine, immediately saw a problem, and then stayed safely
11:20AM 21 onshore. The Transocean crew, by contrast, worked hard for
11:20AM 22 several hours for the sole purpose of getting that negative
11:20AM 23 pressure test right. They didn't get it right, but it wasn't
11:20AM 24 for lack of trying, and it was not for indifference.

11:20AM 25 We don't know, and we'll never know, Your Honor,

11:20AM 1 precisely what that crew was thinking because they are not here
11:20AM 2 to tell us. But what we do know is they had no interest in
11:20AM 3 putting themselves and their crew mates at risk.

11:20AM 4 I would submit that it's wrong as a matter of
11:20AM 5 fact and law, as Mr. Caldwell just tried to do, to equate the
11:20AM 6 conduct of the Transocean crew to the conduct of Mark Hafle,
11:20AM 7 who knew it was wrong and did nothing, or the conduct of
11:21AM 8 Don Vidrine, who was told by Mark Hafle it was wrong, and yet
11:21AM 9 told the crew to proceed.

11:21AM 10 The Transocean crew did not go home to safety,
11:21AM 11 Your Honor. They did not ignore their duty. They did their
11:21AM 12 duty. They died doing their duty. They died fighting the
11:21AM 13 well.

11:21AM 14 From 6:00 p.m. that night on April 20 until the
11:21AM 15 end, the Transocean drill crew, Revette, Stephen Curtis, and
11:21AM 16 Jason Anderson, were in the drill shack.

11:21AM 17 This was a great crew, experienced, well trained,
11:21AM 18 universally admired by everyone. The overwhelming evidence
11:21AM 19 shows that Transocean worked long and hard to provide this
11:21AM 20 drill crew with the training and the equipment that they needed
11:21AM 21 to do their job safely and return home. They died not because
11:21AM 22 they weren't trained properly; they died because critical
11:22AM 23 information was withheld from them.

11:22AM 24 Who were these three men? Jason Anderson had
11:22AM 25 been on the *Deepwater Horizon* almost 10 years, since its maiden

11:22AM 1 voyage. Shortly before April 20, he was offered a promotion
11:22AM 2 precisely because he was one of the best toolpushers in the
11:22AM 3 company.

11:22AM 4 Dewey Revette, the driller, had 23 years of
11:22AM 5 experience with the company. He had been on the *Deepwater*
11:22AM 6 *Horizon* almost as long as Mr. Anderson.

11:22AM 7 Stephen Curtis, the assistant driller, had worked
11:22AM 8 for Transocean for almost nine years, all but a few months of
11:22AM 9 which were on the *Deepwater Horizon*.

11:22AM 10 These men were universally respected. At
11:22AM 11 depositions in this case, Your Honor, we asked virtually
11:22AM 12 everyone what they thought of these men. The answer, they were
11:23AM 13 safety conscious people, the kinds of men you would gladly
11:23AM 14 entrust yourself, your lives to.

11:23AM 15 Here is what Murray Sepulvado, one of the highest
11:23AM 16 ranked BP well site leaders, said in his deposition:

11:23AM 17 (WHEREUPON, at this point in the proceedings, a
11:23AM 18 video clip was played.)

11:23AM 19 Q. "Did you ever have any problems with any of these
11:23AM 20 individuals we just talked about in terms of their safety
11:23AM 21 consciousness while you work as a well site leader on the
11:23AM 22 *Deepwater Horizon*?

11:23AM 23 A. "Never had it.

11:23AM 24 Q. "If you could turn back the clock, and if you could work
11:23AM 25 on a rig with these guys again, would you have any problem

11:23AM 1 working on a rig with these guys?

11:23AM 2 A. "It would be my pleasure."

11:23AM 3 (WHEREUPON, at this point in the proceedings, the
11:23AM 4 video clip ended.)

11:23AM 5 MR. BRIAN: The *Deepwater Horizon*, Your Honor, was one
11:23AM 6 of the best rigs in the world. It drilled some of the most
11:23AM 7 challenging wells in the world.

11:23AM 8 In 2009, it dug a well over 35000 feet, a record
11:23AM 9 in the world at its time, twice what the Macondo well was.

11:23AM 10 The rig was inspected hundreds of times by
11:23AM 11 government agencies and neutral third parties. One of the
11:24AM 12 officials at the government, the MMS, testified that from his
11:24AM 13 experience, they're one of the best.

11:24AM 14 When the Coast Guard inspected the rig in 2009,
11:24AM 15 they said they found the rig, the overall rig in excellent
11:24AM 16 condition. BP agreed.

11:24AM 17 The *Deepwater Horizon* had been built for BP and
11:24AM 18 worked exclusively for BP. It was regarded by BP as one of the
11:24AM 19 best rigs in the fleet.

11:24AM 20 You're going to hear testimony at the trial about
11:24AM 21 a tour on April 20 of the *Deepwater Horizon* by some senior BP
11:24AM 22 people, including a man named Pat O'Bryan. Here is what he had
11:24AM 23 to say about it.

11:24AM 24 At his deposition, he said, "It was the best
11:24AM 25 performing rig from a safety and a drilling performance

11:24AM 1 standpoint."

11:24AM 2 He went out on the tour because he wanted to see
11:24AM 3 what good looks like.

11:24AM 4 This crew didn't just meet industry standard.
11:25AM 5 This rig, Your Honor, was what the industry standard should be.

11:25AM 6 As of April 20, 2010, that was the view of BP,
11:25AM 7 the MMS, the Coast Guard. The problem here wasn't with the rig
11:25AM 8 or the crew. The problem was the well and the way BP managed
11:25AM 9 or mismanaged it.

11:25AM 10 It was not an accident that Transocean had its
11:25AM 11 best rig and a fine, well-trained crew on the Macondo well,
11:25AM 12 Your Honor. Transocean has only two assets, its people and its
11:25AM 13 equipment. We don't own oil and gas leases. We don't risk our
11:25AM 14 people or our equipment on the hope that we'll make zillions of
11:25AM 15 dollars by striking oil. When we send our people out to a rig,
11:25AM 16 we want them to come back to their homes and their families.

11:25AM 17 Transocean gave its people state of the art
11:26AM 18 training. All three of the men in the drill shack that night,
11:26AM 19 Jason Anderson, Dewey Revette and Stephen Curtis, were up to
11:26AM 20 date on their well control training courses.

11:26AM 21 Those courses were audited and certified by the
11:26AM 22 IADC, which sets standards and has certified well control
11:26AM 23 training programs in companies like Exxon Mobil, Chevron, Noble
11:26AM 24 Drilling and others.

11:26AM 25 Many, many experts have reviewed our training

11:26AM 1 programs. The bottom line is our training was top notch,
11:26AM 2 Your Honor.

11:26AM 3 You're not going to find a single expert report
11:26AM 4 saying that our training was below the standard of care in the
11:26AM 5 industry at that time.

11:26AM 6 Now, it is, of course, proper after an accident
11:26AM 7 to ask whether we could have done something different and
11:26AM 8 better? We've all done that. Transocean has always done that
11:26AM 9 when it had accidents and incidents in the past. They've
11:26AM 10 studied them. They have reported on them. They've instituted
11:27AM 11 new procedures. They've updated their training control manual.

11:27AM 12 We all hope that lessons will be learned from
11:27AM 13 Macondo. But in the world before Macondo, I would submit that
11:27AM 14 the evidence in this case will show that Transocean's training
11:27AM 15 was far above the standard of care in the industry.

11:27AM 16 Our training programs were reinforced constantly
11:27AM 17 by drills on the rig. Some of them weekly, others ad hoc.

11:27AM 18 For example, this is the drill report from
11:27AM 19 April 18, 2010, on the *Deepwater Horizon*, just two days before
11:27AM 20 the incident. In this drill, they discussed the roles and
11:27AM 21 responsibilities of the crew, and they discussed the
11:27AM 22 possibility of kicks during cement jobs. The crew was reminded
11:27AM 23 that wells have been lost due to improperly designed cement
11:27AM 24 slurries and spacers.

11:28AM 25 You heard Mr. Roy talk about the Sedco 711

11:28AM 1 incident that took place in the North Sea in late 2009. He
11:28AM 2 suggested, and I expect to hear argument at trial, that
11:28AM 3 somehow, because of that incident, and because a written
11:28AM 4 advisory somehow didn't get to the *Deepwater Horizon* because
11:28AM 5 somebody was on vacation, that the crew somehow was complacent
11:28AM 6 to the fact that barriers like cement can fail.

11:28AM 7 Your Honor, that is precisely what the crew was
11:28AM 8 told on April 18, 2010, two days before the incident.

11:28AM 9 Who was present? Jason Anderson, Stephen Curtis,
11:28AM 10 Dewey Revette, Don Vidrine. In fact, nine of the 11 men who
11:28AM 11 perished on April 20 were there.

11:28AM 12 That drill on April 18, Your Honor, is just an
11:28AM 13 example of how training at Transocean works. To join a crew,
11:29AM 14 the Transocean crewmen must attend well control school, get
11:29AM 15 classroom training and receive on-the-job training that is
11:29AM 16 tailored to their specific job responsibilities.

11:29AM 17 Once they make it to a crew, they keep on
11:29AM 18 training. They go back to the well control school every two
11:29AM 19 years. They learn on the job by teaching others and, probably
11:29AM 20 most of all, by drilling.

11:29AM 21 Your Honor, these men know and knew how to do
11:29AM 22 their jobs. They knew what to look for, and they weren't
11:29AM 23 looking for the right stuff on April 20.

11:29AM 24 They knew the fundamentals. They were preached
11:29AM 25 into them when they took the job, and that became their trade,

11:29AM 1 and they relived them and relearned them repeatedly.

11:29AM 2 Now, Mr. Roy talked about some other well control
11:29AM 3 events and suggested that that somehow shows that Transocean as
11:29AM 4 a company was grossly negligent, that somehow we had -- our
11:30AM 5 safety culture was deficient. With respect to my friend
11:30AM 6 Mr. Roy, they show nothing of the sort, Your Honor.

11:30AM 7 Transocean is justifiably proud of its record on
11:30AM 8 well control. Kicks are part of the business.

11:30AM 9 From 2005 through 2009, that five-year period,
11:30AM 10 Transocean worked on almost 7,000 wells worldwide. Our goal --
11:30AM 11 kicks are a part of the business, Your Honor, and our goal is
11:30AM 12 to keep the kicks under 20 barrels.

11:30AM 13 This is a report that came out in 2009, well
11:30AM 14 control events report, and you'll see what it tracks. It
11:30AM 15 tracks how the company or how the rig crews do in detecting
11:30AM 16 kicks.

11:30AM 17 What you see clustered in the lower left-hand
11:30AM 18 corner is that the majority of the kicks are detected within
11:31AM 19 10 barrels, the vast majority within 20, and only a small
11:31AM 20 sliver exceed 30 barrels.

11:31AM 21 The plaintiffs' efforts to use a handful, I think
11:31AM 22 Mr. Roy referred to six, of well control events to suggest that
11:31AM 23 somehow the company was grossly negligent or the crew was
11:31AM 24 grossly negligent on April 20 is unfair to the evidence, it's
11:31AM 25 unfair to the company, and it's unfair to the crew.

11:31AM 1 Now, when a drill crew does not meet that goal,
11:31AM 2 which happens, the company goes out, and it investigates it, it
11:31AM 3 reports on it, and it takes corrective action.

11:31AM 4 For an example, let's look at this 2004 event on
11:31AM 5 the *Cunningham* that Mr. Roy referred to. First of all, that
11:31AM 6 took place nine years ago, in 2004, six years before the
11:32AM 7 Macondo event. It took place off the coast of Egypt, in an
11:32AM 8 entirely different division of the company.

11:32AM 9 But, more fundamentally, Your Honor, the reason
11:32AM 10 that Mr. Roy is able to stand up and talk about these events is
11:32AM 11 because the company doesn't sweep them under the rug. The
11:32AM 12 company investigations them and creates written reports and
11:32AM 13 takes action.

11:32AM 14 Here is the action that took place as a result
11:32AM 15 of -- oops, I went the wrong way.

11:32AM 16 This is a letter that was written to the night
11:32AM 17 toolpusher, that's the -- a letter that says his conduct --
11:32AM 18 that he was complacent, and his conduct was grossly negligent.
11:32AM 19 It was recommended that he will be terminated from the company
11:32AM 20 immediately.

11:32AM 21 In every single one of the incidents that Mr. Roy
11:32AM 22 will talk about at trial, the company investigated those events
11:33AM 23 and took action. That's what a safety process system is.

11:33AM 24 Now, Mr. Roy referred an e-mail by Larry McMahan,
11:33AM 25 in which he said -- talked about train wrecks. You'll seal

11:33AM 1 that document. He's talking almost entirely, by the way -- he
11:33AM 2 uses the phrase "loss of control," and Mr. McMahan will tell
11:33AM 3 you that virtually all of those are loss of control of objects,
11:33AM 4 things falling, heavy equipment falling. I think there are one
11:33AM 5 or two well control events that are referred to in there.

11:33AM 6 But the point is that these are not e-mails from
11:33AM 7 some whistleblower who feels like he's not being heard by his
11:33AM 8 superiors at the company. This is a document by Larry McMahan,
11:33AM 9 the company's most senior executive in charge of training
11:33AM 10 worldwide.

11:33AM 11 His responsibility was to point out problems.
11:33AM 12 When he felt that people were not living up to that -- to the
11:33AM 13 high standards that the company set, he took action. He did it
11:34AM 14 with the kind of language that Mr. Roy indicated. At
11:34AM 15 Transocean, that is encouraged.

11:34AM 16 Steven Newman, the company's CEO, who, like
11:34AM 17 Mr. McMahan, will testify at this trial, totally supported
11:34AM 18 Mr. McMahan's effort.

11:34AM 19 Mr. Newman personally got involved in connection
11:34AM 20 with some problems you'll hear about involving a rig that they
11:34AM 21 call the *Arctic I* with Shell.

11:34AM 22 Before that, in the Fall of 2009, because three
11:34AM 23 or four people had actually been killed, not in well control
11:34AM 24 events, but on accidents on the rigs, he commissioned a
11:34AM 25 worldwide survey of the company. Because that was going to

11:34AM 1 take a while, he actually ordered an immediate worldwide
11:34AM 2 shutdown of the fleet to reemphasize the basics of safety.

11:34AM 3 Transocean does not put profit over safety.

11:34AM 4 Now, Mr. Roy mentioned a March 8th kick, 2010, on
11:34AM 5 the *Deepwater Horizon*. He said that the Transocean drill crew
11:35AM 6 detected that kick late, and that it was criticized by
11:35AM 7 John Guide.

11:35AM 8 John Guide has said that. His testimony on that
11:35AM 9 is contradicted by every other piece of evidence. In fact, the
11:35AM 10 evidence will be that the kick was detected within 10 to
11:35AM 11 12 barrels. It was not shut in until slightly more than
11:35AM 12 30 barrels because the crew was investigating whether the
11:35AM 13 movement of a crane on the rig could affect the pit volumes,
11:35AM 14 which it can do.

11:35AM 15 So we asked Murray Sepulvado, again, who was the
11:35AM 16 BP well site leader at the time, what he thought about the
11:35AM 17 crew's performance on March 8th. This is what he said.

11:35AM 18 (WHEREUPON, at this point in the proceedings, a
11:35AM 19 video clip was played.)

11:35AM 20 Q. "Because of the circumstances where the crane was in use
11:35AM 21 and the driller saw something that he had concerns about and
11:35AM 22 took the time to shut the crane down and then look to see if
11:36AM 23 there was really the crane or something else going on --

11:36AM 24 A. "Right.

11:36AM 25 Q. " -- did you consider his response to what he was seeing

11:36AM 1 appropriate?

11:36AM 2 A. "Yes.

11:36AM 3 Q. "Do you believe that anybody there on the rig screwed up,
11:36AM 4 as Mr. John Guide is quoted as having said here in this
11:36AM 5 interview, in terms of the March 8 kick?

11:36AM 6 A. "Well, I was there, and I thought they done a pretty good
11:36AM 7 job myself.

11:36AM 8 Q. "They being the TO folks?

11:36AM 9 A. "The TO folks and Halliburton."

11:36AM 10 (WHEREUPON, at this point in the proceedings, the
11:36AM 11 video clip ended.)

11:36AM 12 MR. BRIAN: Mr. Roy also talked about this Lloyd's
11:36AM 13 audit that took place also in 2010, and said there were some
11:36AM 14 problems. Well, I actually didn't think he was going to
11:36AM 15 mention it, so I didn't have it to put it up. So I'll read to
11:36AM 16 you a few of the findings by Lloyd's audit.

11:36AM 17 They found that 97.6 percent of the
11:36AM 18 *Deepwater Horizon* crew members surveyed believed that line
11:36AM 19 managers listened and acted on the crew's safety concern.

11:36AM 20 They believe that 100 percent of the
11:36AM 21 *Deepwater Horizon* crew members surveyed felt they understand
11:37AM 22 the safety procedures and hazards associated with their jobs
11:37AM 23 because of the degree of training and support they have
11:37AM 24 received, and they found the *Deepwater* rig safety culture to be
11:37AM 25 robust.

11:37AM 1 So, Your Honor, if we had this great rig and this
11:37AM 2 well-trained crew, why did the blowout take place? There are,
11:37AM 3 in the end, only two reasons for that.

11:37AM 4 First, BP took a series of unconscionable risks
11:37AM 5 with an exceptionally difficult well.

11:37AM 6 Second, instead of warning the crew that the
11:37AM 7 cement likely would fail and that the test, the negative
11:37AM 8 pressure test, to determine whether the cement job was good
11:37AM 9 had, in fact, failed, they did not give those warnings.

11:37AM 10 Now, Mr. Underhill described some of the risks
11:37AM 11 that BP took with the not doing the bottoms-up circulation,
11:37AM 12 using the long string instead of a liner, using the lower
11:38AM 13 number of centralizers. All of these decisions were made in
11:38AM 14 the context of a well they described as one of the wells from
11:38AM 15 hell, or a "nightmare" well.

11:38AM 16 The risk that they took made the integrity of the
11:38AM 17 bottom hole cement critical. Nevertheless, the evidence will
11:38AM 18 show that BP did not comply with its own requirements to make
11:38AM 19 sure they had a good cement job.

11:38AM 20 Others in this trial will spend more time on
11:38AM 21 cement than I will, Your Honor, but one of the critical
11:38AM 22 variables in cement is how long it takes to set, to harden.

11:38AM 23 The evidence here will show that compressive
11:38AM 24 strength tests were performed at the wrong temperature,
11:38AM 25 contrary to BP and industry standards. Other tests showed that

11:38AM 1 the cement would not set in 24 hours.

11:38AM 2 Despite that, BP shortened the time between the
11:38AM 3 pouring of the cement and the time that displacement was
11:39AM 4 started. Rather than waiting, let's say, 24 to 48 hours, they
11:39AM 5 ordered the crew to proceed with displacement within 16 hours
11:39AM 6 of the pouring of the cement.

11:39AM 7 Now, I expect that BP's lawyer will blame this on
11:39AM 8 Halliburton; but, one thing is absolutely clear, that by
11:39AM 9 April 20, BP had lost faith in the Halliburton cement team.

11:39AM 10 They referred in these documents to
11:39AM 11 Jesse Gagliano, who was their interface at Halliburton. They
11:39AM 12 said that Jessie isn't cutting it anymore. There is no excuse
11:39AM 13 for this. Jesse still waited until the last minute.

11:39AM 14 In another document, in their handwritten notes,
11:39AM 15 they said he showed a lack of understanding of the modeling.
11:39AM 16 The lab results came in at the last minute. They had to QC.

11:39AM 17 Whoever is to blame, Your Honor, for the cement
11:40AM 18 job, whether it's Halliburton, BP, or both, some facts are
11:40AM 19 absolutely clear: One, the cement job failed; two, they went
11:40AM 20 forward with the cement job without accurate test results;
11:40AM 21 three, they went forward without waiting for the test to
11:40AM 22 harden.

11:40AM 23 To make matters worse, they decided not to do a
11:40AM 24 cement bond log. Why? Because it would cost more money.

11:40AM 25 The men who made these decisions had days to

11:40AM 1 think about what they were doing. This is very different from
11:40AM 2 the Transocean rig crew whose conduct over the course of
11:40AM 3 minutes is at issue in this case.

11:40AM 4 You've already heard about BP flip-flopping on
11:40AM 5 the number of centralizers, even though they'd received a
11:40AM 6 report from Halliburton on April 18 warning them of a severe
11:40AM 7 gas flow problem if they didn't use the number of centralizers
11:41AM 8 that BP wanted. The head of BP's onshore team, Greg Walz,
11:41AM 9 admitted that he had a conversation with Mr. Gagliano on April
11:41AM 10 19, in which Mr. Gagliano told him about this document, and yet
11:41AM 11 they did nothing.

11:41AM 12 That takes us to one of the most famous e-mails
11:41AM 13 in the case, Brett Cocalles' e-mail where he says, who cares,
11:41AM 14 it's done, end of story, it will probably be fine.

11:41AM 15 There is an lot of arrogance in that e-mail; but,
11:41AM 16 I think the second, the next sentence, Your Honor, is in some
11:41AM 17 ways more telling. "I would rather have to squeeze than get
11:41AM 18 stuck above the wellhead."

11:41AM 19 What he's saying is, I would rather take the risk
11:41AM 20 of getting it wrong and then having just to fix it, than taking
11:41AM 21 the additional time to get it right in the first place.

11:41AM 22 That attitude has been widely condemned; but,
11:42AM 23 whatever you think of its merit, that risky approach that BP
11:42AM 24 took, if you're going to take those risks, you have to tell the
11:42AM 25 people sitting on top of the well, the guys who are going to

11:42AM 1 have to deal with it in the event of a failure.

11:42AM 2 BP's view at the time seemed to be that since
11:42AM 3 this is a risky business, and since the drill crew knew that
11:42AM 4 cement can fail, there is no need to tell them about the
11:42AM 5 extraordinary risks they were taking.

11:42AM 6 Now, this is not -- I'm not the only one saying
11:42AM 7 this, Your Honor. The PSC's expert, Professor Bea, in his
11:42AM 8 report says, and I quote, BP's onshore well team refused to
11:42AM 9 communicate key risks of the operation to Transocean.

11:42AM 10 The PSC now stands up and says that both BP and
11:42AM 11 Transocean were grossly negligent on a negative pressure test.
11:43AM 12 Your Honor, I just would point out, you certainly can't prove
11:43AM 13 that from our guilty plea because in our guilty plea, while
11:43AM 14 we've admitted ordinary negligence, we have not admitted gross
11:43AM 15 negligence. There is nothing in there that establishes.

11:43AM 16 The truth is that BP was responsible for the test
11:43AM 17 from the beginning to end, and they botched it up. They
11:43AM 18 botched it in the planning, in the design, in interrupting the
11:43AM 19 crew, and interpreting its results.

11:43AM 20 In the weeks leading up to April 20, Your Honor,
11:43AM 21 BP changed its mind five or six times about how to do a
11:43AM 22 negative pressure test, how many to do, when to do them.
11:43AM 23 First, they were going to do one. Then they were going to do
11:43AM 24 two. Then they were going to do one.

11:43AM 25 By the way, in the middle, and you'll see that

11:43AM 1 the yellow says -- the one that's below says, monitor for
11:43AM 2 30 minutes. I suspect BP might argue that they never planned
11:44AM 3 to do two tests; but, in fact, their own documents make clear
11:44AM 4 that that was in reference to a second negative pressure test,
11:44AM 5 because this an e-mail from Brian Morel, April 18, where he
11:44AM 6 says, the plan is to do a negative test with base oil on the
11:44AM 7 bottom plug. Then we will displace, and a second negative test
11:44AM 8 will be done.

11:44AM 9 In addition to all this confusion, they then
11:44AM 10 monkeyed with the test. You see, they had 400 barrels of
11:44AM 11 unused lost circulation materials on the rig. Under the law,
11:44AM 12 they were going to have to ship that back to shore and dispose
11:44AM 13 of it as hazardous waste.

11:44AM 14 They didn't want to do that because it would cost
11:44AM 15 money. So somebody at BP had this bright idea that if they
11:44AM 16 pumped it through the BOP in the system, they could refer to it
11:44AM 17 as circulation material, call it spacer, and then they could
11:44AM 18 just dump it overboard into the Gulf of Mexico.

11:45AM 19 Well, this stuff had been used to patch cracks in
11:45AM 20 the formation. As far as we know, it had never been used to
11:45AM 21 displace a well.

11:45AM 22 You know, people have been studying what the
11:45AM 23 effect of that was, and there's all these theories about
11:45AM 24 whether it clogged the kill line and stopped the flow; but, at
11:45AM 25 a minimum, it confused the negative pressure test.

11:45AM 1 All of these last minute changes by the
11:45AM 2 engineering people at BP had the operations people at wits end.
11:45AM 3 This is the e-mail you saw earlier from John Guide, where he
11:45AM 4 says there is so many last minute changes that they had finally
11:45AM 5 come to their wits end. The quote is, "flying by the seat of
11:45AM 6 our pants." Then he made his prophetic prediction, the
11:45AM 7 operation is not going to succeed.

11:45AM 8 He sent that to his boss, David Sims. What did
11:45AM 9 David Sims do about it? Nothing. He didn't do anything. He
11:45AM 10 didn't call a time-out. He didn't say, let's talk about it.
11:45AM 11 Instead, he sent back this e-mail in which he said, if we had
11:45AM 12 more time to plan this casing job, I think all of this would
11:46AM 13 have been worked out before it got to the rig.

11:46AM 14 They actually considered an alternative, plug the
11:46AM 15 well and abandon it, but that would have cost over \$10 million.

11:46AM 16 Your Honor, they had the time, they just didn't
11:46AM 17 want to spend the money.

11:46AM 18 The crew set up the negative pressure test on the
11:46AM 19 drill pipe, as was their practice when Murray Sepulvado had
11:46AM 20 been the well site leader, and they detected the abnormal
11:46AM 21 pressure on the drill pipe.

11:46AM 22 They were in the middle of investigating and
11:46AM 23 analyzing what that pressure meant when there was a change in
11:46AM 24 shifts of the two well site leaders at BP. Don Vidrine
11:46AM 25 replaced Bob Kaluza.

11:46AM 1 Don Vidrine insisted that they start the test
11:46AM 2 over and do it down the kill line because that's what their
11:47AM 3 permit had said, and instructed the crew to do it down the kill
11:47AM 4 line and to check for flow.

11:47AM 5 The crew followed that instruction, and they
11:47AM 6 watched it for 30 minutes. There was no flow.

11:47AM 7 Mr. Vidrine declared it a successful negative
11:47AM 8 test monitored on the kill line, as reflected in a document he
11:47AM 9 and Mr. Kaluza signed shortly after the incident.

11:47AM 10 Now, some people have said, well, this is very
11:47AM 11 simple, that it's like two straws going down a glass. If you
11:47AM 12 see a different pressure, automatically it's a failure.

11:47AM 13 It's not so simple because the two straws here,
11:47AM 14 one killed the kill line, went down 5,000 feet, the drill pipe
11:47AM 15 went down 3,000 more feet, and they are in different fluids
11:47AM 16 with different pressures.

11:47AM 17 So it's not unusual to have different pressure on
11:47AM 18 the kill line and the drill pipe. The question is why do you
11:47AM 19 have that different pressure? That's the issue. And that's
11:48AM 20 what the -- the crew didn't miss the fact that they had
11:48AM 21 different pressure. They were trying to analyze that, but
11:48AM 22 Mr. Vidrine told them to look for flow on the kill line, and
11:48AM 23 that was the mistake the crew made. They should not have
11:48AM 24 listened to that instruction.

11:48AM 25 After Vidrine finished his call at 8:52 p.m. with

11:48AM 1 Mr. Hafle and came to the drill pipe -- to the drill shack,
11:48AM 2 there were subtle signs that, with hindsight, experts now say
11:48AM 3 indicated a kick around 9 o'clock, slightly after 9 o'clock.

11:48AM 4 No one knows exactly how those signs appeared on
11:48AM 5 the screens that were available to Transocean, BP and
11:48AM 6 Halliburton; but, one thing we know for sure is that those
11:48AM 7 subtle signs of a kick were missed by a number of people
11:48AM 8 between around 9:08 and 9:14, 9:15.

11:49AM 9 They were missed by the driller at Transocean.

11:49AM 10 They were missed by the mudlogger, Joseph Keith,
11:49AM 11 who did take a break, a 10-minute break that Mr. Roy indicated,
11:49AM 12 and then came back to the drill shack and checked the screen
11:49AM 13 and didn't notice that.

11:49AM 14 They were missed by Don Vidrine, who visited the
11:49AM 15 drill floor during this time period to look at a sheen test and
11:49AM 16 check the screens.

11:49AM 17 They were missed by Mark Hafle, who testified --
11:49AM 18 who said in his interview that he had the screens up during his
11:49AM 19 conversation with Mr. Hafle between 8:52 and about 9 o'clock.

11:49AM 20 After Mr. Vidrine left the drill shack between
11:49AM 21 9:15, the crew then monitored the well.

11:49AM 22 As I said earlier, we will never know exactly
11:49AM 23 what they were thinking and exactly why they did what they did
11:49AM 24 because they are not here to tell us. But we do have the data,
11:49AM 25 Your Honor, the Sperry-Sun data.

11:50AM 1 The right four-fifths of that is the actual
11:50AM 2 actually Sperry-Sun data. We changed the column on the left to
11:50AM 3 make it easier.

11:50AM 4 This is what shows you what's happening, what
11:50AM 5 they are watching between 9:14 and 9:49. What you see is that
11:50AM 6 the crew was far from being complacent.

11:50AM 7 At about 9:18, you see that blue spike. The crew
11:50AM 8 noticed that, and they shut down three pumps to investigate.
11:50AM 9 They determined the problem was a popped pressure valve, so
11:50AM 10 they turned the pumps back on and the pressure rose.

11:50AM 11 The drill pipe is the red at the bottom, and the
11:50AM 12 kill line is the blue, Your Honor.

11:50AM 13 They continued to monitor. Then, about shortly
11:50AM 14 before 9:30, they see that the kill line and the drill pipe are
11:50AM 15 acting different, that the kill line goes up and then starts to
11:50AM 16 go down, and the drill pipe is doing something different.

11:50AM 17 So they shut off the pumps again. You see that
11:51AM 18 at the top, when it goes down to the bottom.

11:51AM 19 They continued to monitor. At about 9:36, they
11:51AM 20 actually released the pressure on the drill pipe. You can see
11:51AM 21 it dip down as a result of that. That's because they were
11:51AM 22 monitoring what was going on.

11:51AM 23 Then right around 9:40, before, about 9:39, you
11:51AM 24 see the pressure on the drill pipe goes up, and then it turns
11:51AM 25 back down. That's an indication of a kick.

11:51AM 1 The crew noticed that, and they did a flow check.
11:51AM 2 They saw that the well was flowing, so they closed the annular.
11:51AM 3 The flow was too strong, so closing the annular did not seal
11:51AM 4 the well.

11:51AM 5 As they were trained to do, they diverted the
11:51AM 6 flow into the diverter system.

11:51AM 7 Now, consistent with BP and Transocean policy at
11:51AM 8 that time, the diverter system was set by default to divert to
11:51AM 9 the mud-gas separator. The reason for that is environmental.
11:52AM 10 You don't want to just automatically divert hazardous stuff
11:52AM 11 into the sea.

11:52AM 12 Ultimately, as Mr. Roy indicated, the mud-gas
11:52AM 13 separator became overwhelmed. There is going to be evidence in
11:52AM 14 this case, we don't know exactly when, but there will be
11:52AM 15 evidence in this case that the crude did, in fact, then begin
11:52AM 16 to divert overboard; but, of course, by then, it was too late.

11:52AM 17 At about 9:46 or 9:47, they closed the variable
11:52AM 18 bore ram. For a moment, the well was successfully shut in, but
11:52AM 19 the force was just too great.

11:52AM 20 My point, Your Honor, is in a case where the
11:52AM 21 issue is were they consciously indifferent, were they grossly
11:52AM 22 negligent, this crew was attentive in taking responsive actions
11:52AM 23 at every step of the way in response to the indications that
11:52AM 24 they saw.

11:52AM 25 In addition to activating the BOP, closing the

11:52AM 1 annular, activating the variable bore rams, the crew did their
11:53AM 2 duty to alert others. They called the bridge, they called
11:53AM 3 Mr. Vidrine, and they called the senior toolpusher, Randy
11:53AM 4 Ezell.

11:53AM 5 This is Randy Ezell's testimony about his
11:53AM 6 conversation with Steve Curtis: Steve said the well is coming
11:53AM 7 in. We got mud blowing to the crown. I remember thinking, oh,
11:53AM 8 my God, and I asked did they have it shut in. Curtis told me
11:53AM 9 that Jason -- that's Jason Anderson -- was shutting it in. He
11:53AM 10 said, Jason is shutting it in now. Then he made the remark
11:53AM 11 that, we can't see out of our windows. Randy, we need your
11:53AM 12 help.

11:53AM 13 Ezell ran to put on his coveralls and his boots
11:53AM 14 and to help them, but he was blown back by the tremendous
11:53AM 15 explosion that then happened.

11:53AM 16 None of this had to happen, Your Honor. It
11:53AM 17 happened because BP was behind schedule and was rushing to get
11:53AM 18 this well done.

11:53AM 19 Some people have accused Transocean, and you're
11:54AM 20 going to hear evidence in the trial, of accusations that the
11:54AM 21 crew did not act quickly or decisively enough. I would submit,
11:54AM 22 Your Honor, that that's unfair. They took action, they were
11:54AM 23 attentive, but they were missing critical information.

11:54AM 24 They should have been told that there was a
11:54AM 25 severe gas flow potential. They should have been told that

11:54AM 1 there was a grave risk that the cement may not have hardened by
11:54AM 2 then. They should have been told that the cement might not be
11:54AM 3 stable. They should have been told about the conversation
11:54AM 4 between Mr. Vidrine and Mr. Hafle at 8:52 p.m.

11:54AM 5 BP has tried to shift the blame by focusing now
11:54AM 6 on the BOP and claiming that -- by distorting facts about the
11:54AM 7 BOP and by distorting what happened on the rig that night. The
11:54AM 8 PSC has sort of jumped on that bandwagon. So let me talk for
11:54AM 9 the few minutes I have left about the BOP and what happened on
11:54AM 10 the bridge crew.

11:54AM 11 The Court is going to hear a lot of technical
11:55AM 12 details about the BOP. I am not going to go through those
11:55AM 13 technical details now. They are going to be presented by the
11:55AM 14 experts. Most of them are, we think, undisputed and based on
11:55AM 15 the forensic evidence found by DNV.

11:55AM 16 Your Honor, that's the graphic of the blowout
11:55AM 17 preventer. The reason I prepared the board over here, which is
11:55AM 18 just simply a copy of that, was because I'm going to show you
11:55AM 19 that the things function, and I realize that it's helpful to
11:55AM 20 have that up and in place.

11:55AM 21 The evidence shows that annular functioned when
11:55AM 22 it was closed by the crew that evening. This is the upper
11:55AM 23 annular that you see on the chart over there that, in fact, did
11:55AM 24 close.

11:55AM 25 The variable bore rams also functioned.

11:55AM 1 But two minutes later, at about 9:47, there was
11:55AM 2 the powerful explosion, and that caused the rig to lose power
11:56AM 3 and to drift off station with pulled pipe.

11:56AM 4 After the explosion, it was determined that the
11:56AM 5 blind shear rams had functioned. There is some dispute, and
11:56AM 6 we'll talk about it at the trial, as to when. We believe they
11:56AM 7 functioned as they should have functioned; but, unfortunately,
11:56AM 8 the extreme flow up the well had moved the pipe off center. As
11:56AM 9 DNV found, because it moved off center, when it cut it was not
11:56AM 10 able to actually stop the flow of the well.

11:56AM 11 You see where the pipe is off center. That's
11:56AM 12 what caused it not to stop the blowout, Your Honor.

11:56AM 13 The fact is that the men operated the BOP and
11:56AM 14 that it, in fact, functioned. The piping off the side had
11:56AM 15 nothing to do with maintenance. The evidence you're going to
11:56AM 16 hear about batteries, it's all a red herring. The fact is the
11:56AM 17 BOP functioned.

11:56AM 18 Mr. Roy had mentioned the condition based
11:57AM 19 maintenance system the company used. Well, condition based
11:57AM 20 maintenance is used by the United States Department of Defense,
11:57AM 21 the Coast Guard, and the aircraft industry. It doesn't mean
11:57AM 22 running your tires on your car until the treads are bare and
11:57AM 23 your tire blows out. It means keeping track of things and
11:57AM 24 fixing them before they fix [verbatim].

11:57AM 25 The Court will hear evidence that the BOP

11:57AM 1 received extensive and regular maintenance, including hundreds
11:57AM 2 of hours in January and February of 2010, before it was put
11:57AM 3 back in operation on the Macondo.

11:57AM 4 All of the major components had been inspected
11:57AM 5 and maintained. The BOP was tested constantly. The blind
11:57AM 6 shear rams were tested on the morning of April 20, 2010, the
11:57AM 7 very day of the incident. They functioned then during the
11:57AM 8 test, and they functioned during the incident.

11:57AM 9 So let me talk for the last few minutes on what
11:58AM 10 happened on the bridge crew because there has been an argument
11:58AM 11 raised that somehow the crew and the captain panicked and that
11:58AM 12 they failed to disconnect immediately from the well.

11:58AM 13 Your Honor, that argument disrespects the memory
11:58AM 14 of the men and the heroic actions of the men and women on the
11:58AM 15 crew that night.

11:58AM 16 Some people seem to think that the EDS button is
11:58AM 17 some sort of ejector button like you see on an Air Force F-16.
11:58AM 18 It's not. It's a piece of equipment that's only designed to be
11:58AM 19 used after you communicate with the drill crew.

11:58AM 20 Why? Because the drill crew is trying to control
11:58AM 21 the well, and they have to take actions. If you just EDS
11:58AM 22 before you're supposed to or without checking with them, or
11:58AM 23 when it cuts the joints and it can't cut through the joints,
11:58AM 24 you may have a rig drifting out in the Gulf of Mexico with a
11:58AM 25 wide open wellbore.

11:59AM 1 Panicking and pushing the EDS button is not what
11:59AM 2 is recommended. It's almost like if you hit the ejector seat
11:59AM 3 button on an F-16 before you realize that you're upside down a
11:59AM 4 hundred feet above ground. You have to think before you do it.

11:59AM 5 The next claim that Mr. Roy made, that somehow
11:59AM 6 there was confusion because of the dual command, is not
11:59AM 7 accurate. Everybody knew that in case of an emergency,
11:59AM 8 Captain Kuchta was in charge. He knew it, and the other crew
11:59AM 9 members knew it.

11:59AM 10 It was totally proper for Captain Kuchta to ask
11:59AM 11 questions of some people before deciding to EDS. That was
11:59AM 12 entirely appropriate in an emergency. There was no panic in
11:59AM 13 Captain Kuchta, and he adhered to the right procedures on the
11:59AM 14 bridge crew -- on the bridge that night, Your Honor.

11:59AM 15 Perhaps the clearest indication that the crew was
12:00PM 16 well trained and that they acted properly in response to this
12:00PM 17 disaster is that every single man and woman who could have
12:00PM 18 survived did. In the midst of a literal apocalypse of fire,
12:00PM 19 explosion, burning oil, the men and women on that rig sprung
12:00PM 20 into action.

12:00PM 21 You will hear testimony at this trial about
12:00PM 22 literally death-defying acts of heroism. Men and women
12:00PM 23 walking, climbing, crawling on the rig to save their shipmates.
12:00PM 24 In the end, every single crew member who was not killed in the
12:00PM 25 initial explosion survived.

12:00PM 1 I think Professor Bea may have put it best at his
12:01PM 2 deposition, Your Honor, when he was asked, "What is your
12:01PM 3 opinion on the performance of the Transocean crew on April 20?"

12:01PM 4 Answer, "I think they were heroic."

12:01PM 5 I think so too, Your Honor. Thank you.

12:01PM 6 THE COURT: Okay. Thank you.

12:01PM 7 All right. It's noontime. We're going to now
12:01PM 8 take a lunch recess before we continue with the remainder of
12:01PM 9 the statements. I think we have about three hours left of
12:01PM 10 opening statements, I calculate. So let's come back at 1:30.
12:01PM 11 Recess until then.

12:01PM 12 THE DEPUTY CLERK: All rise.

12:01PM 13 (WHEREUPON, at 12:01 p.m. the Court was in luncheon
14 recess.)

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REPORTER'S CERTIFICATE

I, Cathy Pepper, Certified Realtime Reporter, Registered Merit Reporter, Certified Court Reporter of the State of Louisiana, Official Court Reporter for the United States District Court, Eastern District of Louisiana, do hereby certify that the foregoing is a true and correct transcript to the best of my ability and understanding from the record of the proceedings in the above-entitled and numbered matter.

s/Cathy Pepper

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