

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

* * * * *

Investigation of: *

*

FIRE ABOARD *GRANDE COSTA D'AVORIO* *

AT BERTH 16 IN THE PORT OF NEWARK IN * Accident No.: DCA23FM039

NEWARK, NEW JERSEY ON JULY 5, 2023 *

*

* * * * *

Union Township City Council Chambers
1976 Morris Avenue
Union, New Jersey 07083

Wednesday,
January 10, 2024

Hearing Day 1 of 6

FREE STATE REPORTING, INC.
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D.C. Area 301-261-1902
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APPEARANCES:

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Presiding Officer and Lead Investigating Officer
United States Coast Guard

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United States Coast Guard

WILLY PITTMAN, Investigator
National Center of Expertise (NCOE)
United States Coast Guard

LT BRANDON REED, Investigating Officer
United States Coast Guard
(Recorder)

LCDR KATHERINE WARD, Attorney Advisor
United States Coast Guard

BART BARNUM, Investigator in Charge
National Transportation Safety Board

NANCY McATEE, Investigator
National Transportation Safety Board

MICHAEL BALDASSARE, Attorney

Parties in Interest:

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(On behalf of American Maritime Services of New York)

GINO ZONGHETTI, Attorney
(On behalf of Ports America)

JOHN LEVY, Attorney
(On behalf of Grimaldi Deep Sea)

JOHN REILLY, Attorney
(On behalf of Port Authority of New York and New Jersey)

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City of Newark Law Department
(On behalf of City of Newark and the Department of
Public Safety, Division of Fire)

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P R O C E E D I N G S

(8:30 a.m.)

CDR BARGER: Good morning, ladies and gentlemen. The time is now 8:30 a.m. local time on the 10th of January 2024 in Union, New Jersey. I am Commander Christian Barger, Inspections and Investigations Branch Chief for the 5th Coast Guard District. I have been detailed as the lead investigating officer for this 1st Coast Guard District formal investigation and will serve as the presiding officer for these proceedings.

Before we begin, we will take a moment of silence in remembrance of Newark City firefighters Augusto Acabou and Wayne Brooks, Jr., who paid the ultimate sacrifice on July 5th, 2023, responding to the fire on board *Grande Costa D'Avorio*. Even though they are gone, they will never be forgotten.

(Pause.)

Thank you. I would also like to recognize the daily risk that all of our first responders and maritime professionals face in order to protect our communities and ensure the delivery of goods we rely upon. We thank them for their service.

The 1st Coast Guard District commander, Rear Admiral John Mauger, convened this formal investigation under the authority of Title 46 United States Code Section 6301, and Title 46 Code of Federal Regulations Part 4, to investigate the facts and circumstances surrounding the fire and subsequent fatalities on board the motor vessel *Grande Costa D'Avorio* that occurred on July

1 5th, 2023, while conducting loading operations at the Port of
2 Newark, New Jersey. The purpose of this investigation is to
3 determine the cause of this incident so that similar casualties
4 may be prevented in the future.

5 I note that there are many in attendance for today's session
6 either in person or watching on the live web stream. We
7 appreciate you joining us.

8 Other than myself, the members of this investigation include
9 LCDR Stephanie Moore, Mr. Willie Pittman, and LT Brandon Reed, who
10 is also our recorder. The legal counsel to this investigation is
11 LCDR Katherine Ward. All investigation members have previously
12 sworn to faithfully perform their duties without partiality. Upon
13 a completion of the investigation, we will submit our report of
14 findings, conclusions, and recommendations to the 1st Coast Guard
15 District commander.

16 The National Transportation Safety Board is also charged with
17 the responsibility of determining the cause or probable cause of a
18 major marine casualty under the provisions of Section 304(a)(1)(E)
19 of the Independent Safety Board Act of 1974. For this reason, the
20 NTSB representatives will participate fully in these hearings and
21 may make recommendations about the scope of the hearings, may call
22 and examine witnesses, and may submit or request additional
23 evidence. Here today is Mr. Bart Barnum, investigator in charge
24 for the NTSB's *Grande Costa D'Avorio* investigation, and Ms. Nancy
25 McAtee, the NTSB's certified fire investigator.

1 Italy, as the *Grande Costa D'Avorio's* flag state, has been
2 designated as a substantially interested state under provisions of
3 the International Maritime Organization's Casualty Investigation
4 Code. As such, they were afforded the opportunity to participate
5 in this investigation and provide me input as the lead
6 investigating officer.

7 At this time I will take appearances for the investigation
8 team including NTSB from my right -- or from my left to right.
9 Please state your name and spell your last name for the record.

10 LCDR WARD: Lieutenant Commander Katherine Ward. Last name
11 spelled W-a-r-d.

12 MR. BARNUM: Bart Barnum, NTSB. Last name spelled
13 B-a-r-n-u-m.

14 LCDR MOORE: Lieutenant Commander Stephanie Moore, M-o-o-r-e.

15 LT REED: Lieutenant Brandon Reed, R-e-e-d.

16 MR. PITTMAN: P-i-t-t-m-a-n.

17 MS. MCATEE: Nancy McAtee, NTSB, M-c-A-t-e-e.

18 CDR BARGER: Thank you.

19 I would like to request the cooperation of all persons
20 present to preserve the decorum of these proceedings and to
21 minimize any disruption. This is particularly the case for the
22 participating witnesses. These witnesses are appearing before the
23 members of this formal investigation to provide valuable
24 information that will assist this investigation. We request that
25 all participants to these proceedings and members of the public be

1 courteous to the witnesses and respect their dignity and right to
2 privacy. I ask those attending in person to silence all cell
3 phones at this time. Please exit the hearing room to make or
4 receive phone calls.

5 The members of the press are welcome and an area has been set
6 aside for your use during the proceedings. The news media may
7 question witnesses concerning the testimony that they have given
8 only after I have officially released them from these proceedings.
9 I ask that any such interviews be conducted outside of this room.

10 The goal of this investigation is to enable the prevention of
11 similar casualties in the future by determining as closely as
12 possible the factors that caused and contributed to the incident
13 so that proper preventative recommendations may be made; whether
14 there is evidence that any misconduct, inattention to duty,
15 negligence, or willful violation of law on the part of any person
16 licensed or certificated by the US Coast Guard contributed to the
17 casualty; and whether there is evidence that any US Coast Guard
18 personnel or any representative or employee of any other
19 government agency or any other person contributed to the casualty.

20 This hearing will focus on the events leading up to and
21 initial response actions during the fire that occurred on board
22 *Grande Costa D'Avorio* on July 5th, 2023. The hearing will explore
23 the composition of Ports America and American Maritime Services,
24 the loading procedures for Roll-on/Roll-off cargo, the regulatory
25 compliance record for the *Grande Costa D'Avorio*, crew member

1 duties and qualifications, the cause and origin of the fire, the
2 initial shipboard and subsequent land-based firefighting response,
3 contributing factors to the fatalities of two Newark firefighters,
4 and the training, preparation, and resources available to land-
5 based fire departments in the Port of New York and New Jersey.
6 The hearing will also include a review of the activities related
7 to the initial response phase of the incident after the US Coast
8 Guard was notified.

9 The Coast Guard has designated parties in interest to this
10 investigation. In Coast Guard marine casualty investigations a
11 party in interest is an individual, organization, or other entity
12 that under existing evidence or because of his or her position may
13 have been responsible for or contributed to the casualty. A party
14 in interest may also be an individual, organization, or other
15 entity having direct interest in the investigation and
16 demonstrating the potential for contributing significantly to the
17 completeness of the investigation or otherwise enhancing the
18 safety of life and property at sea through their participation.

19 All parties in interest have a statutory right to employ
20 counsel to represent them, to cross-examine witnesses, and to
21 propose witnesses. Witnesses who are not designated as parties in
22 interest may be assisted by counsel for the purpose of advising
23 them concerning their rights; however, such counsel are not
24 permitted to examine or cross-examine other witnesses or otherwise
25 participate in the investigation.

1 I will now read the list of those organizations and
2 individuals whom I have previously designated as parties in
3 interest. After I read the name of each organization or
4 individual, I ask that counsel announce their appearance on behalf
5 of their client. Please state your name and spell your last name
6 for the record. I will start from my left to my right.

7 American Maritime Services of New York. And if you could,
8 please make sure your microphone is on for the record.

9 UNIDENTIFIED SPEAKER: And this is the button you can press.

10 MR. KARPOUSIS: Ah. Okay. Shall I say it again?

11 CDR BARGER: Yes, please.

12 MR. KARPOUSIS: Sure. John Karpousis, K-a-r-p-o-u-s-i-s,
13 Freehill Morgan & Mahar, on behalf of American Maritime Services.

14 CDR BARGER: Ports America.

15 MR. ZONGHETTI: Good morning. Gino Zonghetti,
16 Z-o-n-g-h-e-t-t-i, on behalf of Ports America.

17 CDR BARGER: And Port Authority of New York and New Jersey.

18 MR. REILLY: John Reilly, Squire Patton Boggs, on behalf of
19 the Port Authority of New York and New Jersey.

20 CDR BARGER: And Grimaldi Deep Sea.

21 MR. LEVY: Good morning, everyone. This is John Levy from
22 the law firm of Montgomery McKracken Walker & Rhoads, on behalf of
23 Grimaldi.

24 CDR BARGER: And the City of Newark.

25 MR. LIPSHUTZ: Good morning. My name is Gary Lipshutz,

1 L-i-p-s-h-u-t-z. I'm first assistant corporation counsel for the
2 City of Newark representing the city and the Department of Public
3 Safety, Division of Fire. Good morning.

4 CDR BARGER: Thank you.

5 Witnesses were selected based on their testimony's relevance,
6 necessity to this investigation, and the public interest. The
7 parties in interest were afforded the opportunity to consider and
8 object to the Coast Guard's proposed witnesses and recommend
9 additional witnesses. I previously ruled on all witnesses.

10 Once called, the recorder will place all witnesses under
11 oath. When testifying under oath, a witness is subject to the
12 federal laws and penalties for perjury for making false statements
13 under Title 18 United States Code Section 1001. Penalties include
14 a fine up to \$250,000 or imprisonment up to 5 years, or both.

15 The sources of information into this investigation will
16 require -- it will require are many and varied. Since the date of
17 the casualty, the Coast Guard and NTSB, assisted by several other
18 federal, state, and local investigative agencies, conducted
19 substantial evidence collection activities and some of that
20 previously collected evidence will be considered during these
21 hearings as exhibits. Should any person have or believe he or she
22 has information not brought forward but which might be of direct
23 significance, that person is urged to bring that information to my
24 attention by emailing the investigation at paydetny -- p-a-y-d-e-
25 t-n-y -- @USCG.mil, with a subject line starting with GCD inquiry.

1 Multiple exhibits were deemed relevant to these proceedings
2 and will be utilized during the questioning of the witnesses.
3 Parties in interest were afforded the opportunity to review and
4 object to the Coast Guard's exhibits as well as recommend
5 additional exhibits. I have previously ruled on all
6 recommendations and objections. The public release of exhibits
7 will correspond to the day in which they are expected to be
8 presented during witness testimony. They will be posted to the
9 hearing's newsroom.

10 Mr. Barnum, the NTSB investigator in charge for this
11 investigation, will now say a few words on behalf of the NTSB.

12 MR. BARNUM: Good morning. I am Bart Barnum. I'm the
13 investigator in charge for the National Transportation Safety
14 Board for this investigation. The Safety Board is an independent
15 federal agency, which under the Independent Safety Board Act of
16 1974, is required to determine the cause or probable cause of this
17 accident; to issue the facts of the accident, conditions and
18 circumstances related to it; and to make recommendations for
19 measures to prevent similar accidents from occurring in the
20 future. The Safety Board has joined this hearing to avoid
21 duplicating the development of facts. Nevertheless, I do wish to
22 point out this does not preclude the Safety Board from finding
23 additional facts.

24 At the conclusion of this hearing, the Safety Board will
25 analyze these facts and determine the probable cause independent

1 of the Coast Guard. At a future date, a separate report of the
2 Safety Board's findings will be issued. That will include our
3 official determination of the probable cause of this accident. If
4 appropriate, the Safety Board will issue recommendations to
5 correct safety problems discovered during this investigation.
6 Some of these recommendations may be made in advance of that final
7 report.

8 Finally, on behalf of the NTSB, I would like to offer my
9 deepest condolences to the families of firefighter Brooks and
10 firefighter Acabou, and all those others affected by this terrible
11 tragedy. Thank you.

12 CDR BARGER: Thank you, Mr. Barnum.

13 This concludes the opening statement. We will now take a 15
14 minute recess, after which we will present Coast Guard Exhibit 1,
15 Stipulated Background Facts of the Incident. The formal hearing
16 is now in recess. The proceedings will resume at 9 a.m.

17 (Off the record.)

18 (On the record at 9:00 a.m.)

19 CDR BARGER: The time is now 9 a.m. We will resume the
20 formal hearing. Please direct your attention to the screens to
21 the presentation of Coast Guard Exhibit 1, Stipulated Background
22 Facts of the Incident.

23 (Exhibit 1 presentation played for the record, as follows:)

24 SPEAKER: The following presentation outlines facts of the
25 incident, which cover relevant background information for this

1 casualty. These facts were reviewed and stipulated to by all
2 parties of the investigation.

3 Ro-Ro is an abbreviation for Roll-on/Roll-off. It is one of
4 many methods of transporting cargo in the marine transportation
5 system. It is used to transport a range of goods, including cars
6 and heavy machinery, cargo, and other items. Ro-Ro shipping
7 allows cargo to be rolled onto and off a vessel using a series of
8 ramps. These vessels have open decks that stow different types of
9 cargo, generally wheeled cargo. This can include cars, trucks,
10 large commercial vehicles, heavy construction equipment, and other
11 items.

12 Cargo can be driven, pushed or forklifted directly onto the
13 vessel. The open decks can be adjusted to fit different types of
14 cargo which is secured in place for the transit, referred to as
15 lashing. This type of lashing consists of strapping points on the
16 vehicles to the ship, usually the tires. The loading process and
17 location of cargo are meticulously planned out to maximize both
18 efficiency of loading and use of space on the vessel. Once
19 completely loaded, full decks have an average of 6 inches of space
20 between each vehicle. Some combination Ro-Ro vessels have other
21 specialized storage areas for containers or refrigerated cargo.

22 The *Grande Costa D'Avorio* was a 692-foot Roll-on/Roll-off,
23 Ro-Ro, container vessel flagged in Italy with a classification
24 society of RINA Services S.P.A. The vessel had over 1200 vehicles
25 and over 50 containers loaded on board at the time of the

1 incident. The majority of vehicles consisted of minivans, trucks,
2 and personal vehicles. All vehicles were gasoline or diesel
3 powered. There were no electric vehicles on board. The ship
4 frequented ports around the world since its delivery in 2011. It
5 was owned and operated by Grimaldi Deep Sea S.P.A.

6 On July 2nd, 2023, *Grande Costa D'Avorio* left the dock in
7 Baltimore, Maryland and docked, on July 5th, 2023, at the Port of
8 Newark, New Jersey, berth 18, at approximately 0520 local time.
9 The vessel was planning to shift to the Red Hook Container
10 Terminal in Brooklyn, New York to discharge some containers that
11 were on board and load additional containers and autos for export.
12 From Brooklyn, the vessel would then sail to Rhode Island.

13 The weather that evening was 86 degrees Fahrenheit, clear
14 skies, and a maximum wind speed of 8 miles per hour. Sunset
15 occurred at 8:31 p.m. There were 28 crew members on board.

16 *Grande Costa D'Avorio* had 12 decks connected by vehicle ramps
17 throughout the vessel with mechanically operated doors. Vehicles
18 were loaded using a stern ramp that led up to deck 3. Deck 11 was
19 partially exposed, had a cargo vehicle deck, a weather deck, and
20 crew accommodation space. There was a stores crane located near
21 the lifeboat on the starboard side. The stores crane was used to
22 load and unload packaged supplies for the ship and its crew such
23 as food and spare parts.

24 According to US Coast Guard records, the ship held all
25 required Safety of Life at Sea, or SOLAS, safety and construction

1 certificates, and all certificates were valid. All required
2 inspections and maintenance were conducted either by the crew or a
3 third party.

4 The ship was organized into six fire protection zones for its
5 low pressure CO2 fire suppression system. Zones A through C were
6 designed to discharge for 10 minutes when activated, and the
7 steering gear, engine and separator room were designed to
8 discharge for 2 minutes. The system had controls in various
9 locations throughout the ship. Primary controls were in the CO2
10 room on deck 3. Secondary controls were located in a space behind
11 the navigation bridge.

12 Vehicle decks contained various lashing points to secure
13 vehicles per the ship's load plan. The lashing points on some of
14 decks, including deck 10 and 11, consisted of approximately 4-inch
15 diameter holes spaced approximately every 3 feet, which allowed
16 the free flow of air between decks. Decks with lashing holes were
17 all contained within the same low pressure CO2 protection zone.

18 There were designated means of escape and portable
19 firefighting equipment throughout the ship, as indicated by the
20 fire control plan and corresponding placarding. The ship was also
21 equipped with a fire detection system that alarmed visually and
22 audibly throughout the ship.

23 This video was compiled by Coast Guard investigators from
24 drone footage on July 6th and 7th, 2023, taken by the Bureau of
25 Alcohol, Tobacco, Firearms and Explosives and the Essex County

1 prosecutor's office and shows the ship's exterior. Note the
2 vehicle ramp on the ship's port side from deck 11 to the top
3 weather deck.

4 (Pause.)

5 This video was compiled from footage after the incident,
6 taken by the Bureau of Alcohol, Tobacco, Firearms, and Explosives
7 and shows the ship's interior on deck 10.

8 (Pause.)

9 The *Grande Costa D'Avorio* received its last US Coast Guard
10 port state control exam in Brooklyn, Red Hook, New York, on
11 January 4th, 2023, with no deficiencies noted. The ship is
12 enrolled in the Qualship 21 program until September 23rd, 2026.
13 Qualship 21 is a US Coast Guard initiative to identify high
14 quality ships and provide incentives to encourage quality
15 operations. According to the Electronic Quality Shipping
16 Information System, Equasis, the previous foreign port state
17 control exam occurred in Valencia, Spain on July 11th, 2022, with
18 no deficiencies noted. There were no conditions of class or flag
19 dispensations. According to US Coast Guard records, the vessel
20 had no history of marine casualties in US waters.

21 The *Grande Costa D'Avorio* crew were properly credentialed for
22 the positions they filled on board the vessel and held all
23 appropriate flag state endorsements. The vessel was manned in
24 compliance with the minimum safe manning certificate issued under
25 their provisions of Regulation 514.2 of the International

1 Convention for the Safety of Life at Sea, SOLAS, 1974, as amended
2 by Italy.

3 The ship's crew consisted of 28 members during the incident.
4 All crew members deemed directly involved in the incident were
5 tested for the presence of dangerous drugs and alcohol. All
6 results were negative.

7 US Coast Guard Sector New York, as the captain of the port
8 and officer in charge marine inspection, provided regulatory
9 oversight of marine safety activities, including search and
10 rescue, incident management, contingency planning, and vessel and
11 shoreside facility safety and security inspections. Their area of
12 responsibility includes the Port of Newark. Sector New York falls
13 under the US Coast Guard 1st District and Atlantic Area.

14 The City of Newark owns the Port Newark. The Port Authority
15 leases the Port Newark from the City of Newark. The port
16 authority operates the Port Newark as a lessee from the City of
17 Newark. The port authority manages the berth at which the *Grande*
18 *Costa D'Avorio* was docked. They provided law enforcement response
19 through the port authority police department, but fire response
20 capabilities were coordinated through local municipalities. For
21 this incident, the Newark Fire Department was the first due
22 response agency.

23 Ports America is the stevedoring company hired by the *Grande*
24 *Costa D'Avorio* interests to load the cargo on the ship. They were
25 the owners of the shoreside equipment used to load the ship and

1 provided stevedores and longshoremen to do so. They contracted
2 with American Maritime Services of New York to provide lashers and
3 mechanics to further support this evolution. They used loading
4 plans and cargo parameters provided by Grimaldi Deep Sea S.P.A.
5 American Maritime Services of New York, as contracted by Ports
6 America, provided lashers and mechanics to support ship loading.

7 The port authority is a landlord port authority which has
8 three auto processors amongst its tenants. Multiple Ro-Ro
9 services connected to North America and international markets call
10 at the Port of New York and New Jersey. Ro-Ro ships can dock at
11 one of several public berths in the Port Newark Channel. The
12 *Grande Costa D'Avorio* docked at berth 18, which is a public berth.

13 The port authority does not engage in cargo operations. The
14 port authority manages the property and the berths utilized by
15 Ro-Ro vessels, and maintains a close relationship with the local
16 US Coast Guard sector and the captain of the port. Berth 18 is
17 part of a facility that falls under the facility security plan of
18 the port authority, which is regulated under the Maritime
19 Transportation Security Act. No previous deficiencies were
20 recorded during US Coast Guard facility inspections.

21 Land-based firefighting hydrants were installed along the
22 dock near berth 18. The vessel was moored starboard-side bow
23 towards berth 20.

24 (End of Exhibit 1 presentation.)

25 CDR BARGER: Thank you, LT Reed.

1 Since we are running ahead of schedule, to ensure our first
2 witness is present, we will now take a recess until 9:45 a.m. The
3 first witness called will be Mr. Gavin Puchinsky, and we will
4 present associated exhibits. The formal hearing is now in recess.
5 The proceedings will resume at 9:45 a.m.

6 (Off the record.)

7 (On the record at 9:50 a.m.)

8 CDR BARGER: The hearing is now reconvened at 9:50 a.m. and
9 back on the record regarding the fire on board the *Grande Costa*
10 *D'Avorio*. Our first witness is Mr. Gavin Puchinsky.

11 LT Reed, please swear the witness in.

12 LT REED: Mr. Puchinsky, please rise, raise your right hand.

13 A false statement given to an agency of the United States is
14 punishable by a fine and/or imprisonment under 18 USC 1001.
15 Knowing this, do you solemnly swear to tell the truth, the whole
16 truth, and nothing but the truth?

17 MR. PUCHINSKY: Yes.

18 LT REED: Thank you. You may be seated.

19 I'll now ask you a few initial questions. Please state your
20 name and spell your last name for the record.

21 THE WITNESS: Gavin Puchinsky, P-u-c-h-i-n-s-k-y.

22 LT REED: And counsel, please state your name and spell your
23 last name for the record.

24 MR. BALDASSARE: Michael Baldassare, B-a-l-d-a-s-s-a-r-e,
25 from Baldassare & Mara, LLC.

1 LT REED: Gavin, on July 5th, 2023, what was your profession?

2 THE WITNESS: Lasher at AMS.

3 LT REED: What, if any, professional certificates or
4 certifications do you hold related to that position?

5 THE WITNESS: Nothing.

6 LT REED: And how long had you been employed at the time of
7 the casualty?

8 THE WITNESS: I think 2 years, because I started in July of
9 2021.

10 LT REED: Okay. Thank you very much.

11 Commander, the witness is ready to proceed.

12 CDR BARGER: Okay. Thank you, LT Reed.

13 I will be conducting the direct examination of this witness.
14 (Whereupon,

15 GAVIN PUCHINSKY

16 was called as a witness and, having been duly sworn, was examined
17 and testified as follows:)

18 DIRECT EXAMINATION

19 BY CDR BARGER:

20 Q. Good morning, Mr. Puchinsky.

21 A. Good morning.

22 Q. Do you remember the incident that occurred on July 5th, 2023?

23 A. Yes, sir.

24 Q. On that day, you've stated that you were an employee of AMS.

25 A. Yes, sir.

1 Q. Can you please tell us what AMS stands for?

2 A. American Maritime Service.

3 Q. Thank you. And on that day, where were you assigned to work?

4 A. At berth 18 on the Grimaldi ship. I was -- in the morning, I
5 was being a lasher, so that means just securing the vehicles, but
6 my job changed throughout the day.

7 Q. Okay. Thank you. And we'll talk about that as we go through
8 the series of questions.

9 And how familiar were you with working at that location? Had
10 you done it before?

11 A. Yeah, multiple times before.

12 Q. If you had to estimate, how many times had you worked at that
13 location?

14 A. Probably like once a week for the past 2 years. Whenever a
15 ship comes into that port, that's where I usually go.

16 Q. And do you only work there when it's the *Grande Costa*
17 *D'Avorio* or are there other ships that call at that berth?

18 A. Other ships that come in.

19 Q. And how familiar are you with working on board that
20 particular vessel, the *Grande Costa D'Avorio*?

21 A. I am pretty familiar working on that ship.

22 Q. How often would you say you're helping to do cargo operations
23 on that particular ship?

24 A. Usually whenever it comes in. Whenever --

25 Q. How frequently -- if you had to estimate, how frequently is

1 that?

2 A. Usually every like 2 weeks, a week, comes in different
3 like -- it's like basically the same shipping line, but it's
4 different ships that come in.

5 Q. And when you first reported to work, what were your assigned
6 responsibilities?

7 A. I was supposed to secure the cars to the vessel, the deck of
8 the ship.

9 Q. And how does a lashier relate to other shoreside personnel
10 that are conducting loading operations on board the ship?

11 A. A lashier secures the vehicles. We also disconnect the
12 batteries, and we also push the vehicles onto the ship.

13 Q. And what training did you receive specific to your job as a
14 lashier prior to the incident?

15 A. How to lash, put the strap to the wheel, to the deck, then
16 how to disconnect and cap the battery, and then drive the push
17 vehicle. It's just someone higher up shows you what to do, with
18 more seniority.

19 Q. Okay. So would you classify it as on-the-job training?

20 A. Yeah.

21 Q. What policies or procedures were provided that described to
22 you how to perform your job?

23 A. I don't understand. What does that mean?

24 Q. Were you provided any kind of guidance, written guidance or
25 specifications from your employer, AMS, or another entity within,

1 like how the loading system -- how to perform your job as a
2 lasher?

3 A. No. It was just people telling me what to do on the job.
4 Like I show up there, they tell me what to do.

5 Q. And on July 5th, 2023, what time did you report to the
6 worksite that day?

7 A. It was either 7 or 8 o'clock. I don't remember the exact
8 time I got ordered to the ship, but it's 7 a.m. or 8 a.m.

9 Q. And when you arrived at the worksite, who did you report to
10 for the day?

11 A. My foreman.

12 Q. And is the foreman the person that gives you the formal
13 tasking?

14 A. Yes. So he'll have all of us huddle up and say you guys are
15 doing this, you guys are doing that, and then etc., etc.

16 Q. And I believe you previously mentioned you were assigned
17 initially to do the lashing.

18 A. Um-hum.

19 Q. Did you work by yourself in performing that task or was there
20 a team?

21 A. It was a team. I don't know how many of us were doing it,
22 but --

23 Q. And how long did you perform that job doing lashing on the
24 ship?

25 A. I don't remember, but it wasn't that long. I think it was

1 still -- in the morning, I got switched over to disconnect the
2 batteries on the cars.

3 Q. If you had to estimate, based on a event that occurs, you
4 know, breaks or lunch, when you were switched over?

5 A. Most likely the first coffee break, but I don't remember.

6 Q. When does that first coffee break happen?

7 A. Around 10 o'clock.

8 Q. And then did you receive additional tasking later in the day?

9 A. Yeah.

10 Q. What was that?

11 A. Around the next coffee break, around 3, 4 o'clock, I was told
12 to do a pusher vehicle.

13 Q. And then once you were assigned to that tasking to do a
14 pusher vehicle, how long did you do that?

15 A. Until the end of the day.

16 Q. On the day of the incident, did you work on deck 10 of the
17 ship?

18 A. Yes, sir.

19 Q. And at what point did you start working on deck 10?

20 A. Once I went into the push vehicle and pushing cars up to deck
21 10. I don't remember what port was up there, like because there's
22 different ports where the vehicles are going, because I was told
23 to either get -- this port goes to a different deck, this port
24 goes to a different deck, but most of them I was pushing to deck
25 10.

1 Q. Okay. So the majority of cars --

2 A. Yeah.

3 Q. -- that you pushed onto the ship went to deck 10?

4 A. Um-hum.

5 Q. And then operating a push vehicle and when you pushed the
6 cars onto deck 10, what -- describe to us how that operation
7 occurred when you got the vehicle up there.

8 A. So you go out into the field of cars. You find a car that
9 has a release sticker on it. You drive it up to the checker. The
10 checker -- or push it up to the checker. The checker checks it,
11 he says you're good. Then you go to the main ramp and then you
12 push it up to whatever deck they tell you to go.

13 Q. Okay. And then once it's on deck 10, how does that function
14 for you as a pusher vehicle driver?

15 A. I go up, let's just say to deck 10, then there's a --
16 someone's supposed to be parking the car, so I push them, give
17 them enough speed to get into the parking spot. And then the guy
18 that's in the pushed -- the car that's being pushed, puts it in
19 park, pops the hood, and then repeat the cycle, go and get another
20 car.

21 Q. And if you had to estimate, from the point at which you get
22 the vehicle you're going to push selected from the field and get
23 it up onto deck 10 and repeat that cycle, how long is that
24 evolution taking?

25 A. It varies. So I want to say anywhere from 2 to like 8

1 minutes, 10 minutes. Because if you can't find a car out there,
2 you're driving around looking for a little release sticker on the
3 mirror, so it varies if you can't find the car.

4 Q. Okay. So we're going to switch over to some questions about
5 the equipment that you were using that day to perform the push
6 vehicle function in particular. So if you could describe to us,
7 and I think you have a little bit, but what is a push vehicle
8 exactly?

9 A. So it's either a pickup truck or a jeep that has a push bar
10 in the front of it. And you get behind a car that doesn't start
11 and you push it onto the ship.

12 Q. And can you describe the push bar?

13 A. It's like a metal bar in front of the car.

14 Q. When you were assigned to start using a push vehicle, how did
15 you pick which push vehicle you would use?

16 A. So my foreman said, you're going to be in a push -- start to
17 do a push job. So I walked over to the -- where the Jeep was,
18 because it was right on the string piece. Someone was using it
19 prior. I don't know if they had to go home or whatever. So I
20 hopped in that and grabbed my partner, and we went and did the
21 job.

22 Q. Okay. So was it the only vehicle available at that time?

23 A. Yeah. All the other ones were being used.

24 Q. And if you could, help us understand exactly where that was
25 stowed in relation to the ship.

1 A. So during coffee break, everyone drives around -- like the
2 coffee truck comes and everyone is either -- the longshoremen are
3 in their vans and then the lashers are in the push vehicles just
4 hanging out waiting for break to be over. So it was just amongst
5 all the other vehicles that are on the string piece that my
6 foreman said, go grab that one. And after coffee break, that's
7 what we were going to use.

8 Q. Okay. And what time is that coffee break in the afternoon?

9 A. Around 3, 4 o'clock.

10 Q. Okay. And if you could verify for us again, what type of
11 vehicle?

12 A. It was a Jeep Wrangler.

13 Q. Jeep Wrangler? Can you please describe the Jeep Wrangler?

14 A. It was yellow two-door, hard top, and it had four-wheel
15 drive.

16 Q. We will now display Coast Guard Exhibit 3, page 1. And
17 Mr. Puchinsky, is that available to you on your screen?

18 A. It's black. And there it is. Yeah.

19 Q. Okay. Is the stock image of a vehicle on the left side of
20 this exhibit an accurate representation of the vehicle that you
21 were using?

22 A. Yes. It's very similar, just it had a hard top, not a soft
23 top.

24 Q. Okay. And you mentioned the push bar. Is that available to
25 see in this image?

1 A. It's not what -- like the regular bumper on the front of the
2 Jeep. It was something added that is basically a big metal bar
3 that's bolted onto the front of the Jeep.

4 Q. So essentially an additional bumper?

5 A. Um-hum.

6 Q. Thank you. Okay. I've already described where the vehicle
7 was stowed when you first started operating it after the coffee
8 break, but now thinking prior to that -- or prior to that coffee
9 break in the day, had you seen that yellow Jeep being used by
10 other lashers?

11 A. Yeah. I don't know who was using it, but I seen it go up and
12 down the ramp a bunch of times earlier in the day.

13 Q. If you had to estimate time throughout the day, how often or
14 how long had you seen that yellow Jeep being used?

15 A. Basically all day, I would say.

16 Q. Was it always being used -- and only if you know, was it only
17 being used to push vehicles to deck 10 or in other locations on
18 the ship?

19 A. I -- (audio interruption) so it could be anywhere.

20 Q. And prior to you starting to use it, when was the last time
21 that you saw the vehicle being used?

22 A. Before the coffee break. I don't recall what time.

23 Q. I know you've worked for -- you said you've worked for AMS
24 for 2 years approximately. In those 2 years, how many times have
25 you operated a push vehicle before?

1 A. Multiple times before. I want to say I started like using
2 the push vehicle like a year and a half in, so I want to say maybe
3 15 times before, 15 -- 10, 15. That's just a rough estimate.

4 Q. Operating a push vehicle 10 to 15 times over that year and a
5 half period --

6 A. Yeah.

7 Q. -- you had started using it? If you had to estimate, how
8 many times before had you operated the Jeep push vehicle in
9 particular?

10 A. Majority of the time, because it's usually the one that's
11 available or because it doesn't have air conditioning or anything
12 in it, so the other people with more seniority take the ones with
13 air conditioning, so --

14 Q. Okay. A year and a half before the incident when you first
15 started operating a push vehicle, what kind of training did you
16 receive on how to do that function?

17 A. It's just someone higher up shows you how to operate the
18 vehicle, just driving a car. Then you push the other car up the
19 ship. So it's job training, whatever you call -- on-the-job
20 training.

21 Q. And were there any written policies or procedures that helped
22 you understand how to perform that function from your employer?

23 A. Not to my knowledge.

24 Q. When you began using the Jeep push vehicle on the day of the
25 incident, what was your knowledge about its condition?

1 A. That it worked, because I seen it being used all day. So
2 there was no -- nothing to say that it wasn't going to work.

3 Q. And when you got in and started the vehicle, please describe
4 your observations about how the vehicle operated.

5 A. It started right up. It's an older vehicle and it's being
6 used as a, what's it called, a work vehicle, so there is dirt and
7 dust, everything, inside of it. But it started and worked, so
8 there was no other issues with it.

9 Q. Okay. Did you see or hear any alarms or indicators that it
10 wasn't working?

11 A. I didn't see any alarms, but later on I did hear a noise
12 right before the incident happened, so --

13 Q. Okay. And we'll get into more detail on that.

14 A. Yeah.

15 Q. We will now display Coast Guard Exhibit 3, page 4. And
16 Mr. Puchinsky, do you have the image on your screen?

17 A. Um-hum.

18 Q. Is this exemplar photo an accurate representation of the
19 dashboard instrument panel in the Jeep push vehicle?

20 A. Yes.

21 Q. Was there any difference between this exemplar picture and
22 the vehicle you were using?

23 A. It might have been -- like this is black interior. It might
24 have been brown interior, but it also might have just been dirty.
25 I haven't like -- because the Jeep was very dirty inside, so --

1 Q. Okay. And on this instrument panel was there anything
2 that -- what, if anything, was not functioning at the time when
3 you first started operating the vehicle?

4 A. So the back lights behind the gauges weren't on, so -- I
5 didn't really have to -- didn't look at them because they weren't
6 on.

7 Q. So you say the back light wasn't working. Were the gauges
8 themselves?

9 A. Oh, yeah.

10 Q. So you -- were you able to tell how fast you were going?

11 A. Yeah.

12 Q. Were you able to tell what the engine rpm was?

13 A. Yeah.

14 Q. Were you able to tell what gear the vehicle was on based on
15 the dashboard?

16 A. That was a little -- because that light wasn't working, so
17 you just had to look down on the gear shifter to see where you
18 were.

19 Q. We'll now -- or we will now display Coast Guard Exhibit 3,
20 page 3. Mr. Puchinsky --

21 A. Yeah, I see it.

22 Q. -- do you have it displayed on your screen?

23 A. Yep.

24 Q. And is this a, as a diagram, a representation of how you
25 remember the instrument cluster on the Jeep you were operating?

1 A. Yes.

2 Q. Where, if at all, on this did you see any kind of digital
3 message displayed?

4 A. I don't know because I didn't really pay attention to the
5 lights on the dash.

6 Q. Okay. In areas marked 31 on this diagram, did you see any --
7 do you remember seeing any kind of messages displayed there?

8 A. I don't remember.

9 Q. In the area marked 24 on this diagram, do you remember seeing
10 any messages displayed there?

11 A. I don't remember.

12 Q. Okay. And to confirm what you said earlier, when you started
13 the vehicle and were first operating it, do you remember hearing
14 any kind of audible alarm?

15 A. No.

16 Q. So I know you said you hadn't see any displayed, but had you
17 seen a dashboard warning light or message appear, how familiar
18 were you with what they would indicate?

19 A. Not that familiar.

20 Q. Had you ever had a chance to review the vehicle's owner
21 manual?

22 A. No.

23 Q. Okay. Once you started using the Jeep push vehicle, how long
24 were you operating it and did you take any breaks?

25 A. So I started around 3:30, 4 o'clock, whenever the coffee

1 break ended, and then we took another coffee break around 7, and
2 then till the incident happened.

3 Q. So in that time that you were operating the Jeep push
4 vehicle, how many vehicles would you estimate you loaded with it?

5 A. I want to say maybe 10 an hour. So maybe 50.

6 Q. So 50 vehicles using that Jeep push vehicle over a 4-hour
7 period of time?

8 A. Yeah, something like that. Because I -- this is just a rough
9 estimate, because I don't know the exact number.

10 Q. Okay. Understood.

11 All right. We'll now display Coast Guard Exhibit 2, which is
12 a video. So I will ask you to watch the video first once it
13 starts playing, and then I'll ask you questions.

14 (Coast Guard Exhibit 2 played for the record.)

15 BY CDR BARGER:

16 Q. Okay. Mr. Puchinsky, what's occurring in this video?

17 A. A yellow Jeep is pushing a push -- a car up the main ramp
18 onto the ship.

19 Q. And is this an accurate representation of how the Jeep push
20 vehicle is used to conduct cargo loading operations?

21 A. Yes.

22 Q. The video is marked as 8:58 p.m. At that time, who was
23 operating the push vehicle?

24 A. I was.

25 Q. And after the vehicle enters the ship, where did you go from

1 there?

2 A. Went to deck 10.

3 Q. And can you describe that path from entering the stern of the
4 ship to deck 10?

5 A. So the stern of the ship is here. Go up the main ramp and
6 then you make a, like a complete 180 and go up another ramp, and
7 then to the top of that ramp is deck 10.

8 Q. And while you -- throughout the period of time you were
9 operating the Jeep push vehicle, but in particular as we approach
10 the time of this video, did the operating condition of the Jeep
11 change in any way?

12 A. No.

13 Q. And while you were operating it around 8:58 p.m., what, if
14 any, warning lights or warning messages did you see inside the
15 vehicle?

16 A. I didn't see any warning lights or warning messages.

17 Q. Okay. And did you hear any audible warning alarms?

18 A. When I got to the top of deck -- basically almost onto deck
19 10, I heard a clunking noise.

20 Q. Any estimation of where that clunking noise came from?

21 A. No.

22 Q. But was it on the vehicle or was it from somewhere else on
23 the ship?

24 A. It could have been from the vehicle or anywhere from the ship
25 because the ship is very loud. There's a lot of things going on.

1 Q. In your estimation, where would you say it came from?

2 A. Probably the car.

3 Q. And that was the only unusual sound that you heard from the
4 vehicle at that time?

5 A. Yes, sir.

6 Q. And to be completely clear, so can you please describe the
7 noise?

8 A. Just a clunking noise. It went -- it was like, like you
9 dropped like a wrench or something on the floor.

10 Q. And when you were -- on your -- the vehicle that you were
11 loading onto the ship at 8:58, once you got to deck 10, please
12 describe what happened.

13 A. So I got up to deck 10. I slowly pushed the car I was
14 pushing into the spot. I was just hanging out, with all the
15 windows were down in the car, waiting for my partner to get back
16 in. Then all the other lashers are there to secure the vehicle to
17 the deck, and they start screaming at me to get out of the car
18 because the car was on fire.

19 Q. So when they told you to get out of the car, was that the
20 first time you had awareness --

21 A. Yes.

22 Q. -- that there was a fire?

23 A. Yes.

24 Q. And you personally, when and from where did you first see the
25 indication of fire?

1 A. So I was sitting in the driver's seat. My co-worker said,
2 get out of the car. I said, why; what are you talking about? And
3 then I turned to my right and the passenger seat window was open
4 and flames were coming in through that window.

5 Q. We will now again display Coast Guard Exhibit 3, page 1.
6 Mr. Puchinsky can you see the image on your screen?

7 A. Yes, sir.

8 Q. So using the line diagrams in the upper left corner of the
9 exhibit, can you please indicate on there where you first saw that
10 indication -- your first indication of fire?

11 A. So I was sitting in the driver's seat, and from the passenger
12 seat -- you're sitting in a driver's seat of a car, you look to
13 your right, and it looked like it was coming out of the hood and
14 in -- pushing into the window of the car.

15 Q. On the passenger side?

16 A. On the passenger side, yes. Well, if this is the passenger
17 side of the car, so it's right here.

18 UNIDENTIFIED SPEAKER: So the witness is pointing to the top
19 left schematic on the top of the hood -- the top left schematic,
20 the top of the hood.

21 THE WITNESS: So just the hood, like right -- I don't know
22 exactly where the flames were coming from, but it was pushing from
23 that general direction into the passenger -- yeah.

24 UNIDENTIFIED SPEAKER: The witness is pointing from the hood
25 and motioning towards the window, the windshield on the top left

1 schematic.

2 BY CDR BARGER:

3 Q. And to be clear, your -- when you observed this, were you
4 still in the vehicle?

5 A. Yes, sir.

6 Q. What did you do next?

7 A. I opened the door -- or ran out of the car and then I scanned
8 the wall, because I knew there was fire extinguishers every couple
9 feet on the wall. I ran to one, ran back to the car, and pulled
10 the pin of the fire extinguisher and started trying to put the
11 fire out.

12 Q. At that point, now being outside of the vehicle, where, if at
13 all, did you see any indication of fire?

14 A. So where I said before, the engine compartment, and then
15 underneath of the car. So if you look at the driver's side door,
16 directly underneath.

17 UNIDENTIFIED SPEAKER: The witness is pointing to the right
18 image, the bottom of the car, indicating the fire.

19 THE WITNESS: There was, looked like, flaming fire balls
20 dripping from the bottom of the vehicle. So that's where I was
21 mostly trying to spray the fire extinguisher.

22 BY CDR BARGER:

23 Q. And what type of fire extinguisher was it?

24 A. I don't know.

25 Q. What was the appearance of the --

1 A. It was red and it was a white powder, like a white substance
2 that came out.

3 Q. Okay. And where on the vehicle were you aiming the fire
4 extinguisher?

5 A. I was aiming underneath where the -- like where I said the
6 fireballs were coming, and then under the driver's side front
7 wheel well.

8 UNIDENTIFIED SPEAKER: The witness is pointing to the image,
9 the left, under the wheel well, the front tire.

10 BY CDR BARGER:

11 Q. And how were you aware that there were fire extinguishers
12 available on the ship?

13 A. Just from working on these ships before. I just pay
14 attention to where all that stuff is just in case this happens.
15 So I knew that there was one right at the top of the ramp, so
16 that's the first one I ran to go get, and then I tried putting it
17 out.

18 Q. Okay. And what, if any, training did you have in use of a
19 portable fire extinguisher?

20 A. Just from -- my dad was a fireman, so he taught me a little
21 bit of how to use it.

22 Q. And as a lashier and through the training that you were
23 provided, at any point were you given an orientation to the fire
24 or safety equipment on board the ship?

25 A. No.

1 Q. After you discharged that first fire extinguisher, then what
2 did you do?

3 A. So there was crew mates, the people that work on the ship.
4 They started grabbing fire extinguishers, too. And I finished
5 mine, I threw it on the ground, and I helped -- grabbed the crew
6 mate's, helped finish his, so as he was grabbing a new one. And
7 then that had like 10 seconds left in the fire extinguisher, I
8 threw that down, and my co-worker said, come one, let's go, we got
9 to get off the ship. So then I ran off the ship.

10 Q. When you say crew mate, who was that person or --

11 A. The people that work on the ship, the people that live on the
12 ship. I don't know where exactly they're from, but those people.

13 Q. So, to verify, you discharged one fire extinguisher that you
14 took off the bulkhead yourself and then took over completing a
15 fire extinguisher somebody else had already started spraying?

16 A. Yes.

17 Q. Was that second fire extinguisher used of the same type, same
18 discharge?

19 A. Yes.

20 Q. And when you exited the ship, what did you see taking place
21 on deck 10?

22 A. It was just filled with black smoke. So I knew I couldn't
23 stay up there, so I went down the ramp that I came -- pushed the
24 car up, and exited through the main ramp that you saw on the last
25 video.

1 Q. And were there crew members or other AMS employees that were
2 still up in the space?

3 A. So there was crew members still up there trying to put it
4 out, but it was me and I think one of my other co-workers
5 walking -- he was making sure that I got off the ship, walking
6 down as my foreman was coming up to grab us to get off.

7 Q. Of the AMS crew that was present that day, are you aware,
8 does anybody have familiarization or emergency response training
9 related to a shipboard fire?

10 A. Not to my knowledge.

11 Q. Going back to the Jeep itself, in general, and I know you
12 mentioned some issues coming up the ramp just prior to the
13 incident. Before that, were you aware of any mechanical issues
14 with the Jeep that day?

15 A. No.

16 Q. When you did experience or hear that clunking sound going up
17 the ramp to deck 10, what was your reaction to the noise?

18 A. I didn't really think anything of it because there is a bunch
19 of noises on the ship. So I pushed it up, and the car drove fine
20 up to where I parked the car, I pushed the vehicle. So I didn't
21 really think anything until my co-workers told me that there was
22 fire.

23 Q. Had the fire not occurred --

24 A. Yeah.

25 Q. -- what, if anything, would you have done after hearing that

1 clunking sound?

2 A. I probably would have drove down and, if the vehicle was not
3 operating the way it was operating before, I probably would have
4 just continued driving.

5 Q. What if you did experience, start experiencing an issue where
6 it wasn't operating like normal, what would you do then?

7 A. I would drive it down off the ship and tell my foreman that
8 the car is not working.

9 Q. Okay. Would you park the vehicle at that time? What would
10 be the expectation?

11 A. I -- to be honest with you, I don't know.

12 Q. But you would leave the vehicle --

13 A. Yeah.

14 Q. -- on the dock?

15 A. Yeah, I would leave it somewhere, either where it's stored
16 all the way in the back or somewhere on the string piece.
17 Whoever's in charge of it would either fix it or take it
18 somewhere.

19 Q. And in your year and a half of operating a push vehicle, have
20 you ever been given specific direction on how to handle a
21 mechanical issue if you start experiencing one?

22 A. No.

23 Q. Had you ever experienced or were you aware of that Jeep push
24 vehicle ever experiencing any kind of overheat issue?

25 A. No.

1 Q. If it were to have overheated, were you ever given any
2 direction on how to handle that situation?

3 A. No.

4 CDR BARGER: Mr. Puchinsky, that is all the questions I have
5 for you at this time. I will now provide the opportunity for any
6 follow-up questions from the rest of the investigation team.

7 So for the Coast Guard, Ms. Moore, do you have any follow-up
8 questions?

9 LCDR MOORE: Yes, Commander, I have a few.

10 BY LCDR MOORE:

11 Q. Mr. Puchinsky, do lashers check fuel levels in the vehicles
12 that are going to be shipped?

13 A. No.

14 Q. Are you aware if that's done by anyone else?

15 A. No.

16 Q. You spoke about a foreman on July 5th, 2023. Who was your
17 foreman?

18 A. Michael Cannada (ph.).

19 Q. You mentioned a team. What does a team usually consist of
20 during loading?

21 A. It depends on how many cars we are loading, and it's, I
22 think, like around 100 cars per person. So it depends. So if we
23 have 1,000 cars, we usually get 10 people to secure the vehicles
24 and then a few extra to do the batteries and the push vehicles.

25 Q. On July 5th, what did the team makeup look like for your

1 team?

2 A. I think we had around like 20 people, so -- I don't know the
3 exact number.

4 Q. Okay. You talked about batteries being disconnected. Are
5 you aware of why those batteries are disconnected?

6 A. So there's no spark when you go over like rough seas, I
7 guess. I don't know.

8 Q. Is there anything that's done to prepare the vehicles for
9 shipping?

10 A. To my knowledge, that's all.

11 Q. After the clunking sound, did the Jeep ever start to lose
12 power?

13 A. No.

14 Q. And did you make anyone aware of that clunking sound when you
15 first experienced it?

16 A. Everything happened in like seconds, because I heard that,
17 pushed it up, parked the car, and then the fire happened. So
18 there was no time to say anything to anyone in between that.

19 LCDR MOORE: That's all I have right now, Commander.

20 CDR BARGER: Thank you.

21 LT Reed, any follow-up questions?

22 LT REED: I have no follow-up questions.

23 CDR BARGER: Thank you.

24 And Mr. Pittman, any follow-up questions?

25 (No audible response.)

1 CDR BARGER: For the NTSB team, Mr. Barnum, any follow-up
2 questions?

3 MR. BARNUM: Yes. I have just a couple questions here.
4 Thank you, Commander.

5 BY MR. BARNUM:

6 Q. Mr. Puchinsky, thank you for your testimony. As you know, we
7 spoke to you initially on scene as well and you gave us testimony,
8 so thank you for that.

9 So I just want be clear on some of the questions the
10 Commander asked you with respect to that final trip up the ship
11 with the push vehicle. You didn't see or hear any alarms coming
12 from the Jeep, the alarm panel?

13 A. No, sir.

14 Q. Just a clunking noise? No tire pressure alarm came up or
15 anything?

16 A. Not to my knowledge.

17 Q. Okay. And then how about that final trip up? I know you
18 said there was some -- the clunking towards the top, but, you
19 know, going up the ramp -- I know the ramps are pretty inclined,
20 right? I mean, could you explain how -- what is the angle of
21 inclination, just for the benefit of the public here? Is it a
22 relatively flat deck or --

23 A. No, it's pretty steep. I don't know what angle, but it's
24 pretty steep.

25 Q. Okay. So you're going up the ship, you're going up these

1 ramps. Is -- are you having to press the accelerator down?

2 A. Yeah.

3 Q. Is it on the floor as you're pushing it up these ramps or --

4 A. Yes.

5 Q. You have the accelerator right to the floor?

6 A. Yeah.

7 Q. Okay. Do you happen to notice the rpms of the vehicle as
8 you're going up these ramps?

9 A. It varies because if you have a lighter vehicle --

10 Q. Okay.

11 A. -- it's easier to push up. If you have a heavier, like an
12 SUV, it's harder to push up. So sometimes if you have a lighter
13 vehicle, you're just driving normally and pushing it up.

14 Q. Okay. And how about the vehicle that you were pushing right
15 before the fire? What type of vehicle was it?

16 A. I don't remember.

17 Q. Okay. Would it have been a heavier vehicle or did you notice
18 the rpms during that trip?

19 A. I didn't really notice the rpms during that trip.

20 Q. Okay. During that trip, did you have to stop the Jeep to get
21 up the ramp, get around a corner or backup any or --

22 A. I don't remember because it's been so many times I pushed a
23 car up there that day, so -- there has been times that day where I
24 had to back to down and reset to go up, but I don't remember if it
25 was that last time or times before.

1 Q. Okay. And I know that the event was 6 months ago or so, so
2 it might not be as fresh, but I appreciate that.

3 Can you explain to me a little bit about resetting? What do
4 you mean -- what do you do when you have to back up? Is that --

5 A. So I make sure the ramp is clear and I slowly -- I put it in
6 neutral or reverse, the car, and I slowly back it down to the
7 bottom where it's flat so I can get more traction and then go back
8 up.

9 Q. Okay. So basically the Jeep is having a problem pushing the
10 vehicle --

11 A. Yes.

12 Q. -- so you need to get a running start?

13 A. Yes, basically.

14 Q. Okay. Is that -- was that typical for other pusher vehicles
15 or just the Jeep that you operated?

16 A. It's typical for other pushers, because the Jeep was the
17 strongest one to use. It had the most torque, I guess, to push
18 the heavier vehicles up.

19 Q. Okay. All right. And I think you might have answered this,
20 I just -- I had here, I couldn't remember. As you have the pedal
21 of the Jeep, the accelerator to the floor going up these ramps,
22 about how fast are you going?

23 A. I don't remember. Yeah, I didn't -- it's not that fast.

24 Q. Is it, you know, just a crawl or --

25 A. Yeah, it was --

1 Q. -- is it 10 miles per hour or 2 miles per hour?

2 A. It varies depending on the weight of the vehicle I'm pushing,
3 but if it's a heavier vehicle, it's basically a crawl.

4 Q. Okay. All right. Okay. Just a couple more here. Just kind
5 of the overall condition of the pusher vehicles, the Jeep, just so
6 the public has a better understanding of what these are. Are
7 these road legal vehicles? Would you expect to -- could this be
8 driven on a public highway?

9 A. No.

10 Q. Okay. And why would that be?

11 A. Because some of them were missing mirrors. Particularly on
12 the Jeep, it was missing a back windshield, and it's completely
13 dirty inside and there's no plates on the vehicle. So --

14 Q. Okay. Did you ever participate in any maintenance of these
15 vehicles, upkeep of them?

16 A. No.

17 Q. No? Did you ever see any of -- maintenance of these vehicles
18 occurring?

19 A. No to my knowledge, no. Well, not what I see, no.

20 Q. You never saw it?

21 A. Yeah.

22 Q. Okay. How about other equipment or different types of
23 vehicles? Was there any other equipment or types of vehicles that
24 were used in lieu of the pusher vehicle fleet that they had?

25 A. So they had the Jeep and then a couple of Ford Rangers.

- 1 Q. Okay. So that makes up their pusher fleet?
- 2 A. Yes.
- 3 Q. But do they ever utilize, for instance, you know, a skid
4 steer or another type of industrial machinery?
- 5 A. The shipping line -- I don't know if it was on the ship or --
6 I know Grimaldi has a little like, I don't know, thing you sit in
7 and it has like bumper in the front and then you like -- you go
8 like this and it goes forward and you push it on.
- 9 Q. Okay.
- 10 A. So I don't know if that was being used that day, but I --
11 from past knowledge, I know they have that on those ships.
- 12 Q. Okay. And but that was the shipping lines, that wasn't a --
- 13 A. Yeah.
- 14 Q. -- Ports America piece of equipment?
- 15 A. Um-hum.
- 16 Q. Would you or any other lashers, stevedores, longshoremen,
17 utilize that vessel equipment?
- 18 A. No. It was always the -- either the crew mates or one of the
19 people that worked on the ship.
- 20 Q. Okay. And then the -- Commander Barger was discussing the
21 activities of the Jeep during the day, and I believe you said that
22 you weren't aware of any issues with the Jeep when you utilized --
23 when you were using it or prior?
- 24 A. Yeah, I didn't know anything.
- 25 Q. You don't know if it was taken out of service at any point

1 during the day?

2 A. Nothing was told to me, so --

3 Q. Okay. Have you experienced in the past when a pusher vehicle
4 was taken out of service maybe by someone else, how are you
5 notified that that one was out of service?

6 A. Usually most of the time if it's out of service it's usually
7 because of a flat tire.

8 Q. Okay.

9 A. So it's either moved off to the side and that -- with you
10 seeing the flat tire, you know that it's --

11 Q. So you visually seeing it?

12 A. Yeah.

13 Q. Is your foreman telling you or does, you know, one of your
14 colleagues say --

15 A. Yeah. So if --

16 Q. -- that one's brakes doesn't work?

17 A. If they say in the morning, if I was assigned to a push
18 vehicle, they would say, oh, that one doesn't run well, don't use
19 that one, so --

20 Q. But you were saying at the time of the incident all of them
21 were being used?

22 A. Yes.

23 Q. Okay. And my final question, I just want to discuss a little
24 bit about your actions following the fire after, I mean, I guess,
25 you evacuated the vessel, kind of the accountability of your team.

1 How -- you said your foreman was looking for you?

2 A. Um-hum.

3 Q. Like does he have a -- I guess what is his job description?

4 Is he standing at the ramp the whole day watching you all or is he
5 actually actively participating in pushing -- does he have other
6 duties?

7 A. So he goes around making sure we're all okay, making sure
8 we're actually doing our job, and he's the one that writes our
9 name for us to get paid. So he's just basically making sure
10 everything is getting done. So he's either up on the ramp going
11 checking on people, bringing us water, and then either down by --
12 outside making sure everything's running smoothly outside. He's
13 running around the whole day.

14 Q. Okay. So after the incident and -- excuse me. I'll back up.
15 How many AMS employees lashers were actively working that ship at
16 the time of the fire, do you recall?

17 A. I'm pretty sure all of us from the like the start of the day
18 was still there.

19 Q. Okay. And how many was that?

20 A. Around 20.

21 Q. Twenty?

22 A. Yeah.

23 Q. And then how about, do you have a number of how many
24 stevedores or longshoremen were --

25 A. Oh, I have no clue.

1 Q. I mean, I'm not familiar with the operation. Like are we
2 talking -- do you have an estimate? Is it just 2 or is there 50?

3 A. Like the actual superintendents, I think there was like three
4 or four of them there. And then longshoremen, like there's a few
5 parking cars, so like I want to say like five parking the cars.
6 And then ones, they drive the cars, like, the running cars on. So
7 it varies depending on how many they order.

8 Q. Right.

9 A. So I want to say 20-plus longshoremen.

10 Q. Did you see, when you exited the vessel, did you see was
11 there anyone accounting for those personnel?

12 A. When -- towards the end, all the running cars were done, so
13 we were just pushing the last few pusher cars on, so I believe
14 they all went home, the people that were driving the cars. So I
15 don't know who's in charge of accounting for them, but --

16 Q. Yeah, that's fine. Okay. So after you exited the vessel,
17 your foreman was taking a roll call, making sure all you were off.
18 Did you -- do you know or did you see him communicate that with
19 anybody on board the vessel or with the fire department?

20 A. When we got off, we were all standing basically in a huddle,
21 making sure everyone was there. I don't know who he told, like
22 the accountability --

23 Q. Right.

24 A. -- who -- I don't know who.

25 Q. To make sure that all you were off, you don't --

1 A. He just made sure for himself that all of us were off. I
2 don't know if he told anyone.

3 Q. Okay. Well, that's what I was wondering. Thank you.

4 MR. BARNUM: That's all the questions for you, Mr. Puchinsky.
5 Thank you, Commander.

6 CDR BARGER: Thank you.

7 Ms. McAtee from NTSB, any follow-up questions?

8 MS. McATEE: I have no further questions.

9 CDR BARGER: Thank you.

10 Each party in interest is now afforded the opportunity to ask
11 questions on cross-examination of the witness. In order to ensure
12 an equitable use of our time and provide an opportunity for each
13 PII, or party in interest, to ask questions -- we have
14 approximately 40 minutes remaining scheduled for this witness, so
15 therefore, we'll give each party in interest approximately 8
16 minutes to ask questions on cross-examination.

17 We'll begin with American Maritime Services.

18 MR. KARPOUSIS: American Maritime Services has no questions
19 for this witness.

20 CDR BARGER: Okay. Thank you.

21 Ports America.

22 CROSS-EXAMINATION

23 BY MR. ZONGHETTI:

24 Q. Good morning, Mr. Puchinsky.

25 A. Good morning.

- 1 Q. My name is Gino Zonghetti. I'm the attorney for Ports
2 America. I have a few follow-up questions for you.
- 3 A. Yes, sir.
- 4 Q. My understanding is that you were a union employee, correct?
- 5 A. Yes, sir.
- 6 Q. And you would be a member of the ILA; is that correct?
- 7 A. Yes, sir.
- 8 Q. And you've been doing this job as of the time of the incident
9 for about 2 years; is that also correct?
- 10 A. Yes, sir.
- 11 Q. You were employed by American Maritime Services, right?
- 12 A. Yes, sir.
- 13 Q. And you worked in various crews when you went to the ship to
14 do work, correct?
- 15 A. Yes, sir.
- 16 Q. And the crews had a foreman, right?
- 17 A. Yes, sir.
- 18 Q. And there's a hierarchy in the union, right?
- 19 A. Yes, sir.
- 20 Q. And the lashers report to the foreman; is that correct?
- 21 A. Yes, sir.
- 22 Q. And the foreman gives instructions during the day to the
23 lashers as to what their assignments might be and also as to what
24 particular work they should be doing?
- 25 A. Yes, sir.

1 Q. Now the foreman in turn interacts with folks from Ports
2 America; is that correct?

3 A. Yes.

4 Q. And that's the way communications generally go on the dock,
5 right?

6 A. Yes, sir.

7 Q. You mentioned string piece in your testimony.

8 A. Yes, sir.

9 Q. String piece is the area of the dock that's right adjacent to
10 the ship; is that correct?

11 A. Yes, sir.

12 Q. Now there's also another group, and that's the crew of the
13 vessel, right?

14 A. Yes, sir.

15 Q. And the crew of the vessel is in charge of the vessel?

16 A. Yes, sir.

17 Q. So you folks are in charge of doing the things that lashers
18 do, which includes disconnecting batteries?

19 A. Yes, sir.

20 Q. Driving pusher vehicles?

21 A. Yes, sir.

22 Q. And then actually lashing vessels onto the ship, right? And
23 there's always crew members from the vessel that are on duty
24 watching you folks, right?

25 A. Yes.

1 Q. Now you had been operating pusher vehicles for about a year
2 and a half before this fire; is that correct?

3 A. Yes.

4 Q. And I believe what your testimony was today that you mostly
5 use this yellow Jeep, right?

6 A. Um-hum.

7 Q. Is that correct?

8 A. Yes.

9 Q. And there was a reason for that, right?

10 A. Yes.

11 Q. And that's because there's also a hierarchy, there's
12 seniority within your union, right?

13 A. Yes.

14 Q. And the more senior guys opted to drive the vehicles that had
15 air conditioning?

16 A. Yes.

17 Q. So you, being a little bit lower on the totem pole, ended up
18 driving a vehicle without air conditioning?

19 A. Yes.

20 Q. Okay. Now, in that time that you were primarily driving that
21 Jeep, if I understand your testimony today, you had no issues,
22 right?

23 A. No issues, sir. Correct.

24 Q. And that included on the day of this incident, right?

25 A. Yes, sir.

1 Q. You came on at about 3 o'clock p.m., you were assigned to
2 start operating the Jeep, right?

3 A. Yes.

4 Q. And it was daylight out at the time, correct?

5 A. Yes.

6 Q. And you operated that Jeep for about 6 hours before this fire
7 started?

8 A. Yes.

9 Q. And during that time, no issues with the Jeep other than this
10 clunking noise that you heard, and we'll talk about that in a
11 moment, as you got almost to the point where the fire started,
12 right?

13 A. Yes, sir.

14 Q. So in and out, up and down, driving on the string piece on
15 the terminal, up and down the ship, no issues with the Jeep?

16 A. No issues, sir.

17 Q. And it operated the way it had operated in your hands for a
18 year and half before that day?

19 A. Yes, sir.

20 Q. It did the job?

21 A. Yes, sir.

22 Q. Gave you no reason to be concerned, correct?

23 A. Yes, sir.

24 Q. You testified, I believe, that you might have moved how many
25 Jeeps in an hour? How many cars in an hour?

- 1 A. I was going to say around 10.
- 2 Q. Ten. But that's an estimate, right?
- 3 A. Yeah, that's a complete estimate.
- 4 Q. Complete estimate.
- 5 A. Yeah.
- 6 Q. And to get a car -- just to go through the evolution, what
- 7 happens is, you come off the Jeep -- the ship with the Jeep and
- 8 then you go to the foreman and he tells you what the next car you
- 9 have to pick up is, right?
- 10 A. So we go out to the field and one of the superintendents from
- 11 Ports America says, oh, grab this one or, oh, go to this port and
- 12 go grab this one. So it varies. We have to find, basically find
- 13 him.
- 14 Q. And this is a big lot --
- 15 A. Yes.
- 16 Q. -- right? So you come off, you're given instruction as to a
- 17 particular vehicle you have to find. You drive around until you
- 18 find it, and sometimes it takes a while because these cars are
- 19 parked close to each other in different lines, right?
- 20 A. Yes, sir.
- 21 Q. And that sometimes takes a few minutes, right?
- 22 A. Yes, sir.
- 23 Q. Then once you get to the car, your companion has to get into
- 24 it, the car has to be put in neutral?
- 25 A. Yes.

1 Q. Sometimes that takes a bit?

2 A. Yes.

3 Q. Then you push it up the ramp, and this is not speed racer,
4 right, you're going at a safe speed?

5 A. Yes.

6 Q. And then sometimes you have to drive up to deck 10, on this
7 day, right?

8 A. Yes.

9 Q. And that evolution could take 5 minutes, could take 10
10 minutes, could take less, right?

11 A. Yes.

12 Q. So you say 10 an hour. It could be four an hour on occasion,
13 it could be anywhere in between, right?

14 A. Yes.

15 Q. So you really don't know in that 6 hours how many cars you
16 pushed?

17 A. Yes.

18 Q. But nevertheless, the Jeep was operating fine the whole time?

19 A. Yes.

20 Q. You had no warning signals of any problems inside the Jeep,
21 right?

22 A. Not to my knowledge, no.

23 Q. Now you certainly didn't see any smoke coming out of the
24 Jeep?

25 A. No.

1 Q. Correct?

2 A. Not until the --

3 Q. Fire.

4 A. -- the flames. Yeah.

5 Q. Yeah. And even though whatever training you had on the job
6 from your employer about driving the Jeep, if there had been smoke
7 coming out of this vehicle at any point in time that you are
8 operating it, you would know --

9 A. Yes.

10 Q. -- to stop driving, right?

11 A. Oh, yeah. Of course.

12 Q. You know that the cargo that you're pushing onto the vessels
13 has -- had potential for fire, right?

14 A. Yes.

15 Q. And that's something you knew. There was a history of fires
16 on these vessels, right?

17 A. Yes.

18 Q. And you knew you had to be careful, right? So if there was
19 smoke coming out of the vehicle at any point in time during the 6
20 hours you were operating, you would not have operated it, right?

21 A. Yes, sir.

22 Q. Same thing with overheating. If the vehicle -- you may not
23 have been trained with respect to overheating, but if the vehicle
24 overheated, you would know to stop operating?

25 A. Yes, sir.

1 Q. And what you would have done was tell your foreman. That's
2 what you said, right?

3 A. Yes, sir.

4 Q. And your foreman -- you also know and knew that there was a
5 mechanic on site who is a union employee and part of the ASM team,
6 right?

7 A. Not to my knowledge, but --

8 Q. Pete? Pete Zyla?

9 A. Oh, yeah, Pete. Pete, yeah.

10 Q. Yeah, he's the mechanic.

11 A. Yes.

12 Q. Right? And if there was a problem with the vehicle, you
13 would report to the foreman, the foreman would report to Pete?

14 A. Yes, sir.

15 Q. Okay. That's something you knew?

16 A. Yeah.

17 Q. Yeah. Okay.

18 MR. ZONGHETTI: Are we able to see the video that shows the
19 vehicle going in?

20 CDR BARGER: We will now display Coast Guard Exhibit 2.

21 BY MR. ZONGHETTI:

22 Q. If you could look at the video -- oh --

23 Now, sir, that's your -- you're driving that vehicle, that
24 Jeep, into the ship just before the fire, right?

25 A. Yes.

1 Q. And it appears to be operating perfectly fine?
2 A. Yes.
3 Q. Nothing out of the ordinary whatsoever; is that correct?
4 A. No.
5 Q. Correct?
6 A. Yeah, correct.
7 Q. Did you have lights on at that point in time on the Jeep?
8 Did you -- would there come a point in time when you would put the
9 lights on?
10 A. Basically the push bar blocks all the -- or a lot of that
11 stuff.
12 Q. Would it come on automatically like in cars that have the
13 auto light?
14 A. I think it was a manual.
15 Q. Would you turn it on --
16 CDR BARGER: Mr. Zonghetti, you have approximately 1 minute
17 left.
18 MR. ZONGHETTI: Okay.
19 BY MR. ZONGHETTI:
20 Q. Would you --
21 A. Yeah, if it got dark -- if I couldn't see in front of me,
22 yeah.
23 Q. When it got dark out as it is here, you would typically turn
24 the lights on --
25 A. Yeah.

1 Q. -- right? Now you didn't have any audible alarms going up
2 the ramp, you had no chimes going up the ramp, correct?

3 A. No, sir.

4 Q. Nothing to indicate there was a problem, correct?

5 A. No, sir.

6 Q. And you heard this clunking noise at some point, but this was
7 right before the fire started, right?

8 A. Yes, sir.

9 Q. And in your mind's eye, in your thought process, it didn't
10 dawn on you at that point in time that it was a problem with the
11 car, right?

12 A. No, sir.

13 Q. And there's a lot of noise on these ships.

14 A. Yes.

15 Q. And what you've done in sort of hindsight and retrospect is
16 say this clunking noise might have been related?

17 A. Yes.

18 MR. ZONGHETTI: All right. That's all I have. Thank you.

19 CDR BARGER: Okay. Thank you.

20 MR. REILLY: We have no questions.

21 CDR BARGER: That was Port Authority of New York and New
22 Jersey, no questions.

23 Grimaldi Deep Sea?

24 MR. LEVY: Yes.

25 BY MR. LEVY:

1 Q. Mr. Puchinsky, my name is John Levy and I represent Grimaldi.
2 I'm just going to ask you a few follow-up questions because some
3 of what you said I didn't understand completely. Can you hear me
4 okay?

5 A. Yeah.

6 Q. Okay. First off, you started working for AMS in about July
7 of 2000- --

8 A. '21.

9 Q. '21. So about 2 years before. I thought I understood your
10 testimony to be that you were about a year and a half into that
11 and then they started to give you the assignment of driving the
12 pusher cars. Did I misunderstand you?

13 A. So, yeah, around like a year in, I started to drive the push
14 cars.

15 Q. Year, year and a half in?

16 A. Yeah, around there. I don't know the exact.

17 Q. Okay. And was it your testimony that you had driven this
18 Jeep vehicle on about 10, 15 other occasions before the day of the
19 incident?

20 A. Yes.

21 Q. And when you started with AMS, you started as a lasher. Is
22 that sort of a low level position with --

23 A. So the lasher is like the bottom, you have to secure the cars
24 to the vessel, and then a little bit easier is disconnecting the
25 batteries, and then the top is driving the cars on or pushing the

1 cars on.

2 Q. Okay. So you started as a lasher. How old were you when you
3 started?

4 A. Eighteen.

5 Q. Eighteen. And so you were 21 at the time of the accident?

6 A. Twenty.

7 Q. Twenty at the time of the accident --

8 A. Yes, sir.

9 Q. -- at the time of the fire? Okay. And as I understand, your
10 testimony is you could have started as early as 7 in the morning?

11 A. Yes.

12 Q. And the fire started around 9 o'clock at night?

13 A. Yes.

14 Q. So this Jeep vehicle was being operated all day, as far as
15 you know, on the day of the fire --

16 A. Yes.

17 Q. -- to push vehicles onto the ship?

18 A. Yes.

19 Q. And the first -- let's see, if you took your break around
20 3:30 in the afternoon on the 5th, that means that we would have
21 been -- let's see, my math is never good -- 5, 6, 7 -- 7½ hours
22 into the day, somebody else had been operating the Jeep other than
23 you?

24 A. Yes.

25 Q. And while they're operating the Jeep, you're doing your job

1 as a lasher?

2 A. Yeah, disconnecting batteries.

3 Q. Right. So your attention is on what you're doing, not on the
4 Jeep; is that correct?

5 A. Yes, sir.

6 Q. And no one reported to you that any smoke had been coming out
7 of the Jeep earlier in the day --

8 A. No, sir.

9 Q. -- is that correct? So then after the 3:30 break, the
10 foreman then turned to you and asked you to start using the Jeep?

11 A. Yes, sir.

12 Q. And the foreman didn't tell you anything about any problems
13 they might've had with the Jeep earlier in the day --

14 A. No, sir.

15 Q. -- is that correct?

16 A. Correct.

17 Q. Is that -- that's correct?

18 A. Yes.

19 Q. Okay. And obviously during those 7½ hours when the Jeep was
20 being operated by somebody else, you were not watching the Jeep
21 every minute during that time?

22 A. Yes, sir.

23 Q. When the fire started and you jumped out, as I understand,
24 this probably happened very quickly?

25 A. Yes, sir.

1 Q. Yeah. You see fire on the side of the Jeep, you're going to
2 jump out. Did you have to open the door to jump out or do you
3 have to climb out a window?

4 A. I opened the door.

5 Q. You opened the door?

6 A. Yes.

7 Q. Car's still running when you left?

8 A. Yes.

9 MR. LEVY: Can we show the video again? Well, we don't have
10 to.

11 BY MR. LEVY:

12 Q. You remember the video that we just showed, that
13 Mr. Zonghetti just showed you with the Jeep you were driving
14 coming onto the ship. When was the first time you saw that video?

15 A. When we had a little meeting last week, they showed me the
16 video.

17 Q. Okay. And the video is not crystal clear, but some people
18 might look at that video and think that they're seeing smoke
19 coming from the Jeep. Did you see --

20 UNIDENTIFIED SPEAKER: Objection.

21 (Off the microphone comments.)

22 MR. LEVY: Okay. I'll --

23 BY MR. LEVY:

24 Q. When you see that video, do you see smoke coming out from the
25 back of that Jeep?

1 A. Can I see the video again?

2 Q. Sure.

3 MR. LEVY: Can we play the video again, please?

4 (Coast Guard Exhibit 2 played for the record.)

5 THE WITNESS: No.

6 BY MR. LEVY:

7 Q. Okay. You don't see what appears to be smoke coming out of
8 the back of that vehicle?

9 A. No.

10 Q. Okay. Did you ever notice any smoke coming out of the
11 vehicle that day?

12 A. Once I got up to the top, there was -- when it was on fire.

13 Q. Do you remember the chief officer yelling fire to you and to
14 get out of the vehicle?

15 A. There wasn't a chief officer. My -- when I got to the top,
16 my co-worker said, get out of the car, it's on fire.

17 Q. Okay. So if you were pushing 4 to 10 vehicles an hour up
18 there for -- how long were you running it? You were running it
19 from 3:30 to 9, so that's 5½ hours.

20 A. So there was a -- like a half an hour, 40 minute break around
21 7 o'clock.

22 Q. Okay. So you had pushed maybe 40 cars up, 50 cars?

23 A. Yeah, something around -- something like that.

24 Q. In that time period? And the person who had it before you
25 had been pushing cars up all day. Do you consider yourself to be

1 fast at getting those cars up there or just average compared to
2 your fellow --

3 A. Average.

4 Q. Average. So if that was happening with the previous driver,
5 they were also putting up 4 to 10 cars onto the ship every hour?

6 A. Yeah.

7 Q. Pushing -- okay.

8 MR. LEVY: I don't have any further questions.

9 CDR BARGER: Thank you.

10 And for clarification of the record, there was an objection
11 to one of the questions asked earlier about smoke in relationship
12 to the vehicle. My microphone was not turned on, so for the
13 record, I sustained that objection on the grounds that it was
14 called -- called for speculation and asked the question be
15 rephrased.

16 City of Newark.

17 MR. LIPSHUTZ: Hi. Just a few.

18 BY MR. LIPSHUTZ:

19 Q. Hi, Mr. Puchinsky. My name is Gary Lipshutz,
20 L-i-p-s-h-u-t-z. I have just a few questions. Okay?

21 A. Okay.

22 Q. Did you do any pushing up on deck 12?

23 A. No. I think that was filled up before I got up there.

24 Q. Okay. Same question. What about deck 11?

25 A. I believe that was also filled up before I --

1 Q. So you were pushing cars just generally up to deck 10?

2 A. Yeah, deck 10 and then -- I forget what other deck. I think
3 maybe deck 6 or whatever deck was open below deck 10.

4 Q. Okay. I'm not going to repeat, but my question is -- you had
5 that car for 5, 6 hours, the Jeep. Did you have any interactions
6 with the mechanic in the sense of having to get the car refueled?

7 A. No.

8 Q. So when you got it, to the time of the fire, you didn't have
9 to get -- there was no attention by anyone else to the car, a
10 mechanic, anyone else?

11 A. No.

12 Q. Okay. What was -- when you got out the car because it was on
13 fire and you used the fire extinguishers, what was the crew doing?

14 A. Also running to the walls to grab fire extinguishers, and
15 they were spraying it also.

16 Q. Did you notice any hose set up?

17 A. No.

18 Q. Did you notice anyone spraying water from any kind of hoses
19 on the car?

20 A. No. It was just from, what I could see, was just fire
21 extinguishers.

22 Q. Okay. Then after you left the ship, you were down on the
23 dock, right?

24 A. Yes.

25 Q. Do you have a recollection of approximately how much time

1 passed before the local fire department arrived?

2 A. So the fire started around like 8:50 something. And then I
3 came down, and then I called my dad around 9:04, 9:08. And then I
4 went to my car and I wanted to wait for the fire department to
5 come just to see them get there. And they -- the first cop came
6 around 9:30ish, and then the rest of -- everyone else came.

7 Q. The first police or the --

8 A. It was a police car that came first.

9 Q. So sometime after 9:30?

10 A. Yeah.

11 Q. So fair to say that whatever fire started just before 9,
12 continued for at least a half an hour?

13 A. Yeah. About a half an hour.

14 MR. LIPSHUTZ: Thank you very much. I don't have any further
15 questions.

16 CDR BARGER: Thank you.

17 Mr. Puchinsky, I have a couple follow-up questions for points
18 of clarification.

19 REDIRECT EXAMINATION

20 BY CDR BARGER:

21 Q. Some follow-up questions have been asked with regards to your
22 experience with the push vehicle. So you've said that you have
23 operated it approximately 10 to 15 different times loading ships.

24 A. Yes.

25 Q. Can you confirm for us, over -- that 10 to 15 times, over

1 what period of time it was?

2 A. Like a year -- around a year.

3 Q. And during that period of time there would have been other
4 people using the Jeep push vehicle as well?

5 A. Yes.

6 Q. And then some questions have been asked about a mechanic and
7 the name Zyla was mentioned. What was your understanding of
8 Mr. Zyla's role on the worksite?

9 A. He's the mechanic, so he -- if a car needs gas, he'll go and
10 fill it up. And then in the back of his pickup truck he has like
11 a compressor to fill up the tires, and then jump, jumper cables.
12 So my impression is that he -- if a car is dead, he'll go over and
13 try to fix it to be put onto the ship.

14 Q. And on July 5th, the date of the incident, that was your
15 understanding of his position?

16 A. Yes.

17 Q. I also asked you earlier about the instrument panel inside
18 the Jeep and you had said that it was dirty. Can you describe how
19 dirty the instrument panel was?

20 A. It was just like dust, because it's very dusty down there and
21 during the summer it doesn't have air conditioning so we have the
22 windows rolled down. So it's just dust everywhere inside.

23 Q. Okay. And to clarify, were you able to see the speed gauge
24 despite the dust?

25 A. Yeah.

1 Q. Were you able to see what gear the vehicle was in?

2 A. During -- like I don't (audio interruption). Like I just
3 look down usually to see what gear I'm in.

4 CDR BARGER: That's all the follow-up questions I have.

5 Any members of the Coast Guard team, any additional follow-up
6 questions?

7 (No response.)

8 Mr. Barnum, any follow-up questions from NTSB?

9 MR. BARNUM: Just one.

10 BY MR. BARNUM:

11 Q. What gear were you in?

12 A. Drive.

13 Q. Drive?

14 A. Yeah.

15 MR. BARNUM: Okay. That's all. Thanks.

16 CDR BARGER: All right. Mr. Puchinsky, that's all the
17 questions that we have for you today. Thank you for your time.
18 You are subject to recall and my sequestration order remains until
19 you are released by me. You will be notified of that release by
20 the recorder, LT Reed.

21 THE WITNESS: Okay.

22 (Witness excused.)

23 CDR BARGER: The hearing is now in recess for 10 minutes.

24 The time is now 11:06 a.m. We will reconvene at 11:15 a.m.

25 (Off the record at 11:06 a.m.)

1 (On the record at 11:23 a.m.)

2 CDR BARGER: The time is now 11:23 a.m. local time here in
3 Newark, New Jersey -- or Union, New Jersey. I apologize.

4 I appreciate everybody's flexibility with our delay in
5 returning. We worked through some audio issues and hopefully have
6 both better volume within the room and then also for the
7 livestream. I'd like to remind, though, all parties, that please
8 speak directly and close to the microphone so that the record and
9 for transcription can pick up everything that is said.

10 Our next witness is Austin Costanzo.

11 LT Reed, please read the oath.

12 LT REED: Austin, please stand up and raise your right hand.

13 A false statement given to an agency of the United States is
14 punishable by a fine and/or imprisonment under 18 US Code 1001.
15 Knowing this, do you solemnly swear your testimony you're about to
16 give will be the truth, the whole truth, and nothing but the
17 truth, so help you God?

18 MR. COSTANZO: Yes.

19 LT REED: Thank you. You may be seated.

20 Okay. Mr. Costanzo, I have a few preliminary questions.
21 Please state your name and spell your last name for the record.

22 THE WITNESS: My name is Austin Costanzo, C-o-s-t-a-n-z-o.

23 LT REED: Counsel, please state and spell your name for the
24 record.

25 MR. BALDASSARE: Michael Baldassare, B-a-l-d-a-s-s-a-r-e,

1 from the law firm Baldassare & Mara, LLC.

2 LT REED: Mr. Costanzo, on July 5th, 2023, what was your
3 profession?

4 THE WITNESS: Lasher.

5 LT REED: And who were you employed by at that time?

6 THE WITNESS: American Maritime.

7 LT REED: What, if any, professional certificates or
8 certifications do you hold related to that position?

9 THE WITNESS: No certifications, sir.

10 LT REED: And then how long have you been employed in that
11 position at the time of the casualty?

12 THE WITNESS: Eight and a half years.

13 LT REED: Okay.

14 Commander, the witness is ready to proceed.

15 CDR BARGER: LT Reed will be conducting the direct
16 examination of this witness.

17 LT Reed, please proceed.

18 (Whereupon,

19 AUSTIN COSTANZO

20 was called as a witness and, having been duly sworn, was examined
21 and testified as follows:)

22 DIRECT EXAMINATION

23 BY LT REED:

24 Q. Mr. Costanzo, will you please describe your duties associated
25 with being a lashier?

1 A. Sure. My job title is to secure --

2 Q. Will you --

3 A. My job title is to secure and unsecure cargo off the vessels
4 in Newark and Elizabeth, New Jersey.

5 Q. Okay. What different tasks do you do in that job?

6 A. We're always the first and last ones on the ship to secure
7 all the cargo, make sure everything is lashed properly. We also
8 have another duty where we push non-running vehicles onto a ship
9 with another vehicle called a pusher, and we get that on the decks
10 of the ship.

11 Q. Okay. What training do you receive to hold your position?

12 A. There is no training.

13 Q. There is no formalized training or just no training?

14 A. No training. You learn as you go.

15 Q. Okay. Would you define that as a on-the-job type training?

16 A. Correct.

17 Q. So when you're learning to do your task and assigned duties,
18 how were you initially taught how to do it?

19 A. I'm sorry?

20 Q. When you're learning to do your task and like assigned
21 duties, how are you initially taught how to perform them?

22 A. Through experience, through my co-workers. If I'm not doing
23 something correctly, they will explain it to me properly.

24 Q. Okay. Before working at American Maritime Services, have you
25 held any similar positions in the past?

1 A. Any what positions?

2 Q. Have you held a lasher position for another company or
3 anything similar in the past?

4 A. No.

5 Q. Okay. Would you please describe a normal day, like go
6 through a normal day loading a Ro-Ro ship?

7 A. We go on the ship, look to see what has to be unlashed and
8 lashed on the ship. Our job is to make sure everything is
9 properly fastened on the ship. That's basically it.

10 Q. Okay. So arriving to a ship, say, at 7 a.m. or whenever you
11 arrive, how does the schedule for the day work?

12 A. It all depends on the ship and the cargo. It's called a plan
13 that we look at to see what is on the ship and what needs to be
14 going on the ship or coming off the ship that we have to lash and
15 unlash. It's all based upon the plan.

16 Q. Okay. And what are the duties that you are normally assigned
17 to when you're loading a ship?

18 A. I'm assigned to make sure that every cargo is unlashed if it
19 needs to come off or lash the cargo on the ship.

20 Q. Okay. Are you usually a member of a push team?

21 A. Yes.

22 Q. Okay. How are push teams assigned?

23 A. Usually it works with seniority, sometimes it doesn't. It
24 depends on the foreman, who tells you to be on that team or not to
25 be on that team or do something else. It all depends on the day

1 and what the foreman tells you to do.

2 Q. Okay. So the foreman -- it would be correct to say the
3 foreman assigns the push teams for the day?

4 A. Correct.

5 Q. Okay. So when you're assigned to a push team, how are pusher
6 vehicles selected?

7 A. Like how are they selected, each vehicle?

8 Q. No. Like how do you know which pusher vehicle to go to?

9 A. We're not assigned at all. Everyone just grabs a vehicle,
10 gets in it, and does their job.

11 Q. Before you grab the vehicle and start work, are there any
12 daily checks that are performed?

13 A. No.

14 Q. What were your duties on the day of the fire?

15 A. My duty was to push vehicles on the ship, with my co-worker
16 on the non-running vehicle, and to park it in a parking space on
17 the ship.

18 Q. Okay. Do you recall what push vehicle you chose?

19 A. It was a pickup truck.

20 Q. One of the pickup trucks. Okay. Why did you choose the
21 particular vehicle that you did?

22 A. Like I said, every man for themselves, they just hop in one.
23 So that was the vehicle that I just hopped in. It was available.

24 Q. Okay. Did you drive the same vehicle throughout the entire
25 day?

1 A. Yes.

2 Q. Do you have experience driving the yellow Jeep?

3 A. Yes.

4 Q. About how often would you say that you drove the Jeep?

5 A. It all depends on when it was available. I can't per se
6 exactly how much. We don't get the ship every day. It comes
7 maybe every 2, 3 weeks. So sometimes I'm on it and sometimes I'm
8 not.

9 Q. Did you prefer to drive the Jeep?

10 A. No. There is no, there is no special Jeep that I wanted or
11 no special pusher that -- I choose whatever is available.

12 Q. Okay. During your experience, past experience driving the
13 Jeep, did you experience any overheating problems operating the
14 Jeep?

15 A. Yes, I have.

16 Q. Do you remember about how many times it may have overheated
17 while you were driving it?

18 A. No.

19 Q. Do you remember the last time you driving when it overheated?

20 A. I don't know exactly the last time.

21 Q. Was it in, say, the same year?

22 A. It was definitely the same year, yes.

23 Q. During that time was there any punctures in the radiator?

24 A. I don't know.

25 Q. Have you ever experienced punctures in the radiator while you

1 were driving a pusher vehicle?

2 A. I don't know. I'm not sure what a puncture is and I'm not a
3 mechanic to determine what it is exactly.

4 Q. Okay. Fair enough. So when the Jeep experienced overheating
5 issues, how would they present themselves?

6 A. So when it did overheat, I parked the vehicle to the side and
7 went into another vehicle. That was our code, to just leave the
8 vehicle by the side, let it rest, and to not go in it and use
9 another vehicle.

10 Q. Okay. How would you know it was overheating?

11 A. It would blink a light that said hot oil.

12 Q. Was there an audible indication as well or just the light
13 blinking that you remember?

14 A. I don't recall. I don't know.

15 Q. I'm now going to present Exhibit 3, pages 3 and 4.

16 Mr. Costanzo, can you see the screen? Is the image up?

17 A. Yes, I can.

18 Q. So on page 4 of Exhibit 3, does this look familiar to you?

19 A. Yes.

20 Q. Is there any differences between this picture and the one
21 that was the actual Jeep?

22 A. I'm not sure. I didn't really look at both pictures
23 exactly --

24 Q. Okay.

25 A. -- in comparison.

1 Q. From your memory of the Jeep that you utilized, the Jeep push
2 vehicle, from your memory, does the dashboard that was on that
3 vehicle -- is this an accurate, although exemplar, representation
4 of that Jeep instrument panel?

5 A. It does look similar.

6 Q. Okay. So you were saying that a warning light would display?

7 A. Yeah. A yellow light that said hot oil.

8 Q. Do you remember where on the instrument panel it would
9 display?

10 A. No, I do not remember.

11 Q. Okay. Was it a light that was already in the dash or was it
12 like digital words?

13 A. I don't know.

14 Q. Don't remember. Okay. Thank you.

15 So when the Jeep overheated, what would you do?

16 A. I would shut it off and put it to the side away from the
17 vehicles and let the mechanic know.

18 Q. So how would you know to do that? Who told you to do that?

19 A. No one told me to do it. I just thought that that was the
20 right thing to do, not use it and put it to the side.

21 Q. And when you say put it to the side, what does that mean?

22 A. Away from where our -- where the work is so it's not with the
23 other vehicles, so someone would see it and understand that that's
24 not to be used.

25 Q. Were you ever told a -- or is there an official way to report

1 the vehicles that may be having operating issues, not just
2 overheating, but just in general?

3 A. Tell the mechanic.

4 Q. Okay. And but no one told you to do that, just -- that's
5 just what should be done, so you'd do it?

6 A. Correct.

7 Q. Okay. How would the other lashers know if a vehicle was
8 having operational issues?

9 A. I don't know what they would do.

10 Q. Were you -- have you ever been notified that a vehicle's not
11 operating properly?

12 A. No.

13 Q. So during the course of the day, you just set it aside, but
14 for the other lashers to know, there's no process in place?

15 A. Due to the fact that it's to the side, it was an indication
16 that we don't -- don't use it because something is wrong with it.

17 Q. Okay. So who would clear a vehicle to be operated again?

18 A. I don't know.

19 Q. On the day of the fire did you ever see the Jeep experiencing
20 mechanical issues?

21 A. No.

22 Q. On that day, did you notice the Jeep was set aside for any
23 period of time?

24 A. It was set to the side during the day.

25 Q. Were you ever notified why?

1 A. No.

2 Q. Do you remember what time or what, you know, break period you
3 might have saw it set to the side?

4 A. I don't remember.

5 Q. Okay. Did you see the Jeep push the last vehicle up the
6 ramp?

7 A. No, I did not see it.

8 Q. Okay. But you were the following vehicle, correct?

9 A. Correct.

10 Q. Where were you when you were notified of the fire?

11 A. I was in another push vehicle going up the ramp of the ship.
12 Where the fire was on that deck, I went on the top of the deck and
13 I saw the Jeep on fire.

14 Q. And when you say you saw the Jeep on fire, what had -- was
15 there any initial response being taking place when you initially
16 saw it?

17 A. The response that was taking place was one of my co-workers,
18 a lasher, did take a fire extinguisher and try putting it out.

19 Q. Was there anybody else that you remember around the Jeep
20 trying to extinguish the fire?

21 A. He was the only one trying to put the fire out. There was
22 other people there.

23 Q. There was other -- were the crew engaged with the fire?

24 A. I did not see any crew members.

25 Q. And about how long did you stay on deck 10 before you

1 departed?

2 A. As soon as I saw the fire, I told everyone to leave. I
3 honked the horn of the vehicle that I was in, told everyone to get
4 off the ship, there's a fire, and that's when I got off the ship.

5 Q. All right. And how did you get off the ship?

6 A. In the vehicle that I was in, I backed up and drove off the
7 ship.

8 Q. Okay. So since the incident, are you aware of any procedures
9 that have changed or policies that have been put in place from
10 AMS?

11 A. Not that I know of.

12 LT REED: Thank you, Mr. Costanzo. That's all the questions
13 I have.

14 CDR Barger, I'll turn it to you.

15 CDR BARGER: Good morning, Mr. Costanzo.

16 MR. COSTANZO: Good morning.

17 CDR BARGER: I'll first have a couple of follow-up questions
18 for you and then the rest of the members of the Coast Guard and
19 NTSB team will have follow-up questions as well.

20 BY CDR BARGER:

21 Q. You mentioned earlier that when you arrive to the worksite
22 there's a plan on how to load the ship. Who is actually looking
23 at that, the physical plan itself?

24 A. The foreman has access to it and he gives it to us to look at
25 to see where everything goes on the ship and see where if

1 something is coming off the ship.

2 Q. Okay. So you as a lasher physically look at the plan?

3 A. Correct.

4 Q. And then who assigns the duties and where to load vehicles at
5 any particular time?

6 A. I would assume the longshoremen. It's not my job.

7 Q. So when you're driving a push vehicle, how do you know where
8 to take any particular vehicle that you're pushing onto the ship?

9 A. So there's longshoremen, there's checkers, which tell you
10 where to go on the ship. There's supers. They tell you where to
11 park the ship [sic], and when you get on the ship there's a parker
12 that directs you to park the vehicle.

13 Q. Okay. So you just used several pieces of terminology that I
14 would like a little bit of clarification on. So when you say a
15 longshoreman, can you describe in general what does a longshoreman
16 do?

17 A. I'm not a -- I'm a longshoreman, but I'm not like in that
18 field of exactly what they do. But they have a lot of job titles,
19 parking cars, driving cars onto the ship, scanning cars before
20 they get on the ship. That's all I know of as what they do.

21 Q. And then based on your understanding and observations -- you
22 said, a super. Is that a superintendent?

23 A. Correct.

24 Q. What does that person do?

25 A. They're in charge of how the ship operates, I believe.

1 Q. I believe you previously mentioned that you report to the
2 foreman. What then is the relationship between the foreman and
3 the superintendent? Based on your understanding.

4 A. The -- I don't quite understand the relationship. What do
5 you mean?

6 Q. Do they -- is there a hierarchy between foreman and
7 superintendent?

8 A. So there's two different jobs. There's two different
9 companies, two different unions. So it doesn't really relate to
10 us. I believe the super tells us what -- the foreman, at least,
11 what to do.

12 Q. Over the period of time -- I'll back up. How long did you
13 say that you've been working at that worksite at berth 18, in
14 general?

15 A. Since I started, 8½ years ago.

16 Q. So 8½ years, you've been working at berth 18 on a regular
17 basis?

18 A. No.

19 Q. How often would you say in a month you work at berth 18?

20 A. Whenever there's a ship that arrives to load.

21 Q. On average?

22 A. It varies. It could go 2 weeks; it could go every month,
23 once a month; it could go every week. It all varies between the
24 years. It was never a specific days of when I would be there.

25 Q. And so in that time, you said that you had operated the Jeep

1 push vehicle?

2 A. I have in the past, yes.

3 Q. Estimation, how many times would you say you actually
4 operated it personally?

5 A. I don't know. I can't recall. We had another port, called
6 the Army Base, in Bayonne, New Jersey, and it was shut down. So
7 that Jeep was over there as well; I drove it there. And then now
8 berth 18 opened up for loads, so now that Jeep is over there now.
9 So both ports I did work at. I don't know exactly how many times
10 I drove it.

11 Q. So in the 6 months preceding July 5th, the date of the
12 incident -- let's narrow this down -- how many times, how many
13 loading evolutions would you say you had operated the Jeep at some
14 point?

15 A. After --

16 Q. Over that preceding 6 months, how many times would you say
17 you utilized the Jeep pusher?

18 A. I can't give an accurate or -- I'm not sure, to be honest.

19 Q. No estimation?

20 A. At least more than 10, 15 times.

21 Q. And just to clarify, in any of those times did the vehicle
22 experience a mechanical issue while you operated it?

23 A. Overheating was one of the issues, like I said.

24 Q. And when you experienced that overheating issue, what did you
25 do?

1 A. I put the vehicle to the side. I let the mechanic know what
2 was going on.

3 Q. And when you say put it to the side, where on the shoreside
4 property was to the side?

5 A. So where the vessel is, outside of the vessel there's a gate
6 that has all the port vehicles inside and all our vehicles. I
7 would put it inside the gate away from the other vehicles that we
8 use as pushers.

9 Q. Had you ever been trained or told to specifically put the
10 vehicle there when it was having mechanical issues?

11 A. No.

12 Q. To your understanding, would that have been a common practice
13 among all lashers if they started experiencing mechanical issues?

14 A. Yes.

15 Q. Was there any -- what, if any, indication did you ever see
16 that that area was for vehicles not to be used or that were having
17 mechanical issues?

18 A. There wasn't a specific spot where I put it. Like I said,
19 due to the overheating and stuff, we didn't have time to place it
20 exactly in a certain spot, so it was placed basically wherever you
21 can just to shut it off and to get away from it.

22 Q. So to your knowledge, when a overheating issue is
23 experienced, the vehicle would be parked and just shut off?

24 A. Correct.

25 Q. I would imagine that once the vehicle shut off, was that then

1 a physically visible sign on the vehicle that it was overheating?

2 A. Not necessarily, no.

3 Q. What, if any, indication, physical indication did you ever
4 see in place to say don't use this vehicle, it's overheating?

5 A. It was the mechanic to verify what was going on. It wasn't
6 my job title to tell anybody or anything about the vehicle. Yeah,
7 we just put vehicles to the side and jump into another vehicle and
8 continue working.

9 Q. Okay. And so in that time from parking the vehicle and then
10 jumping into another to keep working, how or when did you report
11 the issue to the mechanic?

12 A. Right away. You have to find the mechanic or call him or
13 tell the foreman to get the mechanic to let him know that
14 something is wrong with the vehicle.

15 Q. I know LT Reed asked you about warning signs or alarms in the
16 vehicle for overheating. Can you tell us what, if anything, did
17 you -- physical signs did you see, hear, or smell with the
18 vehicle?

19 A. Just the light that was blinking, hot oil.

20 Q. Did you ever see any smoke from the vehicle when it was in
21 that condition?

22 A. I did not, no.

23 Q. During your course of time operating push vehicles, in
24 particular the Jeep push vehicle, were you ever -- did you ever
25 have the opportunity to look at the vehicle's owner manual?

1 A. No.

2 Q. When you did see a warning light on the dashboard, how did
3 you know what it meant?

4 A. I didn't know exactly what it meant, but I knew that "hot
5 oil" blinking meant that the oil was hot. So due to experience in
6 the past of just knowing cars, I know that hot oil is no good and
7 usually leads to either overheating or something else.

8 Q. Did you ever hear an audible warning alarm?

9 A. No.

10 Q. No dinging or chime sound during those overheating
11 evolutions?

12 A. It was blinking yellow -- a yellow light saying hot oil.

13 CDR BARGER: That's all the questions I have for you at this
14 time.

15 LCDR Moore, any follow-up questions?

16 LCDR MOORE: Just a few.

17 BY LCDR MOORE:

18 Q. When you were speaking about the loading plan, are you aware
19 who develops that plan?

20 A. I don't know.

21 Q. How do -- you said you see it during loading. How do you see
22 it during loading?

23 A. The plan?

24 Q. Yes.

25 A. It's a piece of paper that has the whole vessel of every

1 single deck on the vessel of where all the cargo is loading and
2 unloading.

3 Q. And on a daily basis, when you're getting ready to start
4 work, do you discuss the plan for that day?

5 A. The foreman tells us the plan.

6 Q. And we were speaking previously about putting vehicles,
7 pusher vehicles to the side if there's any issue. Is there any
8 other reason a pusher vehicle may be set to the side other than a
9 mechanical issue?

10 A. No.

11 Q. Have you ever witnessed a fire previously?

12 A. No.

13 Q. Have you ever gone through any firefighter training or
14 emergency training?

15 A. No.

16 Q. When you saw the fire on the ship, can you describe exactly
17 where you saw the fire?

18 A. Yes. I believe it was on deck 10, I'm not 100 percent sure.
19 The way the fire was, it was inside the cabin of the driver and
20 passenger seat and in the trunk and underneath, the fire of the
21 vehicle.

22 Q. When you say you saw fire, can you describe what you, like,
23 what you saw? Did you see flames?

24 A. Correct. Yes.

25 Q. Can you describe those flames?

1 A. They were -- there was red, there was orange, there was
2 smoke.

3 Q. Can you describe that smoke a little bit?

4 A. It was white, it was black.

5 Q. Okay. And did you ever hear any alarms or see any alarms
6 once you noticed the fire?

7 A. On the vessel?

8 Q. Yes.

9 A. No.

10 LCDR MOORE: That's all I have for now.

11 CDR BARGER: Thank you.

12 Mr. Pittman, any follow-up questions?

13 MR. PITTMAN: No follow-up questions.

14 CDR BARGER: For NTSB, Mr. Barnum, any follow-up questions?

15 MR. BARNUM. Yes. Thank you, Commander.

16 BY MR. BARNUM:

17 Q. Mr. Costanzo, thank you for your testimony. I do have a
18 couple here, just follow-on from what was already asked.

19 The yellow hot oil alarm that you observed previously on the
20 console of the Jeep, what was your understanding what type of oil
21 was that referring to? Was it -- do you know if -- was your
22 understanding it was engine oil or transmission oil, do you know?

23 A. I don't know.

24 Q. You don't know. Okay. When you were operating the vehicle
25 and you received that indicator light, you said that you'd park

1 the vehicle and shut it off. How did the vehicle operate in that
2 time? Did you notice any operational differences?

3 A. No.

4 Q. Any sounds that the vehicle would make --

5 A. No.

6 Q. -- during that time? Just the alarm and you'd park it?

7 A. Correct.

8 Q. Okay. CDR Barger was asking you about the 6 months preceding
9 the fire on July 5th, about the yellow Jeep overheating, and you
10 said several times, I believe; is that accurate? We're trying to
11 hammer down exactly how many times. Was it more than one?

12 A. It was more than once, correct.

13 Q. More than 10?

14 A. I don't know. We have --

15 Q. Safe to say between 5 and 10?

16 A. The only time it overheated on me was a couple or a few
17 times. Other people have driven the vehicle before. It has
18 overheated on them as well.

19 Q. Okay. And who were they and how were you notified? Did they
20 tell you that it had overheated or did your foreman tell you?

21 A. Exactly what I did, put the vehicle to the side, they did the
22 same exact thing and let the mechanic know.

23 Q. Okay. So you became aware that it had overheated on your
24 colleagues by visually seeing it parked in a different position
25 rather than them telling you, hey, Austin, this is overheating?

1 A. Correct.

2 Q. Okay. Just a couple questions on the -- I know it's been
3 asked, but the location of where it was set aside. So if I'm a
4 first day lasher and I come on the job and you had been operating
5 the Jeep and you set it aside because you had a problem, how would
6 I know that that Jeep was out of service?

7 A. Like I said, the mechanic is the one to look at it to
8 determine what is wrong with it and he's the one to tell us to not
9 use it or --

10 Q. Right. But the location of it, there's no -- you know, you
11 said you tell the mechanic. Is there a --

12 A. There's no specific location. It was in -- in the spite of
13 time, just shutting it off, moving it to the side wherever I can,
14 and getting out of the vehicle.

15 Q. So on the day of the fire, you had mentioned that the Jeep
16 was set aside; is that correct?

17 A. Correct.

18 Q. And so I guess my question is, so how do you know that it
19 was -- there was an issue with the Jeep? Did you talk to the
20 mechanic or is it just the location of it?

21 A. Just because it was put aside away from the other ones, other
22 vehicles.

23 Q. So that -- safe to say, that was a general rule of thumb, was
24 park it in this particular location because there is a problem?

25 A. Park it to the side, anywhere, wherever, away from the

1 vehicles that we have been using.

2 Q. Okay.

3 MS. McATEE: I have one question.

4 MR. BARNUM: Yeah, just -- that's all the questions I had for
5 you. Thank you, Mr. Costanzo. Nancy McAtee has a couple
6 questions.

7 BY MS. McATEE:

8 Q. I have one question. Since you've indicated that you know
9 that the light is indicating a problem, do you know what happens
10 if you ignore that light?

11 A. I do not know what would happen if I ignore the light.

12 MS. McATEE: I have no further questions. Thank you.

13 CDR BARGER: Okay. Before we move on to the parties in
14 interest, one last question for me.

15 BY CDR BARGER:

16 Q. So if -- you mentioned that when you parked the vehicle off
17 to the side and the mechanic was notified, in your experience did
18 you ever observe the mechanic work on the vehicle or do you know
19 what the mechanic did from there?

20 A. No, I do not.

21 CDR BARGER: All right. Thank you.

22 Okay. We will now take questions from the parties in
23 interest on cross-examination. Again, in order to ensure
24 equitable time and opportunity for the parties in interest to ask
25 questions, we will give each approximately 10 minutes for their

1 line of questioning. It is cross-examination within the scope of
2 the direct examination.

3 We'll start with American Maritime Services.

4 MR. KARPOUSIS: Thank you.

5 CROSS-EXAMINATION

6 BY MR. KARPOUSIS:

7 Q. Good morning, Mr. Costanzo. My name is John Karpousis. I
8 represent American Maritime Services in this case. You are a
9 member of the ILA; is that correct?

10 A. Correct.

11 Q. And you've been a member for 8½ years?

12 A. Yes.

13 Q. And you have to be a member of the ILA to work at American
14 Maritime Services, right?

15 UNIDENTIFIED SPEAKER: Objection. Leading his own witness.

16 MR. KARPOUSIS: It's not my witness. I didn't call him.

17 CDR BARGER: Overruled. It is cross-examination, so we'll
18 allow a certain amount of leading the witness.

19 BY MR. KARPOUSIS:

20 Q. You did not operate the Jeep Wrangler on the day of the fire,
21 correct?

22 A. Correct.

23 Q. And you don't have any personal knowledge as to why the Jeep
24 Wrangler was put to the side on the day of the fire, correct?

25 A. I do not.

1 Q. And it's safe to say that once the mechanic is notified about
2 any problem with any of the pusher vehicles, it is essentially out
3 of your hands?

4 A. Correct.

5 Q. And you leave it up to the mechanic for him to take care of
6 it?

7 A. Yes.

8 MR. KARPOUSIS: I don't have any further questions. Thank
9 you.

10 CDR BARGER: Okay. Thank you.

11 Ports America.

12 BY MR. ZONGHETTI:

13 Q. Good afternoon, Mr. Costanzo. I'm the attorney -- my name is
14 Gino Zonghetti. I'm the attorney for Ports America. I have a few
15 follow-ups for you, okay?

16 A. Okay.

17 Q. You've testified about the general -- and if I go too fast,
18 let me know. I have in the back of my mind this limited time I
19 have to ask you, so I may innocently go too fast. But if I do,
20 just tell me, okay?

21 A. Okay.

22 Q. You testified generally about the way things work on the day
23 when you're loading vehicles, correct?

24 A. Yes.

25 Q. And the first thing that happens is you'll see -- or one of

1 the first things is you'll see a load plan or a stow plan, right?

2 A. Correct.

3 Q. And the stow plan will show you folks where on the vessel
4 different vehicles shall be loaded that day?

5 A. Correct.

6 Q. And that's something that you will go over with your foreman;
7 is that correct?

8 A. Yes.

9 Q. Now I assume you're one of the senior guys on the lashing
10 crew?

11 A. Yes.

12 Q. And there's a hierarchy. I think we've testified -- you've
13 testified about that. You have the lashers and then you have a
14 foreman, who's also a union member, correct?

15 A. Correct.

16 Q. And the foreman is the gentleman or lady who directs you
17 folks, the lashers, as to what you're supposed to do, right?

18 A. Correct.

19 Q. And there may be different evolutions during the day. A
20 lasher may start doing one thing and then he may be told by the
21 foreman to do something else, right?

22 A. Yes.

23 Q. And there are different decks to be loaded and there are
24 different orders of loading with different types of equipment that
25 are being loaded on these different decks, right?

1 A. Correct.

2 Q. So it's sort of a carefully orchestrated type of thing once
3 you look at the stow plan, what you're going to do, when it's
4 going to be done, who's going to do it, who's going to push, who's
5 going to unsecure, so on and so forth, right?

6 A. Yes.

7 Q. Okay. And there are points and times during a loading day
8 where the jobs may change. For example, someone may start off
9 lashing, then they may go to batteries, then they may go to
10 pushing, right?

11 A. Correct.

12 Q. And there are also times during the day where someone --
13 where not all the pushing vehicles are being used at once, right?

14 A. Yes. Correct.

15 Q. And that may change during the course of the day. For
16 example, the foreman may come on and say, okay, guys, we've got
17 decks 12 and 11 loaded, we're now going to bring on another
18 pushing team. Right?

19 A. Yes.

20 Q. And that's not uncommon?

21 A. Correct.

22 Q. So during any point in the day, there -- how many pusher
23 vehicles are there typically in this operation available for use
24 by your lashers? Am I correct that it's five?

25 A. I'm not 100 percent sure how many, but it's roughly three,

1 four, depending on the day, five maybe if that --

2 Q. Right. So let's say if it's five, there may be a day where
3 in the morning only three pusher vehicles are being used, then
4 later in the day the foreman will say, we're setting up another
5 push team, number four may come in. Later in the day they may set
6 up another push team, number five may come in. That's not
7 unusual, right?

8 A. Correct.

9 Q. And it's not unusual to see a push vehicle out of service
10 because of that, right?

11 A. Correct.

12 Q. Now you've testified about the Jeep, your driving it. They
13 asked you about the last 6 months, and everything you've given is
14 an estimate about how many times you drove it, how many times it
15 may have overheated, right?

16 A. Yes.

17 Q. But the one thing that's clear to you, I believe, from your
18 testimony is that whenever it overheated, you would see a flashing
19 yellow light that said, quote/unquote, "hot oil"?

20 A. Correct.

21 Q. And that meant to you that this was an overheating
22 potentiality and you would do something, correct?

23 A. Yes.

24 Q. And what you would do, because there is a hierarchy, you
25 would pull the car to the side, you would let the foreman know or

1 the mechanic or both, right?

2 A. Correct.

3 Q. So there would be two people besides yourself, one of whom
4 was in supervisory capacity, the foreman, who would know that the
5 vehicle was out of service, right?

6 A. Not always, but -- sometimes just the mechanic knows.

7 Q. Well, the mechanic communicates with the foreman, he works
8 with the foreman, right?

9 A. I'm not sure. I just let the mechanic know and whatever he
10 does, that's what he goes further.

11 Q. Okay. But that's -- the mechanic is just that, he's the
12 mechanic on the site?

13 A. Correct.

14 Q. And he's an AMS employee?

15 A. Correct.

16 CDR BARGER: And if I could verify, for your knowledge,
17 Mr. Costanzo, do you know who the mechanic works for?

18 THE WITNESS: I believe AMS.

19 CDR BARGER: As far as a specific position at the worksite,
20 do you know who the mechanic works for?

21 THE WITNESS: I don't quite understand the question.

22 CDR BARGER: Do you personally know -- or on July 5th, did
23 you have understanding of who the mechanic's boss was? You report
24 to the foreman. Who does the mechanic report to?

25 THE WITNESS: I am not sure. It's a different job title than

1 me.

2 CDR BARGER: So you didn't have awareness of the chain of
3 command, who he reports to?

4 THE WITNESS: Yeah. I don't know who he reports to exactly.
5 We're separate job titles.

6 CDR BARGER: Okay. Thank you.

7 THE WITNESS: You're welcome.

8 CDR BARGER: Mr. Zonghetti, please continue.

9 BY MR. ZONGHETTI:

10 Q. So after the Jeep -- and I think you said you would put a
11 vehicle that was overheating in any available spot, basically,
12 right?

13 A. Correct.

14 Q. You're not looking for a particular spot. There's a lot
15 going on. Right?

16 A. Correct.

17 Q. The mechanic is told about it. The mechanic does whatever he
18 does, right?

19 A. Yep.

20 Q. And some point later on in the day, that Jeep may be allowed
21 back into service by the mechanic?

22 A. Yes.

23 Q. And that's the way it worked, right?

24 A. Correct.

25 Q. And are you aware of the type of maintenance that the

1 mechanic does on these vehicles after a loading day or before a
2 loading day?

3 A. I do not know.

4 Q. Now the mechanic or the foreman, after a Jeep's out of
5 service, will then, if it's coming back into service, tell whoever
6 is on a push team that it can be used again, right?

7 A. Sometimes. It all depends on what we're doing, if we need
8 another pusher, if the pushers -- all pushers are being used.

9 Q. Yeah. But what I'm asking though -- I didn't ask it
10 precisely. Directions come from the foreman. So if a car's out
11 of service and then later on it's needed, that -- the foreman is
12 the person who's going to tell someone, okay, go use that car?

13 A. Sometimes they do. Sometimes they don't.

14 Q. Okay. Sometimes they keep it out of service?

15 A. Or sometimes the foreman doesn't tell us anything. We
16 just -- we don't know what's going on. The mechanic deals with it
17 and we move on and continue working.

18 Q. Okay. All these folks are American Maritime Service
19 employees, the foreman and the mechanic, right?

20 A. Correct.

21 Q. And you were asked about the superintendent. You really
22 didn't know much about the superintendent. Do you know who the
23 superintendent works for?

24 A. I do not.

25 Q. When you folks, the lashers, take breaks and what have you,

1 you'll talk about what's going on during the day, right?

2 A. Yes.

3 Q. And if there's a vehicle that's problematic or giving someone
4 trouble or out of service, that's a topic that might come up,
5 right?

6 A. Sometimes.

7 Q. Yeah. The day of this fire, you did not operate the Jeep and
8 you have no personal knowledge about anything that was going on
9 with the Jeep; is that fair?

10 A. Correct.

11 Q. And you didn't see any smoke coming out of the Jeep at any
12 point in time during the day?

13 A. No, I did not.

14 Q. That's certainly something, if there was literally smoke
15 coming out of the Jeep, out of the engine of the Jeep, that's
16 something that you would expect folks to be talking about because
17 that -- you guys know that there's dangerous cargo on board the
18 ship, right?

19 A. Correct.

20 Q. Flammable, correct?

21 A. Yes.

22 Q. It's well known, and you're not going to use a car that's
23 smoked, literally smoking, on a vessel, right?

24 A. Correct.

25 MR. ZONGHETTI: Okay. That's all I have. Thank you.

1 CDR BARGER: Thank you.

2 Port Authority of New York and New Jersey.

3 MR. REILLY: Yes. Thank you.

4 BY MR. REILLY:

5 Q. Good afternoon now, Mr. Costanzo. My name is John Reilly and
6 I represent the Port Authority of New York and New Jersey. I want
7 to ask you just a few questions about the general compensation
8 rate for these activities; in other words, the union rate. Is the
9 union rate based on hours or cars loaded or some other --

10 A. Are you talking about my pay, my salary, hourly rate?

11 UNIDENTIFIED SPEAKER: Objection. Is this outside of the
12 scope of your direct, CDR Barger?

13 CDR BARGER: Yeah, Mr. Reilly, if you could explain the
14 relevance to our -- you know, for this question about his pay?

15 MR. REILLY: The question is, why I'm asking is because it
16 happens from time to time, that if a car goes down or some
17 equipment goes down and there's not a need for an employee, a
18 foreman might tell him to go home. I'm --

19 THE WITNESS: I don't know.

20 MR. REILLY: Thank you. That's all I have.

21 CDR BARGER: Okay. Thank you.

22 Grimaldi Deep Sea.

23 MR. LEVY: Thank you, commander.

24 BY MR. LEVY:

25 Q. Mr. Costanzo, my name is John Levy and I represent Grimaldi.

1 I just have a few follow-up questions for you. You said this Jeep
2 used to be used at another terminal. Where was that?

3 A. It was in Bayonne.

4 Q. In Bayonne. What was the name of that terminal?

5 A. It was called the Army Base.

6 Q. Army Base. And you worked there?

7 A. Correct.

8 Q. When did you work there?

9 A. When?

10 Q. When?

11 A. It was whenever they shut down the port, I'm not sure what
12 year it was, a few years ago or the last -- I'm not sure exactly
13 what year they shut down that port.

14 Q. And you -- but whenever that time period was, can you put any
15 kind of range on it? Was it 4 years ago, 10 years ago?

16 A. It was probably a good 3, 3 to 4 years ago maybe, or so. I'm
17 not sure exactly.

18 Q. Okay. So when you worked at that terminal in Bayonne, you
19 operated this Ports America Jeep at that time?

20 A. I have, yes.

21 Q. And did the Ports America Jeep, at that time when you were
22 operating it over in Bayonne, did it also have this overheating
23 problem then?

24 A. No.

25 Q. So the overheating problem didn't start until it came to the

1 terminal in Port Newark?

2 A. Correct.

3 Q. And after the Jeep came to the terminal in Port Newark, how
4 long was it there before you first noticed that it was
5 overheating?

6 A. More than a year.

7 Q. And when did you first start working at Port Newark?

8 A. I've been working there since day 1, 8½ years. We worked at
9 both ports when the port in Bayonne was open.

10 Q. Okay. So after you were working on Port Newark with this
11 Jeep for about a year, then you noticed it was starting to
12 overheat?

13 A. Yes.

14 Q. And do you know whether anyone got to the bottom of what was
15 causing the Jeep to overheat?

16 A. I don't know.

17 Q. And do you know anything about what was overheating on the
18 Jeep, whether it was the transmission or it was the oil in the --
19 the engine oil?

20 A. I do not know.

21 Q. All you know is that at some point a year, about a year after
22 the Jeep came over to Port Newark, you started to observe that it
23 was overheating?

24 A. Yes.

25 Q. Was there any safety meetings that you can recall that were

1 held by AMS or Ports America or anyone else about the problem with
2 this Jeep overheating?

3 A. No, not that I attended.

4 Q. When the Jeep overheated on the day of July 5th, do you know
5 how that problem was solved?

6 UNIDENTIFIED SPEAKER: There's no testimony it overheated
7 that day. Objection.

8 CDR BARGER: I'm sorry. I can't hear you. On what grounds
9 is the objection?

10 UNIDENTIFIED SPEAKER: There's no testimony it overheated
11 that day. This witness has not said that. He said he has no
12 idea.

13 CDR BARGER: Okay. Yeah, Mr. Levy, can you repeat the
14 question?

15 MR. LEVY: Sure. Let me rephrase the question. I'll
16 withdraw that question.

17 BY MR. LEVY:

18 Q. When you observed the Jeep being out of service on July 5th,
19 2023 --

20 UNIDENTIFIED SPEAKER: Same objection. There is no
21 testimony --

22 MR. LEVY: Hold on, sir.

23 UNIDENTIFIED SPEAKER: -- given that the -- well, there's no
24 testimony that vehicle was ever put out of service on July 5th.
25 He observed it to the side, not out of service. It's a

1 difference.

2 CDR BARGER: Okay. I am interested for the record to hear
3 the answer to the question, but I want to verify with
4 Mr. Costanzo.

5 To your knowledge, was the Jeep vehicle ever put out of
6 service on July 5th?

7 THE WITNESS: Physically and we were notified, no.

8 CDR BARGER: What do you know about the Jeep vehicle and its
9 operating condition on July 5th?

10 THE WITNESS: I don't know anything about the operating
11 condition on that day.

12 CDR BARGER: Okay. Did you see it placed off to the side
13 where you would consider it having mechanical issues on July 5th?

14 THE WITNESS: It was on -- it was to the side when I saw it.

15 CDR BARGER: Okay. And when in the day did you see it to the
16 side?

17 THE WITNESS: I don't remember.

18 CDR BARGER: Was it -- in relation to lunch, was it before or
19 after? Morning or afternoon?

20 THE WITNESS: I really don't know. I never focused on that
21 Jeep. I had no idea what was going to happen, transpire.

22 CDR BARGER: So within that knowledge of what we just
23 clarified, I'll allow you to rephrase the question.

24 MR. LEVY: I will do so. Thank you.

25 BY MR. LEVY:

1 Q. So you observed the Jeep being put aside or had been put
2 aside by someone, not you; someone had put it aside on the day of
3 the fire?

4 A. Yes.

5 Q. And they put it aside in such a way that indicated to you
6 that the Jeep was out of service; is that right?

7 UNIDENTIFIED SPEAKER: Same objection actually.

8 CDR BARGER: Okay. And the grounds on the objection?

9 UNIDENTIFIED SPEAKER: The grounds are, despite Mr. Levy's
10 protestations to the contrary, there is no testimony that this
11 vehicle was out of service at all, ever, on that day. There's
12 just no evidence of it.

13 MR. LEVY: That is exactly what I'm establishing.

14 CDR BARGER: Yeah, I think what we're trying to establish is
15 what is Mr. Costanzo's interpretation of the vehicle being set to
16 the side.

17 And Mr. Costanzo, I'll ask you that one final question and
18 we'll move on from this point.

19 MR. LEVY: Thank you.

20 CDR BARGER: You have already testified the vehicle -- you
21 observed the vehicle put off to the side. What is your
22 interpretation, in your own words, of what that meant for the
23 vehicle or any push vehicle being put off to the side?

24 THE WITNESS: So due to that it was to the side and wasn't
25 with the other push team, it indicates that it wasn't in use or

1 was parked, no one was using it at all. So it indicates that
2 either something was wrong or it wasn't being used. I was in
3 another vehicle, so I never focused on that vehicle at all, so --
4 I only focused on the vehicle that I was driving that day.

5 CDR BARGER: Okay. So -- yeah, so your interpretation is
6 that it's just -- it's in that spot, it's just not being used?

7 THE WITNESS: Correct.

8 CDR BARGER: Okay. So within that point of clarification,
9 please continue.

10 BY MR. LEVY:

11 Q. And the spot that it had been put aside, is that where you
12 would normally put aside a vehicle that was out of service?

13 A. There was no assigned spot.

14 Q. I didn't ask you if there was an assigned spot. The spot
15 that where the vehicle was placed, did that indicate to you that
16 that vehicle was out of service, the Jeep?

17 UNIDENTIFIED SPEAKER: That's asked and answered.

18 CDR BARGER: Yeah. I'll sustain that. I think we've gotten
19 to what Mr. Costanzo's interpretation of a vehicle being placed in
20 that spot is, and so let's move on.

21 MR. LEVY: I have no further questions.

22 CDR BARGER: Okay. Thank you.

23 City of Newark.

24 BY MR. LIPSHUTZ:

25 Q. Hi, Mr. Costanzo. My name's Gary Lipshutz. I have a few

1 questions.

2 A. It's hard to hear you.

3 Q. My name is Gary Lipshutz from the City of Newark. I have a
4 few questions.

5 A. Sure.

6 Q. You had -- not that day, but you had previously driven the
7 Jeep, and at the time you drove it, it had overheated, correct?

8 A. Yes.

9 Q. I believe that you told the mechanic it had been overheating?

10 A. Yes.

11 Q. Who was the mechanic you told?

12 A. There's multiple mechanics at that time. So there was, I
13 believe, maybe two mechanics working.

14 Q. Who were the two it could have been?

15 A. I'd rather not mention names. I don't like to mention names
16 or anything.

17 Q. Well, I'm aware of one mechanic, Mr. Zyla, Piotr.

18 A. Okay. Yeah, Pete was one and Eddie.

19 Q. Did you tell Piotr that it was overheating?

20 A. I told Piotr, correct.

21 Q. You did?

22 A. And there was also another mechanic, too, that you have to
23 tell as well because they're both working, whatever I can talk to.
24 You know, I alerted both of them. Whoever handled it, I'm not
25 sure.

1 Q. I just want to make sure I heard you correctly. You did tell
2 Piotr that it was overheating?

3 A. Yes.

4 Q. Okay. Now according to you, not only did you know that the
5 vehicle overheated, the Jeep, but the other lashers knew that the
6 vehicle overheated as well?

7 A. Based upon what the mechanics maybe said --

8 UNIDENTIFIED SPEAKER: I object to what other people knew.
9 This witness can't testify to what other people knew.

10 CDR BARGER: Yeah, and -- so in these proceedings -- I will
11 partially agree. In these proceedings, we certainly need to keep
12 the witness from speculating on something that they don't know;
13 however, hearsay is admissible in these proceedings. So I'll ask
14 you to reframe your question within that --

15 MR. LIPSHUTZ: Well, I'm just asking something that he's
16 already stated in his statement.

17 BY MR. LIPSHUTZ:

18 Q. Today is January 10th. You did give a statement back in July
19 5 days after the fire, right?

20 UNIDENTIFIED SPEAKER: I don't know how you -- there's a
21 ruling, I believe --

22 MR. LIPSHUTZ: That was depositions. This is his statement,
23 July 18th, this investigation.

24 UNIDENTIFIED SPEAKER: You have (indiscernible)?

25 MR. LIPSHUTZ: Yes, Commander.

1 I could read his answer.

2 CDR BARGER: For what purpose are you intending to enter the
3 prior statement?

4 MR. LIPSHUTZ: Well, respectfully, he has testified about his
5 knowledge of the vehicle being overheated. He has previously
6 stated that the other lashers knew the vehicle overheated, and I'm
7 asking for confirmation.

8 CDR BARGER: Okay. So I will say sustained. We are asking
9 the witness about their knowledge with regards to the incident and
10 that situation in the present. So you can use that as a
11 foundation, but we'll refrain from having previous testimony
12 discussed during the proceeding.

13 MR. LIPSHUTZ: On this question -- because I have another
14 area that I'd like to address, and again, it's just based on his
15 statement, what he's given.

16 CDR BARGER: Okay. You can --

17 MR. LIPSHUTZ: It's only going to be the last, the last --

18 CDR BARGER: You can proceed. Yeah.

19 BY MR. LIPSHUTZ:

20 Q. Sir, today you have stated that you did not know what the
21 problem with the Jeep was on the day of the fire, correct?

22 A. Yes.

23 Q. Okay. Did you tell, during your interview 6 months ago, in
24 July, Sgt. Palermo that on that day it was overheating?

25 UNIDENTIFIED SPEAKER: Objection. I thought the ruling and

1 the purpose behind the ruling was to avoid the precise thing that
2 is going on right now.

3 UNIDENTIFIED SPEAKER: He's (indiscernible).

4 MR. LIPSHUTZ: This is his statement, ma'am, that he gave in
5 July. This is not the deposition. This is his statement as part
6 of this investigation.

7 UNIDENTIFIED SPEAKER: He's reading from a transcript though.

8 UNIDENTIFIED SPEAKER: The transcript (indiscernible).

9 MR. LIPSHUTZ: Yes. This is his statement.

10 CDR BARGER: In order for me to consider this objection,
11 we're going to take a 5 minute recess and we'll establish the
12 rules going forward.

13 It's now 12:22. We'll reconvene at --

14 (Off the record at 12:22 p.m.)

15 (On the record at 1:06 p.m.)

16 CDR BARGER: The time is now 1:06 p.m. local time in Union,
17 New Jersey. These proceedings are now back in session.

18 The Coast Guard has considered both sides of the issue and
19 objections raised. As such, we will proceed to obtain
20 clarification on this issue through our own line of questioning at
21 this time.

22 So, Mr. Costanzo, we obviously want -- we are all interested
23 in getting to the truth as far as what the condition was of the
24 Jeep vehicle that day. Okay. So I have some follow-up questions
25 for you.

1 BY CDR BARGER:

2 Q. So that said, there's been a lot of conversation taking place
3 before we took a recess about what you've said today and then also
4 what you had said during previous interviews with the Coast Guard.
5 So I want to clarify what your exact remembrance of the events
6 that day were. So on the day of the incident, so July 5th, 2023,
7 did you see the Jeep push vehicle off to the side?

8 A. Yes.

9 Q. Based on your experience, when you see a vehicle put to the
10 side, what would you interpret that to mean?

11 A. I interpret it that it means that it's not being used and
12 there possibly is an issue with it, so no one touches it when it's
13 to the side.

14 Q. No one touches it to the side. Does it being placed to the
15 side definitively mean that there is an issue with the vehicle?

16 A. We weren't trained or we weren't taught that that was the
17 issue, but just due to that it's not being used and it's to the
18 side and other vehicles are all together, that being separate
19 clarifies that there could be possibly something wrong with it.

20 Q. When a lasher is done using a push vehicle, let's say for a
21 break or end of the day, does that vehicle get put in the same
22 spot as what you're describing as off to the side?

23 A. No. It gets pushed -- it gets put back where the vehicles
24 are in the morning, in the back of the field of the port that's
25 gated.

1 Q. Okay. To verify, or clarify, you are saying it's a different
2 spot than what you're referring to as off to the side?

3 A. Correct.

4 Q. And you said you haven't been -- or it sounds like any lasher
5 hasn't been trained on that, where to put the vehicle when it
6 experiences an issue. Would you describe that as a common
7 practice?

8 A. Yes, we're not trained.

9 Q. Okay. But is that a common practice amongst the lashers that
10 you work with, that that's where the vehicle -- a vehicle
11 experiencing an issue would be placed?

12 A. Yes.

13 Q. What kind of conditions in your experience and as a best
14 practice for -- or a common practice for the other lashers that
15 you work with, what type of issues would cause the vehicle to be
16 put to the side?

17 A. There's no specific issues. It's just a commonsense gesture
18 of putting it to the side and away from everything else because
19 it's not being used. So we always look at that as it's -- it has
20 an issue.

21 Q. So would it be put off to the side if it had flat tire?

22 A. Yes.

23 Q. Would it be put off to the side if it was running out of
24 fuel?

25 A. Yes.

1 Q. Would it be put off to the side if there was indication the
2 battery was dying?

3 A. Yes.

4 Q. Would it be put off to the side if it was overheating?

5 A. Yes.

6 Q. Okay. So do you know for a fact, on July 5th, why -- when
7 you observed the Jeep vehicle off to the side, why it was there?

8 A. I do not know why.

9 Q. When you observed the Jeep vehicle off to the side, did you
10 observe any -- was there any visible indication as to what the
11 issue might have been with the Jeep that it was put off to the
12 side?

13 A. No.

14 Q. So as an experienced lasher, if the vehicle was in that spot
15 off to the side, would you have used it to continue working?

16 A. No.

17 Q. Based on what you observed or what you were told, do you have
18 reason to believe that that vehicle was experiencing mechanical
19 issues that day --

20 A. No.

21 Q. -- or a particular issue that day?

22 A. No. I have no clue.

23 Q. Okay. So thank you, Mr. Costanzo.

24 CDR BARGER: So in light of the follow-up questions that I've
25 just asked to help clarify the condition of the Jeep vehicle on

1 that day or the condition of the Jeep vehicle on that day to
2 Mr. Costanzo's knowledge, we find the relevant testimony on this
3 topic should suffice -- or is sufficient as addressed. Any
4 further discussions on this objection or issue, we can address it
5 after the proceedings today.

6 So, Mr. Lipshutz, for the City of Newark, outside of this
7 line of questioning, do you have any additional questions on
8 cross-examination for this witness?

9 MR. LIPSHUTZ: Thank you, Commander. I do not.

10 CDR BARGER: Okay. Thank you, Mr. Lipshutz.

11 From the NTSB and Coast Guard team, are there any follow-up
12 questions for this witness?

13 (No response.)

14 All right. Thank you, Mr. Costanzo, for your testimony
15 today. You are subject to recall and my sequestration order
16 remains in place until you're released by me. You will be
17 notified once that determination has been made by the recorder,
18 LT Reed.

19 (Witness excused.)

20 CDR BARGER: The hearing is now in recess for lunch. We will
21 be in recess for 1 hour. The time is now 1:15 p.m. We will
22 return at 2:15 p.m. with Mr. Peotr Zyla as the next witness.

23 (Off the record at 1:15 p.m.)

24 (On the record at 2:17 p.m.)

25 CDR BARGER: Good afternoon. The time is now 2:17 p.m. at

1 Union, New Jersey, and the hearing is now reconvened and back on
2 the record regarding the fire on board the *Grande Costa D'Avorio*.
3 Our next witness is Mr. Peotr Zyla.

4 LT Reed, please swear in the witness.

5 LT REED: All right, Mr. Zyla, I'll ask you to please stand
6 and raise your right hand.

7 A false statement given to an agency of the United States is
8 punishable by a fine and/or imprisonment under 18 US Code 1001.
9 Knowing this, do you solemnly swear that the testimony you're
10 about to give is the truth, the whole truth, and nothing but the
11 truth, so help you God?

12 MR. ZYLA: I solemnly swear.

13 LT REED: Thank you. You may be seated.

14 CDR BARGER: Due to a audio technical issue, we're going to
15 pause right here before we start asking any preliminary questions.

16 (Pause.)

17 CDR BARGER: Okay. LT Reed, please continue with the
18 preliminary questions.

19 LT REED: Okay. Mr. Zyla, can I ask you to please state and
20 spell your first and last name for the record?

21 MR. ZYLA: Sure. It's Piotr, P-i-o-t-r, Zyla, Z-y-l-a.

22 LT REED: And counsel, will you please state and spell your
23 last name for the record?

24 MR. BALDASSARE: Yes. Michael Baldassare,
25 B-a-l-d-a-s-s-a-r-e, of Baldassare & Mara, LLC.

1 LT REED: All right. Mr. Zyla, on July 5th, 2023, what was
2 your profession?

3 THE WITNESS: What was my profession?

4 LT REED: Yes.

5 THE WITNESS: I was a mechanic, a maintenance guy for the
6 Ports America, AMS.

7 LT REED: Okay. And who are you employed by at that time?

8 THE WITNESS: By AMS.

9 LT REED: AMS. And AMS stands for?

10 THE WITNESS: American Maritime Services.

11 LT REED: Okay. What, if any, professional certificates or
12 certifications do you hold related to your position?

13 THE WITNESS: I don't hold any mechanical certifications.

14 LT REED: And then, how long have you been employed in that
15 position at the time of the casualty?

16 THE WITNESS: Since 2008, so pretty much -- 15 years.

17 LT REED: Okay. Commander, the witness is ready to proceed.

18 CDR BARGER: Thank you.

19 LCDR Moore will be conducting the direct examination of this
20 witness.

21 LCDR Moore, please proceed.

22 LCDR MOORE: Thank you, Commander.

23 (Whereupon,

24 PIOTR ZYLA

25 was called as a witness and, having been duly sworn, was examined

1 and testified as follows:)

2 DIRECT EXAMINATION

3 BY LCDR MOORE:

4 Q. Good afternoon, Mr. Zyla.

5 A. Good afternoon.

6 Q. I'm sorry about the technical difficulties. Can you explain
7 the duties and responsibilities of a mechanic at AMS?

8 A. Mechanical on cargo ships like that, it's pretty much -- it's
9 not as you think of a mechanic. It's more like maintenance:
10 filling up, fixing a tire, fueling up machines, changing tires,
11 changing batteries. Simplify, it's like when you call AAA because
12 the car breaks down. It's just simple, not like -- we do not
13 change any engines or anything like that. It's just maintenance
14 on it.

15 Q. Were these roles and duties documented anywhere?

16 A. I don't believe so.

17 Q. How did you learn to do your job?

18 A. Just learn from people that work with me, just hands-on
19 learning from people that used to be there before.

20 Q. And are there any certificates or courses required to hold
21 your position?

22 A. I don't believe so.

23 Q. And are you ASE certified?

24 A. No.

25 Q. What organizations other than AMS do you interact with during

1 loading operations?

2 A. Ports America.

3 Q. Can you explain in your words what the relationship between
4 AMS and Ports America is?

5 A. Ports America hires as, I believe, a third party, AMS
6 employees to do lashing, unlashings, and maintenance on their
7 terminals.

8 Q. What positions within the port do you interact with during
9 the loading of vessels?

10 A. Positions. Drivers -- pretty much drivers and
11 superintendents of the company.

12 Q. And what is a superintendent?

13 A. Superintendent's a Ports America employee that oversees
14 pretty much operation.

15 Q. So in your own words, what does that mean, oversee an
16 operation?

17 A. Overseeing is just pretty much keeping charge of how loading
18 is going, safety features, and just pretty much almost like a
19 boss.

20 Q. Okay. And you mentioned drivers. What -- in your words,
21 what is the role of a driver?

22 A. Drivers are just -- let's say they driving a company
23 vehicles, vans. You know, if they have a flat tire or they need
24 fuel, they'll come to us and I will just fill them up and fix the
25 flat tire, change a tire.

1 Q. Do you interact with foremen at all?

2 A. With my foreman or --

3 Q. With foremen in general during loading.

4 A. I have a foreman. As AMS, I have a foreman. We -- he gives
5 me orders, because there's multiple ships. He tells me which ship
6 I will go to.

7 Q. Do you interact with lashers at all?

8 A. With lashers, on the loading side of a cargo, only when they
9 have a -- when they operate the equipment that we service, then
10 they'll come up to me and ask me -- I mean, they'll come to me if
11 there's a problem with equipment and stuff. But they might, as
12 well, go to somebody else as well. Like they don't have to come
13 to me.

14 Q. And who do you directly report to?

15 A. I report to my foreman.

16 Q. Okay. And who is that? Or is it the same person every day?

17 A. Yes. It's the same person every day, yes.

18 Q. And who is that?

19 A. He's a AMS employee as well. His name is -- I don't
20 really -- don't know his last name, but his name is Chuck.

21 Q. Chuck. Okay. And what would you report to your supervisor?

22 A. Just start time, any problems, finish times of the
23 operations, so he could do the payroll and everything else.

24 Q. Is what you're required to report to your supervisor
25 documented anywhere?

1 A. The timesheets and the payroll, yes, that will be documented.

2 Q. How do you know what needs to be reported?

3 A. Reported, meaning?

4 Q. To your supervisor.

5 A. I really don't know that question.

6 Q. Okay. Is there anything other than payroll or timesheets
7 that you would communicate to your supervisor throughout a loading
8 operation?

9 A. Through a loading operation, unless something really breaks
10 down, we take it out of service, then I will not communicate with
11 him about the operation, unless it's something that needs to be
12 put out of service and send out for repairs.

13 Q. And how would you make that report?

14 A. I would tell what I think might be wrong with it, and then
15 they'll make a phone calls through Ports America employees and
16 somebody will come and take a look at it, fix it, or send it out
17 to be fixed.

18 Q. Are you aware of the term pusher vehicle?

19 A. Yes.

20 Q. What pusher vehicles are available for use during loading, in
21 general?

22 A. There was a Jeep Wrangler -- I don't know the years, but it
23 was 2007, -8, I believe; a couple of Ford Rangers, same thing,
24 older ages; and two Chevy Colorados, used vehicles as well.

25 Q. Do you know who owns those pusher vehicles?

- 1 A. I'm assuming it's Ports America.
- 2 Q. Are any modifications made to those vehicles to make them
3 pushers?
- 4 A. The only modification is they remove the plastic bumper from
5 the front end and welded on metal bumpers.
- 6 Q. Who makes those modifications?
- 7 A. It gets sent out through Ports America. I wouldn't know
8 where it goes.
- 9 Q. And what is the purpose of that modification?
- 10 A. Just so they could push non-running junk cargo on the ship.
11 Non -- yeah, not operatable.
- 12 Q. You spoke about your roles as a mechanic in the maintenance.
13 What issues with vehicles require your attention as a mechanic?
- 14 A. As a mechanic, well, checking on the fluids, so fuel,
15 antifreeze, checking on the oil. We do not change oil on the
16 terminal. We don't have lifts or anything like that, so we
17 don't -- that all gets sent out for purpose of that. But make
18 sure that, you know, it starts up, batteries are charged up, no
19 flat tires.
- 20 Q. You mentioned checking fluids. How do you check fluids?
- 21 A. Just on the dipstick. If it has a dipstick that you could
22 check, we will check on the fluids, make sure it's up to the
23 level.
- 24 Q. Okay. And all the pushers had a dipstick?
- 25 A. All of the pushers have dipsticks, yes.

1 Q. Beyond checking fluids, tires, things like that, are there
2 any basic repairs or anything that you would complete?

3 A. Changing a lightbulb, anything simple, simple like that.

4 Q. Is any of this documented, the work that you're completing?

5 A. Some of it may have been, but probably not.

6 Q. Are you made aware of issues with pusher vehicles or are you
7 just checking for yourself?

8 A. We always do a -- not every ship we have, but we do a
9 pre-check, make sure everything will be good to go for the next
10 day when the ship is operational. So we'll start them up, make
11 sure it's up to the standards.

12 Q. During loading, if there's any issues with a pusher vehicle,
13 would you be made aware of that?

14 A. If a driver or a superintendent will come up to me and tell
15 me there could be an issue with it, we'll take a look at it. If
16 there's an issue with it, we'll -- we will put it to the side.
17 And if it cannot be fixed at that moment, let's say, you know,
18 flat tire or something like that, cannot be fixed, will be put to
19 the side and will be sent out for repairs.

20 Q. When you say put to the side, what does that --

21 A. It will be just put to the side so nobody will use that for
22 the ship operation.

23 Q. Okay. When you -- when it's put to the side, do you go to
24 that location to verify the report made to you?

25 A. Well, we'll take -- we as well take a look at it, make sure

1 there's nothing -- what we can think might be wrong with it, if
2 it's fixable at that time, we will fix it, adjust the problem and
3 put it back in service. If there's something that cannot be done
4 at that moment, will be put to the side and it will not be used on
5 that day.

6 Q. And after that assessment, do you inform anyone of your
7 findings?

8 A. Yes. We will inform one of the Ports America employees,
9 superintendents, that it needs to be sent out for repairs.

10 Q. How frequently would you say something of that nature occurs?

11 A. I would say maybe bimonthly, not -- it may be 60, every 60,
12 90 days.

13 Q. Do you know what happens if, in your assessment, the issue is
14 beyond your capabilities, what happens next?

15 A. The vehicle will be put to the side and will be --
16 superintendents will be let known and either the next day or a
17 couple days later, they'll come with a tow truck and they'll tow
18 it to the specific location where they do the repairs on it.

19 Q. What are the typical issues that a pusher vehicle might have
20 that requires attention beyond your capabilities?

21 A. Could be a lot of things. Could be suspensions. Could be
22 broken windshields, anything with possibly transmission related,
23 slipping transmission, stuff like that, all of that will be sent
24 up.

25 Q. What are the potential causes of some of those issues, in

1 your opinion?

2 A. I guess it's just the way it's being used and the ground on
3 the terminal, just a bunch of potholes and stuff like that. That
4 could be parts of it.

5 Q. Do you conduct any preventative maintenance on pusher
6 vehicles?

7 A. Preventative maintenance, we just check the oils and liquids
8 in it.

9 Q. And then throughout the loading, do you conduct checks on the
10 pusher vehicles?

11 A. We do not check on it unless they come up to me and say there
12 might be a problem with a vehicle, and then we'll check on it.

13 Q. Were you on duty on July 5th, 2023?

14 A. Yes.

15 Q. Which vessel were you assigned to?

16 A. To the *Costa D'Avorio*.

17 Q. What berth or area was that ship located?

18 A. It's berth 18.

19 Q. What position were you holding that day?

20 A. Maintenance mechanic.

21 Q. And did that entail all of the previous testimony you gave on
22 what you do?

23 A. Yes.

24 Q. What vehicles were being used as pushers on that day?

25 A. One Jeep Wrangler, two Ford Rangers, and two Chevy Colorados.

1 Q. In your observation, how did the loading process go?

2 A. In my observation, it just depends on the ships. Sometimes
3 it's quicker, sometimes slower. It depends on the stowage of the
4 ship, the cargo they're stowing. You know, sometimes you have
5 more of a running cargo that drivers will go in and drive it on
6 its own. Sometimes you have more of a non-running cargo which has
7 to be pushed or forklifted on, which is not drivable. There's
8 breaks in time when they're switching to different ports and
9 different decks of a ship. That would be it.

10 Q. And would you say on July 5th, it was average or --

11 A. It was -- yeah, it was a long day, but it was -- yeah, it
12 started at 7 a.m. in the morning, went through the whole day.
13 Yeah, it was pretty normal.

14 Q. Were you made aware of any issues with pusher vehicles on
15 July 5th?

16 A. Not on the Jeep. On the pickup trucks, on the -- I don't
17 remember which ones, but they did get a couple of flat tires that
18 we repair.

19 Q. Are those flat tires or issues reported to anyone?

20 A. No.

21 Q. Were any pushers put to the side for any other reason other
22 than those flat tires?

23 A. I don't think so. I don't remember if anything was to the
24 side on that day.

25 LCDR MOORE: Recorder, can you please pull Exhibit -- Coast

1 Guard Exhibit 3, page 1?

2 BY LCDR MOORE:

3 Q. Mr. Zyla, is this vehicle familiar to you?

4 A. Yeah. It looks similar, yes.

5 Q. Is there anything different about this photo or this
6 schematic?

7 A. The only difference is it was a hard top, not a soft top, and
8 on the front bumper -- it wasn't an original front bumper. It was
9 a modified metal bumper welded to it.

10 Q. Were you ever aware of issues with the Jeep before this day?

11 A. Before that day, we have some issues with it, broken hoses,
12 ripped radiators that could have -- that did have to be changed or
13 replaced.

14 Q. How might those issues have occurred?

15 A. I guess just operating it, pushing cargo on, a piece of metal
16 will puncture the radiator or the hose will get loose.

17 Q. And what was done to repair those issues?

18 A. If the hose was -- hose was either replaced, or just a clamp
19 was maybe loose, was tighten up. If the radiator was damaged,
20 that would be put to the side and we would have to wait for a
21 replacement part and replace the radiator in it.

22 Q. Did that ever happen?

23 A. Yes. We did replace radiator on the Jeep. Last time I
24 believe it happened was probably March or April of '23.

25 Q. Are you familiar with any of the dashboard warnings and

1 indicators on the Jeep?

2 A. There was a check engine light on it and air box lights
3 always on it. I guess the sensors for the air box always just
4 removed, so those two lights were always on it.

5 LCDR MOORE: Recorder, can you please go to page 3?

6 BY LCDR MOORE:

7 Q. Is this familiar to you?

8 A. It looks similar, yes.

9 Q. Of those indicators that you mentioned, can you please point
10 on the exhibit where those would be on the Jeep?

11 A. Okay. So you want me to point what light would be visible on
12 the dashboard?

13 Q. You mentioned a few lights that you --

14 A. Yes.

15 Q. -- always saw on. Even if you just refer to the number,
16 corresponding number on the exhibit.

17 A. Okay. So the check engine light, number 25, would have been
18 lit up; and number 13, for the air box light, would be visible as
19 well; number 7 for the seatbelt, if they don't have a seatbelt on,
20 will be on. I believe that will be it for the lights.

21 Q. Okay. So those are what were normally displayed?

22 A. Yes.

23 Q. Were any of the issues you previously spoke about with the
24 radiator or the hoses, would those display on this panel at all?

25 A. Yeah, if the radiator would be damaged or it would start

1 overheating, so the number 18 would go from cold to hot, and
2 number 30 light will light up, which you would have no power in
3 the Jeep whatsoever. When it heats up, when it overheats, it just
4 had a dead panel lock. It would have no acceleration or no power,
5 would just roll.

6 Q. From your memory, would anything display in the areas marked
7 31 or 24 on the Jeep?

8 A. 31, that would be -- that's the mileage, right? Yeah, I
9 mean, that would be just the mileage on it, yeah.

10 Q. For both those areas?

11 A. And 24 would be, I guess, the trip mileage as well on it.

12 Q. Just for clarification, have you ever seen words displayed in
13 the area marked number 24 on this exhibit?

14 A. No, I did not.

15 LCDR MOORE: All right. Recorder, you can take that exhibit
16 down.

17 That's all the questions I have for you at this time,
18 Mr. Zyla. I will now provide an opportunity for follow-up
19 questions for the rest of the investigation team.

20 CDR Barger, do you have any questions?

21 CDR BARGER: Thank you.

22 BY CDR BARGER:

23 Q. Good afternoon, Mr. Zyla.

24 A. Good afternoon.

25 Q. Just a couple of follow-up questions for you. So you

1 mentioned you've been a mechanic or worked for AMS for quite a
2 while.

3 A. For AMS since they switched -- we switched companies, I
4 believe it was 2014 when we switched. It used to be Portway.

5 Q. Okay. And so when you began with AMS at that time, what was
6 your position?

7 A. Maintenance guy, lasher.

8 Q. Okay. So you were a lasher at the time. And when did you
9 become a mechanic?

10 A. A mechanic, I filled in for the spot. As people were taking
11 vacations or had days off, they fill in spots with lashers.

12 Q. Okay. When did you start doing it full time?

13 A. Full time probably would be 2008, with some breaks. When
14 Bayonne closed down, then I went back to lashing. That would be,
15 I believe, 2016, '17. I'm not sure.

16 Q. So when -- you worked previously in Bayonne?

17 A. Yes.

18 Q. Okay. And that was for what company?

19 A. For -- it would have been Portway and then AMS, but still
20 under Ports America. It was Ports America operator terminal.

21 Q. Okay. And you were a lasher and a mechanic there?

22 A. I was a mechanic over there.

23 Q. Mechanic over at Bayonne?

24 A. Yes.

25 Q. And then when --

1 A. When Portway closed down -- I mean, when Bayonne closed down,
2 I went back to lashing.

3 Q. Okay. So when you came over to Port Newark --

4 A. Yes.

5 Q. -- you started back as a lasher?

6 A. Back as a lasher, yes.

7 Q. Okay. And then when in your time working at Port Newark for
8 AMS, did you become a mechanic full time?

9 A. Full time would be about 2019.

10 Q. Okay. So you mentioned your foreman.

11 A. Yes.

12 Q. And primarily what you report to your foreman is payroll,
13 timecard, it sounded like, kind of information?

14 A. Yes. Unless there's a machinery that needs to be checked
15 out, we'll inform him so he can make phone calls.

16 Q. Okay. And is he located on site at whatever berth you are
17 working at that day?

18 A. He'll be located, not at the berth, not the berth where the
19 ship was on, but on the other -- where Ports America has a main
20 office and a main yard, yes. That'll be berth 15-17.

21 Q. Okay. So he's not actually on site at, in this case, on the
22 day of the incident, berth 18?

23 A. He wouldn't be -- yeah, he wouldn't be on berth 18. He would
24 be on -- in his shop on berth 15-17.

25 Q. Okay. And then just to verify, because we've heard the word

1 foreman used a couple of times, are there multiple foremans --

2 A. Yes.

3 Q. -- one particular jobsite?

4 A. Yes. That'll be -- well, it's only three of us, so two
5 mechanics and a foreman for my positions, for our positions. Then
6 you'll have a different foreman for the lashers and a different
7 foreman for the longshoremen as well.

8 Q. Now how familiar are you with, I'll say the equipment, the
9 machinery underneath the hood of the Jeep vehicle?

10 A. Just simple stuff, you know, like just looking at it,
11 changing filters, stuff like that; checking oils, checking
12 whatever is visible to the eye, yes.

13 Q. And you said you check the oil. How do you do that?

14 A. Just check the dipstick.

15 Q. I believe you also mentioned checking other fluids. What
16 other fluids do you check?

17 A. It would be transmission fluid on the dipstick. If it needs
18 to be added or not, it will show you low or high on the dipstick.
19 Radiator fluid will show low or high as well. Brake fluids, will
20 be add to it, as well, if it needs to be added.

21 Q. Okay. And are all those based off of a dipstick?

22 A. A dipstick or visual --

23 Q. Or visual.

24 A. -- line on the container.

25 Q. Okay. So you mentioned checking, that you would check the

1 dipstick or transmission fluid. Do you know, does the Jeep push
2 vehicle have a dipstick for transmission?

3 A. I believe Jeep vehicle had a dipstick.

4 Q. Okay. And what, if any, training have you been given on how
5 to do that fluid check?

6 A. No, no training. Just visual, low-high kind of thing.

7 Q. Did you receive any kind of on-the-job training?

8 A. Just from people -- yeah, from the people like if -- back in
9 the day, yeah, when they were checking fluids, you know,
10 observing, see what they doing.

11 Q. And you mentioned that you do pre-checks of vehicles.

12 A. Yes.

13 Q. On July 5th, the date of the incident, did you do a pre-check
14 on the Jeep push vehicle that day?

15 A. It wouldn't be done on July 5th. It would be done probably
16 the day -- July 4th we were closed, so it would be done on July
17 3rd, I'm assuming.

18 Q. Okay. So it would have been done -- do you always do the
19 pre-check on a vehicle at the end of a day?

20 A. Day before the operations. Not after, not after that person,
21 but before that persons.

22 Q. Okay. So it sounds like you may -- you're assuming it was
23 done on July 3rd, is what you said?

24 A. If -- I don't -- I'm not sure which day it was, if it was
25 Monday, it would be done. If it was -- if that was a weekend, it

1 would probably be done Friday before that.

2 Q. Okay. Were you the one who did the pre-check on the Jeep
3 push vehicle before it was being used on July 5th?

4 A. Yes. I would be the one.

5 Q. Okay. Do you keep a record of that anywhere?

6 A. No. There's no records for just checking it, no.

7 Q. Okay. And how do you know to go and do the pre-check? Is
8 there --

9 A. Oh, we just want to make sure everything's operational and
10 when the ship comes in everything's ready to go.

11 Q. Okay. Do you have a specific -- does somebody give you
12 specific direction on a day?

13 A. No. There was no -- no. Nobody gave a order or anything
14 like that.

15 Q. For doing pre-checks, do you have a checklist of -- or
16 directions on how to do that or what you need to do?

17 A. No. There's nothing like that, no.

18 Q. You mentioned vehicles being put to the side several times.

19 A. Yes.

20 Q. Is there -- when you say put to the side, is there a
21 designated spot at which that occurs?

22 A. No. It will be just put up to the same spot that it was
23 parked before and not being used. There's no designated area for
24 non-operational vehicles, no.

25 Q. Okay. So when a push -- let's say a push vehicle experiences

1 a mechanical issue, where would it be put to the side?

2 A. It would be put to the same spot they will probably take it
3 out, where they park the cars, their own vehicles, like a parking
4 spot.

5 Q. Okay. And is there one particular spot on the berth there
6 that that would be?

7 A. No. There's no specific thing. Sometimes they'll leave them
8 all over the place.

9 Q. And so then would -- if it experienced an issue and needed to
10 be put to the side, would the driver -- or who would notify you
11 that there was an issue?

12 A. The driver would either notify me or one of the Ports America
13 superintendents that there's a problem with the thing, and the
14 superintendent would tell me or the driver himself will tell me,
15 and we'll take a look at it and see if it needs to put out of
16 service or could be fixed on that time.

17 Q. Okay. So if I'm hearing you correctly, there is the
18 potential a vehicle could be left anywhere on the --

19 A. On the terminal, yes.

20 Q. -- terminal area there, and you would go to it?

21 A. Yes. I will drive to it, yes.

22 Q. Okay. When you've done your pre-check and the vehicle is
23 ready to be used for the next loading operation, is there one
24 space where all the push vehicles are pre-staged?

25 A. It's pretty much, yes, all of them will be in the same area.

1 Q. Okay. And can you describe where that area is on the
2 terminal?

3 A. It will be closer to the end where the fuel truck is and
4 everything else, yes.

5 Q. Okay.

6 A. I don't know if you have a picture?

7 Q. We're going to bring up what is Coast Guard Exhibit 1. We
8 have a image from the last slide of that.

9 UNIDENTIFIED SPEAKER: Which number is that?

10 CDR BARGER: Slide number 14.

11 BY CDR BARGER:

12 Q. It should come up on your screen. Mr. Zyla, has it come up
13 on --

14 A. Yes.

15 Q. -- your screen? Okay. From this overhead aerial/map footage
16 of the berth, where on there is where they would be pre-staged?

17 A. You can't really see on this picture. It would be more to
18 the bottom left -- right corner.

19 UNIDENTIFIED SPEAKER: If you could explain --

20 THE WITNESS: Okay. It will be pretty much if you look --
21 it'll be this corner right here, like --

22 UNIDENTIFIED SPEAKER: The witness is pointing to -- oh,
23 sorry.

24 THE WITNESS: Yeah.

25 UNIDENTIFIED SPEAKER: The witness is pointing to the

1 quadrant indicating 22 in the bottom right of the image.

2 THE WITNESS: Yeah. It would be right in that spot over
3 there. Yeah, so it would be somewhere around here.

4 CDR BARGER: Okay. So the witness is indicating with the
5 cursor on the screen the area around -- between 22 and 24 berth
6 numbers on the diagram.

7 BY CDR BARGER:

8 Q. And why do they get pre-staged there?

9 A. That's where my container is. It's a, kind of like a
10 maintenance shop, kind of, and a fuel truck. And that's where
11 they -- when they come in, they park their own cars and take the
12 vehicles to push on.

13 Q. Okay. When you get notified that a vehicle has a mechanical
14 issue, how long does it take you to respond to go and evaluate it?

15 A. It depends. Could be a minute; could be 20 minutes if I'm
16 doing something else at that time.

17 Q. Okay. So am I correct in thinking then, that there is a
18 potential -- there could be a period of time when a vehicle is on
19 the side before you get --

20 A. Yes. It could be. It could be, yes.

21 Q. Is there -- are you aware of any kind of visual indicator
22 that would notify individuals that a vehicle that is waiting to be
23 assessed has an issue?

24 A. Pretty much when a vehicle's -- the driver's supposed to be
25 with the vehicle. They will not go somewhere else, they will stay

1 with the vehicle if there's an issue with it.

2 Q. Okay. So they will stay with the vehicle while it takes
3 however long for you to come over?

4 A. Yes.

5 Q. And how are you notified?

6 A. It's either somebody will call me on the radio -- we have
7 walkie-talkies on a radio, or one of the superintendents will come
8 up to me and tell me to go take a look at a equipment.

9 Q. So with regards to the Jeep push vehicle, was it ever put to
10 the side on July 5th?

11 A. No. I never -- we never put it to the side. I never had --
12 I don't remember having any issues with that vehicle on that day.

13 Q. Okay. We previously heard that there was -- that the Jeep
14 had been put to the side. Is there any reason that someone might
15 assume that it was put to the side when it wasn't?

16 UNIDENTIFIED SPEAKER: Objection.

17 CDR BARGER: Yeah. If I can hear the basis of the objection
18 so we can make sure --

19 UNIDENTIFIED SPEAKER: How can this witness testify as to
20 what someone might assume? That's not a fair question. That's
21 not within his ability to testify to what someone else would
22 assume.

23 BY CDR BARGER:

24 Q. So just to clarify, there's not a specific spot to put the
25 vehicle that indicates it is put to the side?

1 A. No. If -- because if it had a flat tire, it could be put
2 anywhere. They wouldn't drive it with a flat tire so the tire
3 would get damaged. It will be just be put to the side whenever,
4 on the terminal.

5 Q. On July 5th, were there any vehicles that were put to the
6 side?

7 A. Just for the short time being. I did change up or fix a
8 couple of flat tires on it. But that would be a minor repairs.

9 Q. Okay. And were those -- where were those vehicles that you
10 had to repair flat tires on?

11 A. It would be anywhere on the terminal. It wasn't specific
12 area. It would just -- they would've run over nails and stuff
13 like that. They'll just -- they would call me and I will meet
14 them somewhere, where they were, and then put air in the tires and
15 plug the tires.

16 CDR BARGER: Okay. I have no additional questions.

17 LCDR MOORE: Commander, just for the transcripts, can we
18 please get the objection on the record? Counsel's mike was off at
19 the time. Or we can just summarize what they said.

20 CDR BARGER: Yeah, a summary of the objection, it was a
21 unfair question with respect to speculation what another employee
22 might have believed.

23 LCDR MOORE: Thank you, Commander.

24 BY LCDR MOORE:

25 Q. Just two follow-ups for me based on Commander's questions.

1 You said you were not informed of overheating on July 5th, 2023,
2 with any pusher vehicle?

3 A. No, I was not.

4 Q. Would you have expected to be notified?

5 A. Yes.

6 Q. And by whom?

7 A. By either a driver, a foreman of the lashers, or a
8 superintendent of the company, Ports America.

9 Q. We talked about the process of being notified of an issue,
10 the lashers staying and waiting for you to come make your
11 assessment. After you've made that assessment, if a pusher
12 vehicle is deemed to be -- not to be used for the rest of loading,
13 is there somewhere it goes after that or does it stay where you
14 assessed it?

15 A. It depends if it's able to drive it to the -- where they park
16 their cars, it will be put the side. If it's not drivable, let's
17 say something happened, a wheel broke or something, it's not
18 operable, it will be left where what happened. Could have been
19 anywhere on the terminal.

20 LCDR MOORE: Thank you. That's all the additional questions
21 I had, Commander.

22 LT Reed, do you have any follow-up questions?

23 BY LT REED:

24 Q. When you replaced the radiator in the Jeep --

25 A. Yes.

1 Q. -- who decided to do that work in house?

2 A. I guess between me and my foreman, which is a simple job, two
3 hoses, two bolts kind of thing. It was just a simple swap of the
4 part.

5 LT REED: Okay. Thank you. That's all the questions I had.

6 LCDR MOORE: Mr. Pittman, do you have any follow-up
7 questions?

8 MR. PITTMAN: I just have one question.

9 BY MR. PITTMAN:

10 Q. I believe you stated that you were a lasher prior to becoming
11 a mechanic; is that correct?

12 A. Yes. That's correct.

13 Q. Was there any issues regarding pusher vehicles when you were
14 a lasher that you did not report to the mechanic or you guys
15 handled in house amongst the lasher crew?

16 A. Was there -- multiple times. Sometimes one of the pushing
17 vehicles might be out of service for a while, they will not use it
18 for a good amount of time until it gets picked up and send out for
19 repairs and comes back.

20 MR. PITTMAN: Okay. No further questions.

21 LCDR MOORE: Thank you. That's everyone from the Coast
22 Guard. I'm going to pass it over to the NTSB for Mr. Barnum.

23 MR. BARNUM: Thank you, Commander Moore, and thank you,
24 Mr. Zyla.

25 BY MR. BARNUM:

1 Q. A follow-on question regarding a pusher vehicle being taken
2 out of service. Is there a chance a pusher vehicle or another
3 piece of equipment could be taken out of service and you not
4 notified?

5 A. Yes, it could. It could happen, yes.

6 Q. Okay.

7 MR. BARNUM: LT Reed, could you please bring up Exhibit 3
8 again?

9 BY MR. BARNUM:

10 Q. While it's coming up, the -- LT Moore -- Commander Moore
11 talked about preventative maintenance systems for the Ports
12 America equipment. And could you just -- did you have one, did
13 you have preventative systems for the equipment that you worked
14 on?

15 A. No. We don't have no preventative maintenance. No, we'll
16 just check fluids. We don't replace or exchange fluids.

17 Q. Okay. Those -- that's for the pusher vehicles. How about
18 other equipment?

19 A. It's the same thing. On the heavy machinery that Ports
20 America has, there's a company coming in and changing oils and all
21 of that. We don't do that in house.

22 Q. Okay. So you -- do you have some sort of service agreement
23 with a third-party company that would service the heavy equipment?

24 A. Yes. There's some kind of agreement between Ports America
25 and different companies, yes.

1 Q. What's the name of that company?

2 A. I wouldn't know.

3 Q. Okay. And to be certain here, there wasn't any kind of
4 agreement with respect to the pusher vehicles, a third-party
5 company?

6 A. It's only, I would say, to get maintenance done when it's
7 coming for some repairs. We have assume it would be done when
8 it's in the shop, that oil changes and stuff like that will be
9 changed, but we don't know that.

10 Q. Okay. And those oil changes that occur in the shop, that's
11 only on -- when something else fails on the vehicle, correct?

12 A. Yes. That's correct.

13 Q. Okay. The radiator that you said you changed out April-
14 March -- March-April timeframe this year, that -- could you
15 explain a little bit about that cooling system on the -- I'm
16 talking about the Jeep, right? On the cooling system for the
17 Jeep, that radiator would have cooled the fluid for -- that
18 serviced what engine component? Sorry. That was not worded
19 correctly.

20 The transmission, did that have a separate oil cooler or was
21 it also cooled by the radiator that you changed out?

22 A. No. The transmission has a separate cooler underneath the
23 radiator.

24 Q. Thank you. Okay. And you did not change that out?

25 A. I did not change -- there was no leaking fluids out of it.

1 No, we did not change it.

2 Q. Okay. Leaking fluids, is that something you're checking
3 during your daily day-before checks as well? Are you --

4 A. Well, it's not daily. It's pre-ship --

5 Q. Pre-ship?

6 A. -- kind of thing. Yeah. If we see if there's any fluids on
7 the ground, anything like that, we'll check on that if there is.
8 But there was no fluids leaking out of nothing, yes.

9 Q. Okay. When was the last time you saw, observed fluids
10 leaking out of the Jeep?

11 A. Out of the Jeep would be the time they punctured that
12 radiator. There will be antifreeze leaking.

13 Q. When was that?

14 A. That would be right before we changed, so in March-April
15 frame.

16 Q. Okay. So you got the radiator in relatively quickly after
17 you noticed the leak?

18 A. Yes. A few days, yes.

19 Q. Okay. And that was radiator coolant. At any time did you --
20 in your time as a mechanic, did you observe any leaking
21 transmission fluid from the Jeep?

22 A. No, I did not.

23 Q. Okay. Had you ever had to top off transmission fluids for
24 the Jeep?

25 A. No.

1 Q. You were talking earlier about modifications to the Jeep
2 pusher vehicle. You said a metal bumper was installed. Did the
3 vehicle also have a backup light and alarm installed?

4 A. It does have a backup -- I don't believe it has a light, but
5 it does have a backup alarm installed, yes.

6 Q. Okay. That was -- so that was also installed?

7 A. Yes, through Ports America outside companies.

8 Q. Okay. All right. So Exhibit 3, if you could take a look at
9 that one? You said number 18 was a light that you saw -- you said
10 it went from cold to hot when you had -- when there was an issue
11 with the radiator?

12 A. Yes.

13 Q. Okay. At any time in your experience with the Jeep did you
14 ever see an alarm labeled hot oil alarm --

15 A. No.

16 Q. -- come up on here?

17 A. No.

18 Q. Okay. If you did see a hot oil alarm, what would you expect
19 that to be referring to?

20 A. I'm assuming engine oil.

21 Q. Engine oil? Is there a light -- is there an indicator light
22 on here that you think corresponds to a high engine oil
23 temperature?

24 A. It'll be maybe number 9 for the low oil pressure, but it
25 wouldn't indicate hot oil. It would just indicate low oil or

1 something wrong with the oil pressure.

2 Q. Understood. Is there any indicator light on here that you
3 would expect to display if there was hot transmission oil?

4 A. No.

5 Q. No? Okay.

6 MR. BARNUM: That is all the questions I have, Mr. Zyla.

7 Thank you.

8 Ms. McAtee, do you have any questions for the witness?

9 MS. McATEE: I have a couple questions.

10 BY MS. McATEE:

11 Q. In between the jobs that you have on the vehicles, you know,
12 changing tires, checking things if there's a problem, what
13 constitutes the rest of your day? What do you do?

14 A. Helping with loading of the cargo, jump starting up trucks
15 and machinery, jumping cars, opening up doors.

16 Q. My next question is back to the transmission system. In
17 addition to just topping it off, did you ever do like transmission
18 flushes or did you take that out for a third-party or --

19 A. It would have been a third party. We do not change any
20 fluids.

21 MS. McATEE: Okay. That's all I have.

22 CDR BARGER: Thank you.

23 And one last follow-up question for me before we turn it over
24 to the parties in interest.

25 BY CDR BARGER:

1 Q. For that preventative maintenance, oil changes, transmission
2 flushes, you said that's not you, it gets sent out?

3 A. Yes. It gets sent out, yes.

4 Q. Who schedules it to be sent out?

5 A. I'm assuming it would be one of the Ports America employees.

6 Q. Okay. But you don't know for sure?

7 A. I wouldn't know for sure, no.

8 Q. Do you know if that happens on a regular basis?

9 A. I believe they do, unless -- I mean, not just for the oil
10 changes, but it needs to be some other repairs, it will be sent
11 with the equipment, yes.

12 Q. Okay.

13 CDR BARGER: All right. As with previous witnesses, to
14 ensure we have equitable time and opportunity for the parties in
15 interest to ask questions, we will afford approximately 10 minutes
16 to each party in interest for cross-examination within the scope
17 of our direct questions.

18 American Maritime Services.

19 MR. KARPOUSIS: Thank you.

20 CROSS-EXAMINATION

21 BY MR. KARPOUSIS:

22 Q. Mr. Zyla, my name is John Karpousis. I'm an attorney. I
23 represent American Maritime Services in this proceeding. Okay?

24 A. Okay.

25 Q. You are a member of the ILA?

1 A. Yes, I am.

2 Q. And that is the International Longshoremen's Association?

3 A. It's -- I believe it's Metro.

4 Q. Okay. You're part of the Metro Division --

5 A. Division, yes.

6 Q. -- of the ILA; is that right? Okay. Your title is that

7 of (audio interruption), correct?

8 A. It's more of a maintenance than a mechanic, yes, but they

9 call it mechanic, yeah.

10 Q. They call it a mechanic?

11 A. Yes.

12 Q. Who gives you that name? The ILA?

13 A. The ILA, yes.

14 Q. The ILA gives you that name, right? You didn't go to

15 mechanic school?

16 A. No.

17 Q. You don't do a brake job?

18 A. No.

19 Q. Okay. You're not like -- you don't do the Zippy -- the Jiffy

20 Lube type work on these vehicles, correct?

21 A. No.

22 Q. So you're called a mechanic, but you're really a maintenance

23 person?

24 A. Correct.

25 CDR BARGER: Mr. Karpousis, for the record and for

1 livestream, can you make sure you're talking directly in? You
2 have to have the microphone pretty close to you.

3 MR. KARPOUSIS: Oh, I'm sorry. You can't hear me? Okay.

4 CDR BARGER: And also, if you could, please give the witness
5 a chance to answer the question --

6 MR. KARPOUSIS: Oh, I'm sorry.

7 CDR BARGER: -- so that we can make sure the transcription is
8 accurately reflected.

9 MR. KARPOUSIS: Fair enough. Sorry.

10 BY MR. KARPOUSIS:

11 Q. I think when you testified earlier, sir, you indicated that
12 there was some occasions where a vehicle might go out of service
13 and you might not be aware of that.

14 A. Yes.

15 Q. Okay. Can you describe or amplify when that could happen for
16 me?

17 A. When we have multiple ships working, I might be called in to
18 the other ship for some time and there'll be no mechanical person
19 on that site for the time being.

20 Q. Okay. And then you'll get to that vehicle that's out of
21 service?

22 A. Yes.

23 Q. Okay. Who makes the call to place a vehicle out of service?

24 A. If it's something we cannot be done, it's either me or most
25 of the time it would be a Ports America employees that say it's

1 working, we'll just -- don't -- not use it.

2 Q. Okay. So, and that would be a superintendent from --

3 A. A superintendent, yes.

4 Q. -- from Ports America? Okay. On the day of the fire, aside
5 from plugging tires, do you have any recollection or remembrance
6 of doing any maintenance or any repairs on any vehicle that day?

7 A. Repairs, something like that, maybe just filling up gas,
8 gasoline in it, plugging tires. No other maintenance issues with
9 it.

10 Q. And were you at the berth the entire time that day?

11 A. There was times I would have went to the, maybe went to the
12 other site to get something.

13 Q. Okay. Do you recall at any point in time that day being told
14 about any issue with the Jeep Wrangler?

15 A. No.

16 Q. Not even a plugged tire?

17 A. Not even a plugged tire on that vehicle, no.

18 Q. So it's fair to say you didn't touch that vehicle that day?

19 A. Unless it needed fuel, maybe, but no mechanical issues, yes.

20 Q. Okay. And it's fair to say that you were never told or asked
21 to touch that vehicle that day?

22 A. I was not.

23 Q. Okay. Thank you, sir.

24 CDR BARGER: And one clarifying question I have for you. So
25 on July 5th, the day of the incident, was there another vessel in

1 a berth that you were responsible for?

2 THE WITNESS: On the -- I don't remember if there was
3 another. I'm assuming there was.

4 CDR BARGER: Okay. But you're not --

5 THE WITNESS: Yeah, I'm not 100 percent sure, yes.

6 CDR BARGER: Ports America.

7 BY MR. ZONGHETTI:

8 Q. Good afternoon, Mr. Zyla. My name is Gino Zonghetti. I'm
9 the attorney for Ports America. I have a few questions.

10 A. Okay. Good afternoon.

11 Q. So you've been working down in Port Newark in this capacity
12 as a mechanic/maintenance essentially since 2008, with some
13 changeover to lashers; is that fair?

14 A. Not Port Newark. Bayonne first, Port Newark probably 2018,
15 yes.

16 Q. Okay. But in the port, in one of the ports --

17 A. Within ports, yes.

18 Q. Yeah. And you started working as a mechanic, and we
19 understand what that term means, in around 2008, and you did these
20 types of things around vehicles, right?

21 A. Yes.

22 Q. And you were taught sort of by the guys that were more senior
23 to you when you started doing this?

24 A. Yes. Correct.

25 Q. And you learned some stuff about automobiles doing this,

1 right?

2 A. Simple stuff, yes.

3 Q. Yeah. And in Port Newark, in fact, AMS has a CONEX box on
4 the terminal where it keeps some supplies, right?

5 A. Yes.

6 Q. And the supplies that are kept there may be fuel, may be oil
7 to top off, may be transmission fluid, steering fluid, things like
8 that, right?

9 A. Correct.

10 Q. And what happens with these pusher vehicles is that when a
11 ship is not in port, you take the opportunity to check those
12 vehicles for those types of things to make sure that they are able
13 to work when the next ship comes in?

14 A. That's correct.

15 Q. And that requires you to literally open the hoods of these
16 vehicles, take off the caps, the radiator caps, the steering
17 fluid, all those things, take a look, make sure the fluids are
18 intact, right?

19 A. Correct.

20 Q. And if there is -- one of the systems is leaking, for
21 example, the car may be there for a few days, you'll see that it's
22 leaking and you can also check that against the dipstick, right?

23 A. Yes.

24 Q. And not in any way to demean you, but it doesn't take much
25 training to look at a dipstick to see if it's low or high, right?

1 A. That's correct.

2 Q. Right. And you're capable of doing all those things in the
3 15 or so years that you've been doing this, right?

4 A. Yes.

5 Q. Now in terms of -- they've asked you about preventative
6 maintenance. You've testified -- and I believe what you're
7 saying, and you can correct me if I'm wrong, you didn't have a
8 schedule of things to do, but you regularly, each time these
9 vehicles were used in an unloading or loading, thereafter, before
10 they were used again, you went through and checked all these
11 things, right?

12 A. Correct.

13 Q. And Ports America hired you folks to do this, right?

14 A. Yes.

15 Q. And they would rely on you to tell them if there was any sort
16 of problem that you observed that needed to be sent offsite to be
17 repaired, right?

18 A. Correct.

19 Q. Now, in August of 2022, sometime about 11 months or so before
20 this accident, were you aware that the Jeep Wrangler was sent to
21 Newark Auto in order for there to be work done on the vehicle?

22 A. I don't recall that.

23 Q. You don't recall? But when the vehicle would be sent -- you
24 know Newark Auto, right?

25 A. Yes.

1 Q. And that was one of the vendors that was used, right?

2 A. Correct.

3 Q. When it was sent offsite, would it be typical that in
4 addition to the repairs, there would be a servicing done on the
5 vehicle?

6 A. That's what we assumed, yes.

7 Q. Yeah. And you've seen these cars come back after what's
8 called a 16-point service is done, right?

9 A. Whatever they call it, yes.

10 Q. And that includes a transmission servicing, right?

11 A. I'm assuming.

12 Q. Yeah. So you were asked if there's a chance you wouldn't be
13 told a vehicle was being taken out of service, and I assume
14 anything's possible, right?

15 A. Yes.

16 Q. But there are practices that are employed in what you do,
17 right? Meaning, if a vehicle's taken out of service, you
18 typically will be alerted to that because that's your job, right?

19 A. I'm assuming, yeah, I would be.

20 Q. And there are days when ships are in port that you're running
21 from here to there to vehicles, fixing flats, doing whatever you
22 have to do because that's your job, right?

23 A. Correct.

24 Q. And the lashers that work with you have their own foreman,
25 right?

1 A. Correct.

2 Q. And the foreman is responsible for production, right?

3 A. Production, yes.

4 Q. And if, for example, a vehicle that's needed for production
5 is out of service for whatever reason, the lasher will typically
6 tell the foreman. That is the chain of command, right?

7 A. Correct.

8 Q. And the foreman may either call you directly, radio you,
9 radio your foreman, or he may tell a Ports America superintendent,
10 right?

11 A. Correct.

12 Q. But the practice is that it goes through this chain of
13 command and it comes back to you and you go over and take a look,
14 and if you can fix it, you fix it, right?

15 A. Correct.

16 Q. Now nothing like that happened on the day of this fire with
17 respect to the Jeep, correct?

18 A. No.

19 Q. Correct?

20 A. Correct.

21 Q. Okay. And now in circumstances where Ports America was
22 notified that there was a vehicle down, I believe you said that
23 they would make a decision or they would get a tow truck to bring
24 it out to be repaired, right?

25 A. Yeah. A company will come in and pick it up, yes.

1 Q. Right. And that's what they would do. If you would tell
2 them this vehicle needs to go to be repaired, that's what the
3 Ports America people did, right?

4 A. Correct.

5 Q. You were asked about this idea of a car being put aside and I
6 believe what you said was it would just be put into a spot where
7 it might have been picked up that day, right?

8 A. Maybe not in that same day, but yes.

9 Q. Right. So the idea of it being put to the side, a car that's
10 down could be put anywhere, right?

11 A. Yes.

12 Q. And you would be called to that location typically with
13 either the lasher standing by or a foreman standing by, right?

14 A. Or one of the superintendents, yes.

15 Q. And they have trucks they can drive around, the foreman.
16 They could drive to the spot?

17 A. Yes.

18 Q. And they have flashing lights, right?

19 A. Yeah, maybe. Yeah.

20 Q. Okay. But you know where to find them --

21 A. Yeah.

22 Q. -- right? In terms of the lights on the dashboard, you're
23 dealing with five pusher trucks and then you have other vehicles
24 that you service on the terminal, right?

25 A. Correct.

1 Q. And you look at a lot of dashboards, right?

2 A. Yes.

3 Q. Okay. I believe you said, I may be wrong, that when there
4 was overheating or a radiator overheating, there was a flashing
5 light on the Jeep?

6 A. When a radiator overheats, yes, it will be a --

7 CDR BARGER: We're going to bring up Coast Guard Exhibit 3.

8 THE WITNESS: Okay. So if the Jeep would overheat from a
9 radiator, number 18 would go from cold to hot, and number 30 will
10 be either stayed on or flash.

11 BY MR. ZONGHETTI:

12 Q. Okay. So in the middle of the dashboard there'd be a
13 flashing light, that's your best recollection?

14 A. Yes.

15 Q. Okay. Now in terms of the conditions of the vehicles, these
16 pusher vehicles, on the days they're not being used, when you're
17 checking the fluids, you're looking for whatever you see. If, for
18 example, you see something's burnt up inside the engine block, you
19 know, you'll tell Ports America I think this needs to go out to be
20 serviced, right?

21 A. Yeah. If there's something major, yes. If there's something
22 out of ordinary, yes.

23 Q. And on the day that they're being used, same thing, right?
24 If you come across something that looks like a major problem,
25 you'll tell Ports America?

1 A. Yes.

2 Q. So in a sense, AMS, through you, is the eyes and ears for the
3 condition of the vehicles on the day they're being used, right?

4 A. Correct.

5 Q. And while they're not being used as well, right? Correct?

6 A. More or less they, yes.

7 MR. ZONGHETTI: Okay. Thank you.

8 CDR BARGER: Okay. Thank you.

9 Port Authority of New York and New Jersey?

10 MR. REILLY: Thank you.

11 BY MR. REILLY:

12 Q. Mr. Zyla, my name is John Reilly and I represent the Port
13 Authority of New York and New Jersey. And I have a couple of
14 questions for you.

15 A. Okay.

16 Q. You have been referring during your testimony today to the
17 foreman that you might report to from time to time. Who was the
18 foreman that you were working with on the day of the incident?

19 A. Foreman for my position or foreman --

20 Q. Yeah. Who were you talking to?

21 A. My foreman is Chuck. I can't think of his last name.

22 Q. His first name is Chuck?

23 A. Yes.

24 Q. Thank you. And with regard to the many tasks that you do
25 each day and on some days even many tasks on multiple ships, you

1 might go to another ship, come back to still another, are there
2 any records of -- work records of you going to these different
3 locations?

4 A. Just the timesheets, I would assume. There will be no --

5 Q. So your timesheets --

6 A. My timesheets only going to be a time in/time out. It
7 wouldn't be -- I don't think it would be associated with the
8 particular ships.

9 Q. Let me back up and try that question again. Are there any
10 records that would indicate that you moved from one ship to
11 another or came back --

12 A. No.

13 Q. -- that would indicate the tasks that you were doing --

14 A. No.

15 Q. -- during your tour? No records?

16 A. No records.

17 Q. And are you saying there are no records on your timesheets
18 either?

19 A. Well, there's records of my timesheets, but no records of me
20 going from -- between the ships and to ships, different ships.

21 MR. REILLY: Thank you. I don't have any other questions.

22 MR. LEVY: Good afternoon, Mr. Zyla --

23 CDR BARGER: Okay. Thank you.

24 Grimaldi Deep Sea.

25 MR. LEVY: Thank you. Thank you, Commander.

1 BY MR. LEVY:

2 Q. I'm John Levy. I represent Grimaldi. Let me ask you just a
3 few questions.

4 A. Okay.

5 Q. Did I hear correctly that you testified that there's no light
6 on the instrument panel that would tell the driver when the
7 transmission was overheating?

8 A. I didn't see no lights. I don't believe there's any lights
9 for the transmission overheating.

10 Q. When you did your pre-check, say around July 3rd -- I'm not
11 holding you to July 3rd, but around that date you did the pre-
12 check, is the pre-check on all the pusher vehicles?

13 A. Yes.

14 Q. Can you tell us how you do that? What do you do when you do
15 a pre-check? There's five vehicles there that you need to check.
16 Tell us step by step what you do.

17 A. Okay. It's mostly visual. We'll just walk around, make sure
18 all the tires are not flat; open up the hood, check fluid levels,
19 radiator fluid, brake fluids; check the dipstick, make sure
20 there's oil in it. That would be it.

21 Q. Do you start the cars?

22 A. Yes. I do start the car and make sure they start, yes.

23 Q. Do you check the transmission fluid?

24 A. If it has a dipstick on it, yes, I will check the dipstick
25 while it's running, yes.

1 Q. And you don't have any records of actually doing that on July
2 3rd?

3 A. No.

4 Q. How long was this Jeep pusher vehicle within your supervision
5 of the time that you worked for AMS? How many years?

6 A. Well, while I moved to Newark, that's what it was. Time
7 between 2016-2018, I had no knowledge of it because I didn't work
8 as a mechanic or anything like on that. But we did had a same
9 Jeep in Bayonne on the Ports America. It was right after Sandy,
10 so I'm assuming 2013-2016, possibly.

11 Q. And do I understand you correctly that in the whole time that
12 you had responsibility for checking the fluids and checking tires
13 and things like that on the pusher vehicles including the Jeep,
14 you never added transmission fluid to the Jeep?

15 A. No.

16 Q. No -- correct?

17 A. Correct. Yeah. No adding, yeah.

18 Q. Now do you recall there being a problem with the Jeep and its
19 instrument panel light, the back light to that panel not being --
20 not working?

21 A. I don't recall anything like that.

22 Q. If the back panel light was not working, do you know what
23 effect that would have, assuming it's nighttime, on a driver being
24 able to see the lights that might come on, such as, you know, the
25 check engine light? Do you know what not having a back light does

1 to those other lights?

2 A. I'm assuming the vehicle wouldn't be operatable.

3 Q. You're assuming --

4 A. That's just assumption, yes.

5 Q. Okay.

6 A. I don't know what would happen, no.

7 Q. Okay. I don't want you to guess. But if they weren't
8 operating and the back light was not operating, then even if a
9 check engine light came on, the driver wouldn't have been able to
10 see it, correct?

11 UNIDENTIFIED SPEAKER: I think he just -- objection. I think
12 he just testified he didn't know to that very question.

13 UNIDENTIFIED SPEAKER: And it's also hypothetical. He said
14 he never knew of this problem, so --

15 CDR BARGER: Mr. Levy, if you could clarify your question?

16 MR. LEVY: I'll rephrase the question. No problem.

17 BY MR. LEVY:

18 Q. Your understanding is that if the back light is not operating
19 on the Jeep, that the other lights, such as the warning lights,
20 will not light up if there's a fault in them or if there's -- it's
21 overheating or whatever?

22 UNIDENTIFIED SPEAKER: Objection. That is not his testimony.

23 UNIDENTIFIED SPEAKER: I join the --

24 CDR BARGER: Okay. Sustained.

25 Mr. Zyla, for clarification, are you aware what happens --

1 what would happen to the lights on the dashboard, warning lights,
2 if the back lights are not working?

3 THE WITNESS: I wouldn't know what would happen. No, I never
4 seen it.

5 BY MR. LEVY:

6 Q. Okay. You said that you would have been the one to have done
7 the pre-check inspection of the vehicle on or around July 3rd. Do
8 you have a specific recollection of doing it?

9 A. I remember some of it, yes.

10 Q. On the Jeep?

11 A. On the Jeep, yes.

12 Q. What do you remember?

13 A. Just making sure it starts up, checking fluids, checking the
14 tires, that was it.

15 Q. Where is the transmission dipstick on the Jeep?

16 A. Transmission dipsticks would be -- I don't know if there's a
17 picture here.

18 Q. I'm asking you if you remember where it is.

19 A. No. I seen so many vehicles. Yeah, it could be different
20 positions. I'm not really remember where it is.

21 MR. LEVY: Thank you. I don't have any further questions.

22 CDR BARGER: Thank you.

23 City of Newark.

24 BY MR. LIPSHUTZ:

25 Q. Thank you, Mr. Zyla. My name's Gary Lipshutz,

1 L-i-p-s-h-u-t-z. I represent the City of Newark. I really only
2 have a few questions.

3 The radiator repair that was done in house -- sometime in
4 March-April, something like that?

5 A. Correct.

6 Q. Okay. Do you have any record of that?

7 A. There would be a store receipt. Ports America would have
8 that for the parts, yes.

9 Q. Parts, like the new radiator?

10 A. Parts -- yes.

11 Q. Okay. Did you get any complaints from anyone about the car
12 overheating, the Jeep overheating after the radiator was fixed?

13 A. I don't recall that, no.

14 Q. Is it that you didn't get complaints or you don't recall?

15 A. I don't recall getting any complaints about Jeep overheating
16 after that.

17 MR. LIPSHUTZ: Okay. That's all I have. Thank you.

18 CDR BARGER: Okay. Thank you.

19 I have a couple of follow-up questions for you, Mr. Zyla.

20 REDIRECT EXAMINATION

21 BY CDR BARGER:

22 Q. So how is the expectation for a lasher to report an issue to
23 you established?

24 A. Either if they, they would connect -- try to get somebody
25 with a radio, it would be a foreman or -- and they will call me

1 and telling me there's a issue with a vehicle. Could be anything,
2 out of fuel, flat tire, like that.

3 Q. But when I become a lasher, how do I know it needs to be
4 reported to you?

5 A. I guess just -- I'm assuming that's what everybody should
6 know. So they either report to their foreman -- they'll report to
7 higher-ups to notify.

8 Q. Okay. Is there an expectation established, and how, that
9 every issue get reported to you or a mechanic?

10 A. No. I mean, could be -- there's me and the other guy. There
11 could be reported to me, other guy, or the foreman, my foreman;
12 could be reported to a Ports America employee; could be reported
13 to anything.

14 Q. Okay.

15 A. Anybody.

16 Q. Is there ever the potential that a mechanical issue could be
17 set aside and then the vehicle just put back into use by a lasher?

18 A. Unless it was something that would -- no, they would be
19 notified that a vehicle was fixed, if it was operatable.

20 Q. Okay. And when they are notified that it is fixed, is it put
21 in a different spot than where it was put to the side?

22 A. It just depends on the -- if it's a flat tire, the flat tire
23 will get fixed and I guess they will notice that it's not flat no
24 more and they will use it.

25 Q. Okay. But the vehicle would then stay at the same spot --

1 A. Yes.

2 Q. -- where it had originally --

3 A. It would be the same spot. It wouldn't be moved, yes.

4 Q. Okay. When you repair a flat tire -- it sounds like you did
5 multiple of those on July 5th?

6 A. Yes.

7 Q. How long does it take to repair a flat tire?

8 A. A couple minutes. Just pulling up a screw out of the tire
9 and putting a plug in, filling it up with air. So I'm assuming
10 between 2 and 3 minutes.

11 Q. Okay. Have you ever seen the owner's manual for the Jeep
12 push vehicle?

13 A. No.

14 Q. Was -- from what you remember of the Jeep push vehicle, when
15 you started the vehicle to do your pre-check, what was the -- was
16 the instrument panel completely visible?

17 A. Yes.

18 Q. No dirt or any --

19 A. I mean, there could have been dust on it, but, yeah, it was
20 visible.

21 CDR BARGER: Okay. That's all the questions I have.

22 Anybody from the Coast Guard or NTSB team with any follow-up
23 questions?

24 MR. PITTMAN: Commander, I have a follow-up question for the
25 witness.

1 BY MR. PITTMAN:

2 Q. You said earlier that when you did your pre-checks on or
3 about the 3rd of July, that you stated if the transmission fluid
4 level was low, you would top that off.

5 A. I would top that off, yes.

6 Q. Okay. So for that Jeep, what type of fluid would you
7 actually use?

8 A. I'm assuming it's ATF transmission fluid.

9 Q. Okay.

10 A. That's what we have on hand and that's what we --

11 Q. And you guys did have that specifically on hand?

12 A. That's -- yes.

13 Q. Okay. And you had specific transmission fluid for the Ford
14 and the Chevrolet also?

15 A. I'm assuming, yes, that's what they supply us with, that's
16 what we will put in it.

17 Q. Okay. Thank you.

18 MR. PITTMAN: No further questions.

19 BY LCDR MOORE:

20 Q. Just one to clarify. We've been talking a lot about the
21 dash. Earlier when we were covering -- when I was asking you
22 questions, you talked about two areas that you had seen
23 indicators. Were those lit indicators?

24 A. Indicators for the?

25 Q. You pointed out two earlier.

1 A. For the transmission -- I mean, antifreeze overheating?

2 Q. Yes. Would those be lit?

3 A. No. The arrow will be on the from low to high, yes.

4 LCDR MOORE: Can we please pull up Exhibit 3, the page with
5 the dash?

6 THE WITNESS: So number 18, the arrow will be from the cold
7 to the hot, will be to the H.

8 BY LCDR MOORE:

9 Q. And you had indicated another area.

10 A. Number 30, which was -- would be lit, yes.

11 Q. That would be a light?

12 A. That would be lit.

13 Q. Okay. Thank you.

14 LCDR MOORE: That's all, Commander.

15 MR. PITTMAN: Commander, may I ask a follow-up question based
16 on what you asked?

17 CDR BARGER: That's outside of the standard practice for the
18 proceedings. That's something we can address after --

19 MR. PITTMAN: Okay.

20 CDR BARGER: -- afterwards, and the witness does remain
21 subject to recall.

22 MR. BARNUM: Yeah, Commander, thank you. I did have one from
23 the NTSB.

24 BY MR. BARNUM:

25 Q. Bart Barnum, Mr. Zyla. Just a follow-on from my previous

1 question, which I didn't ask correctly. But I just wanted to
2 verify, talking about the documentation of maintenance that you
3 performed, did you document anything as far as maintenance you
4 performed on the pusher vehicles?

5 A. As a maintenance, as a replacing a part, that would be
6 documented by my foreman in a book. I wouldn't be writing it
7 down, but he will get the numbers and a kind of date around when
8 it was fixed, what was replaced.

9 Q. Okay. So he has a book? Is it electronic?

10 A. I'm -- no, it's a handwritten book, yes.

11 Q. A handwritten book? Okay. Are you also -- is there any
12 documentation of the mileage of the vehicles periodically?

13 A. We -- no, not through us, unless it was mileage to a third
14 party when it was sent out.

15 Q. Okay. How about -- I know it's not typical for vehicles, but
16 how about running hours?

17 A. No.

18 Q. No? Okay.

19 MR. BARNUM: That's all the questions I had, Commander.

20 Thank you.

21 BY CDR BARGER:

22 Q. And Mr. Zyla, just one last question for you. So for
23 clarification, when you are not specifically working on a vehicle
24 that had an issue reported to you, what are you doing?

25 A. I mean, I could be working on different ships. All the cargo

1 coming in, I could be a mechanic on those ships.

2 Q. Okay. And specific to July 5th, I know you said you couldn't
3 remember if another ship was there. Was there any tasking you had
4 that was not specifically assigned to the *Grande Costa D'Avorio* on
5 July 5th?

6 A. I mean, I could have been filling up company vans that could
7 have been working the terminal site. It wouldn't would have to be
8 with the ship, but it would be a terminal site. So yes --

9 Q. Okay.

10 A. -- I would be looking at that equipment as well.

11 Q. And when -- if you have a time when you're not needed to
12 repair equipment that is actually having an issue, do you ever,
13 I'll say, roam the worksite to see if there's issues?

14 A. I mean, yeah, I'll be always around, yes.

15 Q. Do you ever go on the vessel itself?

16 A. Only if they have a issue with machinery or stuff like that,
17 I might, yes.

18 Q. Okay. If you were roaming around and you saw a push vehicle
19 that wasn't being used, would that indicate anything to you and
20 would you take any action?

21 A. No, because they always just on standby on the side, just
22 sitting around, so I wouldn't assume there was something wrong
23 with it.

24 Q. So there's a potential that a lasher leaves a vehicle setting
25 in a variety of different places on the terminal --

1 A. Yes.

2 Q. -- not in use?

3 A. Yes.

4 CDR BARGER: Okay. All right, Mr. Zyla. Thank you for your
5 testimony today. You are subject to recall and my sequestration
6 order remains in place until you're released by me. You will be
7 notified of this direction by LT Reed, our recorder.

8 (Witness excused.)

9 CDR BARGER: The hearing will now be in recess for 10
10 minutes. The time is now 3:35 p.m. We will resume at 3:45.

11 (Off the record at 3:35 p.m.)

12 (On the record at 3:48 p.m.)

13 CDR BARGER: The time is now 3:48 p.m. in Union, New Jersey,
14 and the hearing is now reconvened and back on the record regarding
15 the fire on board the *Grande Costa D'Avorio*. Our next witness is
16 Mr. Ricardo Ramos.

17 LT Reed, please swear in the witness.

18 LT REED: Mr. Ramos, please stand and raise your right hand.

19 A false statement given to an agency of the United States is
20 punishable by a fine and/or imprisonment under 18 US Code 1001.
21 Knowing this, do you solemnly swear that the testimony you are
22 about give will be the truth, the whole truth, and nothing but the
23 truth, so help you God?

24 MR. RAMOS: I do.

25 LT REED: All right. You may be seated.

1 I will now ask you a few follow-on questions. Please state
2 your name and spell your last name for the record.

3 THE WITNESS: Ricardo Ramos, R-a-m-o-s.

4 LT REED: Counsel, please state your name and spell your last
5 name for the record.

6 (Off the microphone comment.)

7 LT REED: Oh, because -- scratch.

8 On July 5th, 2023, what was your profession?

9 THE WITNESS: I was a operations manager for Ports America.

10 LT REED: And who were you employed by at that time?

11 THE WITNESS: Ports America.

12 LT REED: What, if any, professional certificates or
13 certifications do you hold for your position?

14 THE WITNESS: I do not have any.

15 LT REED: How long have you been employed in that position at
16 the time of the casualty?

17 THE WITNESS: It's been 5 years since I've had the operations
18 manager position.

19 LT REED: Thank you very much, Mr. Ramos.

20 Commander, the witness is ready to proceed.

21 CDR BARGER: Okay. Thank you.

22 LCDR Moore will be conducting the direct examination of this
23 witness.

24 LCDR Moore, please proceed.

25 LCDR MOORE: Thank you, Commander.

1 (Whereupon,

2 RICARDO RAMOS

3 was called as a witness and, having been duly sworn, was examined
4 and testified as follows:)

5 DIRECT EXAMINATION

6 BY LCDR MOORE:

7 Q. Good afternoon, Mr. Ramos. What are the duties of a
8 operations manager with Ports America?

9 A. I oversee the operations on a daily basis for Ports America
10 in Newark regarding either vessel operations or even our terminal.

11 Q. Are your duties documented anywhere?

12 A. Not that I'm aware of.

13 Q. How did you learn to complete your duties?

14 A. We all started off as superintendents and then you gradually,
15 you know, just from work experience.

16 Q. And when you say you oversee the operations, can you go into
17 a little more detail on what that entails?

18 A. Just one of the -- of their managers, I would say, you know,
19 overseeing the operation on a day-to-day, and the manpower.

20 Q. And who do you report to?

21 A. I report to George Taboada.

22 Q. Is there anything specific you are required to report?

23 A. That's a vague question.

24 Q. To your supervisor, is there anything that are you required
25 to report?

1 A. Quite a few things.

2 Q. Such as?

3 A. Any safety violations, any safety, you know, irregularities,
4 anything going on in the operation on a day-to-day basis that he
5 might not be aware of.

6 Q. And who would report to you?

7 A. My peers. I mean, my peers and my supers under me, that work
8 under me.

9 Q. And by supers do you mean superintendents?

10 A. My superintendents. And the labor also. The labor will
11 report, you know, will -- if they have any problems, they will
12 address it and bring it to our attention.

13 Q. Okay. What type of things would they report to you?

14 A. Any problems that arise, any day-to-day, you know,
15 difficulties that happen in a normal work environment.

16 Q. Do you have any examples to help us understand?

17 A. Not offhand, I don't.

18 Q. Can you tell us what the difference between a superintendent
19 and a lead superintendent is?

20 A. There isn't one.

21 Q. Can you tell us what the difference between a superintendent
22 and a operations manager is?

23 A. Other than the operations manager is overseeing the
24 operations more than just a, you know, a lead superintendent or a
25 superintendent.

1 Q. Are you aware of an organization American Maritime Services
2 of New York, or AMS?

3 A. I am.

4 Q. Can you explain in your words the relationship between AMS
5 and Ports America?

6 A. Can you repeat the question?

7 Q. Can you explain in your words the relationship between AMS
8 and Ports America?

9 A. AMS is a -- I mean, they -- they're the union for a labor
10 group and we hire the laborers through them.

11 Q. And during the loading of vessels, what positions do you
12 interact with and what is that interaction?

13 A. What do you mean by positions?

14 Q. You've mentioned a superintendent, for instance. During
15 loading, how would you interact with a superintendent?

16 A. Just like you and I would have a conversation about whatever
17 work is -- we're planning on doing for that day or whatever
18 happenings at that moment.

19 Q. Is there anything discussed about the plan for the day for
20 loading or any tasking given?

21 A. Yes. I'm sure that's -- that happens throughout the day.

22 Q. Do you interact with foremen during loading?

23 A. Yes.

24 Q. What interaction would you have with the foremen?

25 A. Same way. I mean, you're having normal dealings. You're

1 having -- you know, it's -- based on the operation of the day,
2 you're going to have several conversations with the foreman and my
3 superintendents.

4 Q. Do you interact with lashers and mechanics during loading?

5 A. From time to time, yes.

6 Q. And what would the interaction with those two positions be?

7 A. Just, you know, either trying to delegate orders through the
8 foreman or, you know, just things like that, things of that
9 nature.

10 Q. Do you interact with the ship's crew during loading?

11 A. Very little.

12 Q. What interactions would you have with the ship's crew?

13 A. I don't remember of any offhand, but it would probably be
14 some irregularity that's happening or something that's going on
15 that, you know, I would have to get to the ship's crew attention.
16 But usually I don't -- usually I will go through their -- the port
17 captain for that vessel.

18 Q. Okay. Do you interact with the shipping line for the vessel
19 at all?

20 A. On the day of the vessel?

21 Q. During or to prepare for loading?

22 A. During a vessel loading? Usually just through the port
23 captain.

24 Q. Do you assign any of the positions we just talked about? Do
25 you assign any of those positions or does someone else do that?

1 A. What do you -- I don't understand what you mean by assigning?

2 Q. You mentioned during loading you interact with
3 superintendents, foremen, lashers, mechanics. Who assigns people
4 to those positions?

5 A. Nobody assigns them. I mean, a superintendent -- I don't
6 understand the question. I don't assign a superintendent; they
7 are a superintendent. Like I wouldn't assign a lasher; they are a
8 lasher. I don't understand what the question is.

9 Q. Let me --

10 CDR BARGER: Does Ports America have multiple
11 superintendents?

12 THE WITNESS: Working at one time? Yes.

13 CDR BARGER: Okay.

14 THE WITNESS: Yes.

15 CDR BARGER: Are they all working at the same ship or do they
16 get assigned to work at different berths for different ships?

17 THE WITNESS: Yes. You will have different superintendents
18 working different -- if you have multiple vessels, you'll have
19 different superintendents working different vessels. It's very
20 rare that you have the same superintendent working two different
21 vessels.

22 CDR BARGER: And who assigns a particular superintendent to
23 work a particular ship?

24 THE WITNESS: Either myself or George.

25 BY LCDR MOORE:

1 Q. That helped. And then for the subsequent positions, would
2 the superintendent assign those positions for a specific vessel or
3 is that done elsewhere?

4 A. What other positions?

5 Q. The foremen, the lashers, the mechanics --

6 A. Those all get hired --

7 Q. -- how do they know what ship to go to?

8 A. They all get hired from the union, so we don't assign those.
9 They get hired.

10 Q. Okay. We previously entered Coast Guard Exhibit 1, the
11 background information regarding Port Newark.

12 LCDR MOORE: Recorder, can you please pull up Coast Guard
13 Exhibit 1, slide 14?

14 BY LCDR MOORE:

15 Q. Mr. Ramos, are you familiar with this area?

16 A. It looks familiar.

17 Q. Can you tell me what's familiar about it? Where do you think
18 this is?

19 A. It looks like it's our channel that our ships come down.

20 Q. When vehicles arrive at Port Newark by land, where do they go
21 for intake?

22 A. Repeat the question.

23 Q. When vehicles arrive to Port Newark by land, like they're not
24 on the ship yet, where do they go after intake?

25 A. I have no idea. I do not know.

1 Q. Where do vehicles get stored before they are put on ships?

2 A. In several locations here on this map.

3 Q. Can you help us understand by indicating those locations?

4 A. Sure. Any one of these areas here.

5 LCDR MOORE: Let the record reflect that the witness is
6 drawing a square in an area numbered 260, 256 --

7 THE WITNESS: Can I redraw it?

8 LCDR MOORE: Yes, please.

9 THE WITNESS: There's more. You have both those areas. You
10 would have two areas.

11 LCDR MOORE: Let the record reflect the witness drew a
12 rectangle around a area located near FAPS, and also on the right
13 side of the document around Toyota Motor Logistics Center going
14 down to the water on both sides.

15 BY LCDR MOORE:

16 Q. After the vehicles are stored in these areas, what happens
17 next, like how are you notified that they are ready to get onto a
18 ship?

19 A. The shipping line would set up with us that they have
20 labor -- that they have cargo that they want to load onto that
21 particular vessel.

22 Q. And how's that communicated to you?

23 A. It's communicated via the -- I guess it's -- I forget the
24 name of the actual wording of the paper, but our checkers would
25 actually get the paperwork and set it up into our DockWorks, into

1 our system to receive the cargo, so then we can then load it onto
2 a cargo vessel.

3 Q. And are there any guidelines from the shipper on how that
4 cargo is to be prepared?

5 A. Each line has their own receiving guidelines.

6 Q. Are you aware if Grimaldi gave guidelines to --

7 A. I'm sure we had receiving guidelines.

8 Q. And where would those guidelines be stored?

9 A. They would definitely have been at the receiving office over
10 at berth 18, wherever Grimaldi receives the -- where we receive
11 the Grimaldi cargo.

12 Q. After the vehicles are identified that are going to be
13 loaded, what happens next? Who loads the vehicles onto the
14 vessel?

15 A. Our labor does.

16 Q. And what are the different ways the vehicles are loaded onto
17 the vessel?

18 A. You either drive it or it gets pushed on or forklifted on, at
19 that time. That's not the case no longer.

20 Q. What happens if there's a mechanical issue with one of the
21 pusher vehicles?

22 A. It would be placed out of service.

23 Q. And who would be notified of that?

24 A. Probably our mechanic would be notified first.

25 Q. Would you be notified additionally?

1 A. Sometimes.

2 Q. Can you clarify what -- when is sometimes?

3 A. I can't. Sometimes.

4 Q. But would you expect to be if a pusher vehicle --

5 A. Not necessarily.

6 Q. Can you clarify when you would be -- when you would expect to
7 be notified versus when you're not?

8 A. When I need that vehicle and they're telling me it's out of
9 service.

10 Q. And after receiving that information, that a vehicle is
11 getting put out of service, what do you with that information?

12 A. I ask the mechanic or I talk to the mechanic as to, you know,
13 what's the problem with the -- or the issue with that vehicle, and
14 then find out, you know, is it going to be -- is it something
15 that's going to be able to get fixed and be put back into service
16 or is it going to be done for the day, done for the operation, so
17 we can go ahead and plan, you know, another route.

18 Q. Would that decision be documented anywhere?

19 A. Probably not.

20 Q. If the decision's made to put a pusher out of service while
21 loading is ongoing, would they be put anywhere specific?

22 A. I would imagine it's going to be put by the mechanic -- by
23 our mechanic shop.

24 Q. Have any pushers been put out of service before while you
25 were overseeing the loading?

1 A. On that day?

2 Q. No, in general at any point.

3 Q. In the past, yes.

4 A. And where were they put after they were put out of service in
5 those instances?

6 A. I would imagine by the mechanic shop. That's where they're
7 supposed to go.

8 Q. And where is that in relation to exhibit in front of you?

9 A. I can't really -- can this get blown up? Can this get blown
10 up more?

11 LCDR MOORE: Can you please zoom in?

12 THE WITNESS: Or zoom it in, yeah.

13 BY LCDR MOORE:

14 Q. Just for clarification, you want zoomed in near berth 18 --

15 A. Correct.

16 Q. -- Mr. Ramos? It doesn't have to be a pinpointed location.
17 I'm just looking for a general area.

18 A. It's not even on this map, but it should be somewhere right
19 around there. I can't do it. It should be right in that area
20 right there.

21 LCDR MOORE: Let the record reflect the witness is indicating
22 an area just below berth 20.

23 BY LCDR MOORE:

24 Q. Do you recall the reasons why any pushers have been put out
25 of service previously?

1 A. They just weren't in working condition.

2 Q. And when they weren't -- when you say not in working
3 condition, were you notified of the exact reasons or were you just
4 told they were not in working condition?

5 A. I mean, they would tell us, you know, either the, you know,
6 the vehicle has a flat tire or, you know, something of that sort
7 and that's the reason why the machine was being put out of
8 service.

9 Q. Is there ever any mechanical reasons that you were notified
10 of that pushers had been put out of service?

11 A. On that day?

12 Q. In general.

13 A. I mean, yes, in the past, yes.

14 Q. And what were those mechanical issues?

15 A. There's all -- any mechanical reason you can think of. I
16 mean, I've been around for a while, so they've come up with all of
17 them. Most of them are usually, you know, it's a flat tire or,
18 you know -- it's usually a flat tire that puts the vehicle out of
19 service.

20 Q. And, I guess, now we'll get into July 5th. So were you on
21 duty on July 5th, 2023?

22 A. I was.

23 Q. And what was your position on that day?

24 A. Operations manager.

25 Q. What was the general loading plan for berth 18 that day?

1 A. I don't remember offhand what the exact start was of where we
2 started, if that's -- you mean on the ship, you mean?

3 Q. Just what was the plan for the day?

4 A. To load 900-plus vehicles on the ship.

5 Q. And do you remember what berth?

6 A. Berth 18.

7 Q. Can you describe for us the way that those different roles we
8 spoke about earlier were organized for loading on July 5th, 2023?

9 We previously heard that those roles were organized into teams.

10 Can you tell us how those roles interacted?

11 A. I mean, the operation starts, we -- you're going to have a
12 team on the ship that's going to be receiving the cars to park, to
13 park the vehicles on the ship. And then the stevedores will guide
14 the drivers, the labor, to the vehicles that we're proceeding
15 to -- you know, we're going to load onto that ship and to that
16 deck, whatever deck we started with. And it just starts from
17 there.

18 Q. Were there any issues reported to you during loading on July
19 5th, 2023?

20 A. No.

21 Q. If there were any issues, would you expect to have received a
22 report?

23 A. Receive a report?

24 Q. If there were -- you said there were no issues. If there
25 were any, would you expect to receive a report?

1 A. Verbally, probably yes.

2 Q. Were you exclusively working with the ship at berth 18 that
3 day --

4 A. I don't understand.

5 Q. -- or were there other ships? Were there other ships --

6 A. No, there was not.

7 Q. -- loading at the time? How were you made aware that there
8 had been fire?

9 A. I heard it over the radio.

10 Q. Do you recall who you heard that over the radio from?

11 A. I don't know who the voice was.

12 Q. After you were notified that there was a fire on the vessel,
13 what did you do next?

14 A. I came closer to the ship.

15 Q. And what did you observe as you came closer?

16 A. When I came to the string piece, I noticed that there was,
17 you know, what I thought was everybody was on the -- was already
18 there, was on the bottom of the stern ramp, on the string piece.
19 And I'm pretty sure I asked one of the foremen or a couple of the
20 people there as to, you know, do we know if everybody is off? And
21 they're like, yes. And then I asked them, you know, do we know
22 where the fire is or what -- they said to me it was upstairs on
23 deck 10. And then that was it, I just waited there.

24 Q. Did you ever go on the vessel?

25 A. I did, a few minutes later.

1 Q. And when you went on the vessel, how did you get onto the
2 vessel?

3 A. I drove my truck that I was driving that day onto the vessel.

4 Q. What did you observe once you drove onto the vessel?

5 A. I drove up to the weather deck, which I think is deck 6. I
6 parked the truck there, and then I proceeded to try to walk up the
7 ramp to deck 10. And I didn't -- I got probably halfway up and
8 that's when I noticed, in between to the left looking -- it was
9 either deck 8 or 9, looking through to the back wall is where I
10 saw what I thought was either some kind of flames or some
11 commotion going on. And while that -- while I'm watching that,
12 I'm also looking up at deck 10 and I see one of the crew members
13 there trying to put down the fire with a hose. And that's when I
14 turned around and just said, no, it's more than I'm going to be
15 appear to handle, and I proceeded to come back down, get in my
16 truck, and drive off the ship.

17 Q. You mentioned one crew member. Was that from the ship?

18 A. Yeah, yeah. There was a crew member fighting the fire on
19 deck 10.

20 Q. Did you notice any other firefighting efforts?

21 A. I noticed two of them as I was walking back down. Two of
22 them were coming up with another firehose.

23 Q. And by two of them --

24 A. Two other crew members.

25 Q. Okay. From the ship?

1 A. I would imagine it's from the ship.

2 Q. Sorry. I just want to go back to one more thing before I
3 pass it around. We talked a little bit about any mechanical
4 issues that would come up with a pusher vehicle. If you were
5 notified of an issue with a pusher vehicle by a mechanic that was
6 beyond their capability of fixing that issue, what would you do
7 with that information?

8 A. I would ask the mechanic the following day or the next days
9 as to what happened to that piece of equipment.

10 Q. Would you --

11 A. It's not something that we, it's not something that we look
12 to repair right then and there, so I wouldn't have probably
13 returned back to that question till a few days later or the
14 next -- or another day later.

15 Q. Okay. And when it's time to deal with that issue --
16 understood, you keep loading with the other vehicles.

17 A. Um-hum.

18 Q. How does the repair for that get affected or scheduled?

19 A. It would depend on what kind of repair is needed.

20 Q. If the vehicle could not be repaired on site at the berth 18
21 or at the nearby facility, how would you -- who would schedule the
22 vehicle to be repaired?

23 A. I would imagine either George or the maintenance foreman.

24 Q. And to clarify, who's George?

25 A. George is my manager.

1 Q. Taboada?

2 A. Yes. Correct.

3 Q. And then you said the maintenance foreman. Do you recall who
4 that is?

5 A. I know him by Chuck. I can't remember his last name.

6 Q. And how do you usually make that report? Is that an email or
7 a phone call?

8 A. There is no report. I'm not reporting anything.

9 Q. Well, when you notify them that --

10 A. Notifying who?

11 Q. Well, you said you would talk to George and Chuck if
12 something --

13 A. Chuck would have already known because his own people would
14 have told him.

15 Q. Okay.

16 A. That's the mechanic, would have already told him. I would
17 have never notified Chuck that this piece has to go out. His own
18 people would have notified him.

19 Q. Okay. As the foreman, you would have expected the -- to
20 clarify, the mechanics to notify him?

21 A. Yes. I mean, it's an understanding, if it's not something we
22 can fix in house, he has to -- we have to send it out and he would
23 probably be the one to be sending it out. It would be either
24 himself or George.

25 LCDR MOORE: That is all the questions I have at this for

1 you, Mr. Ramos. I'm going to pass to the other members of the
2 investigation.

3 So, CDR Barger, do you have any questions for the witness?

4 BY CDR BARGER:

5 Q. Good afternoon, Mr. Ramos.

6 A. Good afternoon.

7 Q. So just a couple points of clarification to make sure I'm
8 understanding you correctly. So when a ship is in port at one of
9 the berths, are you actually working down at the berth that day?
10 So like on July 5th, were you at --

11 A. I was physically at the berth, yes. I was physically working
12 the ship, yeah.

13 Q. And is that the entire day while cargo operations are taking
14 place?

15 A. That is correct.

16 Q. And so just so I can be clear, as the operations manager, are
17 you giving tasking to the superintendents?

18 A. Yes and no.

19 Q. Can you elaborate on that so I understand?

20 A. I mean, yes, I'm giving them direction, but no, I'm no
21 micromanaging. I mean, they know what to do when it comes to the
22 vessel operation.

23 Q. But if we had to establish a -- in the military we would call
24 it a chain of command.

25 A. Um-hum.

- 1 Q. Is the operations manager above --
- 2 A. Yes.
- 3 Q. -- a superintendent?
- 4 A. Correct.
- 5 Q. And then directly below a superintendent is what position?
- 6 A. Nobody.
- 7 Q. Nobody?
- 8 A. We're all management. It's all superintendents. It's me and
- 9 then superintendents.
- 10 Q. Okay. And then --
- 11 A. I mean, technically, I'm a superintendent also, but --
- 12 Q. So a foreman for like the lashers --
- 13 A. Yes.
- 14 Q. -- do they take direction from --
- 15 A. They'll take direction from us, from our -- from the
- 16 management, from supers, but they are a union, so -- there is --
- 17 below us there is nobody as far as Ports America.
- 18 Q. And then what role do you have in deciding how the ship is
- 19 loaded?
- 20 A. I mean, we coordinate that with the shipping line. I mean,
- 21 the shipping line -- most shipping lines give us free rein. They
- 22 give us a plan to load and, you know, discharge as we like.
- 23 Grimaldi is a little bit more involved vessel when it comes to
- 24 loading. We usually get guidelines from them as to, you know,
- 25 where they would like us to start and, you know, what -- and to

1 start with what kind of cargo, just to facilitate the loading,
2 that's all.

3 Q. So with that direction you're getting from Grimaldi and then
4 passing to the superintendents?

5 A. Passing it on to our superintendents and then passing it on
6 to the labor, yes.

7 Q. Going back to what is Coast Guard Exhibit 1, slide 14, which
8 I believe is still on the screen for you?

9 A. Um-hum.

10 Q. So when LCDR Moore asked you where vehicles are stored on the
11 terminal property, you had indicated areas across Port Newark
12 Channel from berth 18.

13 A. Correct. I understood the question as new cars.

14 Q. Okay. And so that would -- my clarifying question, where is
15 cargo, including not -- or not new vehicles, used vehicles, for
16 loading onto Grimaldi ships stored?

17 A. I will point it out. Where's the mouse?

18 In that general area.

19 CDR BARGER: Okay. Let the record show the witness drew a
20 rectangle around the area, below and slightly to the left of berth
21 16, 18, and 20 numbers, extending down to almost Marsh Street.

22 BY CDR BARGER:

23 Q. So within that terminal storage space, what kind of cargo is
24 stored and prepared for a Grimaldi ship?

25 A. All used vehicles. It's mainly used cars and used heavy

1 equipment, be it trailers or, you know, wheel loaders and, of
2 sorts, that kind of stuff, Caterpillars.

3 Q. Okay. Any containers?

4 A. From time to time, but that's not -- we don't usually handle
5 containers there, and if we did, it would have been put on a
6 different trailer and then loaded via trailer.

7 Q. And then if somebody has a used a vehicle that they want
8 shipped by Grimaldi, is that delivered directly to that area that
9 you described on the exhibit?

10 A. Yes.

11 Q. And that would then be in-processed into the storage yard?

12 A. And then -- yes, and then placed somewhere on the property.

13 Q. And what is -- so when a vehicle arrives in, what, if
14 anything, are you checking on the vehicle? Or not you, but those
15 who do that process working for you.

16 A. They have -- they're following their guidelines. There's,
17 you know, there's guidelines to receive the vehicle. I don't know
18 them offhand.

19 Q. And when, if ever, does somebody on the terminal side check
20 the fuel level in the vehicle?

21 A. I'm not sure we do.

22 Q. You mentioned a little earlier when asked how vehicles were
23 loaded onto a Grimaldi ship --

24 A. Yes.

25 Q. -- that the cars can be driven, pushed, or forklifted.

- 1 A. Correct.
- 2 Q. And then I believe you said that's not the case any longer.
- 3 A. Yeah. We haven't done it since the accident.
- 4 Q. What haven't you done since the accident?
- 5 A. Pushed or forklifted a car onto a ship.
- 6 Q. Okay. Have you loaded Grimaldi ships at that terminal?
- 7 A. We have.
- 8 Q. So am I correct in understanding that since the accident
- 9 every vehicle that has gone to a Grimaldi at that terminal has
- 10 been driven on?
- 11 A. We have not driven any vehicles, only heavy equipment.
- 12 Q. Okay. So since July 5th --
- 13 A. We have not used -- we have not loaded any used vehicles,
- 14 correct.
- 15 Q. Okay. So as far as what LCDR Moore was asking with regards
- 16 to issues that might be reported to you during a course of a
- 17 loading operation, does every issue that is experienced with a
- 18 piece of equipment, including a push vehicle, get reported -- or
- 19 do you get notified about every issue?
- 20 A. I do not.
- 21 Q. Okay. What kind of issues would rise to your level?
- 22 A. Something in the -- I mean, if we were putting a pusher out
- 23 of service, it probably would not get reported to me. I would
- 24 probably come to find out about it later on if I needed it.
- 25 Q. Okay.

1 A. That's what it comes down to. You know, then you start
2 asking questions as to why I'm only using three vehicles instead
3 of four or five. And then that's when you start asking, you know,
4 labor as to where is the other vehicles, and then they'll come and
5 tell me, oh, it was put out of service because of whatever reason.

6 Q. Okay. So nobody's calling you to say a push vehicle has a
7 flat tire --

8 A. No. No.

9 Q. -- we can't use it for the next --

10 A. No. They're not doing that. Correct. They're not doing
11 that.

12 Q. What about an issue with a vehicle overheating? Would they
13 call you to let you know on that?

14 A. No. The same thing, they wouldn't be telling me about every
15 little thing that's happening, you know.

16 Q. So we -- it was previously mentioned that the equipment,
17 including the push vehicles, will go through a pre-check prior to
18 cargo loading operations starting for a ship.

19 A. Okay.

20 Q. Do you have awareness of pre-checks being performed on the
21 vehicles?

22 A. I know of them being performed. I don't know when they're
23 being performed, and it's usually, I would imagine, it's usually
24 the day before or the -- you know, I don't see it being done at 6
25 in the morning the day of the operation, so I would assume it's

1 being done the prior day.

2 Q. Okay. Who directs that those pre-checks get done on pusher
3 vehicles?

4 A. It would be on the -- AMS's foreman, to make sure that's
5 getting done. I mean, we're giving them direction to do it, so --

6 Q. And is that -- how would the AMS foreman know that that is
7 something that needs to be done? Is there -- is it contractual?

8 A. I don't know if it's contractual. I mean, I don't think it's
9 contractual. I would think it's just part of the normal
10 operation, that's what you would have to do, you do a physical
11 check of your equipment that you're going to use for the following
12 day.

13 Q. So what, if any, written guidelines, policies, procedures
14 does Ports America have in place to direct AMS how to maintain the
15 push vehicles?

16 A. I'm not sure. I'm not sure if we have anything strictly
17 written down to, you know, to do that.

18 Q. No checklists on how to do that on a push vehicle?

19 A. Not that I'm aware of.

20 Q. Okay. Going to the vessel side of the operations, you
21 mentioned you had gone on board the vessel when there was -- when
22 you found out there was a fire on board. Are there other
23 occasions during the normal day of operations that you would be
24 going on board the vessel?

25 A. Yes. I was on board that ship a few times.

1 Q. And for what reasons?

2 A. Just to see how the operation was going, just to see, you
3 know, if we needed to change up, you know, either the plan for
4 that -- at that time, just to see what was -- you know, just to
5 converse with the supers. It was a 14-hour ship. I'm sure I was
6 on there several times.

7 Q. Okay. And is the shipboard environment something that is
8 familiar to you?

9 A. Yes. When you mean shipboard, you mean the ship layout
10 itself?

11 Q. Being on a ship or any ship --

12 A. Oh, yeah, yeah. Um-hum.

13 Q. -- is a familiar environment to you?

14 A. Yes.

15 Q. Okay. Do you have any background in working on -- being
16 ship's crew anywhere?

17 A. No. No.

18 Q. Have you ever had any kind of training with regards to
19 emergency response if something were to occur on board the ship or
20 at the terminal?

21 A. No. Not ship, no.

22 Q. Did you have any familiarity with -- or what fire protection,
23 fire safety equipment on board the ship were you familiar with?

24 A. None.

25 Q. And just to clarify, did you use any that day, on July 5th?

1 A. I did not.

2 Q. Previously we've heard mentioned that there may have been a
3 lasher that left early from work on July 5th. Are you -- does
4 that sound familiar to you?

5 A. No. I have no record of that.

6 Q. If there were to be a lasher or a AMS employee that were to
7 have to leave work earlier, is that something that would be
8 brought to your attention?

9 A. It is not.

10 CDR BARGER: I have no additional questions at this time.

11 LCDR MOORE: Mr. Pittman, do you have any questions for the
12 witness?

13 MR. PITTMAN: I have no questions.

14 LCDR MOORE: LT Reed, do you have any questions for the
15 witness?

16 LT REED: I have no questions.

17 LCDR MOORE: I'll pass to the NTSB, Mr. Barnum.

18 BY MR. BARNUM:

19 Q. Mr. Ramos, Bart Barnum, NTSB. Why have you not loaded any
20 vehicles since the fire?

21 A. We were -- port authority hasn't allowed us to.

22 Q. Okay. How did yourself, being the operational -- operations
23 manger there on July 5th, the evening the fire started, how did
24 you ensure that all Ports America employees had evacuated the
25 vessel following the start of the fire?

1 A. When I got to the string piece, I asked the foreman and a
2 couple of the ILA employees that were there did we get everybody
3 off, and he goes, I think we did. And then I found my super,
4 Ignacio, who was on that deck when, I guess, this all started or
5 was close to it. And I saw him on the string piece and I asked
6 him was everybody off, and he goes, as far as I know, I was the
7 last -- he goes, as far as I know, I was the last one off the
8 ship. And that's when I waited a few more minutes, and then a few
9 minutes later is when I actually drove up just to see what was now
10 going on with the vessel.

11 Q. Okay. Is there a muster sheet or a list of employees that
12 are on? Ports America employees, AMS, and ILA employees, is there
13 a list of --

14 A. Yes.

15 Q. -- which employee is on board the vessel at a certain time?

16 A. No.

17 Q. Or it's just who's working that night?

18 A. It's just who's working.

19 Q. Okay. You had mentioned to CDR Barger that Ports America
20 does not have policies and procedures pertaining to maintenance of
21 your equipment; is that correct?

22 A. None that -- not that I'm aware of.

23 Q. Not that you're aware of. Okay. Do you know if Ports
24 America has any policies and procedures pertaining to the
25 operation of your equipment?

1 A. I'm sure we do.

2 Q. And where would you find that?

3 A. I'd have to ask. I don't know of it offhand.

4 Q. Who would you ask?

5 A. My manager.

6 Q. Okay. And what would you expect that operations policies and
7 procedures to consist of?

8 A. I'm not sure.

9 Q. Okay. So you've never seen any Ports America
10 policy/procedure pertaining to the operation of your equipment?

11 A. Maybe not worded in the way you're describing it. I mean,
12 that's the best I can answer. I don't know of a particular paper
13 like you're saying it.

14 Q. Okay. Okay. And then how about Ports Americas -- Ports
15 America -- I apologize -- policies and procedures pertaining to
16 training of the operating of your vehicles?

17 A. I'm sure we have something of that in place. I don't know of
18 it. I haven't seen it.

19 Q. Okay. Does Ports America train labor how to operate your own
20 vehicles?

21 A. No. That's done through the New York Shipping.

22 Q. Could you explain that a little bit?

23 A. We don't train the employees. We just hire the employees
24 through the union. The union is responsible for the training.

25 Q. Okay. And is that -- so is that something you require or the

1 union requires its employees to be trained?

2 A. Ask that -- repeat that question.

3 Q. Is that something Ports America requires, that the union
4 employees are trained on how to operate your equipment or is the
5 union requiring their members be trained on your --

6 A. I don't know the answer to that question.

7 Q. Okay. Are you aware of any union required training for a
8 pusher vehicle?

9 A. No. I don't know of any.

10 Q. Okay. What type of -- what other Ports America equipment
11 requires training?

12 A. Most of your heavy equipment, your Hustlers, your, you know,
13 forklifts, stuff like that.

14 MR. BARNUM: Okay. That's all the questions I have for you,
15 Mr. Ramos. I'm going to check with my colleague.

16 Ms. McAtee?

17 MS. MCATEE: I have no questions.

18 MR. BARNUM: Commander, that's it from NTSB. Thank you.

19 CDR BARGER: All right. Thank you.

20 As we have before with other witnesses, in order to ensure
21 the equitable time and opportunity for parties in interest to ask
22 questions -- we have approximately 30 minutes left on the schedule
23 for this witness. Each party in interest will have approximately
24 6 minutes for cross-examination within the scope of our direct
25 examination questions.

1 First, American Maritime Services.

2 CROSS-EXAMINATION

3 BY MR. KARPOUSIS:

4 Q. Good afternoon, sir.

5 A. Good afternoon.

6 Q. My name is John Karpousis. I represent AMS New York.

7 Just a quick question about the ILA. Ports America and AMS
8 New York are required to hire through the ILA, correct?

9 A. Repeat that again.

10 CDR BARGER: Mr. Karpousis, I'm sorry, can you speak closer
11 into the microphone?

12 MR. KARPOUSIS: Oh, I'm sorry.

13 BY MR. KARPOUSIS:

14 Q. Ports America and AMS New York in the Port of Newark are
15 required to hire their labor through the ILA, correct?

16 A. Correct.

17 Q. Okay. And the ILA is the entity that provides training for
18 labor for its membership, correct?

19 A. It's either the ILA or the New York Shipping. I'm not sure.

20 Q. Okay. Do you understand the relationship between the NYS,
21 the New York Shipping Association, and the ILA?

22 A. I do not.

23 Q. Okay. Have you ever read the USMX -- do you know what the
24 USMX is?

25 A. I do, but I have not read it.

1 Q. You know -- so that's the contract between the terminals that
2 operate in the Port Newark, Port Elizabeth area and the ILA. Do
3 you understand that to be correct?

4 A. If you're saying so. I don't know. I don't know that to be
5 correct.

6 Q. Okay. I am saying so, but you don't know, so --

7 MR. KARPOUSIS: So I'm done. Thank you very much for your
8 time.

9 CDR BARGER: Ports America.

10 BY MR. ZONGHETTI:

11 Q. Mr. Ramos, just a few questions. Gino Zonghetti on behalf of
12 Ports America. You were asked a question earlier and it was about
13 being notified about a problem with a pusher vehicle, and your
14 response was our mechanic would be notified. When you said our
15 mechanic, you're referring to an AMS employee; is that correct?

16 A. That is correct.

17 Q. And I believe you explained the relationship, but AMS is
18 another company that's hired by Ports America for the purpose of
19 providing labor in the forms of mechanics and mechanics foremen to
20 do maintenance, preventative maintenance, maintenance on vehicles
21 and to fix vehicles that are fixable during the loading operation;
22 is that correct?

23 A. That is correct.

24 Q. And if during a loading operation a vehicle becomes damaged
25 or has a problem, whatever it may be, it's the AMS mechanic that's

1 charged with the responsibility of going to the vehicle, seeing if
2 it can be fixed, or putting it out of service, correct?

3 A. That is correct.

4 Q. And you may not even know about that because that
5 responsibility is on them and you'll find out about it if that
6 effects production potentially, right?

7 A. Correct.

8 Q. So Ports America is relying on AMS, this entity, in order to
9 be their eyes and ears with respect to the conditions of the
10 vehicles while their being operated as well as the -- doing the
11 maintenance on the vehicles; is that correct?

12 A. Correct.

13 Q. Now I'm not sure what your answer was on this, but if a
14 vehicle needs to be sent out, if AMS says to you folks the vehicle
15 needs to be sent out for a repair that we can't do, who at Ports
16 America deals with that? Is that Mr. Taboada?

17 A. That is correct.

18 Q. Now you testified that you were alerted to the fire by
19 hearing about it over the radio; is that correct?

20 A. Yes. Correct.

21 Q. You carry a radio that allows you to communicate with
22 superintendents?

23 A. Correct.

24 Q. And are foremen from the labor also carrying radios or just
25 the superintendents?

- 1 A. They are. They are carrying radios.
- 2 Q. And you monitor that radio during loading?
- 3 A. Always.
- 4 Q. And you would have been the senior management person on the
5 site from Ports America that day; is that correct?
- 6 A. I was.
- 7 Q. And when you heard that transmission about a fire, if I
8 understand your testimony correctly, the first thing you did was
9 go down to the string piece to see what was going on; is that
10 correct?
- 11 A. That is correct.
- 12 Q. And in the process of doing that, the questions you asked
13 were to make sure that labor and anyone -- and any of the
14 superintendents were off the vessel; is that correct?
- 15 A. That is correct.
- 16 Q. And that's, I assume, because you were looking out for labor
17 and looking out for your employees to make sure they were safe?
- 18 A. Everyone's safety, yes.
- 19 Q. And not satisfied with getting the answer, I think I was the
20 last person off the vessel, you then, knowing there was a fire on
21 the vessel, actually drove onto the ship; is that correct?
- 22 A. Correct.
- 23 Q. You got to a certain point and then you started walking
24 towards the fire; is that correct?
- 25 A. Correct.

1 Q. Now do you know about what time it was that you got to the
2 point on the ramp that was leading up to level 10 where you could
3 see the fire? Do you know about how long after the fire started
4 about 9 p.m. you were there?

5 A. I would say it's in that 9:05 to 9:10 range.

6 Q. So between 5 to 10 minutes after the fire started?

7 A. Yes. Correct.

8 Q. At that point did you -- you saw, I believe, your testimony
9 is you saw crew members at the top of deck 10 or the ramp to deck
10 10 operating hoses?

11 A. Correct.

12 Q. At that point, as far as you knew, you didn't see any CO2 had
13 been discharged; is that correct?

14 A. That's correct.

15 Q. And the hoses that were being operated, they were at the top
16 of this ramp, that's where these gentlemen were?

17 A. The one gentleman was already up there with the hose, and
18 then, as I stated earlier, as I was walking back down the ramp,
19 two other gentlemen were coming up the ramp with another hose.

20 Q. Now in terms of firefighting on the vessel, that's the ship's
21 responsibility, correct?

22 A. I would imagine so. It's not mine.

23 Q. It's not your responsibility, right?

24 A. Correct.

25 MR. ZONGHETTI: That's all I have. Thank you.

1 CDR BARGER: Thank you.

2 Port Authority of New York-New Jersey.

3 MR. REILLY: Thank you, Commander.

4 CDR BARGER: I'm sorry. Port Authority of New York-New
5 Jersey.

6 MR. REILLY: Thank you, Commander.

7 BY MR. REILLY:

8 Q. Mr. Ramos, my name is John Reilly. I represent the Port
9 Authority in this matter. I just have a few questions for you.
10 You said, as we know, this is a 14-hour ship; is that right?

11 A. Correct.

12 Q. And you were there at 9 p.m.?

13 A. Correct.

14 Q. When did you arrive or how long had you been there during
15 that -- how much time?

16 A. I arrived approximately 6:15 in the morning.

17 Q. And we know that you went aboard the ship. I'm going to say
18 several times; is that correct, you were aboard --

19 A. That is correct.

20 Q. -- several times? And were you up on -- during the day,
21 before the fire commenced, were you up on deck 10?

22 A. I don't think I was ever up on that part of the ship. I know
23 I was on the main deck several times.

24 Q. So I'm going to suggest, the main deck, you mean deck 3?

25 A. Correct.

- 1 Q. Connected to the ramp?
- 2 A. Correct.
- 3 Q. And were -- you were obviously on the ramp from time to time?
- 4 A. Yes.
- 5 Q. And you were on -- how much time do you think you spent on
- 6 deck 3?
- 7 A. I'd be guessing.
- 8 Q. Half the time?
- 9 A. Half the time, as in -- half the time of 14 hours?
- 10 Q. Yes.
- 11 A. No. I would probably say several hours throughout the day,
- 12 you know, from time to time.
- 13 Q. During the day, whenever you were on the ship, did you see
- 14 this yellow Jeep?
- 15 A. Yes.
- 16 Q. You did?
- 17 A. I did.
- 18 Q. What was it doing when you saw it?
- 19 A. It was pushing, it was pushing vehicles up onto the ship.
- 20 Q. What time was that?
- 21 A. That was throughout the day.
- 22 Q. Did you see the yellow Jeep during it's final push up the
- 23 ramp?
- 24 A. I did not. I was in the field.
- 25 Q. Did you have any conversation with anyone about that yellow

1 Jeep during the day?

2 A. I did not.

3 Q. When one of these vehicles, pusher vehicle, the equipment
4 goes down, it can't be used for an operation such as loading the
5 ship, are there any financial consequences of that?

6 A. None that I'm aware of, no.

7 Q. Do you either have to -- by you I mean Ports America, make
8 any payment to AMS or vice versa?

9 A. No.

10 MR. REILLY: Thank you, Mr. Ramos. I have no more questions.

11 CDR BARGER: Grimaldi.

12 BY MR. LEVY:

13 Q. Good afternoon, Mr. Ramos. My name is John Levy and I
14 represent Grimaldi. Can you hear me?

15 A. Yes.

16 Q. It doesn't sound like it's coming through.

17 Have you had any involvement in your time with Ports America
18 in purchasing any of the pusher vehicles?

19 A. No, sir.

20 Q. You have never been the one who went out and found the
21 vehicle for the company?

22 A. No, no. Not at all.

23 Q. Do you know if the company has any criteria that it uses to
24 buy pusher vehicles?

25 A. None that I'm aware of.

1 Q. You don't know if they have to be a certain weight, a four-
2 wheel drive, certain size, year?

3 A. No.

4 Q. Do you know where they get their vehicles from?

5 A. I do not.

6 Q. Who at Ports America has been responsible, as far as you
7 know, for acquiring the pusher vehicles?

8 A. I mean, at this point in time, if we were to acquire
9 something, it would have been George. At that time in the past,
10 it could have been several other individuals that are no longer
11 with Ports America.

12 Q. Is there a department at Ports America that has somebody in
13 it who is responsible for that --

14 A. There may have been, but I don't know if there is a
15 department name or, you know, a person attached to a set
16 department as you're referring to.

17 Q. If I understand your testimony correctly, I think you said
18 there's no preventative maintenance program for the pusher
19 vehicles. Am I mistaken or correct?

20 A. Not that I'm aware of, but like I don't control that. I
21 don't even get involved in any of that.

22 Q. Okay. Do you know if, since the fire on July 5th involving
23 the Ports America Jeep, has there been any change in the policies
24 or procedures at Ports America for what vehicles you can use as
25 pusher vehicles?

1 A. None. We haven't changed anything.

2 CDR BARGER: Okay. Thank you.

3 City of Newark.

4 BY MR. LIPSHUTZ:

5 Q. Hello, Mr. Ramos. My name is Gary Lipshutz. I'm an attorney

6 with the City of Newark. Okay. Just a few questions, sir.

7 A. Um-hum.

8 Q. Take me back to your going up to deck 10 or approaching deck

9 10. You said that you observed a crew member with a hose. Can

10 you please describe what they were doing?

11 A. They were trying to knock down the smoke, I think. I didn't

12 see any flames. I think they were trying to knock down the smoke.

13 Q. Were you looking into --

14 A. I was looking up.

15 Q. -- the cargo bay at that time?

16 A. I was looking up to the cargo bay.

17 Q. Well, could you see into the cargo bay?

18 A. I could not.

19 Q. Was -- were the crew inside the cargo bay?

20 A. I do not know. I --

21 Q. Do you know where they -- I'm sorry. I don't mean to

22 interrupt you.

23 A. I only saw the one gentleman at the top of the ramp at that

24 time.

25 Q. Do you know if he was doing -- you know what boundary cooling

1 is, right?

2 A. No.

3 Q. Okay. Do you know if he was spraying the outside of the
4 cargo hold?

5 A. He -- what I saw was him standing there at the top of the
6 ramp, and just sitting there and spraying. What I imagine was
7 trying to knock down the smoke because all I saw was him and smoke
8 behind him.

9 Q. But you couldn't tell if he was actually inside the cargo bay
10 trying --

11 A. If he was inside the cargo bay, I wouldn't have seen him.

12 Q. Okay. And do you know where the Jeep was when it caught
13 fire?

14 A. I have no idea.

15 Q. Okay. So if I represented to you it was perhaps 50 feet
16 inside the cargo bay?

17 A. I would not have seen it. I was literally looking at the
18 entry into the cargo bay. That's the only, that's the only reason
19 why he was -- I saw him, because he was --

20 Q. He was at the entrance?

21 A. Correct.

22 Q. Thank you. Ports of America, just to be clear, Ports of
23 America does not provide any training to any of its employees
24 about firefighting, correct?

25 A. Correct.

1 Q. Whether they get training through the union is a separate
2 question or separate issue?

3 A. I would imagine so, yes.

4 Q. Okay. But you're not aware of what that is?

5 A. I am not.

6 Q. Do you have a recollection, if any, of observing Newark
7 firefighters arriving?

8 A. On that day?

9 Q. Yes, sir.

10 A. I remember them arriving, yes.

11 Q. Do you have any idea about what time they arrived?

12 A. I would say it was approximately 9:20.

13 Q. They were certainly not on deck 10 when you were up on --

14 A. They were certainly not anywhere near the ship or not on the
15 ship when I was on there.

16 Q. Okay. About the Jeep, am I correct that you had no knowledge
17 of any issues with that Jeep, mechanical issues?

18 A. That is correct.

19 Q. We heard testimony today that the Jeep had a overheating
20 problem from one of the lashers and it was not a one-time event.
21 Are you saying you had no knowledge of that whatsoever?

22 A. That is correct.

23 MR. LIPSHUTZ: Thank you. I have nothing else.

24 CDR BARGER: Okay. Thank you.

25 Any follow-up questions from the Coast Guard or NTSB

1 investigation team?

2 LCDR MOORE: Yes, Commander, just a couple clarification
3 points from me.

4 REDIRECT EXAMINATION

5 BY LCDR MOORE:

6 Q. To clarify, you've had no shipboard training or emergency
7 response training?

8 A. None.

9 Q. What about firefighting training?

10 A. None.

11 Q. So are you aware how CO2 systems work on ships?

12 A. I'm sorry. What systems?

13 Q. The -- you were asked about CO2 systems and if they were
14 activated on the ship. Are you aware about those systems?

15 A. I'm a little aware of how they're supposed to work, yes.

16 Q. So how would you be able to tell if the CO2 system was
17 discharged or not?

18 A. I think it's a type of foam or a type of liquid that would
19 come from the ceiling and then suppress whatever fire or whatever
20 was burning in that area, trying to suppress the oxygen from it,
21 take the oxygen away from the fire.

22 Q. And have you ever witnessed a shipboard fire previous to
23 this?

24 A. No.

25 Q. And lastly, for clarification, are you aware of where the

1 fire may have started?

2 A. I don't know where it started.

3 LCDR MOORE: That's all for me, Commander.

4 CDR BARGER: Thank you.

5 Mr. Barnum? Any other questions from the Coast Guard team?

6 BY CDR BARGER:

7 Q. I have just one last question for you, Mr. Ramos. Have you
8 ever heard the phrase put to the side?

9 A. Sure.

10 Q. Can you describe in your understanding what put to the side
11 means with relation to a push vehicle?

12 A. To a push -- I mean, put to the side means it's off to the
13 side. I mean, you put the vehicle off to the side when you go to
14 the restroom or you go to break. It's just pushed off -- it's not
15 in operation, it's off to the side. It doesn't really mean a
16 specific spot.

17 Q. Okay. So you haven't heard it used in relationship to any
18 kind of specific time that a vehicle would be put to the side?

19 A. No, no, no. Nope.

20 Q. Okay.

21 CDR BARGER: All right. I have no additional questions
22 either. So thank you, Mr. Ramos, for your testimony today. You
23 are subject to recall and my sequestration order remains in place
24 until you are released by me from that. You will be notified of
25 that decision by LT Reed, our recorder.

1 (Witness excused.)

2 CDR BARGER: The hearing is now in recess for 15 minutes, at
3 which time will provide the closing remarks for the day. The time
4 is now 4:46 p.m. and we'll resume at 5 p.m. Thank you.

5 (Off the record at 4:46 p.m.)

6 (On the record at 5:03 p.m.)

7 CDR BARGER: The time is now 5:03 p.m. local time here in
8 Union, New Jersey, and we are back on the record in the formal
9 investigation into the fire on board *Grande Costa D'Avorio*.

10 There are no more witnesses or exhibits to present on today's
11 schedule. Today we presented the stipulated background facts of
12 the incident through Coast Guard Exhibit 1. We heard from
13 Mr. Gavin Puchinsky and Mr. Austin Costanzo, lashers for American
14 Maritime Services of New York. We also heard from Mr. Piotr Zyla,
15 a mechanic for American Maritime Services of New York, and then
16 Mr. Ricardo Ramos, operations manager for Ports America. We
17 introduced Coast Guard Exhibits 1 through 3. They are publicly
18 available on the investigation's Newsroom.

19 During tomorrow's session, we will hear from Mr. Jorge
20 Taboada, general manager for Ports America, Chief Mate Benito
21 LaFauci of the *Grande Costa D'Avorio*, Captain Alessandro Moretti
22 of the *Grande Costa D'Avorio*. Tomorrow we plan to introduce
23 proposed Coast Guard Exhibits 7 through 12, 16, and 20. They will
24 be publicly available on the investigation's Newsroom at the
25 resumption of the hearing.

1 I would request that all party in interest counsel please
2 stay behind for a follow-on discussion.

3 Thank you again for attending today's session. It is now
4 5:05 p.m. The hearing session for today is now adjourned. We
5 will resume tomorrow in this chamber at 8:30 a.m.

6 (Whereupon, the proceedings in this matter were recessed, to
7 be continued, Thursday, January 11, 2024, at 8:30 a.m.)

CERTIFICATE

This is to certify that the attached proceeding before the
NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: FIRE ABOARD *GRANDE COSTA D'AVORIO*
 AT BERTH 16 IN THE PORT OF NEWARK
 IN NEWARK, NEW JERSEY ON JULY 5, 2023
 US Coast Guard District 1 Formal
 Investigation
 Public Hearing Day 1 of 6

ACCIDENT NO.: DCA23FM039

PLACE: Union, New Jersey

DATE: January 10, 2024

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been transcribed
to the best of my skill and ability.



Kay Maurer
Transcriber