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Statement Under Oath of Fred Wills

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STATEMENT UNDER OATH

OF

FRED WILLS

taken pursuant to Notice by Danielle Ohm, a
Court Reporter and Notary Public in and for the
State of West Virginia, at the National Mine
Health and Safety Academy, 1301 Airport Road,
Beaver, West Virginia, on Tuesday, June 8,
2010, beginning at 8:00 a.m.

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1 A P P E A R A N C E S (cont.)

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CLOSING REMARKS

By Attorney Babington

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CERTIFICATE

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DESCRIPTION

IDENTIFIED

One

Map

53*

*exhibit not attached

P R O C E E D I N G S

ATTORNEY BABINGTON:

My name is Matt Babington. Today is June 8th, 2010. I'm with the Office of the Solicitor, U.S. Department of Labor. With me is John Godsey, an accident investigator with the Mine Safety and Health Administration, also an agency of the U.S. Department of Labor. Also present are several people from the State of West Virginia. I ask that they state their appearance for the record.

MS. MONFORTON:

Celeste Monforton, with the West Virginia Governor's special team.

MR. FARLEY:

I'm Terry Farley, with the West Virginia Office of Miners' Health, Safety and Training.

MR. O'BRIEN:

John O'Brien, with the West Virginia Office of Miners' Health, Safety and Training.

ATTORNEY BABINGTON:

There are several members of the investigation team also present in the room today.

John will be conducting initial questioning.

All members of the Mine Safety and Health

1 Accident Investigation Team and all members of the
2 State of West Virginia Accident Investigation Team
3 participating in the investigation of the Upper Big
4 Branch Mine explosion shall keep confidential all
5 information that is gathered from each witness who
6 voluntarily provides a statement until the witness
7 statements are officially released. MSHA and the
8 State of West Virginia shall keep this information
9 confidential so that other ongoing enforcement
10 activities are not prejudiced or jeopardized by a
11 premature release of information. This
12 confidentiality requirement shall not preclude
13 investigation team members from sharing information
14 with each other or with other law enforcement
15 officials. Your participation in this interview
16 constitutes your agreement to keep this information
17 confidential.

18 Government investigators and specialists
19 have been assigned to investigate the conditions,
20 events and circumstances surrounding the fatalities
21 that occurred at the Upper Big Branch Mine-South on
22 April 5th, 2010. The investigation is being conducted
23 by MSHA under Section 103(a) of the Federal Mine
24 Safety and Health Act and the West Virginia Office of
25 Miners' Health, Safety and Training. We appreciate

1 your assistance in this investigation.
2 After the investigation is complete, MSHA
3 will issue a public report detailing the nature and
4 causes of the fatalities in the hope that greater
5 awareness about the causes of accidents can reduce
6 their occurrence in the future. Information obtained
7 through witness interviews is frequently included in
8 these reports. You should know that if you request
9 confidentiality, confidentiality will only be granted
10 on a case-by-case basis. Your statement may also be
11 used in other proceedings.

12 You may have a personal representative
13 present during the taking of this statement and you
14 may consult with your representative at any time. For
15 the record, do you have a representative here today?

16 MR. WILLIS:

17 No.

18 ATTORNEY BABINGTON:

19 Thank you. Your statement is completely
20 voluntary. You may refuse to answer any question and
21 you may terminate your interview at any time or
22 request a break at any time. Since this is not an
23 adversarial proceeding, formal Cross Examination will
24 not be permitted. However, you may ask clarifying
25 questions as appropriate.

1 A court reporter will record your
2 interview. Please speak loudly and clearly. If you
3 do not understand a question asked, please ask the
4 questioner to rephrase it. Please answer each
5 question as fully as you can, including any
6 information you've learned from someone else.

7 I'd like to thank you in advance for your
8 appearance here. We appreciate your assistance in
9 this investigation. Your cooperation is critical in
10 making the nation's mines safer.

11 After we've finished asking questions,
12 you'll have an opportunity to make a statement and
13 provide us with any other information that you believe
14 to be important. If at any time after the interview
15 you recall any additional information that you believe
16 might be useful, please contact Norman Page at the
17 contact information previously provided.

18 -----
19 FRED WILLS, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS
20 FOLLOWS:

21 -----
22 EXAMINATION

23 BY MR. GODSEY:

24 Q. Thank you for appearing here today. Would you
25 state your full name ---

1 A. Fred ---.

2 Q. --- and spell your last name?

3 A. I'm sorry?

4 Q. Spell your last name.

5 A. Fred Douglas Wills, Jr., W-I-L-L-S.

6 Q. And your home address?

7 A. [REDACTED]

8 Q. And your telephone number?

9 A. [REDACTED]

10 Q. Are you appearing here today voluntarily?

11 A. Yes.

12 Q. How many years of mining experience do you have?

13 A. A little over 38 years.

14 Q. And can you give us a description of your coal
15 mining employment history?

16 A. I worked for Eastern Associated for 27 years. I
17 was electrician, foreman. I worked in the Safety
18 Department for a short amount of time. I worked at
19 Stotesburg, Affinity, Wharton, at Lightfoot 1 and 2.
20 And I came with MSHA in 2000. I've been with MSHA
21 since then.

22 Q. Okay. Have you worked for Massey?

23 A. No.

24 Q. And you're presently employed with MSHA?

25 A. Yes, sir.

1 Q. Now, where's your duty station?

2 A. The field office at Mount Carbon in Montgomery,
3 West Virginia.

4 Q. And you started, you said, in 2000?

5 A. Yes, sir.

6 Q. And what is your present job title?

7 A. I'm the super --- field office supervisor.

8 Q. How many work groups are in Mount Carbon?

9 A. Two.

10 Q. And how many --- approximately how many men do you
11 --- inspectors do you have assigned to your work
12 group?

13 A. Eight.

14 Q. Have you had to perform any additional jobs for
15 MSHA, other than a supervisor? What all, what else?

16 A. Oh, I've been an accident investigator. Other
17 than a regular CMI.

18 Q. Regular --- regular CMI an accident investigator
19 and a supervisor?

20 A. Right.

21 Q. Who is your present supervisor?

22 A. Link Selfe.

23 Q. And so you've never --- you've never been assigned
24 to any other district?

25 A. No, no.

1 Q. Have you visited Upper Big Branch before?

2 A. I inspected that in my inspection, '03-'04,
3 somewhere in that area. I don't recall the last day I
4 was there. I did work out of Mount Hope.

5 Q. How many times did you have Upper Big Branch ---?

6 A. Throughout my training. I was trained in that
7 mines when I was going to CMI school.

8 Q. But have you ever been a supervisor that's been in
9 charge of inspecting that mine?

10 A. No.

11 Q. Do you have any Massey mines assigned to you in
12 Mount Carbon?

13 A. Yes.

14 Q. How many do you have, approximately?

15 A. Oh, geez. Five or six?

16 Q. How often do you travel to 'em?

17 A. I'm at probably one of the Massey mines at least
18 several times a quarter.

19 Q. And who do you usually travel with?

20 A. The inspector I assign to that mines.

21 Q. And what --- I know that every mines would be
22 different, but who do you travel with, mine foreman
23 or ---?

24 A. It varies, but generally it's the mine foremen,
25 superintendents.

1 Q. Okay. Do you have any type of miner's
2 representative travel with you?

3 A. We have one Massey mine who's got a miners' rep
4 right now. And my work group and the other one
5 exchanges mines every October. I don't no longer have
6 that mines and they just started third --- or fourth
7 quarter last year is when they first got their first
8 miners' rep.

9 Q. Is that miners' rep, is he a contractor?

10 A. No, he was --- it was through the litigation and
11 where one mines was shut down and it's a big mess.
12 But they had to rehire him and I guess they're still
13 using him.

14 Q. Okay. When they travel with you underground, when
15 you say a representative of the company, do they take
16 notes and photographs or make drawings and stuff?

17 A. They're starting to take more notes than they
18 previously used --- did, but they are taking notes.

19 Q. Are they taking pictures or ---?

20 A. I haven't seen any of 'em take pictures, but I
21 knew they carry a kit that contains cameras and
22 recorders and ---.

23 Q. So all the walk-arounds that you're --- for the
24 company, they have to carry a kit for this?

25 A. Well, I don't think all of 'em. I believe they're

1 assigned to the mine foreman or superintendent.

2 Q. What is their overall attitude towards compliance
3 of the regulation?

4 A. We're still writing a lot of violations, so ---.
5 They will fix anything you find as quickly as
6 possible, but it seemed like we're finding the same
7 thing over and over again.

8 Q. What is the majority of the citations? I mean,
9 what section of the law are they in?

10 A. A lot of 400s and 503s, 517, 512s, 220s, 202s.

11 Q. How often does your inspectors find ventilation
12 changes that they made were unapproved?

13 A. It's not extremely rare, but fairly rare.

14 Q. Does their mine map usually represent --- I mean
15 their 1200 map usually represent what they have
16 underground?

17 A. The one's I've been experienced, it's within a few
18 days of being a representation usually. If you find
19 it wrong, it's usually extremely wrong, but usually
20 they try to keep up.

21 Q. What about air reversals? Do you all ever --- do
22 you encounter any --- inspectors find any air
23 reversals?

24 A. Not in my field office, that I can recall.

25 Q. What's your observation of the rock dust from

1 overall of mines?

2 A. They try to keep the appearances as well as they
3 can, because first --- always first impressions. The
4 companies, you know, are smarter than sometimes we
5 give them credit for. And they try to keep
6 appearances as good as they can.

7 Q. Did it seem that they know that when you get on
8 the section that they --- that the section or the
9 people underground knew that you were coming?

10 A. It sometimes gave you the impression of that,
11 because you'd find new curtains up, new line curtains
12 up, new check curtains up, or maybe the scoop is
13 cleaning the place, but, you know, they'll say that
14 that's the way that they do business, but it makes you
15 wonder sometimes.

16 Q. Did most of the mines have a guard at the entrance
17 to the ---?

18 A. I don't know if any mines we go to don't have
19 guards.

20 Q. Now, are you aware of any time that they've given
21 --- when an inspector arrives there, State or Federal,
22 that they notify the mine office?

23 A. I'm not personally aware of it. Now, I'm sure
24 between our travels from there to the mine office that
25 they do. I've had guards ask me where I was going. I

1 refuse to give them any information, just tell them
2 I'm going on the property and --- but I'm sure that
3 they do call.

4 Q. How many miners have approached you with safety
5 concerns?

6 A. Oh, over the last ten years?

7 Q. Well, I mean --- okay. Go ahead.

8 A. Over the last ten years there's been, you know,
9 numerous occasions.

10 Q. In the past few ---?

11 A. Past few months? I've had calls at the office for
12 complaints that we've had to investigate.

13 Q. What were some of the complaints?

14 A. Wives, mostly wives call the office because
15 they're afraid for their husbands. Setting longwalls
16 up, they're afraid that maybe the ventilation's not
17 correct or they're saying that, you know, they're
18 replacing roof bolts of cribs and stuff like that.
19 It's one of the particular mines we got a longwall and
20 they don't know the roof control plan, the wives
21 don't, and they think they're not bolting, which
22 they're --- the way the plan calls for, if they're
23 removing the jack off line, you got to put ribs in its
24 place. And so it scares me.

25 Q. Well, do you think their husbands tell them about

1 it, that maybe they're scared of it?

2 A. Maybe. I think that particular case, the guy was
3 working for us seven days a week, and I don't think he
4 --- you know, he didn't want to work seven days a
5 week, so he would give her a reason or something and
6 she'd call us.

7 Q. Well, what did the investigation do when you sent
8 someone up there?

9 A. They was complying with the roof control plan.

10 Q. Has any --- you all have any 800 number calls?

11 A. We don't get 'em at the office. They may come
12 through the call center or something like that. Then
13 it filters down to us.

14 Q. How many have you had from them?

15 A. Oh, on different ---.

16 Q. For the Massey mine.

17 A. All right. Now, Massey, I'm sure we've had a
18 couple this year, this quarter.

19 Q. You don't remember what they were?

20 A. Gosh, not right off the bat. I keep a record of
21 them, but I know we've had some EO4 complaints at some
22 of the Massey mines I have in my office. We've sent
23 people to investigate 'em. Not using line curtain or
24 the ventilation had been interrupted or going out from
25 under support, something like that.

1 Q. Does your inspector ever find any conditions like
2 that one there?

3 A. They did that particular time at the Mammoth
4 Mines. They did find a line curtain that wasn't
5 correct and issued violations on 'em.

6 Q. What about people going in by unsupported roof?

7 A. When they interviewed the miners, none of 'em
8 would confirm that.

9 Q. How many --- well, on your last visit if you went
10 to Massey, how many citations did you all issue?

11 A. Let me think. It seemed like to me it was five or
12 six violations.

13 Q. So when was the last time that you were at Upper
14 Big Branch?

15 A. Yesterday. I think it was yesterday. I've got my
16 days --- I've been up ---. I was up a long time from
17 Sunday to yesterday, 40 hours or so. Bu I think it
18 was --- today's Tuesday and it was Monday.

19 Q. Okay. I just want to --- in fact, you said that
20 you inspected 2003, 2004?

21 A. I was on a methane inundation there in 2003.

22 Q. Can you tell us something about that?

23 A. I got called out by my supervisor. I was still an
24 inspector out at Mount Hope at the time. And they'd
25 said that they had had a massive inundation. And it

1 was on --- the best I can remember it was day four,
2 4th of July on '03, because I just had a real close
3 friend of mine, [REDACTED] had died just a few
4 days before that.

5 And so I was there from --- we was working 12-hour
6 shifts. I was working noon to midnight and Jim
7 Humphrey was working from midnight to noon. And they
8 was us two there.

9 And when I arrived there on --- at the mines, the
10 men had been removed. The power was still on the
11 mines. The power was still on the longwall, and I was
12 getting 24 percent methane mid face with 60,000 cfm
13 air going across it. And I issued an (a) order and
14 made them evacuate the mines, cut the power off. It
15 took five days for it to bleed off.

16 Q. Where did --- on the floor, you say?

17 A. What we determined, there was an abandoned gas
18 well in the headgate entry approximately a thousand
19 foot inby the gob area they passed. And at mid face
20 they said they had had a bump and that it must have
21 cracked into a fissure.

22 With an --- jack about mid face, it blew a three-
23 foot square hole out and the pressure that was
24 escaping sounded like a jet engine running. And from
25 that point on, you couldn't travel, of course, because

1 the oxygen level was down to 14 percent. And I
2 measured 24 percent methane with bottle samples.

3 Q. What did they do after that? How did they --- did
4 they change the ventilation plan, or the roof control
5 plan or what?

6 A. I don't recall what happened then. I mean, I
7 don't know that --- I wasn't involved in that end of
8 it at the time and I don't know what they did to
9 change anything.

10 Q. Excuse me. Do you know if they had any more floor
11 --- bottom heaving or anything?

12 A. It seemed like to me a year or two after that they
13 had another inundation on the longwall that the other
14 work group was responsible for at the time. And I
15 wasn't --- I wasn't there, so I don't know what all
16 took place.

17 Q. Okay. Let's go to the day of the accident, April
18 5th. Where was you at the time of the accident?

19 A. I was at Mount Carbon and I was in my car going
20 home. It was about a quarter after 4:00 that evening.
21 I received a call from Tom Moore at Mount Hope, saying
22 Link Selfe requesting me to come to Mount Hope. When
23 I reached Mount Hope, Link had traveled down to the
24 mines. I was briefly aware of what happened. Tom
25 Moore told me that it was an explosion occurred down

1 there. So I called Link on his cell phone and he
2 asked me to go to the mines. I took my personal car
3 --- I didn't have no equipment or gear --- and went to
4 the mines that evening.

5 Q. Did anyone travel with you?

6 A. I went in ---.

7 Q. I mean, traveled with you from your location to
8 the mine.

9 A. No. I was by myself.

10 Q. Okay. Which portal did you arrive at?

11 A. Well, it's the old portals at UBB. What would
12 that be, the what, North Portals there?

13 Q. Did you stay there?

14 A. I was there until, gosh, 7:00 --- 7:00, 6:00,
15 seven o'clock the next day.

16 Q. And you said --- what time did you arrive on the
17 property? I think I missed it. What time?

18 A. Seemed like to me it was 5:30, something,
19 something like 6:00 that evening.

20 Q. What activities was going on, on the property
21 there, when you arrived?

22 A. It was very calm. I mean, there wasn't a lot of
23 people there. I actually thought I was at the wrong
24 port ---. I hadn't been at that mines for three, four
25 years. And I knew they had some new portals, but I

1 didn't know where they were, but I'd never been in
2 'em. And I asked a guard where all of the MSHA people
3 was, and he says, at the new portal.

4 So I took back off and went that direction. I
5 passed them all going back to the old portals. So
6 then I followed 'em back and went back to the old
7 portals. And that's when all the mine rescue teams
8 and everything reached the mines all about the same
9 time.

10 Q. Who was in charge on the surface when you arrived,
11 for MSHA?

12 A. All of MSHA reached at the same time. I was
13 there, Link Selfe was there. I think Mr. Stricklin
14 was there. I think we all got there just about the
15 same time.

16 Q. Okay. Who was the company person in charge?

17 A. I'm not sure. I'm not sure, because there ---
18 quite a few of them arrived at the time, and I wasn't
19 familiar with their management personnel there where
20 I'd been gone for so long.

21 Q. Okay. If you would, just take us through the
22 events following the notification, what your --- what
23 you think your role was.

24 A. Okay. Once I arrived at the mines, I had only
25 been there about 15 minutes or 20 minutes and Link had

1 said that I was going to go underground, and I
2 informed him I didn't have any equipment and I used
3 his. And so I went underground with the first mine
4 rescue teams.

5 Q. Did you have an apparatus?

6 A. No. I think me and two other MSHA personnel went
7 underground that night.

8 Q. Who was with you?

9 A. I think Jerry Cook went underground on another
10 mantrip, and Mike Hicks.

11 Q. Did they have an apparatus?

12 A. Correct. They was on MSHA's mine rescue team.

13 Q. Was there any supervisor there in charge of the
14 mine --- for MSHA's mine rescue team?

15 A. I'm sure they were, because I remember seeing a
16 truck, but I wasn't in contact with 'em.

17 Q. How'd they check in? How were they checking in
18 and out of the mines?

19 A. They were MSHA inspectors, State inspectors and
20 company was checking every individual before they got
21 onto a mantrip. And then they would recheck it once
22 you were on a mantrip, and that was the reverse
23 proceedings coming out.

24 Q. What procedure did they do to have you signing in
25 or signing out?

1 A. They went to each individual and asked your name
2 and who you worked for and tried to identify you as
3 best they could at the time, because we had State,
4 Federal and company people there doing that. And I
5 think they double-checked about three times.

6 Q. How many teams were on the surface there when
7 y'all --- before y'all went in?

8 A. I'm going by memory. It seemed like maybe it was
9 about three or four teams there, the best I can
10 remember.

11 Q. And I'd say you --- I'm sure you've said this, but
12 how many teams went under when you went?

13 A. Three or four teams that was with us.

14 Q. How far did you travel into the mine?

15 A. Just --- eventually, after everything was said and
16 done, we moved our fresh air base up. I was a few
17 hundred feet inby Number Six North belt, so it was
18 somewhere a couple hundred feet inby the head here
19 (indicating). Was of course in a track entry.

20 MS. MONFORTON:

21 For the record, can we mark on the map?

22 A. Let's see. This is ---. I want to be correct.
23 This (indicating) yellow is track, I suppose. And
24 this --- like I say, this is by memory, but we was
25 either --- somewhere about in this location. And

1 that's the furthest I went underground.

2 ATTORNEY BABINGTON:

3 Okay. For the record, witness made a
4 green X mark at 106 Break on the Six North belt.

5 BY MR. GODSEY:

6 Q. And y'all fixed --- fixed a fresh air base there?

7 A. We had a fresh air base. We had communications
8 there. And that's --- as mine rescue teams filtered
9 into the mines, that's where they came to.

10 Q. Who was in charge of it?

11 A. Well, there's me and two company personnel
12 and ---.

13 Q. Who was that?

14 A. One of 'em was Whitehead.

15 Q. You talking about Jason Whitehead?

16 A. Yeah. He was there. And I think the president of
17 the company was there, and I can't recall his name.

18 Q. Would that have been Chris Blanchard?

19 A. Yeah. He and I and Blanchard and some other ---
20 four mine rescue team members. I don't know who they
21 were.

22 Q. Did Mr. Whitehead and Mr. Blanchard have
23 apparatus?

24 A. No, they didn't have on apparatus or --- they was
25 underground when I first went underground.

1 Q. How far did they --- did you talk to them, how far
2 they traveled or where they traveled to?

3 A. It was my understanding --- they told me they
4 traveled towards the longwall on the headgate and the
5 tailgate, looking for survivors. They didn't go into
6 particulars exactly where they went to, because I
7 don't think they wanted me to know.

8 Q. What was their appearance when you ---?

9 A. They seemed at the time fairly calm.

10 Q. Did y'all experience any burning sensation of your
11 nose or your eyes or anything?

12 A. No, I didn't.

13 Q. Were you equipped with --- so you was equipped
14 with a methane spotter or a Solaris or ---?

15 A. Yes.

16 Q. What was the reading that you all got?

17 A. I had normal readings where I was at.

18 Q. Did Mr. Blanchard and Whitehead --- did they talk
19 about anything that they had recorded?

20 Q. No. They just told me as they was trying to find
21 survivors when --- after the initial explosion. I
22 suppose that they were one of the first ones
23 underground. And he said they had run into high
24 concentrations of CO, but he never did give me a
25 number.

1 Q. Did you see any other company personnel for --- on
2 the way in other than those two?

3 A. No, it was my understanding once we got up to
4 Break 78, where we unloaded, that there was a company
5 mine rescue team somewhere underground, but I never
6 did see. We never was in communication with 'em.

7 Q. And when you got to that fresh air base, you
8 didn't see any of the mine rescue teams ---?

9 A. I think we all arrived there at the same time, but
10 they was ahead of us. Well, I was in one row back,
11 you know, the furthest back mantrip.

12 Q. Uh-huh (yes).

13 A. And once I got to their point, they didn't
14 assemble too much. They just left and went inby. And
15 when I got to Break 78, it seemed like there was me,
16 Hicks, Jerry Cook and four mine rescue team members.
17 And Mr. Hicks was upset because we didn't --- he
18 didn't think we had enough backup people.

19 Q. Okay. Were you there when the Massey --- Massey
20 team came out? You said that --- the ones that was
21 inby?

22 A. I never --- I don't think I recall seeing them
23 until they evacuated the mines. And I'm not familiar
24 with the individual members. I just know we had a
25 team we couldn't contact.

1 Q. I may jump ahead a little bit, but how --- what
2 time did y'all get out that next morning?

3 A. Seems to me it was about 3:00 or 3:30 that morning
4 on the ---.

5 Q. And that would be on the 6th?

6 A. Right.

7 Q. How did communication between the fresh air base
8 and command center and the mine rescue teams, how did
9 it coordinate?

10 A. We had some trouble with teams underground,
11 because their --- their communications wasn't
12 compatible mate to another team. I would tell 'em to
13 set their --- on number one or number two, and some of
14 them only had two places to set their frequencies.
15 Others had eight or more, and most of 'em wasn't
16 compatible to the other one. So one team was having
17 trouble communicating with another team. It was
18 difficult, if you couldn't get teams stretched out
19 where they could communicate with each other, to be
20 effective. And of course we had one team under ---
21 you know, Massey team that I never seen underground,
22 and I don't know where they was at. We never could
23 get communications with 'em.

24 Q. How long did it take y'all to get --- for you to
25 get the communication straightened out?

1 A. Well, we worked on it throughout the night. We
2 finally got enough team members. And a State mine
3 rescue team came in, and then theirs was compatible
4 with others. And we eventually got up where we could
5 communicate up to, you know, to the end where the
6 leading mine rescue teams were. But like I'd said,
7 the Massey mine rescue team, I never did contact
8 'em, never did see 'em, never did speak to 'em.

9 Q. And did you ever go inby the fresh air base?

10 A. No.

11 Q. Okay. What was the extent that night the teams
12 advanced to the --- what was the furthest point of
13 travel before y'all came Out?

14 A. I know --- it's my understanding the State ---
15 which I know the State went on toward the tailgate
16 area of the longwall to check in this (indicating)
17 particular area. And I don't know if you have a
18 particular label for it or not.

19 ATTORNEY BABINGTON:

20 For the record, that's the --- what's the
21 word we've been using for that there?

22 MS. MONFORTON:

23 Crossover?

24 A. Crossover.

25 ATTORNEY BABINGTON:

1 Crossover. Thank you. The crossover
2 area between Headgate One North and Tailgate One
3 North.

4 MR. GODSEY:

5 At the mouth of the longwall.

6 ATTORNEY BABINGTON

7 At the mouth of the longwall.

8 A. I think we had a State team there. Well, I know
9 we did. And I know we had some teams at the longwall
10 here, because the report calling out some bodies here
11 on the headgate entry. And to my understanding, it
12 seemed like to me Mr. Hicks and Jerry Cook was
13 together and they're the ones that went up on 22
14 Headgate.

15 ATTORNEY BABINGTON:

16 Okay.

17 BY MR. GODSEY:

18 Q. In the area that you were, what did the controls
19 and stuff --- what was the appearance of it?

20 A. There was a lot of soot on the roof ribs. You
21 could see a lot of --- a lot of devastation in that
22 area because it --- you know, it was just track entry.
23 We had airlock doors that was just inby Break 78 were
24 destroyed and blew down the track entries.

25 Q. Blew outby?

1 A. Yeah.

2 Q. Okay. Where did y'all see the --- start noticing
3 the destruction on the way in?

4 A. Where the mantrip was discovered outby, which I'm
5 not familiar what break it is, about five breaks or so
6 before you even go to it. That's when we first
7 started running into the soot effect that was on the
8 roof and ribs.

9 Q. Did you see much, any floor heaving or anything
10 while you were up there?

11 A. No. I was only in the track entry, pretty much.
12 I didn't get --- we didn't get off of --- well, we
13 didn't have apparatuses.

14 Q. What kind of discussion did you have with the
15 rescue teams? Did they talk about where they maybe
16 thought the explosion originated?

17 A. I never heard anyone really give an example, you
18 know, because most of the teams that I talked to were
19 young men. I don't know how much --- they didn't have
20 a whole lot of experience. I know they didn't have no
21 experience in this because nobody did. And so they
22 was concerned. You know, they was wanting to find
23 people, of course, but they --- I know --- and they
24 didn't know if it was going to explode again, and so
25 there was a lot of concern being in the mines. But

1 they went ahead and done their job.

2 Q. What made y'all come out?

3 A. I've got a --- I got a call at the mine, at the
4 fresh air base that their instruments had went off
5 scale on 22 Headgate. And I had to ask 'em to confirm
6 it, and they came back and confirmed it. And it
7 seemed like to me they --- I'm going by memory, but it
8 seemed like to me they said their --- the CO was 8,000
9 parts per million. Methane was maybe over 8 percent
10 and the oxygen level was down about 3.2 percent.

11 Q. Now, who told you that?

12 A. One of the teams, and I'm not --- I don't know
13 which team it was.

14 Q. And did you all relay that to the end?

15 A. Right, we relayed that to the surface.

16 Q. And they told you ---?

17 A. And then about, I don't know, 15 minutes or 20
18 minutes later, they decided to pull everyone out.

19 Q. And how long did it take to round everybody up?

20 A. A while. It took --- probably took another 45
21 minutes, maybe an hour, because they was stretched
22 out. And we still ---- I hadn't communicated with the
23 Massey team. And I think during that time one of the
24 other teams got in contact with the Massey team and
25 told 'em they was evacuating the mines.

1 Q. Did Blanchard and Whitehead, did they stay at the
2 fresh air base the whole time you were there?

3 A. Right. Yeah.

4 EXAMINATION

5 BY MR. FARLEY

6 Q. Mr. Wills, let me --- let me go back to the event
7 in 2003 where they had the methane inundation.

8 A. Yes, sir.

9 Q. That occurred on the longwall face; correct?

10 A. Correct.

11 Q. Okay. Do you recall what the mining height was at
12 that time, approximately?

13 A. Six foot, approximately.

14 Q. Okay. And if I understand you correctly, you
15 indicated that from the bottle sample that you had 24
16 percent CH₄ and air flow cfm of about 60,000 at that
17 time?

18 A. Correct.

19 Q. Okay.

20 MS. MONFORTON:

21 Just give me a minute, until I'll look
22 through my notes.

23 EXAMINATION

24 BY MS. MONFORTON:

25 Q. You indicated that in the past few months you had

1 been getting some phone calls about miners or their
2 wives calling about ---

3 A. Correct.

4 Q. --- safety problems? Do you recall if this is
5 before or after the April 5th event?

6 A. It was after, because ---.

7 Q. It was after?

8 A. Yeah, it was after.

9 Q. What about calls before the event, like in the
10 year preceding the event?

11 A. I don't recall ever talking to a miner's wife
12 before then.

13 Q. Okay. So when you arrived at the mine on April
14 5th and kind of met up with the other MSHA people that
15 were assembling there, my notes indicate that you said
16 that you were about there for about 15 to 20 minutes,
17 and Link Selfe said that you were to go underground?

18 A. Correct.

19 Q. You were going to use his equipment. What
20 equipment did you take with you that was his that you
21 said you didn't have?

22 A. Boots, hardhat, mining belt with light, methane
23 detectors, anemometers, all of the normal equipment
24 you would take underground, SCSR.

25 Q. And you were going to be traveling with the mine

1 resue team ---

2 A. Correct.

3 Q. --- but you were not part of a team?

4 A. Correct.

5 Q. And you didn't have apparatus as if you were part
6 of a team?

7 A. Correct.

8 Q. And can you explain the reason why you were
9 allowed to go underground then?

10 A. Well, I've been a mine rescue team captain for 12
11 years and I was a trainer. I got a lot of experience
12 in this. I've been in mining disasters at Beckley
13 Coal when it was on fire. And he knew I had a lot of
14 mining experience.

15 Q. And can you explain that there was a fresh air
16 base setup and that's ---

17 A. We were in when we went into the mine.

18 Q. --- where you were proceeding?

19 A. Yeah. And when we originally went underground, we
20 went as far as we could go with the mantrip, Break 78.
21 That's where the communications and everything was.
22 As the teams proceeded up that north area, north
23 entries, we moved the mine rescue up, our fresh air
24 base up. And we ran out wire, our communication line.
25 And once we got established inby the north belt head,

1 that's as far as we could go. The gas levels were too
2 high inby us.

3 Q. When you arrived at the fresh air base that you've
4 indicated on the map, is that where you met Mr.
5 Blanchard and Mr. Whitehead?

6 A. No. We met those when we first went underground.
7 When we got off the mantrip and walked to Break 78,
8 they were there at the time.

9 Q. They were at Break 78 when you arrived at ---?

10 A. When I arrived there, they was at Break 78.

11 Q. You mentioned that you spoke with them and that
12 they had mentioned that they had been to the longwall.
13 Did they indicate at that time if they have seen any
14 of the victims?

15 A. What I understand, the way they was telling me
16 that they went towards the tailgate to try and find
17 --- because I guess they knew where the crew would be.
18 That's what I got and gathered out of it. And they
19 couldn't get to the tail of the longwall because the
20 gas level, CO levels --- they said it was extremely
21 high but they never would give me a number.

22 And then they came back around and back to Break
23 78 and went back up towards the headgate. And I think
24 they did --- in fact, if I'm recalling correctly, they
25 did find three bodies around the headgate area, if I'm

1 remembering this right. But I believe that's as far
2 as they ever went ---

3 Q. Okay.

4 A. --- in the two areas.

5 Q. I believe you indicated that Mr. Hicks, who was an
6 MSHA mine rescue team member, was upset because he
7 didn't think we had enough backup people.

8 A. Correct.

9 Q. Can you explain that a little bit, in terms of
10 your experience with mine rescue?

11 A. With ever how many mine, active mine rescue teams
12 you got inby the fresh air base, you should have an
13 equal number outby in case one of the times runs into
14 trouble. And when I got up to Break 78, he was on the
15 phone, calling command center, and said that --- I
16 believe there was 20 or so mine rescue members inby
17 and we only had four people outby with me at the fresh
18 air base.

19 Q. Uh-huh (yes).

20 A. And that was not by procedure ---

21 Q. Uh-huh (yes).

22 A. --- the way mine rescue teams should work. And he
23 was expressing his concerns.

24 Q. Uh-huh (yes). And are you indicating that he was
25 expressing his concerns to the command center?

1 A. Correct.

2 Q. And do you know who he was speaking to in the
3 command center?

4 A. Chris Adkins.

5 Q. And do you know what the response from Chris
6 Adkins was when he expressed that concern?

7 A. He said we were not playing mine rescue today.

8 Q. You mentioned the procedures, normal procedures
9 for mine rescue. Are those in a manual or ---?

10 A. I'm sure they are. I was taught that in '81, so
11 I'm sure they are. And we just don't go into
12 disasters and not have backup, ---

13 Q. Uh-huh (yes).

14 A. --- in case one of the teams run into trouble.

15 Q. Uh-huh (yes). Do you know if Chris Adkins is a
16 member of a mine rescue team?

17 A. I'm not aware. I don't know.

18 Q. Can you explain how that decision-making process
19 would normally work in a command center? I mean, did
20 you get the sense that this was Chris Adkin's decision
21 or was this a collective decision?

22 A. No. I believe the enormity of the accident, no
23 one was really certain what exactly had happened and
24 that they may have been survivors out there. I
25 believe the teams' instinct was trying to get the

1 people. And this was the first teams that went
2 underground, and it was from there on until we can get
3 organized.

4 Q. Uh-huh (yes).

5 A. But they was so determined to find these people,
6 and they was hoping they'd find them alive.

7 Q. Uh-huh (yes).

8 A. And every minute counted. And I'm sure once they
9 got off the mantrip, they took off.

10 Q. Right. When you're recalling this conversation,
11 is this when you were at the fresh air base that you
12 marked on the map?

13 A. No. That's when I first came in the mines at ---

14 Q. Okay.

15 A. --- Break 78 here. That was our initial --- once
16 we got of the mantrip and got to there, Mr. Hicks was
17 on the phone expressing his concern over that. And we
18 eventually moved it. We moved it three times, and
19 eventually up to ---

20 Q. Okay.

21 A. --- here (indicating) is the third time. That's
22 the furthest point out that they penetrated the mines.

23 Q. So this conversation between Mr. Hicks and the
24 command center would've happened when the fresh air
25 base was set up at that ---

1 A. At Break 78.

2 Q. --- at 78 Break?

3 A. Correct.

4 Q. Okay. Thank you. You indicated that they were
5 --- there was difficulty with communication between
6 the teams.

7 A. Uh-huh (yes).

8 Q. Is that common when you have different teams
9 underground and ---?

10 A. Well, this was the first major disaster I've been
11 in with this type of communication system, that the
12 team members had communications. And each company, I
13 presume, bought what they felt was the correct radio
14 system. Well, some of the companies' radios wasn't
15 compatible with other companies' radios. Maybe
16 Massey's were with other Massey. Some other coal
17 company may not be, but I know some of them couldn't
18 communicate with others.

19 Q. Can you explain what happened in the recent past
20 that compels companies to buy new equipment and so on?
21 Was there some changes in ---?

22 A. Aracoma for one thing, Sago for another. I think
23 those was the two driving forces that we made the
24 changes that we did. And I'm sure they was hoping
25 they'd make 'em better, which they have.

1 Q. Uh-huh (yes).

2 A. It's just we've just still got some ways to go.

3 Q. Uh-huh (yes). And these communication devices,
4 these radios are things that companies have purchased
5 in the last few years ---

6 A. Correct.

7 Q. --- in an effort to improve their mine rescue
8 capabilities?

9 A. Correct.

10 Q. Okay. During your time at the fresh air base,
11 were you at any point communicating directly with the
12 command center?

13 A. We had a radio there that Whitehead, myself and
14 the other gentleman --- I'm sorry for names.

15 Q. I think it was Mr. Blanchard.

16 A. Yeah, Blanchard. And Whitehead was the one
17 relaying all the information that we was receiving
18 from the teams to the command center.

19 Q. And is Mr. Whitehead a member of a mine rescue
20 team?

21 A. Not as I know of.

22 Q. Okay. So these communications were taking place
23 between Mr. Whitehead and Mr. Blanchard and the --- I
24 mean Mr. Adkins and the command center?

25 A. Well, he was relaying. He was more of a middle

1 man. When the mine rescue team would call out the gas
2 readings, we had one mine rescue team member close
3 enough he could tell us what was going on. And but we
4 had a lot of people and, you know, one communicating
5 to the other, because radios don't extend that far.
6 And when it finally got back to us, we'd transfer that
7 information back to the surface.

8 Q. Do you know what MSHA personnel were in the
9 command center for the time you were underground?

10 A. I can speculate, but I don't know.

11 Q. You don't know. Okay. Thank you.

12 A. I don't know, because I wasn't there. I was
13 underground the whole time.

14 Q. When you were briefed before entering the mine,
15 were you informed that there were individuals
16 underground who were not part of mine rescue teams?

17 A. No, I didn't know --- I thought we were the first
18 people going underground. I thought the mines was
19 evacuated.

20 Q. Uh-huh (yes).

21 A. I was somewhat surprised when I got up there and
22 found Mr. Blanchard and Whitehead.

23 Q. Uh-huh (yes). Did you have some sense about how
24 many miners you were looking for?

25 A. I believe they gave us a number before we went

1 underground. I don't really recall a specific number,
2 but I knew there was quite a few people.

3 Q. Okay. And just my final question. The procedures
4 for mine rescue, is that something that generally is
5 agreed upon by both the State, the Federal, the
6 companies of what these procedures are?

7 A. We have mine rescue events to keep their skills
8 sharpened, and everyone knows the procedures. I'm a
9 judge out here, do 'em every year.

10 Q. Okay. And so when you have those events, you
11 have ---

12 A. All the teams.

13 Q. --- company, a Federal agency, State agency?

14 A. We have national rules that we use, and so
15 everyone's aware of 'em.

16 MS. MONFORTON:

17 Okay. Very good. Thank you.

18 A. Yes, ma'am.

19 RE-EXAMINATION

20 BY MR. GODSEY:

21 Q. Who did you talk with when you came out? Who
22 debriefed you?

23 A. Geez. I know I spoke to Link Selfe. As far as a
24 formal debriefing, I don't know if you could call it
25 that. You know, he knew what I knew before I got out

1 from underground because we was in communication with
2 the command center. So there was nothing new that I
3 could have gave him than what we had already told him.

4 Q. Did you talk to anybody else, any other team
5 members or ---?

6 A. No. No, not that I can recall that first night.

7 Q. Did you return on any subsequent days?

8 A. I was there, but I never did go back underground
9 after that.

10 Q. What was your assignment when you were there?

11 A. I had seven --- I think four inspectors one day
12 and six or eight the next day and I was assigned to
13 have 'em collect gas samples from the drilling sites,
14 fan, the portals. So --- and I was in the command
15 center then, or what we call the Blue Goose down
16 there. That's where I was at. And I inputted
17 information in the MEU log and then I had an inspector
18 doing that the next night.

19 Q. Did you keep any note?

20 A. I'm sure I've got some notes. I've got a yellow
21 --- you know, one of the yellow legal pads that ---

22 Q. Uh-huh (yes).

23 A. --- I'd write people's name of where I was sending
24 'em and stuff like that.

25 Q. Do you still have it?

1 A. Uh-huh (yes).

2 Q. Do you have a map or anything that you used that
3 night?

4 A. No.

5 Q. Did you make any drawings or anything?

6 A. I don't think so.

7 Q. Let's go back to the '03 event when that happened,
8 you had the inundation. Was anybody injured?

9 A. Not that I know of.

10 Q. Was a shearer operating at the time?

11 A. Yeah. Oh, yeah, because the shearer was not quite
12 at mid face, my understanding, best I can remember.
13 Their first inundation was at the head, the headgate.
14 And it knocked the power at the headgate. And it
15 quickly bled off. And then it blew this three-foot
16 square hole out from under a jack at mid face, and
17 that's where the rest of the inundation occurred. And
18 it continued on for five days after that.

19 MR. GODSEY:

20 Terry?

21 RE-EXAMINATION

22 BY MR. FARLEY:

23 Q. Mr. Wills, on the evening of April 5th when you
24 arrived at the 78 area, fresh air base, I think you
25 said that there were 20 mine rescue members inby the

1 fresh air base and four mine rescue members at the
2 fresh air base?

3 A. Correct.

4 Q. How do you know that there were 20 members inby
5 the fresh air base?

6 A. Just by conversation. I'm going by memory, too.

7 It was in my mind that there was 24 mine rescue team
8 members on the mantrips that went underground. And I
9 know when I got to the break there were four others,
10 and I deduced that apparently there were 20 inby.

11 Q. Twenty (20), what, at least four teams?

12 A. I would say normally it's five teams, five men to
13 a team.

14 Q. Do you know what teams may have been inby?

15 A. No. What companies they were --- I know that they
16 had at least two Massey teams on Main Three. I'd say
17 the majority of them was Massey ---.

18 Q. Okay. Now, you indicated that there was a phone
19 there where information was relayed from the command
20 center to the mine rescue teams. You indicated that
21 Whitehead was relaying information. Do you have a
22 reason to doubt that Whitehead did not relay the exact
23 instructions he was given from the command center?

24 A. No, I wouldn't think so. I mean, I don't have any
25 --- any evidence that he would have done that.

1 Q. Okay. All right. When you initially talked to
2 Blanchard and Whitehead, you said that it seemed they
3 didn't want you to know where they had exactly been.
4 Any --- any sense of why they didn't want you to know?

5 A. I don't think they wanted me to know the condition
6 they went through to the location they were at. They
7 were vague about location and conditions.

8 Q. Okay.

9 A. And I know all they had was an SCSR.

10 Q. Okay. All right. Back to 2003. Let me make sure
11 I didn't misunderstand you, meaning the inundation.
12 As you recall, the methane came from an opening in the
13 mine floor; is that right?

14 A. Correct. Correct.

15 MR. FARLEY:

16 All right.

17 RE-EXAMINATION

18 BY MS. MONFORTON:

19 Q. Following up on that, so the 2003 and 2004 events,
20 at that time, you were a coal mine inspector?

21 A. Yes, ma'am.

22 Q. And was this a mine that you were responsible for
23 at that time?

24 A. No, ma'am.

25 Q. Okay.

1 A. I was just called out to go to a --- because of an
2 inundation. I don't know if he tried to get ahold of
3 anyone else or not, but I was the person they reached.

4 Q. So you were called in during this event and you
5 monitored it for several days?

6 A. Five days.

7 Q. Five days. Do you have any knowledge of what the
8 company might have done after this event ---

9 A. How do you mean ---?

10 Q. --- to remedy it or to establish precautions?

11 A. I'm not aware. I wasn't at that level at that
12 time, so none of that would come through me.

13 Q. And at any time after that, after those events,
14 were you responsible for inspecting this mine again?

15 A. No, ma'am.

16 Q. Okay.

17 A. Now, you know, I wasn't a supervisor over the
18 mines and I don't recall if I was ever sent back
19 there. I'm sure I probably was back there again,
20 but ---

21 Q. Uh-huh (yes).

22 A. ---- I don't remember if I was assigned to it.

23 Q. Uh-uh (yes).

24 A. I assisted in two fatals there with Roger
25 Richmond, electrical and a roof fall. That's when I

1 was young --- early in my career, so --- but I don't
2 recall ---

3 Q. Uh-huh (yes).

4 A. --- if I was there again.

5 Q. And you've testified that you worked in this part
6 of West Virginia for some time. Had you heard about
7 these type of methane inundations at other mines?

8 A. This was my first experience with an inundation of
9 that magnitude. I've worked in gassy mines in this
10 area all my life. I've never seen an inundation like
11 that before.

12 Q. Okay. One more question concerning the events on
13 April 5th. Can you explain a little bit about how the
14 presence of the rescue chambers may have changed the
15 dynamic of how the mine rescue was conducted?

16 A. Well, I'm sure they was wanting to reach the
17 chambers to see if anyone may have survived in those
18 chambers. I never seen a chamber. I don't --- don't
19 believe that the mine rescue teams ever contacted a
20 chamber that night, that I can recall. But I'm sure
21 that they was --- that was one of their goals, to
22 reach the chamber.

23 Q. Uh-huh (yes). You had information with you
24 underground of where the chambers were located?

25 A. There was a map there and we had locations of

1 where we thought they were.

2 MS. MONFORTON:

3 Uh-huh (yes). Okay. That's all.

4 RE-EXAMINATION

5 BY MR. GODSEY:

6 Q. When you saw Blanchard and Whitehead, was their
7 SCSR deployed or did he just have --- was it still ---
8 where was it? What condition was it in?

9 A. They had SCSRs on their belts. It was my
10 understanding ---- now, I don't really recall how I
11 got this understanding, that they had used several
12 throughout that night prior. Of course I wasn't there
13 and I didn't see it, but when I seen 'em, they was in
14 normal gear with their SCSRs on their belt.

15 Q. So did you hear --- did you hear that from someone
16 that they had ---?

17 A. Seemed like to me I heard it from them, the best I
18 can remember.

19 Q. From whom?

20 A. From them.

21 Q. Oh, from them.

22 A. Yeah.

23 Q. Do you remember seeing Otis Matthews underground
24 that night?

25 A. Yeah. As we was being called out, we were

1 retreating back to Break 78, and it seemed like to me
2 I seen Otis just maybe 500 or 600 foot inby that. He
3 was going towards the fresh air base and I met him and
4 told him that they was recalling us to the surface,
5 and he turned around and walked back out with us.

6 Q. So he came back out with you?

7 A. Yeah.

8 Q. Okay.

9 RE-EXAMINATION

10 BY MR. FARLEY:

11 Q. After you were given the instructions from the
12 command center to evacuate the mine, was there any
13 delay in getting --- getting started?

14 A. Other than assembling the teams, you know, getting
15 'em back toward the fresh air base. They were ---
16 some delay. I don't recall, you know, the time. I
17 know there were some. Just getting the people there,
18 because we had 'em stretched out so far.

19 Q. Okay.

20 A. And we did wait on some of the members to get
21 back. I think the last ones, the best I can remember
22 is, Headgate 22 where they was walking off it.

23 Q. Okay. Was there a delay associated with an
24 individual looking for a lost face piece?

25 A. I never heard about that.

1 Q. Okay.

2 A. I don't know. I wasn't aware of that.

3 RE-EXAMINATION

4 BY MS. MONFORTON:

5 Q. For the record, could you just say who Otis
6 Matthews is?

7 A. Oh, Otis Matthews, he's a member of MSHA's mine
8 rescue team.

9 MS. MONFORTON:

10 Thank you. Thank you.

11 (Will's Exhibit One marked for
12 identification.)

13 ATTORNEY BABINGTON:

14 Okay. I just want to make a note for the
15 record that we marked one map, and if we could enter
16 that map as an exhibit. It's labeled Wills One.

17 On behalf of MSHA and the Office of
18 Miners' Health, Safety and Training, I want to thank
19 you for appearing and answering questions today. Your
20 cooperation is very important in the investigation as
21 we work to determine the cause of the accident. We
22 request that you not discuss your testimony with any
23 person aside from your personal representative.

24 After questioning other witnesses, we may
25 call you if we have any follow-up questions. If at

1 any time you have additional information regarding the
2 accident that you'd like to provide to us, please
3 contact us at the contact information previously
4 provided.

5 If you wish, you may now go back over any
6 answer you've given during this interview, and you may
7 also make any statement that you'd like to make at
8 this time.

9 A. I'm good unless y'all got any questions.

10 ATTORNEY BABINGTON:

11 Well, thank you very much. And again, I
12 want to thank you for your cooperation in this matter.

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STATEMENT UNDER OATH CONCLUDED AT 9:00 A.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

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I, Danielle Ohm, a Notary Public in and for

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the State of West Virginia, do hereby certify:

7

That the witness whose testimony appears in

8

the foregoing deposition, was duly sworn by me on said

9

date and that the transcribed deposition of said

10

witness is a true record of the testimony given by

11

said witness;

12

That the proceeding is herein recorded fully

13

and accurately;

14

That I am neither attorney nor counsel for,

15

nor related to any of the parties to the action in

16

which these depositions were taken, and further that I

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am not a relative of any attorney or counsel employed

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by the parties hereto, or financially interested in

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this action.

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Danielle Ohm

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