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Transcript of the Testimony of Gina Jones

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STATEMENT UNDER OATH

OF

GINA JONES

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Monday, May 17, 2010, beginning at 4:15 p.m.

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A P P E A R A N C E S

1
2
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I N D E X

1		
2		
3	OPENING STATEMENT	
4	by Attorney Baxter	7 - 10
5	WITNESS: GINA JONES	
6	EXAMINATION	
7	by Mr. Tucker	11 - 16
8	EXAMINATION	
9	by Mr. Farley	16 - 18
10	EXAMINATION	
11	by Mr. McGinley	18 - 21
12	RE-EXAMINATION	
13	by Mr. Tucker	21 - 22
14	RE-EXAMINATION	
15	by Mr. Farley	22 - 24
16	RE-EXAMINATION	
17	by Mr. McGinley	24 - 26
18	RE-EXAMINATION	
19	by Mr. Farley	26 - 27
20	RE-EXAMINATION	
21	by Mr. McGinley	27
22	RE-EXAMINATION	
23	by Mr. Farley	27 - 28
24	RE-EXAMINATION	
25	by Mr. McGinley	28 - 29

I N D E X (cont.)

1		
2		
3	RE-EXAMINATION	
4	by Mr. Farley	29
5	RE-EXAMINATION	
6	by Mr. McGinley	29 - 30
7	CLOSING STATEMENT	
8	by Attorney Baxter	30 - 31
9	CERTIFICATE	32
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
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P R O C E E D I N G S

1
2 -----
3 ATTORNEY BAXTER:

4 My name is Derek Baxter. I'm with the
5 Office of the Solicitor, United States Department of
6 Labor. With me is Norman Page, the accident
7 investigation team leader with the Mine Safety and
8 Health Administration, MSHA. Also present is Bill
9 Tucker and Terry Farley with West Virginia --- with
10 the West Virginia Office of Miners' Health, Safety and
11 Training. And Pat McGinley with the Governor's
12 investigation team.

13 Today is May 17th, 2010. Mr. Page, Mr.
14 Tucker and Mr. McGinley will be conducting the
15 questions today. Several other members of the
16 Investigation Team are also present in the room. All
17 members of the Mine Safety and Health Administration
18 Accident Investigation Team and all members of the
19 State of West Virginia Accident Investigation Team
20 participating in the investigation of the Upper Big
21 Branch Mine explosion shall keep confidential all
22 information that's gathered from each witness who
23 voluntarily provides a statement until the witness
24 statements are officially released.

25 MSHA and the State of West Virginia shall

1 keep this information confidential so that other
2 ongoing enforcement activities are not prejudiced or
3 jeopardized by a premature release of information.
4 This confidentiality requirement shall not preclude
5 Investigation Team members from sharing information
6 with each other or with other law enforcement
7 officials. And your participation in this interview
8 constitutes your agreement to keep this information
9 confidential.

10 Government investigators and specialists

11 have been assigned to investigate the conditions,
12 events and circumstances surrounding the fatalities
13 that occurred at the Upper Big Branch Mine-South on
14 April 5th, 2010. The investigation is being conducted
15 by MSHA under Section 103(a) of the Federal Mine
16 Safety and Health Act and the West Virginia Office of
17 Miners' Health, Safety and Training. We appreciate
18 your assistance in this investigation.

19 After the investigation is complete, MSHA

20 will issue a public report detailing the nature and
21 causes of the fatalities in the hope that greater
22 awareness about the cause of accidents can reduce
23 their occurrence in the future. Information obtained
24 through witness interviews is frequently included in
25 these reports. You should note that if you request

1 confidentiality, confidentiality will only be granted
2 on a case-by-case basis. Your statement may also be
3 used in other enforcement proceedings.

4 You may have a personal representative
5 present during the taking of this statement and may
6 consult with a representative at any time. You may
7 refuse to answer any question, and you may request a
8 break at any time. Since this is not an adversarial
9 proceeding, formal Cross Examination will not be
10 permitted; however, your personal representative may
11 ask clarifying questions as appropriate. A court
12 reporter will record your interview, and please speak
13 loudly and clearly. If you don't understand a
14 question asked, please ask that the question be
15 rephrased. Please answer each question as fully as
16 you can, including any information you've learned from
17 someone else.

18 I would like to thank you in advance for
19 your appearance here. We appreciate your assistance
20 in this investigation. Your cooperation is critical
21 in making the nation's mines safer. After we've
22 finished asking questions, you'll have an opportunity
23 to make a statement and provide us with any other
24 information that you believe to be important. If at
25 any time after the interview you recall any additional

1 information you believe might be useful, please
2 contact Norman Page at the telephone number or e-mail
3 address provided to you. Do you have a personal
4 representative here today?

5 MS. JONES:

6 Yes.

7 MR. JONES:

8 (b) (7)(C)

9 ATTORNEY BAXTER:

10 Thank you. And could you please spell
11 your name and state your address for the record?

12 MR. JONES:

13 It's (b) (7)(C) and it's (b)
14 (b) (7)(C) ₍₇₎ .

15 ATTORNEY BAXTER:

16 And what is your relationship to the
17 personal representative?

18 MS. JONES:

19 He's my brother-in-law.

20 ATTORNEY BAXTER:

21 Okay. Thank you. Would you please swear
22 the witness in?

23 -----

24 GINA JONES, HAVING BEEN FIRST DULY SWORN, TESTIFIED AS
25 FOLLOWS:

1 -----

2 EXAMINATION

3 BY MR. TUCKER:

4 Q. Ms. Jones, we certainly appreciate you coming in
5 today to share any information you have with our
6 Investigative Teams. And I know, speaking for all of
7 us, we would like to offer our heartfelt condolences
8 for you alls, you know ---. But just for the record,
9 if you could state your full name, address and phone
10 number?

11 A. Okay. Gina Jones, (b) (7)(C) , that's
12 (b) (7)(C) . My phone number is
13 (b) (7)(C)

14 Q. Just to mention, any time throughout the interview
15 while we're talking, if you need a break for any
16 reason, just call a timeout, we will take a break and
17 ---. But we would like for you to just take your time
18 and just whatever information you have to offer us,
19 just kind of go through it, and we'll just let you
20 start there and just tell us what you have for us.

21 A. Okay. My husband would come home practically
22 every day telling me he had no air again today. And
23 he would be exhausted from lack of oxygen. And he has
24 --- he told anybody that would listen. I had asked
25 him, well, did you --- are you telling people that you

1 need --- they need to change the ventilation or
2 whatever they need to do. And he would say yes, I
3 tell Everett, which is the superintendent, Gary May.
4 And he also told Chris Blanchard. He told Chris
5 Blanchard, you know, a dozen times that I know of.
6 He'd come up on his section, you know, for a short
7 period of time and would leave.

8 MR. FARLEY:

9 What section did your husband work on?

10 A. Headgate 22.

11 MR. FARLEY:

12 Headgate 22 section. And what did he do?

13 A. He was the section foreman.

14 ATTORNEY BAXTER:

15 And could you just say your husband's

16 full name for the record so that we have that?

17 A. Edward Dean Jones.

18 MR. FARLEY:

19 I'm sorry to get you ---

20 A. That's okay. I'm nervous.

21 MR. FARLEY:

22 --- off track, but I wanted to know what

23 section he was ---.

24 A. Yeah, I understand. And even the men that told

25 me, which he told me, too, Dean, that he's wrecked the

1 mantrip several times from falling asleep coming out.
2 And he's also wrecked --- almost wrecked coming home.
3 I've seen his tire tracks where he's told me he's had
4 lack of oxygen that day. I mean, he'd come home and
5 he would be so exhausted, he couldn't --- I'd look
6 over at the dinner table and he would be asleep.
7 That's the way he was all the time for the past six
8 months that I know of.

9 But he told me everyday there's no oxygen, there's
10 no oxygen. No air, excuse me. No air. I'm nervous.

11 ATTORNEY BAXTER:

12 That's okay.

13 A. And also, I know he's had to work in unsafe
14 conditions for a long time that I know of. You know,
15 he'd kind of sometimes let things slip because he
16 wouldn't want me to worry.

17 BY MR. TUCKER:

18 Q. What shift did he primarily work?

19 ATTORNEY BAXTER:

20 Go off the record.

21 SHORT BREAK TAKEN

22 A. I know he's had to work in water up to here
23 (indicating).

24 BY MR. TUCKER:

25 Q. Up to here meaning up to ---?

1 A. Yes. He's told me.

2 Q. Up to his neck?

3 A. Yes. And I asked him why would he be working in
4 water that high, and he would tell me that they was
5 trying to pump it out, but it wasn't doing too good.
6 And I know he fell and hurt hisself in that water.
7 And he went under the water. I know he went under it
8 and like he hurt his knee or something like that when
9 he did that.

10 And he just talked about how just unsafe the mines
11 was. And Chris Blanchard would know that and send him
12 in there like that. But Chris Blanchard knows that my
13 son had (b) (7)(C) but he knew my husband needed
14 the insurance and would have to work.

15 Q. What shift did he work?

16 A. Dayshift.

17 Q. Was that all the time, or did they switch shifts?

18 A. All the time.

19 Q. So he was full-time dayshift?

20 A. Yeah.

21 Q. Do you know if he was ever sent home early because
22 they had ventilation problems?

23 A. Yes.

24 Q. Do you have any memories about what time period it
25 would have been in?

1 A. I think it was a couple weeks before this
2 happened.

3 MR. FARLEY:

4 Did he say whether that problem was on
5 his section or on the longwall, or ---?

6 A. I believe it was the longwall.

7 BY MR. TUCKER:

8 Q. Was that more than one occasion he was sent home
9 over the ventilation?

10 A. He was sent home for other things, I believe, too,
11 yeah, but I'm not sure what they was. He
12 wouldn't ---.

13 Q. Right.

14 A. I know they had falls and stuff like that.

15 Q. It's hard for a coal miner not to talk a little
16 bit about it once in a while.

17 A. Yeah. But I could hear him on the telephone. He
18 would call every evening and check to see what --- you
19 know, what they run or, you know, how they were doing.
20 He did that every evening.

21 Q. Is he also a mine engineer?

22 A. Yes. Yes.

23 Q. So he knew a good bit. He had a very good
24 knowledge of ventilation?

25 A. Yes. Yes. And he also --- Wendell Wills and

1 Homer Wallace, they all knew what kind of problem they
2 was having there because Wendell Wills is the one that
3 could always fix it. Every time he could fix it for
4 Dean. Dean would always go to him, please, you know,
5 give me some air or whatever. And then after he
6 retired, nobody could fix nothing. Nobody could seem
7 to fix it.

8 EXAMINATION

9 BY MR. FARLEY:

10 Q. Was he --- Wallace was the mine foreman or
11 superintendent?

12 A. Wallace, he's the superintendent.

13 Q. He was?

14 A. Yes. And Wendell Wills was the mine foreman.

15 Q. Okay. I got their names backwards.

16 MR. TUCKER:

17 Did both of them retire?

18 A. Yes. One time they made my husband shut down his
19 section because he had no air, and Chris Blanchard was
20 the president, and he somehow found out and called the
21 dispatcher, which was Charlie Justice and told him he
22 would give him so many minutes to get that section
23 running again after Dean told him what he had. He
24 told him that if he didn't get it running, that he was
25 going to fire him.

1 BY MR. FARLEY:

2 Q. Charlie Justice, the dispatcher?

3 A. He was the dispatcher at that time.

4 Q. So I guess he was the communication between ---

5 A. Yes.

6 Q. --- mine management and underground?

7 A. Yes.

8 Q. So Justice called underground and told your
9 husband to get the section going?

10 A. Yes.

11 Q. Relaying the message from ---?

12 A. Yes.

13 MR. MCGINLEY:

14 Sorry, I can't hear you.

15 MR. FARLEY:

16 Relaying the message from --- you told me
17 Blanchard?

18 A. Blanchard, yes.

19 BY MR. FARLEY:

20 Q. What about Whitehead, did he ever mention
21 Whitehead's name?

22 A. Yeah. He just thought they did crazy things. You
23 know, they wouldn't --- you know, my husband has
24 worked in the mines for 30-some years, and you know,
25 he would just give them his opinion on things, and

1 they just did the craziest things, he told me.

2 Q. Did he ever mention about the air changing during
3 the day while they were producing coal?

4 A. Yes.

5 Q. That it would increase or decrease or ---

6 A. Increase.

7 Q. --- either one? Or both?

8 A. Yeah, it could be either one. I've heard several.

9 Q. Did he ever say anything about the equipment
10 doors?

11 A. Yes.

12 Q. What did he say?

13 A. About how they hung them, is that where
14 you're ---?

15 Q. Yeah. Did it impact the ventilation, I guess, is
16 what I'm asking?

17 A. One time he told me that, yes. Yes.

18 MR. FARLEY:

19 Do you want to ask her a question?

20 EXAMINATION

21 BY MR. MCGINLEY:

22 Q. Ms. Jones, there was a preliminary report of
23 accident that Massey submitted for your husband after
24 the accident. It listed him as the assistant mine ---
25 as the assistant mine foreman and said he had 29 years

1 mining experience, including 13 years, 24 weeks at
2 Upper Big Branch; is that correct?

3 A. At Upper Big Branch? Yeah, he had more than 29
4 years though.

5 Q. Okay. It was more than 29?

6 A. Yes.

7 Q. When did he start as a foreman up at Big Branch?
8 Do you have any ballpark?

9 A. August the 6th, 1996.

10 Q. So he worked at Upper Big Branch for a long time
11 and he saw a lot of things going on?

12 A. Yes.

13 Q. Did he indicate any sense of whether --- well, let
14 me go back. Was there a change in management over
15 that period of time, from the time he started?

16 A. Several times.

17 Q. And did he indicate any sense of whether the
18 safety concerns were being addressed by --- was safety
19 getting better or worse with change of management?

20 A. Yes, worse. Yes.

21 Q. What about, say, in the last couple of years
22 that ---?

23 A. It started really when Chris Blanchard started,
24 because he was more for production than safety.

25 That's what he always said.

1 Q. When your husband shut down the section and ---
2 was it Blanchard called Mr. Justice?

3 A. Yes.

4 Q. And when he was saying give him so many minutes to
5 get it fixed or fire him, was he talking about Justice
6 or talking about your husband?

7 A. My husband.

8 Q. Did your husband ever relate to you any
9 conversations he had with Mr. Blanchard?

10 A. Just where he --- my son has (b) (7)(C) . He
11 would ask him questions, stuff like that.

12 Q. Do you recall when that --- the shutdown of his
13 section occurred, approximately?

14 A. It was maybe a couple months before Charlie
15 Justice got transferred, I do know that, whenever he
16 got transferred.

17 Q. And the --- your husband talked about the doors,
18 they weren't hung properly?

19 A. Right.

20 Q. Did he elaborate on that?

21 A. No, no.

22 Q. Did he ever express to --- did your husband ever
23 express to you any concerns about what might happen
24 because of these safety problems that he was dealing
25 with?

1 A. Just that somebody was going to get hurt or even
2 killed is what his words was.

3 Q. And you testified that the air problems were
4 occurring over the last, approximately six months
5 before the explosion?

6 A. To a year.

7 Q. To a year?

8 A. Yeah.

9 Q. Did your husband indicate that the folks he was
10 working with were concerned about this as well?

11 A. Yes. They was very concerned.

12 MR. BECK:

13 I don't have any further questions.

14 MR. FARLEY:

15 Let's take a five-minute break.

16 SHORT BREAK TAKEN

17 RE-EXAMINATION

18 BY MR. TUCKER:

19 Q. I just have a couple more questions.

20 A. Okay.

21 Q. Do you know of any bulletins that was put --- or
22 notes that was put on the bulletin board at the mines
23 referring to vacation, or did you ever hear your
24 husband talk about they were talking about possibly
25 not granting vacation last year around December of

1 2009?

2 A. We had a lot going on then, so I don't know,
3 because my little boy was sick. He might not have
4 mentioned that to me.

5 Q. Okay. You mentioned about Mr. Justice, Charlie
6 Justice, the dispatcher being transferred. Do you
7 have any idea why he was transferred?

8 A. Because he --- they wanted him to work on one of
9 his days off, because he had so many days off. And
10 they wanted him to come in, and he told them he had
11 plans, he had already made plans, you know. They
12 said, if you don't work, you're going to be
13 transferred, so that's what they did, Chris Blanchard.

14 Q. Do you happen to know where he was transferred to?

15 A. No.

16 Q. Have you ever seen or do you know of any notes
17 that Mr. Jones may have made pertaining to work?

18 A. Yes, I have some at home.

19 Q. Could we get a copy of those notes?

20 A. Yes, yes.

21 Q. I appreciate it.

22 RE-EXAMINATION

23 BY MR. FARLEY:

24 Q. On Justice, when he got transferred, do you know
25 approximately when that time frame was?

1 A. Maybe last fall.

2 Q. So we're looking at ---?

3 A. Maybe December, somewhere in the middle.

4 Q. August, September?

5 A. Yeah.

6 Q. Okay. Did you ever hear your husband talk about
7 any memos or anything or have a copy of any that maybe
8 Blankenship or Chris Adkins had e-mailed or sent down
9 to give them instructions?

10 A. I might have them. I haven't gotten his truck
11 yet, so if I could get in there. I know he's got a
12 stack of papers in his truck.

13 Q. Okay. Or Blanchard or any --- you know, any memos
14 or anything that directed how they conducted coal
15 production versus safety or anything like that.

16 A. Yeah. Chris Blanchard would send nasty notes,
17 nasty, you know, memos, yes, but I don't know what
18 they pertained to. He wouldn't tell me. But I do
19 know that he mentioned that ---.

20 Q. But you wouldn't care to give us a copy of them if
21 you ---?

22 A. Oh, I wouldn't care, no. I would be glad to.

23 Q. So you know, Bill was talking about vacation. You
24 don't recall anything about December around
25 Christmastime or anything maybe canceling vacation

1 because production was down, not where they thought it
2 should be, or trying to intimidate them in some form?

3 A. Yeah, he did that a lot. Yeah, he did that a lot.

4 Q. Can you elaborate just a little bit on that,
5 or ---?

6 A. I'd have to think about that.

7 Q. Okay. That's fine.

8 MR. MCGINLEY:

9 When you say he, you mean Mr. Blanchard?

10 A. Blanchard, yes.

11 MR. FARLEY:

12 Okay. That's all I have.

13 RE-EXAMINATION

14 BY MR. MCGINLEY:

15 Q. I've got a couple more questions. When your
16 husband was dealing with the lack of air when he was
17 working, did he ever mention the folks working on the
18 section would say something like you've got to bring
19 your own air with you or anything like that?

20 A. No.

21 Q. Does that ring a bell?

22 A. No.

23 Q. Mr. Blanchard was the head of Performance. Did
24 your husband or anyone that he was talking to, do you
25 know of anybody that attempted to go beyond

1 Performance to Massey?

2 A. Yes.

3 Q. Can you share that with us?

4 A. They called Chris Adkins a month before this
5 happened.

6 Q. Who, do you know?

7 A. Dennis Simms.

8 Q. And is he someone --- who's Dennis?

9 A. He worked on my husband's section, and then they
10 put him outby doing work.

11 Q. After he ---?

12 A. Well, I don't know why they put him outby, but he
13 was running a piece of equipment for my husband.

14 Q. Do you know whether your husband or others that he
15 worked with would feel comfortable going up the ladder
16 beyond Chris Blanchard?

17 A. I think they was afraid.

18 Q. Afraid of losing their jobs?

19 A. Yes, yes.

20 Q. Were there any --- were there any situations other
21 than the one you relayed about your husband when they
22 shut down the section where people were threatened by
23 management with losing their jobs?

24 A. Well, my husband would --- Chris Blanchard would
25 cuss him regularly, over the phone, in the office,

1 wherever, just because --- just production, things
2 like that. It wasn't to where his standards was.

3 Q. Did Blanchard or anyone in management attempt to
4 contact your husband at home?

5 A. No.

6 Q. Just at work. Do you know whether there was any
7 policy of Performance, like a hotline, or ---?

8 A. Yes, they had a hotline, but that was a joke.

9 Q. Why was ---?

10 A. The men called that number and they did nothing.

11 Q. Do you know who they were talking to? Do you have
12 any ---?

13 A. It's like --- it's like you'd have a telemarketer,
14 you know, somebody like that. That's who they felt
15 like they was talking to, somebody like that. Nobody
16 --- they just take notes, and they said they'd pass it
17 along.

18 Q. And was it you could do it anonymously?

19 A. Yes.

20 MR. MCGINLEY:

21 I don't have any further questions.

22 RE-EXAMINATION

23 BY MR. FARLEY:

24 Q. On that hotline, that's what it was for, to call
25 in complaints and things?

1 A. Yes.

2 Q. Where do you get that number at?

3 A. They send you a card in the mail.

4 Q. You wouldn't happen to have that; would you?

5 A. I might have it, yes.

6 RE-EXAMINATION

7 BY MR. MCGINLEY:

8 Q. Do you know whether that call was supposed to go
9 ultimately to Massey's lawyers?

10 A. I thought it was supposed to go to the people
11 higher up. Management, that's who we thought.

12 Q. Not lawyers?

13 A. Like Chris Adkins.

14 Q. I see.

15 RE-EXAMINATION

16 BY MR. FARLEY:

17 Q. Did they have any type of bonus incentives?

18 A. No.

19 Q. Production bonus or anything like that?

20 A. They used to, but they took the longwall, I think
21 it was to Elk Run, and then they brought it back here
22 recently. And you know, my husband and them was
23 supposed to talk to Chris Blanchard --- or not Chris
24 Blanchard, but Chris Adkins about them getting the
25 bonus, because they was driving for the longwall, and

1 they thought they should, but he never done anything.

2 Q. Did they ever talk about what they had to do to
3 get the bonus, or ---?

4 A. No.

5 Q. They didn't have --- they never did have a safety
6 bonus incentive there?

7 A. Years ago, but not this time, that the longwall
8 come back, they did not.

9 RE-EXAMINATION

10 BY MR. MCGINLEY:

11 Q. I have one other question. You mentioned a time
12 that your husband was working in the deep water ---

13 A. Uh-huh (yes).

14 Q. --- and he hurt his knee?

15 A. Yes.

16 Q. Did he report it to the company?

17 A. No. He just got a scrape.

18 Q. I see. How did that affect him, the fact that he
19 fell and went under the water?

20 A. It just --- I guess it scared him, because you
21 know, he could have hit his head and drowned is what I
22 told him.

23 Q. Did he do that on more than one occasion, work in
24 that water?

25 A. Yes, yes. And that was back in the winter. I

1 know when it was.

2 Q. Do you know approximately when?

3 A. I just know it was back in the winter.

4 Q. Did he just tell you about it once, or ---?

5 A. No, he told me about it several times.

6 RE-EXAMINATION

7 BY MR. FARLEY:

8 Q. Was that after the longwall started up, and was it
9 on --- do you know if it was on the headgate entries?

10 A. I'm not sure where it was at.

11 MR. MCGINLEY:

12 That's okay.

13 MR. FARLEY:

14 Do you have anything you'd like to add?

15 A. I know he would call Wendell Wills even though he
16 retired, and see if he would come up there and get him
17 air.

18 RE-EXAMINATION

19 BY MR. MCGINLEY:

20 Q. What would Wendall say to him?

21 A. He would --- I think he come up there once or
22 twice to do that for him, because he's the only one
23 who had any sense, you know, because he knew that
24 mines. He worked there a long time. And him and Dean
25 and Homer was --- they was there almost as it started.

1 Q. Did your husband ever mention any concerns about
2 gas?

3 A. I heard him mention it over the phone. He
4 wouldn't directly ---.

5 Q. I understand.

6 A. Because he's --- he would be talking to the
7 outside boys, and I could here him ask stuff about
8 that.

9 MR. FARLEY:

10 No further questions.

11 ATTORNEY BAXTER:

12 On behalf of MSHA and the Office of
13 Miners' Health, Safety and Training, I want to thank
14 you for appearing and answering questions today. Your
15 cooperation is very important to this investigation as
16 we determine the cause of the accident. We require
17 that you not discuss your testimony with any person
18 aside from your personal representative. After
19 questioning other witnesses, we may call you if we
20 have any follow-up questions that we need to ask you.
21 If at any time you have additional information
22 regarding the accident that you would like to provide
23 to us, please contact us at the contact information
24 that was previously provided to you.

25 If you wish, you may now go back over any

1 answer you've given during this interview and you may
2 also make any statement that you'd like to make at
3 this time.

4 A. I would just like to say that I know my husband
5 was the most safety conscious person, and he did what
6 was right.

7 ATTORNEY BAXTER:

8 Again, I want to thank you for your
9 cooperation today.

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STATEMENT UNDER OATH CONCLUDED AT 4:57 P.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

I, Alison Salyards, a Notary Public in and
for the State of West Virginia, do hereby certify:
That the witness whose testimony appears in
the foregoing deposition, was duly sworn by me on said
date and that the transcribed deposition of said
witness is a true record of the testimony given by
said witness;
That the proceeding is herein recorded fully
and accurately;
That I am neither attorney nor counsel for,
nor related to any of the parties to the action in
which these depositions were taken, and further that I
am not a relative of any attorney or counsel employed
by the parties hereto, or financially interested in
this action.



Alison Salyards