

difficulty with it so bear with me.

Thank you. I - I think you'll hear some different accents as the day progresses. We're still waiting for Mr Tate to return and we'll - so if you'd just bear.....?.. By the way, is this - is it 9 - 12 o'clock there or so, 12.10 or so or?

10 - 10 minutes past 12, not quite 10 minutes past 12 now so five.....?.. Okay.

.....six, seven - seven minutes past?.. You're not - you don't break for lunch.

We will do that but we are - we'd like to get the three witnesses we have today by phone from your.....?.. Okay.

.....home to be done so we don't - we inconvenience you as least as possible. It will probably be a couple of minutes. You might peruse your statement if you wish to fill in the time?.. Okay.

Mr Tate is returning now. Thank you. In your absence, gentlemen, I just gave a brief explanation to Mr Snyder about our processes.

KENNETH KEITH SNYDER, SWORN AND EXAMINED:

CORONER: Gentlemen, I have told Mr Snyder each of your names and basically who you're representing so we could - filling in some time. I've indicated that you'll - that you'll introduce yourself to him as you go. Mr Tate will now talk to you, Mr Snyder and go through the processes that we are going to undertake?.. Okay.

Mr Tate.

MR TATE: Thank you, your Honour. Kenneth, good morning - or good afternoon at least from your end. My name.....?.. Yes, good afternoon to you.

And as the Coroner has indicated, my name is John Tate and I'm counsel assisting the Court in relation to this inquest. Kenneth, what we start with all of our witnesses by doing, is asking them to introduce themselves to the Court in pretty much the same way as we're introducing ourselves to you. So could I ask you please, first, for your full name?.. Okay. My full name is Kenneth Keith Snyder, S-N-Y-D-E-R.

And your occupation, Kenneth?.. I'm a vice president for Transamerica Insurance.

And your current address?.. Is 20330 Ardorv, A-R-D-O-R-V, Lane, and that's Estera, E-S-T-E-R-A, Florida. And the zip code is 33928.

Thank you. Now, Kenneth, I think you provided two statements to the police in.....?.. Yeah.

.....the Queensland Police? The first statement.....?.. Mr Tate, you're - you're breaking up somewhat.

I'll - I'll try this, is that better?.. That seems a little better, yes.

All right. Now, my understanding is that the first statement you gave was in Townsville and that was on the 22nd of October 2003?•• Yes.

Do you have that statement with you?•• I do.

Are there any changes that you'd like to make to that statement today? Any additions, deletions, alterations?•• The address of course is incorrect. It was correct at the time.

Yes. Anything else?•• In terms of what? In terms of content or?

I'm really asking, Kenneth, just to satisfy yourself and satisfy the Court that as at the time that you gave this statement it was true and correct to the best of your knowledge and belief and that you remain comfortable with it as being a truthful statement as at the time it was written?•• It - it - it was a truthful statement, correct.

Yes. Now, I think then you gave a further statement to the police and.....?•• Yeah.

.....that's headed up, "Addendum", and it - the second paragraph begins, "I have previously provided a statement to police."?•• Yeah.

You have a copy of that statement?•• I do.

Now, that statement I think was taken by police in America?•• Correct.

And the date you gave that statement should read the 21st of April 2007?•• Correct.

And if you look at the top right hand side I see there the date says the 22nd of the 10th 2003. I take it that that.....?•• Yes.

.....that is just a - an error and it's the wrong date?•• Yes, you're correct.

All right. Now, what I will note with your agreement is that our statement should read for that date, the 21st of April 2007. Now, are there any.....?•• Correct.

.....changes to that second statement, other than that - that amendment I've just made with you? Any other changes, any additions, deletions, alterations you'd like to make to this second statement?•• I - I don't believe so, no. I think that this statement, with the first one, is kind of a melding both statements. So, I - I - I don't see any - anything incorrect through my recollection.

All right. It's true and correct to the best of your knowledge and belief then?•• Yes.

Now, Kenneth, what we need to - to do and why you've been asked to give oral evidence is that in an inquest we try, as best we can, to understand the nature and cause of the tragedy and we need, as it were, and I said this to your wife, to almost borrow - borrow your eyes and ears because you're an eye witness and you can help us understand the events that - as they unfolded on the Spoil Sport and Jazz II that day. Does that make sense?•• Yes.

All right?•• It does.

Now, I think in terms of your diving qualifications, you're a dive master?•• I am.

And you're a dive master or held that qualification back in October 2003?•• I - I still do.

Am I right in assuming that in order to be a dive master, you would have done a - an open water course, an advanced open water course, possibly specialist courses, a rescue diver's course and then your dive master's course?•• That's correct.

And which organisation did you undertake that training and certification with?•• There were multiple, but the - the dive master's certification was issued by PADI. Initial courses were - basic and advanced were issued by National Association of Scuba Diving School, along with Kate and Kevin [indistinct].

And your rescue diver's certificate?•• PADI.

PADI. All right. Thank you. And I think in your statement you tell us that as at October 2003, you'd completed about 500 dives?•• Correct.

All right. Now, going to the events in question, my understanding is that you met Gabe and his wife, Tina, when you and your wife got onto the Spoil Sport that evening?•• We actually met them prior to getting on the boat.

I see. Whereabouts did you first meet them?•• We met them on, I think it was a picnic table or - or - or - or an outdoor dining - dining setting by a restaurant right by the boat.

All right. And so, at the time that you got on the boat, I think you tell us in your statement, that Tina had told you that she'd had about 11 dives and she'd just been certified in your spring?•• Correct.

Now, perhaps we can go to page 2 of your statement and there you more or less tell us that the - a couple of things occur. Firstly, on the evening there were various signage forms, the waivers, checking out the certification that you all had and I think the next morning, am I right in assuming that there was a dive briefing?•• There - there was.

And how would you describe that dive briefing?•• I - I would say that it was very, very professional. I'm trying to recall what the dive master's name was.

Wade Singleton?•• Wade, that was it. Was a kind of a - a slight fellow. You know, I - I guess by American standards, it was extremely well done and very professional. It kind of went into every detail about the dive that we would expect.

Did it talk about depths of different objects on the sea floor from the surface?•• He - he covered current directional dive, what to expect from the dive, the location of the wreck, the depth of the wreck, the compass heading and direction that we should follow, the entry - the [indistinct] entry onto the wreck, from the boat to the - to the - to the - to the wreckage [indistinct] and - and what to expect or - or - or typically what to expect in the descent to the wreck, plus the [indistinct] along the wreck and what to expect when we exit to - to the wreck going back to the Yongala.

Now, whilst these briefings were occurring on the morning before the dive, are - are you able to tell us whether Gabe and Tina were present?•• They were.

Sorry, I didn't hear that?•• They - they absolutely were present.

All right. Now, in terms of covering currents, are you able to recall what the group were told by Wade Singleton about the currents?•• I - I - I do. The current - he described the current in - in both general and specific terms. In general terms, he described the current flags that were at the - at the rear of the boat and pretty much said that we expect high - we - we expect significant current on every dive in the Coral Sea and - and that didn't exclude the Yongala. Then, specifically he said to expect the current on the Yongala and he gave the direction the current was, which determined which - which way we would - we would make our dive and - and he gave us an overall description of what he felt the current would be, which was - which was [indistinct].

Mmm-hmm?•• And I [indistinct] recall his exact words. He didn't say, "stiff". I - I found the current to be - well, I'll wait for you to ask me that question.

No, that's all right. I was going to take you there. After the two briefings, I think you tell us in the statement, that you and your wife, I think it was, who was your buddy, entered the water. How would you.....?•• Yes.

How would you then describe the currents, the water and the conditions when you entered the water and during the course of your dive?•• The current on the descent portion of the - of the rope going down, is that I felt that the current - it was first 30, 40, 50 feet continued to get brisk to the point where we got significantly down the rope - the handline with enough to - it - it got my wife's attention more than it got mine. We stopped at the bottom of the rope and there were four others in our dive group and we made sure everybody had their composure, gave the - gave the okay sign to everybody, everybody returned the okay sign. See, the - the current was a challenge but certainly not - it wasn't a determining factor for us to abort the dive. Once we got on the - on the wreck, the current was simply - I would say a knot - a knot and a-half maybe, directly in our face.

When you tell us that there was the stopping when you got to the bottom of the descent line, I take it what you mean there is the bottom of the ascent line where it is attached to the wreck?•• Yes. I - and - and I guess the question of - you're asking me what that descent line was and what it was attached to.

Well, no that's - that's all right. We know about that. It was attached to the bow.....?•• [Indistinct].

.....and we know that it comes from the surface and is attached on one side, as it were, to the wreck and then there's another line that goes down to the sea floor. You came down.....?•• Correct.

.....and at about 40 or 50 feet, which I think is about 15 metres, isn't

it.....?.. Yes.

.....you were at the top of the wreck. How would you describe.....?.. Correct.

.....the current at the top of the wreck?.. Correct.

Mmm. How would you.....?.. The - what - what - what specifically is your question? I'm sorry.

No, that's all right. We probably were talking over each other?.. Okay.

When you were at the top of the wreck and you were checking that everyone was okay, how would you describe the current at that point in time?.. It - it's - I - I'm certainly - I didn't think of the current in terms of [indistinct] at that point. I - I - I assessed the dive with - with my other three dive partners and my own view and we have all - we have all - a rule among the four of us that have dived hundreds of times together that if anyone feels uncomfortable, we abort the dive with no questions asked. Everyone gave the okay sign. My feeling, at my level, was that the dive was certainly doable with no danger. Paula, who was - Paula has a - I'm not sure how many dives she has, but she has several hundred dives and is an advanced diver, gave the okay sign for us to proceed so we proceeded. I - I certainly didn't think in - as a dive master that that - that that dive - I didn't think that it was over anyone's head at that point.

I see?.. I thought it was a very doable dive. We proceeded along to dive the wreck and had an enjoyable dive. It was - but bear in mind I didn't go to the Pearl Sea to do a dive in a swimming pool so it was exactly as I had imagining diving the wreck of the Yongala.....

Yes?..which was an advanced dive.

All right. Tell us about the residue of the dive and I take it it ended by your group of - was it four divers or six divers?.. I think there were six. I wasn't overly concerned with the immediate four, the two Millsaps and my wife and myself.

All right. But the other two divers other than your wife and yourself were not Gabe and Tina?.. They were not.

Tell us a little bit about the drive - the dive along the - the Yongala? Which way was the current going?.. Directly in their face and direction - I don't recall what direction that would be now.

Would that be from the bow to the stern?.. The end would be the bow; correct?

Yes?.. So, it would be from the stern to the bow. We were swimming into the current.

Right. Everyone else has more or less told us the current was strong, the bow going back.....?.. You're right. You're right, let me - I'm trying to recall this in my mind now.

That's.....?.. It was - it was at our back.

And it was a drift dive?•• It was a drift dive, correct.

Yes, all right. Now, it was an enjoyable dive going from the bow across the top of the wreck to the stern line?•• It was.

Whilst you were underwater did anyone approach you indicating that there was a diver in distress or asking for your help?•• No.

In your vision did a diver approach any of the people in your group and ask for.....?•• No.

.....assistance?•• No, I would have seen that, no-one did.

All right. Now, ultimately I think you came up the stern line.....?•• Correct.

.....and then returned by using the ropes back to the Spoil Sport?•• Yes.

You got out of the boat and then, I think, this is the first time that you begin to be made aware that there's been a problem?•• Yes.

Can you tell us - take us through what happened then, and I think we're probably at page 4 of your first statement and, of course, there was a lot of relevant material in your addendum, but take us through, if you would what - what happened then?•• I - as I recall we got on the boat and were on the Spoil Sport and we were removing our - our equipment. Someone in a group - Paula was next to me and looked absolutely across from - as I recall and there was - something was amiss and we couldn't put our fingers on it. I think at that time - at some point in time we saw Gabe come onto the boat and I think on one of the rafts - on one of the rubber rafts - things kind of happened almost - almost simultaneous that we - someone had said that - that Tina was missing. I approached Gabe and - and at that point in time thought that we might want to get re-rigged and go search for her and I asked Gabe what was going on and someone had said then that people were looking for - for Tina underwater at that point in time and that's when I approached Gabe and asked him, what was going on? What had happened?

And did he reply?•• Could you repeat that please?

Did he reply?•• He - he did. His - his statement was that - that she [indistinct] and **there was a bit of a panic situation in the water**, that she had reached for his mask and his regulator and had removed it. There was - there was - that she had descended, that **he felt that she was too heavy** and - and relayed the story to me and that by the time he had gotten his mask and regulator situated again, that she was - she was then down.

Mmm. Now, I think - that was the only conversation that occurred at that time, but you had a continued conversation with Gabe a little time later; is that correct?•• We had - we had a couple of different conversation, that was the first one.....

Yes?••on kind of blending them. The second conversation then he did go into a little bit more detail and he had discussed with.....

All right. Kenneth, we'll come back to that second discussion. Before we get to that.....?•• Okay.

.....some other things happened. For example, your wife comforted Gabe?•• She did. She did. I went back at that point in time then I went to the sun

deck.....

Yes?••of the - of the Spoil Sport and she [indistinct] I went to the - to the sun deck. They - I saw them putting Tina's body on the second boat.

That's the Jazz II?•• Yes. I saw Wade, I think it was, bring her body up and place it in - and then putting it onto the other boat.

Yes?•• And starting to do emergency CPR and so on and so forth.

Now, did you see - Kenneth, I'll just interrupt you there because it's a convenient time. Did you see where Wade and Tina surfaced?•• No, I did not. I saw - when I first saw him she was at the - I think at the stern of the boat with her.

Mmm-hmm?•• So, I didn't see if he, you know, surfaced some feet away and - and carried her on the surface I - simply the first time I saw him was at the - at the boat.

All right. Now, I think you then had a further conversation with Gabe and that was once you were back on board the Spoil Sport. You were on the back deck removing equipment and you recall that Gabe was brought back to the vessel in a tender. Tina wasn't with him and you don't recall exactly who said it to you, but you found out that Tina was missing?•• Yes.

And at that time you were at the rear of the boat with Gabe and you went back and spoke with him; is that correct?•• Correct.

And if you can take us through what happened then? What was your initial intention?•• It - his story was somewhat - was different. Both stories were somewhat different in what he reflected to me. During one of the stories he - he repeated the fact that they were on their dive and they were about 30 feet and that Tina had panicked because he felt like she was overrated and that she had had - came up to him and latched his - his mask and regulator out of his mouth and by the time he got himself organised she was below him and sinking at 10 or so feet below him and he had to make a split second decision to get help or to assist or get help and as the - the second story that he reflected to me made no sense to me at all.

What was the second story?•• What I just reflected to you.

I see. And then I think you said after that something along the lines of, "Bullshit, that didn't happen."?•• Yeah, I was - I was upset at that point because of what was going on and the whole atmosphere, his story that he repeated to me as a diver, it made no sense and I - and I - I was angry and I did state, you know, something [indistinct], "You'd better - Gabe, you need to think that through. That didn't happen."

Now, what was it that - obviously your - you were thinking about what Gabe was telling you from your qualifications as a dive master as well as your considerable experience as a diver, what was it that was causing you concern? Can you take us through your thoughts about it all?-- It was just - it was a series - it was a series of things. She reflected the time limit that she had been diving and it just - I don't recall what it was now, but it was something

significant - a significant number. In excess of 10 minutes, she was into his dive and Tina, he thought was overrated. That was - in my mind that made no sense because a diver is - is heavy the first second they go into the water and tend to lighten up the longer they're in the water. Secondly, he said we were - whatever the time limit was we were in the water, we were in about 30 foot of water. After 10 minutes she wouldn't be at 30 foot of water. That didn't make sense to me either. Why would you want to be - why would you want to be - why would you have only descended 30 feet unless you were down and came back up or - that made no sense to me either. The fact that he said that she panicked and knocked his mask off, **you certainly don't need a mask to scuba dive in that situation.** That's not a priority in - in an emergency situation to me at least. Putting your regulator in your mouth is and if she panicked he certainly was significantly larger than her and I felt like he should have - this is going through my mind, that in a panic situation, had it been my partner, I would have grabbed the panicked diver and given them the thumbs up sign, "We're going up." Most of the time a panicked diver will calm down at that point in time when you just tell them, "We're going up." In addition, he said that she was 10 feet below him and descending. It's been my feeling, and I've been around panicked divers before, panicked divers don't sink, they crawl to the surface in any way possible. Sometimes over you to get to the surface. So a panicked diver will never calm down and just descend. The other thing you said, "I had to make a split second decision to assist her or to go get help. I elected to get help." Your - it has a definable flaw. You know how far down a person's going to fall, you could accompany them. That's the worst case - the worst thing you could do. The worst thing to do is to abandon them. The second worst thing would be to follow them to the floor of the ocean and bring them up. But a person 3 metres below you is two kicks with your fins and you're on top of them. So none of his story makes sense and that's when he told me that, that I was angry and said, "Gabe, that's bullshit. That didn't happen." Something happened, but that didn't happen.

And what occurred then, did he reply to those comments from you?-- No, he just stared at me and that is about the time that I think Dr Millsap - Doug Millsap came over and I said, "Doug - Doug, you talk to Gabe 'cause this doesn't make sense to me." And Doug had a conversation of which I was only partially interested in hearing.

Yes?-- And - and the thing I did hear was that - I was a few feet away and Doug got angry also. Doug - Doug heard me get angry and then Doug, who in fact is - is an extremely easygoing [indistinct] was not happy with the story that Gabe reflected to us. Bear in mind I drew no conclusion to what happened. I still draw no conclusion as to what happened, but that didn't happen in my mind. It wasn't plausible.

Wasn't plausible did you say?-- Correct. It was not a plausible - you know, something happened, but not that story.

All right. And I think you've already told us that Mr - Dr Millsap came over and there was another discussion. You heard little parts of that but not all of it and then you talk in your statement about the reasons why you had some concerns about the version of events that Gabe was giving you and you've pretty much taken us through all of those. You then talk in the last page - you talk about panicked divers and your experience of having had to deal with them on eight to 10 occasions, but help me understand this, going through the three areas of diving certification, open water, advanced open water and rescue dive - diver, what - what is the - what are the rules about having a buddy and how - how you had to look after your buddy, why do we have a buddy system and when is it acceptable from good diving practice to leave your buddy?-- Well, in - in

open water diving - the rules are different for cave and cavern diving in that there are really no buddies. But in - in open water diving a buddy is - is an additional safety feature. I - I tell my buddy that prior to a dive when I check their air they say, "Thank you for checking my air", and they say, "No, it's not your air it's my air." And so it's your lifeline and you rely a great deal, you should - you know, we check our buddy's equipment, they check our equipment and you're supposed to be tuned into that person all the way through the dive and at the first sign of trouble be alert to it and react accordingly and I - you know, certainly the first thing that you want to do is assess the situation in a panicked diver and determine if you can solve the problem under water and if you can solve their problem under water solve it. If the problem is beyond solving, if the person is completely panicked, then ultimately bad things are going to happen and you need to take control of the situation and in some cases that's taking control of the diver and physically escorting them to the surface. And that includes dropping weight belts if you need to do that. You know, checking their air supply to make sure it's on and - and firmly grabbing a hold of that diver and - and sort of reassuring them and take them to the surface.

When is it acceptable practice to leave your buddy in open water diving?-- You know, could you repeat that again, you're broke up again.

When - when is it acceptable in open water diving to leave your buddy?-- If they're dead.

And that's the only occasion?-- I - you know, I - I certainly can't - you know, there may be an occasion that they get - if they get stuck under an object and you don't have the proper tools to - to free them, then you need to go to the surface, but in the absence of the diver being - being stuck or unable to come to the surface because of another object blocking their path and you need to get assistance, there - there is no reason to - to leave a diver.

Now, I think you told us that you did your rescue diving course through PADI?-- Correct.

You don't need to go into a great deal amount of detail about that, but how would you describe that particular certification? What are the competencies that the PADI people are attempting to impart to the students who are seeking that certification?-- Well, there - there's a certain amount of first-aid and CPR courses that a person must have as a pre-requisite. In addition to that there is a required number of - of open water dives that a person must have logged. In addition to that then there's a course, written material, that a person must - must take and pass and then - then there are certain open water dives that a person must go out and demonstrate rescue techniques, rescuing a - a disabled diver. We - we had to rescue a panicked diver, we had to bring a - bring a disabled diver and a panicked diver to the surface and return a disabled diver to the boat and demonstrate that satisfactorily for the instructor.

So it's very much a competency based certification, you have to be assess?-- Absolutely.

Mmm, all right. Now, if I were to suggest to you that the rescue diver certification is really a certification about how to rescue yourself, would that

be something that you'd agree with?•• How to rescue yourself did you say?

Yes, and only yourself?•• No, I wouldn't agree with that.

What - Ken, why not?•• Well, because in order to become a - a dive master, for instance, a prerequisite is a - is a rescue divers course. You'd - certainly rescuing yourself is covered in basic open water certification and advanced open water certification. So, the - the rescue diving program certainly doesn't cover rescue techniques for yourself.

What does it cover? Really rescue techniques for others?•• Yes, and - and it covers things in addition to demonstrating rescuing people, it covers establishing grid patterns for finding lost divers. It - why would they cover grid patterns underwater to lost divers if you're trying to rescue yourself unless you're [indistinct] lost.

Mmm?•• So, it's - it - it's normally for rescuing other divers.

Yes, all right. Kenneth, thank you, that's all the questions I have, if you wait on the line there may be other•••••?•• Okay.

•••••barristers, that's what we call the - the trial lawyers out here, who may wish to ask you some questions? I'm certain•••••?•• Thank you.

•••••I'm certain that they will introduce themselves to you first so that you know who it is that is speaking with you, thank you?•• Okay.

MR ATKINSON: Mr Snyder, can you hear me?•• I can.

My name is Atkinson and I'm the barrister for Mike Ball Dive Expeditions. I've just got a•••••?•• Yes sir.

I've just got a couple of questions for you?•• Yes.

When you were speaking to my learned friend, Mr Tate, you spoke about your experience and in particular you said that you've done 500 dives?•• In excess of that, correct.

And you're a - a scuba master?•• Yes sir.

That means, I understand, that from time to time you take groups down and you're responsible for their safety?•• This is correct.

In that context you said that the briefing gave by Wade Singleton, that pre-dive briefing, you described it as very, very professional?•• Yes sir, it was.

Can I ask you this, Mr Snyder, having done the dive and reflected back on the briefing, do you say that the dive briefing prepared you adequately for the dive?•• There - he drew a - he drew a picture [indistinct] and on a - on a - on a board that was in my mind's eye. Almost a - a polaroid shot of what it really was when I got into the water.

And in essence you felt prepared in terms of the conditions, such as the - the current and the visibility and the nature of the Yongala after you did the dive?•• I - I - I had - there was no shock to me at all, it was absolutely dead on with the - in - you know, if you - I've been on a lot of dive boats, it was

as good as any dive operator - dive briefing there was. It was - it was light and lively but extremely serious when it needed to be serious. I - I had no experience diving with sea snakes, he brought that up in his - his briefing to be - to be aware that they may be swimming around. Since he covered all aspects of the - what I consider to be the important issues, the things that could get you in trouble so, it was - it was - he made the suggestion too of how we should enter the water. We followed his suggestion and so I - you know, I - I felt that it was a very professional - very professional job.

Is it fair to say, Mr Snyder, that the level of professionalism that you speak about, it doesn't just apply to the pre-dive briefing but to Mike Ball's operations that day generally?•• Yes, I - the - I had no - I had no issues with - with Mike Ball's operation that day or for the remainder of the dive. I - they were - the dive briefings were all excellent and, yeah, they - they ran a good show.

Mr Snyder, at page 4 of your statement - sorry, it's page 2 of your first statement, you speak about the weather conditions that day and you say that the temperature in the water was 77 degrees Fahrenheit, the visibility was 50 to 75 feet and there was a moderate current from bow to stern; can you see that?•• Yes, I - I wouldn't have made that mistake if I had read my statement first, right, about the current, I'm sorry, that's correct.

So, it's a moderate.....?•• I - I - I said.....

Sorry, go ahead?•• Go ahead. I said that - I described the weather as being pleasant, the water was 77 degrees, moderate current, I - and again the definition of current is going to change from person to person. I found it to be moderate, my wife would argue with me and that was found to be significant. The - the fact of the matter is it was well, it was doable, she - she - I think that - and - and I'm sorry, I have a terrible time with the - what was the diver master's name again?

Wade Singleton?•• Yes, Mr Singleton, I think he described the current as being beyond moderate in fact that day. But the visibility at - at the - at the deck of the - the ship was between 50 and 75 Cs.

Would you agree, Mr Snyder, that as you approached or became parallel to the - the wreck of the Yongala the current dissipated to some extent because you had the protection afforded by the wreck?•• I was significantly less at the - at the deck of the boat, correct. It was - it was certainly more severe coming down the rope, and that's not an uncommon occurrence in diving in that it - it - with diving wrecks in the Caribbean and in the Florida Quays you can go down the descent line and feel as though you're - you're going to be blown off the rope and when you descend deeper the current in fact will change. And this - while it didn't change much it did settle down somewhat to where it was - it was manageable.

The current on the surface was the - the same as the current as you went down the descent rope?•• No, I thought the - the current at the surface of the boat, at the deck of the Yongala I thought was slightly less than what it was on the descending rope.

Now, you've mentioned of course that how big a current is - is going to be relative to the person, just so that we can.....?•• Correct.

.....try and picture it, was it the kind of current that you could swim against comfortably?•• Yeah, and I - I - I felt that the current was - there was a time

when I had turned and swam into the current and I was able to make way into the current and that's why I judged the current to be somewhere around 1 - a knot to a knot and a-half.

And you - the four of you, you all gave that okay symbol and you all proceeded with the dive uneventfully in conditions that were.....?.. Correct.

.....doable, as you say, for you?.. Correct.

And I hope you won't consider this question discourteous, Mr Snyder, but all of you were in your fifties?.. Yes.

And presumably like all of us you're most athletic days were behind you, is that fair?.. Exactly.

But you didn't have any trouble?.. No, in that - now, my wife is extremely aerobic for - she's probably 115, 16, 17 pounds, I am - I am not I will leave it at that but.....

Well, I'm.....?..it - it was well within my.....

.....not going to ask you to go further. Is it - are you saying you're a little bit chubby?.. I'm - I - yes, I'm - I will not be doing any modelling that's for sure.

All right. Now.....?.. But - and it was certainly doable to an old fat guy.

Thank you, that's - that's what I was hoping to illicit from you. Mr Snyder, you mentioned when you were speaking to my friend Mr Tate that the only time when you consider it appropriate to leave to your buddy is when your buddy has passed away?.. Correct.

I'm wondering whether there's this other circumstance where you might leave your buddy and that's where you have searched for your buddy for one minute and you can't find your buddy?.. Well, that - yeah, but that's - that's not leaving your buddy, your buddy is only gone, you buddy sort of left you. And when you get separated the protocol is to search for a minute and then ascend to the surface. I - I was discounting that, I was thinking that you were within arms length or so of your buddy and you - you in fact - when - when would you ever leave a buddy at that point in time. So, I'm sorry, I misunderstood the question.

Oh, no, no. I'm sure you and Mr Tate probably understood each other perfectly. The reason you don't leave your buddy if you know where he is, is this right, is that your first concern is to make sure that your buddy has adequate oxygen?.. Correct.

Thank you. Nothing further, your Honour.

CORONER: Mr Walters?

MR WALTERS: Mr Snyder, my name is Harvey Walters. I represent Tina's parents, Mr and Mrs Thomas?•• Yes, sir.

Mr Snyder, the - what I'd like to concentrate upon is the conversation you had with Gabe Watson. When you initially spoke with him this was prior to your wife consoling him?•• Did you say when did I initially speak to him?

Yes. Was that before your wife was consoling him?•• Yes, it was. It was.

And so, it is at that point in time he has given you his first version of events?•• Correct.

And the - that is the - the version which you have included in your addendum statement?•• Yes.

Would it be correct to say, Mr Snyder, that the first statement was a very sanitised version of events?•• Yes, it - it was.

And the somewhat unpleasant events where you have challenged Mr Watson about his account, that was not included in your first statement?•• Correct.

Now, Mr Snyder, the - was Watson standing up when he spoke to you telling you what had happened on the first occasion?•• He was. He was standing at - up at the - in the - at the stern of the boat and still had his - his dive skin on.

Right. And had you had any conversation with him before he told you what he said had occurred?•• I did not - I didn't have a conversation with him until I walked up to him and said, "What happened?".

Okay. So, you asked him what happened?•• Correct.

And that is when he said, "We were into our dive at around 30 feet, Tina started to panic because she was overweighted. During the panic I couldn't control her and she started flailing. She knocked my mask and regulator off. By the time I got myself organised she had descended 10 feet below me and was sinking. I had to make the split decision to help her or go and get help."?•• Correct.

And your response immediately to that was, "Bullshit, that didn't happen."?•• Correct.

When you challenged him what was his reaction?•• He stared at me almost in disbelief. Because I added to that - that, "Gabe, that didn't happen".

Yes?•• You know, "Something happened down there, but that didn't happen".

And did he say anything further to you?•• No, he - he became silent.

Now, you said - you said, "Doug then came over.", is that correct?•• Then - then Doug Milsap came over, correct.

And Gabe repeated to Doug or gave Doug an account of events?•• Yep. And I think that the version that he gave to Doug may be different than the version he gave - that he gave to me.

Do you recall what the differences were?•• No. You know, I - I don't. I don't really recall because I was not listening totally to what - like in his conversation accept at the end of it when he - he [indistinct] was - was agitated with him also.

And he also challenged him?•• He did challenge him. It - I - and I - it - if I could offer a personal view point, [indistinct] it's just - if you have a hobby that you know and love and do well•••••

Yes?•• •••••and someone comes up and says something that's just convoluted it - we just can't let it go by, do you know what I mean. That's what happened. It - the story that he reflected just wasn't plausible.

Yes?•• And, you know, in that - the reflection was that something happened but not that. And - and again, I - I'm - I'm drawing no conclusion except that that didn't happen.

Prior to this you were getting ready when you found out she was missing to go and join in the search?•• Could - could you repeat that again?

When you found Tina was missing you initially were going to go and join in the search for her?•• Exactly. That was - that was our initial thought.

And did you become aware that she'd been located?•• We became - located - one of the members I think of - of Mike Ball's crew said that they - [indistinct] were searching for her•••••

Okay?•• •••••at that point in time. So, we - we backed off and I didn't know the time line, how long she'd been missing at that point. So, we - we - we would have had to - by that

time I would have had to have rerig and was willing to do it but the - there was a couple of fellows and I think they were New Zealanders that worked for the dive operation [indistinct] the rear of the boat that kind of brought us up to speed that - that - that they were searching already.

Now, you've given your - what Gabe said to you could - had no difficulty understanding or hearing what he was saying?•• Did you say when - when Gabe was talking to me•••••

Yes?•• •••••did I have difficulty?

Yes. You - you - you could hear him - clearly hear what he was saying?•• Gabe was 18 inches away from me.

Okay. Now, when - I appreciate that when Doug was talking to him you weren't involved in all of the conversation but at anytime did you hear Gabe make any reference to any pain or injury with his ears?•• No. No, I - no. I - I - no, I - he never mentioned that. I don't know of the relevance of that anyway. He - you know, I've got to tell you, I - he may have meant - it would have been so irrelevant to the conversation at that point in time that I - I may not have paid attention.

Okay. There was no mention of - of swimming against the current or fighting the current?•• None at all.

And you have already told us from your experience what you would expect a panicked diver to do? I have no•••••?•• And again•••••

Yes?•• I'm sorry, Sir, I lost the last part of that.

You've already relayed it to the Court what you believe from your experience a -

a panicked diver would do in such a situation?•• Correct. Correct. In - in - again, it's just a personal view point that - I've seen panicked divers before•••••

Yes?•• •••••they - they don't behave the way he described.

Thank you, I've no further questions.

CORONER: Thank you. Yes, Mr Zillman, at your convenience.

MR ZILLMAN: Mr Snyder, Zillman's my name, I've got some questions for you as well?•• Yes, Sir.

The - the fact is that you made statements. The first on the - the very day things happened and then a second one some - some few years later, correct?•• Correct.

Now, I'm interested in the first statement at this point. That was made at the Townsville Police Station after the Spoil Sport had returned to Townsville, is that right?•• Yes, Sir.

And you were asked by Mr Tate earlier whether you had any additions or corrections to make to it and you said that you didn't; is that right?•• I did, but I also said that I felt the two statements were melded together.

I understand that but in so far as the first statement, you didn't want to add anything like except to suggest that the address had changed?•• Correct.

Now, when - when you made that statement, that's the first statement, I take it you read over it?•• Yes.

Did you - did you read it?•• Yes, I did read it.

All right. You satisfied yourself it was correct at that time as well?•• Correct.

And accordingly you signed off on it. You signed it?•• Yes.

Well, now, going to that statement, I'm interested in these passages, that after you had completed the dive, at the bottom of page 2, you say on ascending the surface you following the rope of the Spoilsport, right?•• Yes.

You checked in, stripped off your equipment and went to the sun deck?•• Yes.

Checking in, is that a process where you simply report to the dive master or someone of that kind that you were back on board?•• Yes.

You then heard some commotion at the next boat beyond us; is that right?•• Yes.

"I saw Wade, the trip director, putting a body on the stern of the other boat, it was anchored approximately 50 metres from our boat", is that right?•• Yes,

yes.

"There was also another boat anchored adjacent to ours. It was approximately 40 metres away. At that time I didn't know it was Tina but I later found out", is that right?•• Correct.

Okay. Well, then the - the next development in things seems to have been that you heard a radio communication from the other boat that there was a diver in distress; is that right?•• Correct.

You told the Spoilsport crew member there was an ER position, John, on your boat?•• Yes.

The crew member asked you to get John which you did and you saw John get into the inflatable and go over to the other boat; is that right?•• Yes.

"I then observed Gabe standing on the back of the boat. He seemed to be puzzled." That's your next observation; is that right?•• Yeah, but it's out of the water.

I beg your pardon, I beg your pardon?•• [Indistinct] out of the water in the chronological events, how they happened. Comment by Michael McFadyen - I think this should be out of order

Right. Well, that's why - you see, I asked you first some questions before about reading over the statement, being satisfied whether it was correct, not---?•• Yes, and I apologise for that. If you check both statements-----

Hang on?•• Then-----

I know you said you'd take both statements together but at the time you made the first one, the second one wasn't in existence, of course, was it?•• Exactly.

So - so-----?•• The - the first statement-----

I beg your pardon?•• The - the first statement was - you know, I don't recall the time but it was significantly late at night.

Mmm?•• After coming back to shore on the boat. So it was - it was in somewhat king - when I got an opportunity then after that to start putting notes together on the boat and so that I would remember things. That's the more [indistinct] the second statement.

Well, I know that but let's just stay with the first one at the time the first one was done?•• Yes.

It appears on the face of the statement that your recollections were that you saw a body being placed on the boat who you didn't know then but later realised was Tina, right?•• Yes.

Then your recollection was that next you heard the radio communications?•• When - when - what page are you on now about seeing a diver-----

Page 3-----?•• -----being put on the boat and I didn't know who it was. Where is that?

That's the bottom of page 2?•• It says I saw [indistinct] the dive director putting a body on the side of the boat as it entered - did I say I didn't know

who it was?

That's right. You say... Where does it say that?

On the last sentence?... Okay.

Now, go over to page 3?... You know, I have no clue why I said that because it just - it just - it wasn't factual, I was on the stern of the - I was on the sun deck of the boat. My wife was down below during this time. I knew it was. I told John, our - our position on there. I mean I was well aware of - I have no clue why I said that and the police department accept it was late and-----

CORONER: Hang on, well, just explain, Mr Zillman. Yes, go on?

MR ZILLMAN: Do you want to say something else?... No, sir.

As I understood it, you didn't know, in reading your statement, you didn't know it was Tina at that early point when you saw the body being put on the stern of the boat because you hadn't even realised or heard any detail about the incident at that point?... That's not correct.

All right. Well, putting aside whether you knew it was her or not but we go over to the top of page 3?... It's - it's not - it's not true whether I knew it was her or not, I knew it was her.

Well, go over to page 3, whatever the position might be, go to page 3. The next thing you stated in your statement was you heard the hand-held radio communications; is that right?... Yes, I did hear that conversation.

Right. And you were expressing that at the time you made the statement to be the next in the sequence of events?... You know, I don't know if there was any order of a particular event when I gave this to the detective because it required putting this in chronological order. I certainly, you know, react - and so I'm not quite sure what you're getting at here. I did hear a hand held communication. So specifically, sir, what are you asking me?

I am asking you as I just did and I'll repeat it, that as you expressed it, the sequence of events was first that you saw the body being put onto the boat and the next in the sequence of events was that you heard communications over the radio, that's the way you're expressing yourself?... Expressing myself now, they did put the body, they put on the boat. Then I heard a hand held communication from the boat that should be the Spoilsport [indistinct].

Okay?... Explaining what was going on with - with her.

And as one reads this first statement, those things happened before you made any observation of Gabe?... That's not - yeah, but that's not - that's not in the correct sequence.

Well, is that the sequence that you describe?... The correct sequence was - the four of us, the Milsaps and the Snyders were taking their dive gear off and Gabe was - Gabe came in on a rubber raft, we continued to take our equipment off. I talked to Gabe, went to the sundeck then.

Well, nonetheless, is that the sequence that you then describe it though as being when you gave your statement to the police? Whether it's right or not, is that the sequence that you then described it as?-- Are you asking me if this is the - say that again because you are breaking up a little bit.

I know you tell me, and I hear what you say, that it's not in the correct sequence, but what I'm asking you is.....?-- Correct.

.....this, did you get the sequence wrong when you gave your statement to the police?-- I don't recall if they - if the officers asked me for a sequence. I don't think that they said, "Did this happen, then this happen, then this happen."

Well, if you go to.....?-- Because I can't imagine saying I didn't know who - whose body they were putting on the boat.

If you go.....?-- It was almost axiomatic at that point in time.

If you go to page 3 again, in the second paragraph you made this statement. You say, "I then observed Gabe standing at the boat." Do you see that?-- Yes.

Well, by the use of the word "then" you were endeavouring to communicate that that was the next thing that you saw?-- And your point is, sir?

The point is, I'm asking you to agree with that or not?-- I obviously disagree with the sequence in this report.

Did you notice when you signed your statement after having read it, that all of this was out of sequence and do anything about correcting it?-- I - I did not.

Tell me this, there's a detail in your second statement of other conversations with Gabe, aren't there, beyond those which appear in the first, do you agree?-- Say that again one more time please.

Do you agree there is detail in your second statement of conversations with Gabe that doesn't appear in your first?-- Correct.

Why do they not appear in your first statement?-- The - I think it's because you had to be there and the lateness of the night, everything that was going on, not a whole lot of time to recollect, but I certainly - I don't understand how the sequences got out of place there.

Well, forget the sequences now, I'm just interested in the detail. Is your explanation that the conversations you put in the second statement, not being the first, that it was late and you didn't then recall it?-- The - again, I'm sorry, that - that question didn't come clearly.

Is your explanation for the fact that the - the conversations in your statement which don't appear in your first, is that you were - it was late at night and you didn't then recall them?-- I think that the first statement that I gave was - was certainly late at night and somewhat not detailed and I certainly didn't have time to fully prepare for and - and recollect all the sequences and neither, by the way, did the person taking my statement attempt to put it in proper chronological order. Simply, we're kind of going all over the place in the - in the first discussion with the first [indistinct] person.

Did you on that night recall the conversations which we see in your second statement?-- [Indistinct]. Yes.

You did recall them on the night that you gave the first.....?-- Yes.

Is that your answer?-- I did recall, sure.

Well, if you recalled them why didn't you tell the police about them?-- I didn't know how much of that was necessary.

Well, did you think the police.....?-- And how much of it was important.

Did you think the police wanted to find out what had happened, what was the cause of the death?-- You know, I - I really had no idea what the police were doing that night.

Well, did you think nonetheless that they would be interested in the cause of the death?-- You know, I - one would assume that. They certainly didn't tell me that. So, you know, my responses that night were - were more in general terms than anything else.

Did you have a view as to what the police were interested in at all?

CORONER: Just hang on, we're turning off a phone.

WITNESS: I thought that they were - they were gathering information about a dive accident, certainly.

MR ZILLMAN: I.....

CORONER: Sorry, I didn't get that either. I don't think - could you just repeat that please? I - I'm the Coroner. Just repeat your answer?-- I felt that the police department were gathering - was gathering information regarding a diving accident.

MR ZILLMAN: Well, didn't you think they might be interested in what Gabe had told you as to what had happened?-- They certainly didn't pursue that in too much - in very much detail with me.

Did you think that it might be of interest to the police to have told them that you thought Gabe's story was bullshit?-- I did tell some Australian policemen that subsequent to that.

No, no, that night when you were doing your statement?-- Not that night. They were very general, somewhat hasty. After I was interviewed by a couple of other Australian detectives they were much more detailed than - and were interested in - in - in specific details and - and events as they happened.

When was that? What year?-- Was it in 2007?

All right?-- And I was also interviewed by video tape somewhere between 2003/2007.

Somewhere in there?-- On a couple of occasions.

Okay. Tell me this, when you came back from your dive and got onto the boat did you remain in the company of Paula?-- I did. Not - after we were finished with

the dive for how long?

Well, up until the point that you were telling Gabe the story was bullshit?-- I did - I did not - no, I was not attached to her, no, sir.

I didn't hear you.

CORONER: He said he was not attached to her.

WITNESS: Yes, exactly. We weren't - we weren't attached, we were putting equipment around and sort of milling around in our own directions.

MR ZILLMAN: Yes, but you were in the same general area, that's what I mean. You didn't go to another part of the boat or did she go to another part of the boat?-- Well, certainly we were on - we were on the boat, at the rear of the boat.

Well, did you separate from each other's company? Did you - or remain in the same general vicinity?-- Well, I - you know, I - I don't - certainly separated but by the confines on the boat we certainly couldn't separate more than 30 or 40 feet. So by - by that definition we did separate, but certainly they were trying to - we were 10 feet apart in times when I was on the sundeck.

Did you hear Paula speak to Gabe?.. Did - Sir, did - did I hear Paula say to Gabe what?

CORONER: No - no, speak to him?.. I'm sorry, I missed that.

MR ZILLMAN: Did you hear, at any point, Paula speaking to Gabe?.. I'm sorry. I - I did not. I saw her speak to Gabe but I didn't hear her.

All right. Well, you would confirm then that you didn't therefore hear her at some point say, "Listen, John is going to be doing everything he can for Tina."?.. No. No, Sir, I didn't. I didn't hear that. Now, I - I did hear that from Paula later on that she had that discussion with - with him.

All right. Stay on the line, Sir?.. And.....

Yes.

CORONER: Anything else?.. Say that again, Sir.

MR ZILLMAN: I.....

CORONER: No, he - just asking you to say on the line. I think Mr Zillman has finished his questions. We're just passing the microphone over to Mr Tate?.. All right.

Thank you. Mr Tate, perhaps we should also canvass the possibility of having an adjournment and reconnecting. I mean, we've been sitting here and someone's been waiting outside. This witness has been very patient with us over a long period.

MR TATE: Yes.

CORONER: If we could have a short break or some break and then come back. Sorry. I think we want to do that; don't we?•• Should we keep this line open for Dr Milsap.

Yes. Could you just hold on for a moment. We're just going to try and talk about that. First of all, can we do one thing. Mr Zillman, you had a•••••

MR ZILLMAN: Yes, I just wanted to indicate I've got a doctor's appointment at 2 o'clock I was anxious to keep if I•••••

CORONER: Okay. Well, what•••••

MR ZILLMAN: •••••if I can.

CORONER: •••••we will do, we'll get Mr Tate to finish any re-examination. Then we'll discuss a time that's suitable for the - is it Mr - Dr Milsap; isn't it, to come - come on?•• Correct.

Okay. Could you just hold with us, please? Thank you. Yes, Mr Tate.

MR TATE: Thank you, your Honour. Kenneth, just so that we're aware, what is the time where you are in America at the moment?•• It is 10.30 p.m.

All right. Thank you. Now, Ken•••••?•• And just, if I might add one thing here, that - Milsap, if there's any way to get him tonight because I think they're leaving on vacation soon and I'm not sure when but this week.

That's all right. Ken, we'll come - come to that in a moment. Can I just ask you this. You've got the - the statement - the first statement that you did which is dated the 22nd of the 10th, 2003 with you?•• Mr Tate, I've lost you.

No, that's all right. You should have - I - I'd just like you to go back to the first page of the statement that you gave to the police on 22nd of October, 2003?•• All righty.

Now, when I look at that you can see that the - it tells us who the police officer taking the statement is. It looks to be a girl called Tracy Hartley. Does that•••••?•• Hartley, correct.

Does that ring a bell?•• Yes. It does, Sir. I recall that, correct.

Yes. Now, the Spoil Sport I think arrived back in Townsville reasonably late?•• Yes, Sir.

Do you recall about what time that was?•• No, Sir, I don't.

And then there were the police who met everyone at the dock?•• Correct. We all had to go to the police department.

And that would have taken time?•• It did.

And - but approximately, with the crew and the passengers on the Spoil Sport, how many people would there have been; do you think?•• My God, 20 or 30 people.

Mmm. And I guess, what was happening, and tell me if I have this wrong, is that there was a little bit of a queue as the available police officers attempted to see people and get a statement from them?•• Exactly. It was - it was - it was the - it was not very well organised so you had to wait your turn. You would have to wait for a computer, as I recall. There was a limited amount of computers to be able to take statements. It - it was - that's why - well, I don't want to go into that.

It's all right. But about how long, Ken, would you have had to wait before it was your turn?•• It was hours.

Mmm. Would it have been before or after midnight when you were called in for your statement?

CORONER: We've lost him.

MR TATE: That's the end of that. He may have had enough of me, your Honour.

CORONER: We've lost the connection. What I'd like you to do, please, bearing in mind Mr Zillman's appointment, could we ask them - ring them back - if they would be available at a specific time we'll give now so that we can resume. That would probably - what time do you think you'll be back, Mr - Mr•••••

MR ZILLMAN: Well, I've got the appointment for 2 o'clock. Whether I get in, I suppose•••••

CORONER: Yes, okay.

MR ZILLMAN: •••••then, I don't know.

CORONER: Well, what say we - we - we don't resume them until, say - it's quarter to 3. So why don't we pick 3 o'clock and what would that - now•••••

MR ZILLMAN: That'd be midnight, I think.

CORONER: That'll be midnight their time. So would - could you ring them back now before Mr Zillman goes to see if both Mr Snyder, whose just dropped out, and if Mr Milsap could be available at midnight their time, 3 o'clock our time for us to reconnect. We'll - assuming that's okay, if you come straight back we'll tell - we'll adjourn then till 3 o'clock and that should give everyone time for lunch, hopefully you've got enough time for your medical appointment and if you're delayed, if you can just let us know because I'm sure they'll want to get it out of the way. It's just that I'd like them to go away and relax and do something between now and then.

MR ZILLMAN: Mmm.

CORONER: So we'll just turn off the tapes now, if we wouldn't mind and if we'd just wait•••••

RECORDING CEASED AT THE DIRECTION OF THE CORONER

RECORDING RESUMED AT THE DIRECTION OF THE CORONER

PORTION OF PROCEEDINGS NOT RECORDED

MR ZILLMAN: ...today that in the course of the record of interview that was played from Mr Watson and indeed through the Townsville Bulletin he has been at times critical of my client. And I'm keen to - to test that evidence. On the 1st day of this hearing Mr Watson said through his counsel that he would be available to give evidence. Two issues arise from that, from my point of view. The first is that I don't see in the witness schedule yet where he's giving evidence. And the second is that if he's going to be cross-examined expeditiously I would've thought that what needs to happen is that he be given a bundle of documents which is agreed between the parties so that if someone wants to take him to his records of interview or the - the Townsville Bulletin article he can refer to page 36 or wherever it may be. But I - I don't understand that those things are in place yet and, as I say, I'm keen to test the evidence from Mr Watson.

CORONER: Thank you. Well, Mr Zillman, is your client going to be available for - he give evidence?

MR ZILLMAN: Yes, he certainly will be. Whether in a practical sense that should proceed is a separate issue. He has available to him the privilege under the Act.

CORONER: Oh yes.

MR ZILLMAN: And he's been advised on that issue. I don't believe - I haven't spoken to my solicitor recently about it but I don't believe any final determination had been made by my client on that.

CORONER: Mmm-hmm.

MR ZILLMAN: But if he determined that he wished to make the claim then it would seem to be perhaps a rather fruitless exercise to get leads together so he could simply make the claim.

CORONER: Yes.

MR ZILLMAN: So, I'll speak to my solicitors some more about it and see what his position is.

CORONER: Could you certainly liaise with counsel and just let me know that because if he's going to answer some questions then - then obviously he's going to be at great disadvantage in not having material before him that people might

refer to.

MR ZILLMAN: Mmm.

CORONER: And if we're going to do it by telephone it almost makes it impossible to, bearing in mind that documentation may be wished to be produced in Mr Atkinson's signalled that. So what his response to be - may solve your problem, Mr Atkinson. The other issue of course is that - yes, go on, the second issue you wanted to raise?

MR ATKINSON: No, there was only those two issues.

CORONER: Okay.

MR ATKINSON: If he's giving evidence where is it in the schedule and - and when will there be a firm time?

CORONER: Oh well, the reason it hasn't been put in the schedule, well, when we discussed it, is that it was - it was - tacitly agreed that he would be the last witness. And I was never able to know what sequential time that would be. And I think that the basis was Mr - I certainly was - of the view, similar to what Mr Zillman has said, that no decision had been made exactly as to what his status would be and what he'd claim. So I was just leaving it til the end. And we - we really need to know that to know how much time we were going to allocate for that as well as provide the information.

MR ATKINSON: Yes.

CORONER: So, if Mr Zillman gets back to us that may solve our problem.

MR ATKINSON: Thank you, your Honour.

CORONER: Okay. All right. Look, I'll see if we can - could you check with Mr - Detective Gallagher? Mr Zillman needs to get away. As - as long as they are happy to - to resume our discussions at 3 o'clock Mr Zillman can get on his way. Okay. Thanks. Anything further?

UNIDENTIFIED SPEAKER: Thank you.

CORONER: Will you turn off, please.

RECORDING CEASED AT THE DIRECTION OF THE CORONER

RECORDING RESUMED AT THE DIRECTION OF THE CORONER

KENNETH KEITH SNYDER, CONTINUING EXAMINATION-IN-CHIEF, VIA TELEPHONE LINK:

CORONER: Our phone line dropped out and I'm sorry about that, but we used it as reason to have a bit of a break. I think everyone needed that?•• [Indistinct].

I think you were - sorry?•• I said, no problem, I understand.

We'll only need you a short time I think. Mr Tate now needs to talk to you about some matters, thank you?•• Yes, sir.

MR TATE: Kenneth, good afternoon or good evening again. It's John Tate. I think we got caught - cut off on the last occasion. Sadly I only had a few more questions for you. But just to recap, we were talking about the scene as it was at the Townsville Police Station•••••?•• That's correct.

•••••and I think you'd confirmed for me that there were quite a number of people to give statements?•• Yes, I don't recall the exact number, but some were between 20 and 30 people I would suspect.

Yes. And I think the next morning the Spoil Sport was going back out to sea?•• Yes.

And so there would've been pressures no doubt from all of the passengers to have their statements taken so that they could go back out onto the boat and what have you?•• Yes, sir.

I think also a number of police officers were taking statements from various passengers?•• That's correct.

And I don't know whether you met him, but did you read - have an opportunity of meeting or speaking with Senior Constable Glenn Lawrence from the Water Police?•• You know, I don't think I did. I don't recall that name.

All right. He was the lead investigator. But what we know from your statement, it seems that you had an opportunity of talking with Tracy Hartley?•• Yes.

When you gave your statement?•• That's correct.

Now, was that statement taken as a result of a sort of discussion that you had with Tracy where she would ask you questions and then you provide answers or how did it go?•• It - it was - it was pretty much in that type of a format. It was not - that's why I felt somewhat uncomfortable and I feel sorry for my last discussion with the other gentleman, I can't recall his name. Because the first statement was not in any sordid detail or in a situation about - in any type of sequential event. So, it was pretty much, she was leading the discussion and in most general type term.

Would it be fair to say that your understanding was that you were being asked to provide a general statement at that time about what happened?•• It was. It was extremely general and not specific in detail at all.

Okay. And would it be fair to say that at that point in time you wouldn't have known what may have been important or not important from the police perspective?•• That's absolutely correct.

All right. Kenneth, thank you. I have no further questions for you.

CORONER: Any matters•••••

WITNESS: Thank you, gentlemen. If you need anything you know where to find us.

CORONER: Thank you. At your convenience, Mr Snyder, would you disconnect the phone, please?•• Absolutely will. Thank you. Goodbye.

WITNESS EXCUSED

MR ZILLMAN: It might be a convenient time then to just raise this matter. There were some matters by agreement that were to be deleted from Mr Milsap's statement. Does your Honour have a copy of•••••

CORONER: Yeah, I do. If you can just bear with me, I'd marked it. Now, where did I put it?

MR ZILLMAN: This is in the addendum by the way, not the first•••••

CORONER: Oh, the addendum, I don't have. It's got to be in•••••

MR TATE: Your Honour, that will be in the crib that I gave you on Monday, that little•••••

CORONER: Oh. Okay. Thank you. Thank you.

MR TATE: •••••we've got those statements there.

CORONER: : Yes.

MR ZILLMAN: The passage as follows, if I can take you to the second page.

CORONER: M-I-L-S-A-P, isn't it. Number 11. Page 2?

MR ZILLMAN: Page 2. The second last paragraph.

CORONER: Thank you. Second last paragraph.

MR ZILLMAN: About four lines from the bottom commencing, "I remember that I found", does your Honour see that part?

CORONER: I must have the wrong page, sorry. Page 2?

MR ZILLMAN: Yes, of the addendum.

CORONER: Is it the one that starts, hang on, how many statements have you got here. Oh I beg your pardon, yes, page 2 of the addendum, now I've got it. Let's put the original statement in as well. So, page - second last paragraph, "I remember that I found"•••••

MR ZILLMAN: Yes, from there to the bottom of that paragraph.

CORONER: So, I mark that in blue.

MR ZILLMAN: Yes.