

1           I might say also that there is a provision  
2 under the rules of evidence and I think it's 208 -- No,  
3 it's not -- I have the wrong number; but the thrust of  
4 the rule is -- here it is. Rule 402, "Where there's  
5 relevant evidence that is generally admissible -- " Let  
6 me again say -- restate my position. It's Rule 403,  
7 which says that, "Although relevant, evidence may be  
8 excluded if its probative value is substantially  
9 outweighed by the danger of -- " and, then, among other  
10 things " -- confusions of issues or delay or waste of  
11 time or needless presentation of cumulative evidence."

12           And I believe also from my lunchtime  
13 review of these documents -- that is 3, 36 to 3, 62 --  
14 to the extent that there might be relevancy in  
15 evidence, which I have determined to be vague and  
16 indefinite, but to the extent that there is relevancy  
17 it would apply to the Rule 403 exclusion. That is,  
18 it's already in the record through your narrative  
19 testimony in terms of what you have done. This would  
20 just be a way of either affirming it or confirming it  
21 or repeating it and the rules of evidence argue against  
22 doing that.

23           So that's my ruling. The motion's granted  
24 with the exception of Exhibit 3-56, which is now  
25 received in evidence. And all the other Exhibits, 3/36

1 through -- I might have misstated this before --  
2 through 3/57 are out, stricken.

3 I want to ask for some additional comment  
4 on Annex C documents. Did your motion also go to Annex  
5 C documents?

6 MR. TILLOTSON: No, Your Honor. And I was  
7 going to correct you on that point. I had stopped at  
8 57. I haven't looked at C yet, because it's a real  
9 different problem.

10 JUDGE SIPPEL: All right. Let's move on  
11 to C then. Annex C, I think Mr. Lynch has done here is  
12 he's -- well, you tell me what you've done with Annex  
13 C, Mr. Lynch.

14 MR. LYNCH: Basically, shown residence in  
15 the community for a long, long period and used that to  
16 put in my DD-214 with record of -- my service record.

17 JUDGE SIPPEL: All right. For those  
18 limited purposes, is there any objection to the -- of  
19 Annex C materials? Only a few documents.

20 MR. TILLOTSON: My only objection was to  
21 Exhibit 3, 61, which is this -- something to do with  
22 the military, I guess, and discharge honors.

23 Insofar as it's in the record, he's  
24 already been allowed -- that's remained in and he's  
25 testified about it.

1                   This doesn't add anything. And I have  
2                   some problems, again, with the issue -- I question the  
3                   relevancy of military service to the issue that we're -  
4                   - that it's being proffered for which is integration,  
5                   civic activities.

6                   JUDGE SIPPEL: Well, as I say, I may  
7                   disregard it for integration activity.

8                   MR. TILLOTSON: Well, and, then, and I  
9                   object to it as not relevant and not -- for the reasons  
10                  we've stated earlier.

11                  I don't consider this to be relevant or  
12                  probative of mitigation.

13                  JUDGE SIPPEL: Well, that's it -- it goes  
14                  into the -- increased -- mitigation, you know, which we  
15                  normally, of course, we don't have that in a  
16                  comparative case -- And it's a question of -- When I  
17                  look at a document like this, it's a question of where  
18                  am I going to receive it and not necessarily whether  
19                  I'm going to receive it.

20                  Let me hear from Mr. Schonman the Bureau's  
21                  position.

22                  SPEAKER: Your Honor, you're referring to  
23                  page 61?

24                  JUDGE SIPPEL: Yes --

25                  MR. SCHONMAN: That's the page in

1 question.

2 JUDGE SIPPEL: -- yes.

3 MR. SCHONMAN: I had -- if it's coming in,  
4 again, for comparative integration, the Bureau has no  
5 opinion as to that. If it's coming in for mitigation,  
6 because we're tending to tread on new ground with what  
7 constitutes mitigation, i would be inclined to let it in  
8 and afford it whatever weight is deemed appropriate.

9 JUDGE SIPPEL: Well, that's basically  
10 where I would come out on it.

11 I don't see that it's directly relevant to  
12 integration; but, then, you're not really -- well,  
13 you're offering it for purposes of showing your  
14 residences. Is that right? No, there's no residency  
15 on this --

16 MR. LYNCH: I believe there is. I was  
17 inducted through Glens Falls.

18 JUDGE SIPPEL: Well, okay. It's close  
19 enough; but I certainly -- I mean, I'll put everybody  
20 on notice right now that this definitely does fall over  
21 into the mitigation category. Weight's another thing -  
22 -

23 So if there isn't objection -- are you  
24 going to object to it formally?

25 MR. TILLOTSON: I have stated my

1 objection. You've ruled --

2 JUDGE SIPPEL: I'll overrule the  
3 objection. And -- Now, I've heard Mr. Tillotson on all  
4 of these -- Exhibit 58 through 62; and my  
5 understanding, Mr. Schonman, is your position would be  
6 that since the rest of these documents clearly pertain  
7 to -- yes -- clearly pertain and are proffered for  
8 integration purposes that you don't need to take a  
9 position on the other documents.

10 MR. SCHONMAN: That's correct.

11 JUDGE SIPPEL: So then Exhibit 3, pages  
12 58, 59, 60, 61 and 62, are received in evidence.

13 And that takes care of Exhibit 3.

14 Exhibit 4, Diversification.

15 What was the objection on Exhibit 4? It's  
16 a one-page document.

17 MR. TILLOTSON: Basically, Your Honor, I  
18 don't want to get my hand on that again; but,  
19 basically, my problem with Exhibit 4 was that, really,  
20 it's not a factual statement at all. This document did  
21 not disclose in a direct form the information that I  
22 felt compelled to put in by official notice of the fact  
23 that Normandy's the licensee of WWSC. That's only  
24 referred to obliquely. It tells us nothing about  
25 whether or not Mr. Lynch has other media interest. I'm

1 not aware of any. But it really is arguing the point  
2 about whether -- should -- its argument as opposed to  
3 evidence, as opposed to factual information.

4 JUDGE SIPPEL: Well, it's the form of it,  
5 then, that you're really objecting to.

6 MR. TILLOTSON: Well, both the form and  
7 the substance. In other words, it doesn't tell us what  
8 it should have told us, which is Normandy Broadcasting,  
9 which is controlled by Mr. Lynch, is the licensee of  
10 WWSC-AM, Glens Falls, New York, and whether or not Mr.  
11 Lynch and Normandy have any other interests. It  
12 doesn't tel us that. and it does tell us stuff --  
13 information that is not relevant to the -- is  
14 evidentiary to the issue in the case. It's argument  
15 about -- you know -- what conclusions he should draw.

16 JUDGE SIPPEL: Well, that's maybe an  
17 argument to be made --

18 MR. TILLOTSON: -- not in an Exhibit, was  
19 my point.

20 JUDGE SIPPEL: Beg pardon?

21 MR. TILLOTSON: Not in an Exhibit, because  
22 this is not -- as I understand evidence, evidence is  
23 supposed to say, "This is a fact. This is what  
24 happened," and this doesn't say that.

25 JUDGE SIPPEL: Yes, I'd say it may be --

1                   Let me hear from the Bureau on this.

2                   MR. SCHONMAN: Well, again, Your Honor,  
3 this goes to a comparative factor, which the Bureau  
4 would not ordinarily become involved with.

5                   But I would note that it isn't entirely  
6 conclusory in nature. And on that grounds, I would  
7 agree with Mr. Tillotson that it ought to be stricken.

8                   JUDGE SIPPEL: Well, I think that one of  
9 these -- one of these -- is the adjudicator here, that  
10 -- does not benefit counsel; but this is so clearly --  
11 I agree with both counsel that this is so conclusory  
12 that I will strike it.

13                   Mr. Lynch, as I say, what I'm doing here  
14 is I'm striking -- in the sense that I will not  
15 consider what you said about diversification. And,  
16 again, it's because it misses the mark in terms of what  
17 evidence is supposed to show, that is, pure fact. And  
18 what you've said here is really basically conclusory.

19                   You've given your motivations as to why  
20 maybe you haven't done what -- haven't done with  
21 respect to diversification. For whatever your motives  
22 might be, you have elected to hang on to the AM station  
23 and not divest it. That really is -- is not relevant.

24                   MR. SCHONMAN: Your Honor, I would note  
25 that Brandt's Exhibit 2, I believe, indicates that

1 Normandy does own and operate the AM station in Glens  
2 Falls and that the position that Mr. Lynch has taken in  
3 this Exhibit, labeled "Diversification," is a position  
4 he can take in his findings. So he's in no way harmed  
5 by striking this particular Exhibit.

6 JUDGE SIPPEL: Well, that's a good point.  
7 Yes. What you're really doing here is making a legal  
8 argument --

9 So I am going to -- for reasons stated,  
10 I'm going to strike your Exhibit Tab 4. In fact, what  
11 we need to do is have the Reporter get that marked as  
12 an Exhibit, since I haven't acted -- Do you have that  
13 or -- Do you have it marked --

14 All right. And for the transcript  
15 purposes, in case I haven't -- Exhibit 4, the one-page  
16 document labeled "Diversification," under Tab 4, is  
17 marked for identification as Normandy's Exhibit No. 4,  
18 and for the reasons stated, it is rejected as an  
19 Exhibit.

20 (The item referred to  
21 was marked for  
22 identification as  
23 Normandy Exhibit No.  
24 4, and was rejected.)

25 JUDGE SIPPEL: That moves us, then, on to

1 Exhibit 6, Tab 6.

2 Exhibit 6 is a 22-page document; and it is  
3 -- the first page of which is entitled, "Programming  
4 Record."

5 Let me go off the record for just a  
6 minute.

7 (Off the record).

8 (On the record).

9 JUDGE SIPPEL: Mr. Lynch, could you  
10 explain what it is that you're attempting to prove with  
11 this evidence, the Tab 6 evidence?

12 MR. LYNCH: What I'm trying to prove as  
13 factually as possible -- or re-prove -- is my  
14 programming on WYLR over the license period, formally  
15 put my proffer of programming into this case. And,  
16 again, factually, rebuild the paucity of my public  
17 file.

18 JUDGE SIPPEL: In connection with your  
19 application, now, for the renewal of WYLR-FM?

20 MR. LYNCH: That's right.

21 JUDGE SIPPEL: Is having nothing to do  
22 with your -- the programming issue in Skidelsky or --

23 MR. LYNCH: No, I don't believe I have  
24 referred to that in any way, shape or form.

25 JUDGE SIPPEL: All right. Then --



1 a renewal expectancy -- is putting in the programming  
2 evidence, and the programming evidence would be --  
3 there would be -- evidence of the programming the  
4 station ran would be, for starters, in the -- programs  
5 list produced by the station and in the station's  
6 program log. And we know that such documents exist  
7 because, indeed, Mr. Lynch was able to produce program  
8 logs for some composite weeks that we requested and he  
9 was also able to produce issues programs lists for part  
10 of the license term, and, in fact, I think he  
11 represented that he had produced issues programs lists  
12 for this station for the entire license term.

13 In the information in the logs and in  
14 those issues programs lists that we've seen is not the  
15 same as the information in his narrative Exhibit.

16 Now, it seems to me that we have a radio  
17 station with business records, issues programs lists  
18 and program logs, and that they're trying to do is make  
19 a representation -- an evidentiary submission to the  
20 FCC -- that, "This is the programming we aired on the  
21 radio station." You can't get there -- you shouldn't  
22 get there through Mr. Lynch's narrative saying, "We did  
23 this. We did that," in very broad and general terms.  
24 You should -- the burden should be on them to put in  
25 the specific information about what program ran on what

1 date and what issues it discussed, which goes to the  
2 other aspect of it.

3 Even assuming we were to accept the  
4 narrative for whatever it was worth and come back and  
5 say, "Well, it goes to 'the weight,' rather than the  
6 relevance," this -- is not identified in any specific  
7 respects how the radio station, WYLR, responded to the  
8 needs of the community -- ascertained needs.

9 There is information about organizations  
10 that were contacted for ascertainment. There's no  
11 information as to, through those contacts, "These were  
12 the major issues in our community, and, then, here are  
13 the programs that this station presented to address  
14 those issues," the kind of information that would have  
15 been included in an issues programs list where you say,  
16 "These are the major issues of our community. Here's  
17 the programs we presented to address that." There's  
18 none of that here.

19 And for that reason I think the first 13  
20 pages should be stricken.

21 I don't object to the balance and the form  
22 that it's in, although I think that through cross  
23 examination we'll develop that there's no record base  
24 for many of these programs -- that the programs listed  
25 in the balance of the Exhibit are not reflected on

1 issues programs lists and the program logs, and,  
2 indeed, some of the representations are inconsistent  
3 with the programming records. But that's something we  
4 get into at cross examination later.

5 JUDGE SIPPEL: All right.

6 Now, this evidence would relate, of  
7 course, to the renewal expectancy, correct?

8 MR. TILLOTSON: Correct --

9 JUDGE SIPPEL: The Bureau will be heard,  
10 Mr. --

11 MR. SCHONMAN: Yes, sir.

12 I think Mr. Lynch is entitled to present  
13 his programming record in a form that he deems  
14 appropriate; and we can afford it the weight that it  
15 warrants.

16 I have specific objections to portions of  
17 this Exhibit; and I would like to go through it page by  
18 page and we can discuss that. I don't think it would  
19 be appropriate to strike the entire Exhibit or at least  
20 the first 12 pages --

21 JUDGE SIPPEL: -- the 12 pages. That's  
22 what Mr. Tillotson's referring to.

23 Well, how about -- Let me see if I can  
24 back into it then. How about Mr. Tillotson's position  
25 with respect to pages 13 to 22, that which is Tab --

1 not Tab, rather, but entitled Exhibit 1.

2 MR. SCHONMAN: I have specific problems  
3 with portions here and there.

4 JUDGE SIPPEL: Specific objections to  
5 specific --

6 MR. SCHONMAN: Yes.

7 JUDGE SIPPEL: Okay. All right. I hear  
8 you.

9 Well, all right. Well, let's take it --  
10 let's then take it one step at a time -- one page at a  
11 time or -- composite pages where that's -- where we can  
12 facilitate it.

13 The first page seems to be an explanation  
14 of his methodology, format. He describes about the  
15 colocated studios, saying what WYLR typically  
16 broadcasts. I'm looking at paragraph 1, 2 --

17 MR. SCHONMAN: I have an objection on  
18 paragraph 2, Your Honor.

19 JUDGE SIPPEL: All right. Well, let's go  
20 to paragraph 1 --

21 MR. TILLOTSON: I have a specific  
22 objection to paragraph 1 --

23 JUDGE SIPPEL: All right --

24 MR. TILLOTSON: -- first full paragraph,  
25 the Arbitron ranking in 1989 and '90. An Arbitron

1 ranking certainly has no relevance to renewal  
2 expectancy. It's -- audience ratings, has to do with  
3 format and music, but certainly not --

4 JUDGE SIPPEL: All right. Do you agree  
5 with that, Mr. Schonman?

6 MR. SCHONMAN: Yes, sir.

7 JUDGE SIPPEL: Okay. I'm going to strike  
8 the last sentence -- "WYLR ranks No. 4 overall," that  
9 sentence there, Mr. Tillotson?

10 MR. TILLOTSON: Yes.

11 JUDGE SIPPEL: Do you understand what I'm  
12 doing, Mr. Lynch? That's being stricken.

13 Okay. Let's take it from there. Mr.  
14 Tillotson, anything else on paragraph 1?

15 MR. TILLOTSON: I have nothing else in  
16 paragraph 1, Your Honor.

17 JUDGE SIPPEL: All right. And, now,  
18 paragraph 1 goes below that line --

19 MR. TILLOTSON: Right -- I meant that I  
20 had nothing all the way down to the new numbered  
21 paragraph 2.

22 JUDGE SIPPEL: Now, you had an objection,  
23 Mr. --

24 MR. SCHONMAN: Yes, on paragraph 2, the  
25 first several lines appear to refer to what WYLR is

1 doing right now -- at the date of this Exhibit and not  
2 necessarily ending in April '91.

3 JUDGE SIPPEL: Well, I would take that to  
4 be his representation as to what is the general scope  
5 of this station over the renewal period.

6 MR. SCHONMAN: I can't assume that because  
7 he says specifically, "WYLR now presents a block of  
8 public affairs programming," etc.

9 JUDGE SIPPEL: I'm sorry. Oh, I see.

10 MR. SCHONMAN: And, of course, what the  
11 station is doing now is irrelevant to the renewal --

12 MR. LYNCH: I would agree to that -- the  
13 last one. "I have broadcast approximately the same  
14 amount of news, sports, weather over the entire license  
15 period."

16 As far as striking, "Now presents a block  
17 of public affairs programming," that was put in last  
18 year and --

19 JUDGE SIPPEL: That does not come within  
20 the --

21 MR. LYNCH: License period.

22 JUDGE SIPPEL: That does not come in the  
23 license period. All right. So then that sentence is  
24 going to get stricken. "WYLR now presents -- "

25 Well -- general explanation on that --

1 sentence, I'm inclined to leave it. I mean, if it's  
2 contradictive about what you find in the specific --  
3 what is specifically identified at the end of this  
4 Exhibit -- when I say, "the end of it," I mean from  
5 pages 13 on -- or --

6 Mr. Tillotson, do you intend to offer  
7 documentary evidence that would address some of this  
8 information?

9 MR. TILLOTSON: I anticipate cross  
10 examining Mr. Lynch point by point on anything that  
11 remains in the record with the logs and his programs  
12 list which will reflect that it was not recorded, and  
13 the findings in the Skidelsky case by the judge that  
14 reflected that there were -- that none of the programs  
15 -- that WYLR did not reflect in its logs any of the  
16 PSAs or programs that credit was claimed for in that  
17 proceeding.

18 JUDGE SIPPEL: All right. Well, you run  
19 the risk -- Mr. Lynch then runs the risk of having  
20 presented an untrue or at least an inaccurate  
21 presentation to this --

22 I don't accept -- you know -- Mr.  
23 Tillotson is telling me, in argumentative form, what he  
24 intends to do. I'm not accepting anything until I see  
25 the evidence.

1                   MR. LYNCH: It's obvious that we had  
2 logging problems. They were paperwork problems.

3                   JUDGE SIPPEL: Don't get into it. But --

4                   JUDGE SIPPEL: Don't get into it. Don't -  
5 - That's -- There'll be another time for that.

6                   MR. TILLOTSON: Although, Your Honor, it  
7 may simplify the proceedings and save us a tremendous  
8 amount of time if Mr. Lynch will stipulate that because  
9 of the logging problems we are not going to find any  
10 program logs or issues programs lists or any  
11 documentary evidence in their files or records that  
12 will substantiate the claims in these documents,  
13 because then I don't have to spend --

14                   JUDGE SIPPEL: -- in Exhibit 6?

15                   MR. TILLOTSON: In Exhibit 6 and including  
16 the pages that go on page after page, because the fact  
17 of the matter is that we did establish in Skidelsky  
18 through Mr. Lynch's own testimony -- Mr. Lynch said the  
19 stations carried out its public affair responsibility  
20 with ad-libbed announcements, occasional remote  
21 broadcast discussions and so on, agrees that the logs  
22 do not reflect PSA programming. This is paragraph 26  
23 in the initial decision in Skidelsky.

24                   JUDGE SIPPEL: Well --

25                   MR. TILLOTSON: So what I'm saying is if

1 we could stipulate to that -- if Mr. Lynch is willing  
2 to stipulate, it would save everybody a lot of time.

3 JUDGE SIPPEL: Well, that may be true;  
4 but, you know, he has submitted evidence now to me that  
5 he's asking to be received as the truth of the matter.  
6 He is vouching for the truth of the matter on  
7 programming records. And he's also asking me to look  
8 at exculpatory and mitigating factors with respect to  
9 the Skidelsky matter.

10 If he's presenting things to me that are  
11 not accurately candid and forthright, I want to know  
12 it. I don't want to just -- this way because there  
13 might be some irregularities on a factual basis.

14 But, on the other hand, Mr. Lynch is right  
15 her and I assume that you're tell me, sir, that you'll  
16 stand behind what you have here under Tab 6 -- your  
17 programming record.

18 MR. LYNCH: I do, Your Honor. And I also  
19 have affidavits from my Program Director current and  
20 from -- you know -- Mr. Jacobson. I also have an  
21 affidavit from my past Program Director, Mr. Dusenbery.  
22 And I specifically had him look fact by fact by fact.  
23 The ones that we were questioning, we took out. So I  
24 stand behind this Exhibit 100 percent.

25 JUDGE SIPPEL: Well, then -- Okay. Then,

1 we're going to take it -- you know -- we're going to  
2 take it one step at a time.

3 MR. TILLOTSON: Could I ask a question of  
4 Mr. Lynch, Your Honor, relative to this? Because I'm  
5 understanding from Mr. Lynch that they must have  
6 checked some of this against documentary records. And  
7 I don't --

8 JUDGE SIPPEL: Well, yes, go ahead, on a  
9 voir dire basis.

10 MR. TILLOTSON: My question -- yes. My  
11 question is --

12 JUDGE SIPPEL: -- voir dire.

13 VOIR DIRE EXAMINATION

14 BY MR. TILLOTSON:

15 Q -- are there documentary -- is there  
16 documentary material -- program logs, issues programs  
17 list -- that would substantiate the specific claims in  
18 Exhibit 6 that programs ran at specific times or  
19 specific durations?

20 In other words, if we look at the program  
21 logs, will we find the PSAs running so many times a day  
22 for 30 seconds on the program log?

23 A No, you will not.

24 Q So there no documentary evidence that --

25 No --

1           A       No, I didn't say that. There's  
2 documentary evidence in most of these -- in these  
3 letters to support numerous things.

4                   I had some people write letters for  
5 Multiple Sclerosis documenting the dollar amounts that  
6 we raised; and then I had two affidavits, and, you  
7 know, the help of the people who actually did it, Mr.  
8 Jacobson or Mr. Dusenbery.

9                   JUDGE SIPPEL: Well, how come the logs  
10 don't agree?

11                  MR. LYNCH: Pardon? The logs are there;  
12 but we had an off-log system for many of these things,  
13 as Mr. Tillotson knows. Again, it was an error. I  
14 misread or misunderstood a number of things that -- you  
15 know -- that we should have done on the logs. We were  
16 doing all this stuff; but there were different systems  
17 that we had so we could be a lot more flexible as far  
18 as doing major pushes. It didn't have to go through a  
19 logging function, you know. People would just support  
20 these things. And we have -- sworn affidavits from  
21 people outside of the radio station supporting the  
22 fundraisers that we did. We have --

23                  JUDGE SIPPEL: Well, but we've already  
24 been down that road with a lot of this. Isn't that  
25 right? I mean, you talking about the letters that

1 people wrote to you as being a substitute for logs?

2 MR. LYNCH: Sworn -- yes, Your Honor. As  
3 it was explained to me, given that my logs were  
4 inadequate, some things were checked, some things  
5 weren't. Given that the public files were inadequate  
6 it was incumbent upon me to reconstruct my public  
7 service over the license period.

8 JUDGE SIPPEL: Well --

9 MR. LYNCH: By my sworn statement and by  
10 statements and/or letters and/or awards that would  
11 support what I'm swearing to.

12 JUDGE SIPPEL: Well, if you're going to  
13 try and convince me that you've substituted a logging  
14 system, which is prescribed by the FCC, by doing this  
15 your self-help fashion, you're not going to get that  
16 evidence in without these people being here to testify  
17 why -- You're not going to prove anything outside of  
18 the logging system by virtue of correspondence and  
19 affidavits unless there's somebody here that's going to  
20 put themselves on the stand and be cross examined. And  
21 that's just not going to work.

22 MR. LYNCH: Well, I would assume --

23 JUDGE SIPPEL: -- goes right to the heart  
24 of the matter. And it goes back, again, to what we  
25 talked about before lunch, that, certainly, the people

1       who are the employees of your station that you're  
2       relying upon to convince me to rule in your favor, boy,  
3       they'd better be here the first week of September or  
4       we're going to be wasting a lot of time.

5               MR. LYNCH:  Whether I have to drive them  
6       down myself, I will produce those people.  Again, I  
7       hope we have a hearing in Glens Falls where we can  
8       spend time with all the people in here.

9               JUDGE SIPPEL:  If we do go to Glens Falls,  
10       it's going to be after the first week in September and  
11       only going to be to accommodate public witnesses, if I  
12       find that to be necessary in the interests of this  
13       case.

14               But it is not going to be for purposes of  
15       you putting on the substantive issues that you're faced  
16       with here with respect to proving your programming  
17       record, those things which you need these people to  
18       come and testify to.

19               You've already told me you can't prove it  
20       by way of the traditional method in which the FCC set  
21       up its system to do this precise thing, that it was  
22       logged.  So you have to go to second best.  And second  
23       best doesn't carry a hoot of weight unless you bring  
24       these people in and subject them to cross examination.

25               There's no way that I can find in your

1 favor if you don't give me that kind of evidence.

2 MR. LYNCH: By hook or by crook I will  
3 produce these people.

4 JUDGE SIPPEL: Well, let's not say, "hook  
5 or by crook."

6 MR. LYNCH: No, I --

7 JUDGE SIPPEL: You're going to get them  
8 down here; but you're going to get them down here in an  
9 honest, forthright fashion. But I'm expecting that  
10 they're going to be here. I'm relying on that. That's  
11 why I'm going to have this hearing in September is  
12 because I'm relying on these people being here.

13 MR. LYNCH: You can rely on that.

14 JUDGE SIPPEL: All right.

15 MR. TILLOTSON: Your Honor, to pursue the  
16 concept of voir dire --

17 BY MR. TILLOTSON:

18 Q -- in Exhibit 1, Mr. Lynch, there are  
19 programs listed -- I'm sorry, Exhibit 1 to Exhibit 6,  
20 the attachments, starting at page -- Exhibit 6, page 13  
21 -- there are specific classes of programs listed, and,  
22 then, for example, in WYR weather there are -- it says,  
23 "Approximate hours per day," and then it gets down to  
24 be -- really being very specific. It says, "37  
25 minutes, Monday-Friday; 34 minutes, Saturday-Sunday."

1 JUDGE SIPPEL: What page are you on --

2 MR. TILLOTSON: This is -- 6, 14.

3 JUDGE SIPPEL: Let me get to it.

4 Okay. So you're into this -- All right.

5 This tabular form.

6 BY MR. TILLOTSON:

7 Q Okay. And then it says that -- under the  
8 description, "Retained a meteorologist to compose  
9 approximately 120 weather casts a week of 60-seconds  
10 duration each."

11 Are there any documents -- any of your  
12 employees or any documentary records whatsoever that  
13 looked to or relied upon in coming up with the specific  
14 claims contained in pages 6, 14 through the end of  
15 Exhibit, as to number of minutes per day or number of  
16 hours per week, number of weathercasts, number of  
17 newscasts, number of PSAs? I mean, there are specific  
18 numbers given here. Were any documents consulted to  
19 come up with those numbers?

20 A Yes. I personally looked over the logs.  
21 I personally counted, for each one of the categories,  
22 the residual, the news, the weather, the ABC newscast,  
23 the YLR sports, personally myself I counted these off  
24 the logs. Some of them were checked. Some of them  
25 were not checked. But I personally counted every