1 whether there are financing documents. So it just seems to
2 me irrelevant. You know, are these things like, what our
3 discussions are with bankers and things like that?
4 JUDGE CHACHKIN: Well, let me ask you about
5 development. When you say development, I get the impression
6 that it's currently -- it hasn't been fully developed, the
7 creation has not been fully developed. Am I wrong?
8 MR. DAVIS: It's in the -- it's not just sitting
9 on a shelf ready to go tomorrow, no. There's -- it's a work
10 in progress.
11 JUDGE CHACHKIN: Well, when did development begin?
12 That might help if we could know that. I mean, if the
13 development occurred after the complaint, that's a factor to
14 be considered, as opposed to whether development goes back
15 four years ago. Was something seriously in the works four
16 years ago?
17 MR. DAVIS: In the depositions, that's exactly the
18 kind of question they'll get an answer to. I mean, there's
19 no -- I wish I knew the answer right now, I could just tell
20 you the date. I don't know so I don't want to tell you the
21 wrong thing. But they'll have that information, there's no
22 problem there. It's whether we have to open up our files
23 and give them all our creative work that's essentially
24 irrelevant to the case, but is highly proprietary from a
25 business perspective.

1 JUDGE CHACHKIN: Well, there's certainly a
2 difference if this program was fully developed, or at least
3 mostly developed four years ago. And it was at the time
4 that you were negotiating with Classic Sports, you had
5 really something else to go to, as opposed to a situation
6 where it's something that really can only be called as being
7 developed in the last year or so. Or not even developed, as
8 you indicate. Still on the shelf, still has to be worked
9 on, and happened after the fact. That's certainly an
10 important factor, I would think, Mr. Horton.
11 MR. DAVIS: Well, they'll have that.
12 MR. HORTON: And we don't know the answers to --
13 JUDGE CHACHKIN: Well, I'm saying --
14 MR. HORTON: He says I can ask them at
15 depositions, but I'd like to see documents.
16 MS. KLEIN: Your Honor?
17 JUDGE CHACHKIN: Well, I think it's -- yes? I'm
18 sorry. I didn't mean to leave you out of this.
19 MS. KLEIN: Seems to me that documents about the
20 development of American Sports Classics could be relevant,
21 and also could come in as to Cablevision's view of Classic
22 Sports, as to one of the reasons for the competing service.
23 MR. DAVIS: We're not denying that American Sports
24 Classics is relevant. We're agreeing right up front, it's
25 relevant. We're agreeing to give you launch and marketing

1 documents so that you can make the arguments that the cable
2 services wants to make or that Classic Sports wants to make.
3 We're not disputing that.
4 The question is, do we just look for every piece
5 of paper we have related to Classic Sports, related to
6 American Sports Classics, and then just hand them over to
7 see if they're relevant?
8 JUDGE CHACHKIN: Well, let me first say I think
9 this is an area, it seems to me, where some kind of
10 stipulations could be reached. The first stipulation is
11 when in fact this American Sports was developed.
12 MR. DAVIS: Okay.
13 JUDGE CHACHKIN: If you know that date, then we
14 could -- there may be a need for more documents, may be a
15 need for less documents. I mean, if the claim was that this
16 was developed prior to the time of this -- what we're
17 dealing with here, that's one thing. But if it was only
18 developed in the last year, then I guess it may have less --
19 I mean, it would be a different factor. We may need less
20 documents, because if it was developed only in the last
21 year, it may not then be relevant to the argument at the
22 time that the dispute was going on about the use of -- the
23 carriage of Classic Sports.
24 MR. HORTON: I think one of my concerns, Your
25 Honor, in this is knowing what happened and when it

1 happened. I suspect that the answer I'm going to get is
2 that this is an idea that's been around for quite some time.
3 JUDGE CHACHKIN: But it never went beyond that.
4 MR. HORTON: That's pretty much what the answer is
5 going to be. And it did not go beyond that, or at the time
6 when we started to talk to them, did they start to -- they
7 realized that we're out there on the market, did they start
8 to look at us and say, "Geez, maybe we better crank this up
9 a little bit in case we're not able to buy these people."
10 Did they go full-scale and sink millions into it fairly
11 early in the game, before we ever came along, so that we
12 were nothing but a sideshow?
13 And how it goes through time, I think is relevant
14 to their desire to get into this business, and to get into
15 it the easiest way possible, which is to buy one off the
16 shelf. And we're the only one on the shelf. Or were they
17 out there saying, "Let's develop our own. Let's hold back a
18 little bit while we see if we can force these people to
19 sell." Those are the sorts of issues I want to explore.
20 JUDGE CHACHKIN: Well, let me put it this way.
21 The extent of which I'm going to require document production
22 depends on the answer to the question of when you say this
23 American Sports Classic was developed.
24 MR. DAVIS: That's fair enough, Your Honor. And
25 we're happy to disclose that. And I will find that answer

1 out and tell them. But let me just clear up some confusion.
2 No one's saying in this proceeding that the idea of vintage
3 sports classic programming is a dumb idea. No one's denying
4 that. So I don't see the point of why we're fighting about
5 that. We're agreeing with that.
6 No one's denying that the parties engaged in
7 discussions at some point in time about Cablevision or
8 Rainbow acquiring a financial interest in their service. So
9 I don't see why -- we're not arguing about that.
10 JUDGE CHACHKIN: Well, the question is your
11 defense. You raised the question that you had something
12 else -- that the reason you didn't -- one of the reasons you
13 didn't carry Classic Sports is because you had another
14 program source, your own, which you were developing.
15 MR. DAVIS: Right. And Mr. Horton's point is,
16 well, that might help him. Good for them, they can argue
17 what they want to argue. Why does it necessarily follow
18 that I crate over in a truck all the papers relating to our
19 competing service? That's all we're talking about. I'm
20 willing to -- we'll find out promptly, within a number of
21 days, by early next week. We will give them the time of
22 when substantial work began on the project, on developing
23 American Sports Classics.
24 We'll tell them that. They'll get that date. If
25 they think that resolves their concern, that will be great.

1 If they think that leads them to new areas of concern, then
2 they'll let me know. But we're happy to tell them that.
3 MR. HORTON: Your Honor, let me suggest, if I may,
4 a slightly different approach.
5 JUDGE CHACHKIN: All right.
6 MR. HORTON: Which is that the American Sports
7 Classics issue was the subject of both the document request
8 and an interrogatory. So when you're talking about a
9 stipulation introduced, it sounds almost -- I think I'd like
10 to see from Mr. Davis, here's a date in time, some month,
11 some year, and say lots of work started then. And I'll sit
12 here and go, "what do I do with that?"
13 What I'd like to see is something more in the
14 nature of an interrogatory response detailing for me -- I
15 don't want to -- I'm not asking to -- you know, but in some
16 reasonable level of detail, an interrogatory response
17 describing the development of American Sports Classics from
18 its inception up to the time this case has begun. And if
19 there are then key documents which would support that -- I
20 don't need to have him take his American Sports Classic
21 files and -- I mean, I'm not interested in finding out that
22 someone at Cablevision was spending a long time trying to
23 figure out whether it would be better to go with hockey or
24 basketball games. That's a level of detail that's not
25 relevant to me. I don't need that sort of thing.

1 But I would like to see a general interrogatory.
2 Not just give me one date, but give me some progression,
3 give me a story of American Sports Classics. And give me
4 the key documents that will support that story. If I'm not
5 satisfied with what I get, then I'll come back and complain
6 some more. But at least then I'll have an outline and a
7 basic background of the development of this, and not just
8 being told "Here's when we thought we were going to launch
9 it, and here's how we planned to market it."
10 JUDGE CHACHKIN: Well, I think that's perfectly
11 reasonable.
12 MR. DAVIS: I agree, Your Honor. That's
13 reasonable.
14 JUDGE CHACHKIN: All right. Well, I don't know if
15 there's a specific interrogatory request that asks for that.
16 MR. DAVIS: There's not, Your Honor. But I think
17 I heard the question asked in here, and we'll answer that.
18 MR. HORTON: I don't know, I don't have the -- I
19 seem to have misplaced my interrogatories. There was a
20 Rainbow interrogatory -- if it's worded correctly to get
21 what I just spoke for, then I could have done a better job
22 wording it.
23 MR. DAVIS: No, I thought the focus in the
24 interrogatory -- if we can look at it -- but was on why it
25 wasn't launched.

1 JUDGE CHACHKIN: Well, I don't recall. But I
2 think that the way it was phrased, I think that's a
3 perfectly reasonable request. And once Mr. Horton has his
4 information and he can decide which documents, if any, he
5 wants, and he'll have them. And then if there's an argument
6 about that, I'll resolve it.
7 MR. DAVIS: That's reasonable, Your Honor.
8 JUDGE CHACHKIN: All right. Now, we get to the
9 question -- this is documents relating to Cablevision's
10 control over Rainbow. And it's your contention that all
11 they need is to go over to the SEC and get a hold of
12 financial documents and then they'll learn who the officers,
13 directors are. But I don't think it's as simple as that.
14 MR. DAVIS: Well, there's --
15 JUDGE CHACHKIN: And it's also -- this is
16 something that could be very easily determined, very easily
17 concluded. If you would stipulate that the actions of
18 Rainbow and its affiliates are attributable to Cablevision,
19 then we don't need all of this material, and we don't need
20 all this evidence. If you're going to make the argument
21 that it's not, then of course -- even though the Commission
22 has already ruled, I think -- we're dealing with wholly-
23 owned subsidiaries, aren't we?
24 MR. DAVIS: We are not. It is not a wholly-owned
25 subsidiary, and the Commission has made no such ruling.

1 JUDGE CHACHKIN: You're saying Rainbow is not a
2 wholly-owned subsidiary of Cablevision?
3 MR. DAVIS: I don't believe so.
4 MS. KLEIN: Your Honor, under the FCC's
5 attribution rules, if there's a five percent or more
6 interest, it's considered an affiliate.
7 MR. DAVIS: It is an affiliate, Your Honor. Being
8 an affiliate is completely separate, different from being a
9 wholly-owned subsidiary. I do some corporate law and
10 corporate litigation where this comes up all the time. And
11 the two concepts are completely different. So I want to
12 make certain we don't confuse them in this proceeding.
13 MS. KLEIN: Your Honor, for the program carriage,
14 I believe it refers to the SEC's definition of affiliate.
15 MR. DAVIS: For example, ESPN is not wholly-owned
16 by Walt Disney. I'd love to hear them agree that everything
17 ESPN does is 100 percent attributable to Walt Disney.
18 They're not going to do it.
19 JUDGE CHACHKIN: But what about what counsel for
20 the Bureau is saying? That the FCC's rules, as far as
21 carriage is concerned, even a five percent interest is
22 sufficient for attribution?
23 MR. DAVIS: Well, I don't understand what
24 attribution means in this context. Are they saying that
25 anything Rainbow said? Rainbow's a separate corporate

1 entity, with separate officers and directors. If we're
2 saying that we're going to say as a matter of law in this
3 proceeding that something someone in Cablevision knew, as a
4 matter of law the person in Rainbows knows, and vice versa?
5 How could I agree to that? It's not true.
6 I'd be stipulating to something that didn't
7 happen. They're different entities and they act separately.
8 JUDGE CHACHKIN: And the actions -- you're saying
9 that Cablevision is not responsible for some of the action
10 of Rainbow, or any of its other affiliates?
11 MR. DAVIS: I wouldn't say they're not responsible
12 -- it depends on the affiliate. They are wholly-owned
13 subsidiaries that they're responsible for.
14 JUDGE CHACHKIN: Well, is Rainbow a wholly-owned
15 subsidiary?
16 MR. DAVIS: No, it is not.
17 JUDGE CHACHKIN: What extent is it owned?
18 MR. DAVIS: Cablevision owns the majority of
19 stock.
20 JUDGE CHACHKIN: What do you mean by majority?
21 MR. DAVIS: More than 50 percent of the stock.
22 The precise number is disclosed, and I could find the 10-K,
23 the SEC 10-K that had the number, but it's more than 50
24 percent.
25 JUDGE CHACHKIN: And what about, apparently,

1 Sports Channel? Is that the other subsidiary?

2 MR. DAVIS: Well, Sports Channel is owned by

3 Rainbow. And I don't even know if it's wholly-owned by

4 Rainbow. I know that it's -- so then Sports Channel

5 certainly is not wholly-owned by Cablevision.

6 MS. KLEIN: But there is a vertical relationship,

7 Your Honor, between the companies.

8 MR. HORTON: Your Honor, I have another suggestion

9 that I think might help resolve this.

10 JUDGE CHACHKIN: All right.

11 MR. HORTON: Obviously his client's position on

12 what this means as a matter of law -- but Mr. Davis is also

13 correct that who owns who and in what proportion -- so we

14 can argue later over what this all -- what those ownership

15 facts mean as a matter of law. My concern is that his

16 answer is full of these statements and insinuations that,

17 oh, this is Rainbow here, that's not Cablevision. And one

18 is in charge of the other guy.

19 If I win on the matter of law, those arguments

20 simply aren't tenable, then maybe we'll have a problem. But

21 he's here trying to make it, and I'm assuming he's going to

22 continue to try to make -- and again, I don't know -- I

23 can't remember exactly how I worded my discovery response to

24 it. But here's what I'm proposing.

25 Much like the last one, I would like to know

1 what's the factual basis for his claims here. Let me give
2 you an example. Is his claim that the people from Rainbow
3 who spoke to my people about the possibility of Classic
4 Sports selling itself or a portion of itself to Rainbow,
5 that this was all a mystery to the people at Cablevision who
6 were at the same time continuing to decline in coverage?
7 That the Cablevision people had said, when they got the
8 complaint, they said, "Geez, I never knew those guys were
9 talking to Rainbow. They're just a programming service that
10 wanted carriage, and I had no idea anyone on my side of the
11 shop was talking about selling themselves."
12 Now, I think that would be nonsense, and that
13 everybody knows darn well what was going on. But if he's
14 got a factual claim that these are ships passing in the
15 night, and the one doesn't know what the other is doing,
16 then I want to know about that. And I want to know the
17 basis for it. And I would suggest that the way to resolve
18 it is the same way as the last one. Let's have an answer in
19 the nature of interrogatory response, in which he's going to
20 detail the factual basis for his claim that somehow
21 Cablevision's not liable in this case because some of the
22 actions were taken -- were done by Rainbow.
23 And everyone's agreed that there were meetings
24 with respect to Rainbow. That's set forth in our complaint,
25 it's admitted in the answer, that's not a matter of dispute.

1 But I don't understand what it means from his side. Saying
2 that his people -- the left hand didn't know what the right
3 hand was doing, or something like that.
4 So if I can have an interrogatory response, and
5 again, any documents that are going to relate to it that
6 will either support it or otherwise relate to this issue,
7 then I think that that would advance the ball. Again, I
8 think I'm going to end up with the argument at the end of
9 the day that it doesn't matter, as a matter of law. I think
10 we can put that off to another day, but at least I'll
11 understand what the factual basis for this claim is.
12 JUDGE CHACHKIN: Mr. Davis?
13 MR. DAVIS: The first part of his answer was
14 reasonable. Which is, if somebody from Rainbow is talking
15 to somebody from Cablevision about Classic Sports, we should
16 produce documents to them that would -- if any on that
17 point. I agree. And we're willing to do that, we've agreed
18 to do that. So if that happens, where the Cablevision and
19 Rainbow people exchange documents about Classic Sports,
20 we'll produce them. So we're not fighting about that.
21 The next point is can we give an interrogatory --
22 now I'd have to know -- I mean, once again, if I understand
23 what the interrogatory is, I may be happy to do it. I'm not
24 sure -- the interrogatory outline in control --
25 JUDGE CHACHKIN: If you're contending that somehow

1 Rainbow was acting on its own, and Cablevision is not
2 responsible for the actions of Rainbow, then he wants you to
3 detail for him the factual basis for your contention?
4 MR. DAVIS: The factual basis for the contention
5 that Rainbow acted --
6 JUDGE CHACHKIN: As an independent agent.
7 MR. DAVIS: As an independent entity.
8 JUDGE CHACHKIN: Entity.
9 MR. DAVIS: We'd be happy to, Your Honor.
10 JUDGE CHACHKIN: Is that --
11 MR. HORTON: I think so, Your Honor. Paragraph 45
12 of their answer refers to separate negotiations with Rainbow
13 and Sports Channel. Well, how separate? Are these so
14 separate, again, that the left hand doesn't know what the
15 right hand is doing? Again, I think that's not a credible
16 factual position. And I don't mean to say that's exactly
17 his factual position, but I don't know what his position is.
18 But so far, all I know is that he's saying that Rainbow is a
19 subsidiary, so somehow none of the stuff with Rainbow
20 matters.
21 That's all I can tell from -- it's not like an
22 interrogatory response which sets forth "here's my position,
23 here are the facts that support it, and here are the
24 documents that relate to all of this."
25 JUDGE CHACHKIN: This is the context we're talking

1 about, of the negotiations here?

2 MR. DAVIS: We're happy to do that, Your Honor.

3 Because, as you've just pointed out, because it's in the

4 context of these negotiations. We can do that, that's

5 manageable. We'll be happy to get them that interrogatory

6 answer.

7 JUDGE CHACHKIN: All right. And documents that

8 you have in support.

9 MR. DAVIS: We've already agreed to give them

10 those.

11 JUDGE CHACHKIN: All right. We're moving ahead.

12 Well, now, as far as the general objections go, the

13 definition of Cablevision. Here we're not dealing about

14 necessarily a question of control, we're only dealing here

15 with the situation of where these documents may be, if they

16 do exist. And of course, Classic Sports has no way of

17 knowing how you file documents. So they, in order to

18 protect themselves, want to say if the documents that we're

19 asking for, which everyone agrees is relevant, are in the

20 possession of any of your affiliates, wherever, we would

21 expect you to produce them.

22 Now, if you in good faith know that the documents

23 are not in these 200 cable systems, but either in the

24 possession of Rainbow or Cablevision, or some other

25 affiliate, then presumably that's where you go to. But if

1 you know, have reason to know after talking to your
2 principals that you store documents with some of these other
3 cable systems, which is probably not the case, then this
4 definition requires you to go search there as well. Is that
5 basically --
6 MR. HORTON: I think so. I think his obligation
7 is to make a reasonable inquiry as to where it's reasonable
8 to look for documents that I've asked for, and as we agreed
9 on our various stipulations this morning where they might
10 be. They might be at Cablevision's corporate headquarters,
11 they might be at Rainbow. Maybe one of the New York
12 systems, if someone got involved on their side so that it
13 may make sense to look at their files.
14 I'm not asking that every single file of every
15 employee of every subsidiary be searched. Just that he make
16 a reasonable inquiry of his client as to where one might
17 reasonably find these documents. But certainly, given the
18 Rainbow argument that we've heard, that was where my concern
19 came from. That there's going to be an awful lot of stuff
20 in Rainbow's files. Certainly it seems reasonable to check
21 there.
22 JUDGE CHACHKIN: And I have no problem with that.
23 MR. DAVIS: No, no. That makes perfect sense,
24 Your Honor. The only thing we were reserving on is when you
25 combine the broad definition of Cablevision with some of the

1 broad requests, and you move it completely out of the
2 context of the disputed issue here and it becomes
3 unreasonable. So for example, if you say, we want every
4 document reflecting Cablevision's control, whatever that
5 means, over all of its subsidiaries, we'd be required to go
6 through our telephone entities --
7 JUDGE CHACHKIN: But they didn't ask for that.
8 MR. DAVIS: They did ask for that. That's why we
9 objected. Your Honor, with all due respect, that is what
10 the request asks for. Now we're here at the hearing, and I
11 hope we're not asking for that anymore.
12 JUDGE CHACHKIN: What we're dealing with is just
13 simply the definition of Cablevision for purpose of securing
14 documents. And I think it's been stated by me, as well as
15 counsel for Classic Sports, it's your file system. You know
16 where these documents are, and you have to in good faith
17 search out relevant documents, wherever they may be. And
18 that's all -- and there's no limitation where you should
19 search out these documents.
20 MR. DAVIS: That's acceptable, Your Honor.
21 MR. HORTON: That's all I'm asking.
22 JUDGE CHACHKIN: That's all we're asking for.
23 MR. DAVIS: That's acceptable.
24 JUDGE CHACHKIN: And the definition of Classic
25 Sports Network, it's another situation that you should just

1 not limit yourself to documents which specifically deal with
2 Classic Sports Network as an entity. If it's a relevant
3 document and it deals with the Classic Sports, a principal
4 of Classic Sports Network, or an affiliate of Classic Sports
5 Network, but it's relevant to what we're talking here,
6 obviously has no bearing on Disney or anything like that.
7 But just to preclude the case that you didn't think you had
8 to produce a document because it related to a particular
9 affiliate, and it didn't relate to CSN specifically. That's
10 all that's requested here.
11 MR. DAVIS: That's fine, Your Honor.
12 JUDGE CHACHKIN: All right. Now, the next
13 question is the relevant time period and --
14 MR. HORTON: I didn't think we went back so far,
15 Your Honor. Just January of 1994, I mean, that's the
16 allegations in the complaint. During that time period.
17 JUDGE CHACHKIN: And considering what we're
18 talking about here, the documents we're talking about here,
19 I don't think that 1994 is that far back, either. Because
20 we're now limiting our documents. So I think using this
21 date is a reasonable date, January 1994. I don't think that
22 goes back that far.
23 MR. DAVIS: Once the requests are limited in
24 subject matter, they go together. You see, if you're saying
25 that if I were to be required to produce for 200 cable

1 systems, all the engineering documents about channel
2 capacity back four years, you can see how that would be
3 quite a load.
4 JUDGE CHACHKIN: Well, that's why we're having
5 this conference.
6 MR. DAVIS: Right. So that's why we raised the
7 objection.
8 JUDGE CHACHKIN: To resolve these things.
9 MR. DAVIS: But now that we've narrowed it to the
10 issues in dispute, I don't have any problem with that.
11 JUDGE CHACHKIN: I think that takes care of the
12 document requests. Now, if there's something else I left
13 out, the parties could tell me. Otherwise I will grant the
14 document requests to the extent that I've indicated, and we
15 can move on to interrogatories. Which may, to a certain
16 extent, also be taken care of by virtue of our discussion.
17 Now there we're talking about Interrogatories 1,
18 9, 10, 11, 12 and 13. And it seems to me that the -- well,
19 first of all, with respect to the interrogatories in
20 question here, and I'm not going to permit you to just refer
21 to the answers. That doesn't provide any information.
22 Factual support behind the assertions you've made. And
23 that's just unsatisfactory at the outset.
24 Now, insofar as these interrogatories, well, let's
25 look at these two interrogatories in context here. And

1 maybe we've taken care of it in our discussion, maybe we
2 haven't. Because we dealt with -- well, let's see what we
3 have here.
4 MR. HORTON: Your Honor, I will tell you again
5 that my greatest concerns are probably Interrogatories 10
6 through 12, price, quality and channel capacity.
7 JUDGE CHACHKIN: Oh, that's right they've answered
8 13, they provided some names. And I guess they provided
9 names for --
10 MR. DAVIS: We gave at least three names for every
11 one --
12 JUDGE CHACHKIN: Three names for every one, okay.
13 And your one is -- what? Which one was that?
14 MR. HORTON: I don't have which one is which, but
15 10 through 12 are price, channel capacity and the quality of
16 our service.
17 JUDGE CHACHKIN: Okay. Now, have we solved that
18 problem with the --
19 MR. HORTON: Well, I think you have with respect
20 to whether or not he has to go back and give me an answer
21 with respect to 200 systems. But I do want something -- I
22 want one of two things. I want either more than there is in
23 the answer, or I want to be told, "That's it. There are no
24 other facts that support this. This is just what my people
25 brought, and there's nothing else there.

1 JUDGE CHACHKIN: All right.

2 MR. HORTON: If there's nothing else there, then I
3 wouldn't think he'd want to come to trial on that. But if
4 that's the fact, then so be it. I don't want to cut it on
5 January 20th and start hearing testimony from the other side
6 detailing more facts behind those claims.

7 JUDGE CHACHKIN: All right. To the limited extent
8 -- I guess we're talking about the New York area, that you
9 contend possibly because of technical reasons. And any
10 other reason you may give -- we want you in response to 11,
11 is to tell your story of what you mean by lack of channel
12 capacity. What you're basing it on and what your argument
13 is on, the factual support.

14 MR. HORTON: That's reasonable, Your Honor.

15 JUDGE CHACHKIN: Any documents you have in support
16 of it.

17 MR. HORTON: That's reasonable, Your Honor.

18 JUDGE CHACHKIN: Is that --

19 MR. DAVIS: That's acceptable, Your Honor.

20 JUDGE CHACHKIN: All right. And you said 12?

21 MR. HORTON: Yes, Your Honor.

22 JUDGE CHACHKIN: Now, 12 dealt with a question of
23 quality. Any claims that you have about quality?

24 MR. HORTON: I think, again, Your Honor, there are
25 answers -- there's a number of statements -- I think this is

1 beyond dispute that our system is -- our programming service
2 is just a bunch of old re-runs. And they weren't terribly
3 interested in that, and I gather they'll claim that they
4 thought that they could do something. They liked the
5 concept, but they could do it a lot better than their
6 American Sports Classics.
7 But I want to know what does that mean, what are
8 the facts that support that, who are the people that were
9 saying that, what are the documents? All I have are
10 conclusions now, and I want to know what's behind it, and
11 when we come in on January 20th, I will want to hear stuff
12 that I hadn't seen.
13 JUDGE CHACHKIN: That's reasonable.
14 MR. DAVIS: Your Honor, I've heard your -- already
15 I've heard the Court on the point of incorporating the
16 answer. So we'll withdraw that for 12, and we'll go back
17 and we'll give them an answer on 12 that won't incorporate
18 the answer. We'll tell them the reasons.
19 JUDGE CHACHKIN: Okay.
20 MR. HORTON: There are a couple of others, Your
21 Honor. Number one was the reason. We ask him to detail the
22 reasons why they didn't launch us. Something more than just
23 incorporating their -- and again, if that's all they have to
24 say, and I won't hear any more, maybe so.
25 JUDGE CHACHKIN: Well, all those that you objected

1 to --

2 MR. HORTON: Basically every one where they refer

3 to their answer, I want to know if there's something more

4 there.

5 JUDGE CHACHKIN: Any documents to support will be

6 provided also?

7 MR. HORTON: That's correct.

8 JUDGE CHACHKIN: All right. So I want you to go

9 back, and each one in which objections were made, I want you

10 to tell your story with respect to each one of those.

11 MR. DAVIS: This is for the -- where we

12 incorporated the answer?

13 JUDGE CHACHKIN: Yes.

14 MR. DAVIS: That's fine, Your Honor.

15 JUDGE CHACHKIN: And now, as far as Interrogatory

16 14 is concerned, you've already agreed to tell your story

17 about control. And this would be the place to tell it.

18 MR. DAVIS: I'm not sure what more they want on

19 this now. Oh, this is the -- yes, yes, I remember now. We

20 already had this.

21 MR. HORTON: We've already agreed on that one.

22 MR. DAVIS: I understand. I got confused on the

23 numbers.

24 JUDGE CHACHKIN: Okay, does that take care of the

25 interrogatories to your satisfaction?

1 MR. HORTON: I think that's correct, Your Honor.
2 I'll profess to some disappointment that I don't have more
3 people with knowledge, but he's expanded it to --
4 JUDGE CHACHKIN: Well, if it should happen and I
5 assume you're going to speak to these individuals? Or you
6 know what they're going to say already. And to the extent
7 to which they're going to claim that there are other
8 individuals who know more, but they're going to profess
9 ignorance and say to the other individuals --
10 MR. DAVIS: Oh, no, no.
11 JUDGE CHACHKIN: Then obviously it's incumbent
12 upon you to provide the names of those --
13 MR. DAVIS: No, no. We --
14 MR. HORTON: I just don't want to take some
15 deposition and be told by someone, "You know, Charlie is the
16 guy that really knows about it."
17 JUDGE CHACHKIN: If it is, then I'll permit
18 further depositions.
19 MR. DAVIS: We've said in the interrogatory in
20 which we identified the person, that these persons have
21 knowledge on these issues. So we've already asked them, and
22 they've already told us that, so that's not even an issue.
23 JUDGE CHACHKIN: All right. Well, as I say, if it
24 does happen that there are other individuals --
25 MR. HORTON: My concern is that there may be other

1 key individuals. Not that there may be someone else in the
2 world that knows -- that has some smidgen of knowledge, but
3 I'm missing someone -- I'm missing a key player on an issue.
4 And so, as it turns out from the depositions, that there is
5 such a person that wasn't previously known to me.
6 JUDGE CHACHKIN: All right. I certainly would
7 permit you to take supplementary depositions.
8 MR. HORTON: Thank you, Your Honor.
9 JUDGE CHACHKIN: The next one is the depositions
10 themselves, and I assume, Mr. Horton, you've read the
11 objections? Namely referring to the civil --
12 MR. HORTON: Number of depositions?
13 JUDGE CHACHKIN: Number of depositions.
14 MR. HORTON: Yes, sir, I have them.
15 JUDGE CHACHKIN: What is your response?
16 MR. DAVIS: It is certainly true that a handful of
17 courts have adopted such rules if the Communication hasn't
18 -- I think it's try to prevent the overbearing situation
19 where, you know, a typical slip and fall case, where the
20 Defendant notices 50 depositions for some crazy notion. But
21 this is not a slip and fall case. It's not the most
22 complicated case in the world, but neither is it the
23 simplest.
24 They had 7 declarations submitted with their
25 answer, we noticed the depositions of 7 people. We've