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In Re Applications of:)	WT DOCKET No.:	94-147
)		
JAMES A. KAY, JR.)		
)		
Licensee of One Hundred)		
Fifty Two Part 90 Licenses)		
in the Los Angeles,)		
California Area.)		

VOLUME 6
CORRECTED COPY

Pages: 323 through 357
 Place: Washington, D.C.
 Date: December 4, 1997

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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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in the Los Angeles,)
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Courtroom 2
FCC Building
2000 L Street, N.W.
Washington, D.C.

Thursday,
December 4, 1997

The parties met, pursuant to the notice of the
Judge, at 9:35 a.m.

BEFORE: HON. RICHARD L. SIPPEL
Administrative Law Judge

APPEARANCES:

On behalf of James A. Kay, Jr.:

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On Behalf of Christopher Killian:

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APPEARANCES: (Continued)

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On Behalf of the Bureau - Gettysburg:

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On Behalf of the Bureau - D.C.:

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I N D E XWITNESSES:DIRECT CROSS REDIRECT RECROSS VOIR
DIRE

(None.)

E X H I B I T SIDENTIFIED RECEIVED REJECTEDName of Party:

(None.)

Hearing Began: 9:34 a.m.

Hearing Ended: 10:15 a.m.

P R O C E E D I N G S

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JUDGE SIPPEL: We are on the record.

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This is a prehearing conference that was called at my order. Is everybody here now who needs to participate in this?

5

6

Have you given your names to the court reporter?

7

ALL: Yes, Your Honor.

8

JUDGE SIPPEL: Everybody has?

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Mr. Gehman, is that correct?

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MR. GEHMAN: Yes.

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JUDGE SIPPEL: Okay, and I know the rest of the participants.

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I want to just make this preliminary statement for the record. I know there are depositions that are going to start next week, approximately two weeks of depositions on the west coast. And in an effort to try and prescribe what would be workable procedures, to the best I am able to do that in advance, that obviously doesn't always work, but we did have a conference anyway. It started with an informal conference by telephone on December 2nd, and sufficient issues came up that prompted us to postpone the conference call for further discussion this morning.

23

24

25

And as I was getting the pleadings in with respect to the opposition to Mr. Kay's motion for -- basically a motion for reconsideration on the Killian deposition, I

1 ordered that there be pleadings submitted to me. It was
2 actually, I think, I believe it was at your request, Mr.
3 Killian, you wanted to give me something in writing.

4 In any event, the deal was that I was going to get
5 the pleadings late yesterday, and we were going to confer by
6 phone this morning, and I felt, after giving consideration
7 to this more as I was going back over my notes and things,
8 that it made sense to do this on the record.

9 I appreciate very much the cooperation of counsel
10 in working on the phone. I think we did get a lot
11 accomplished on December the 2nd, but I think it's at a
12 point now where I think it's important that not only
13 yourselves but that I completely understand as much as we
14 can understand exactly what's going to happen next week.

15 The first item of business is with respect to the
16 Killian deposition. Now, I have reviewed that, and I
17 appreciate your -- and Mr. Schauble, I have gotten your
18 papers as well, Mr. Kellett, you are in here from Gettysburg
19 this morning.

20 MR. KNOWLES-KELLETT: Right.

21 JUDGE SIPPEL: Okay. I appreciate your coming on
22 such short notice.

23 I have reviewed the papers and I agree on the
24 technical compliance with the rules on reconsideration and
25 interlocutory appeals. The Bureau is right, Mr. Gehman is

1 right, but it wouldn't make any difference because I want to
2 take a look at this again anyway.

3 When I say "look at this again," I mean I want to
4 be sure that I'm controlling -- I'm providing a way for
5 controlling the Killian deposition within the confines of
6 what the rules require, plus what I think should be
7 permissible, to the extent I have discretion to expand that.
8 And I am concerned, and I'm going to ask Mr. Gehman to --
9 what you are asking me to do is confirm my order. For the
10 record, I should state this, that I have issued an order on
11 this matter, and I have it in a stack of papers here.

12 That would be FCC 97M-195, released November 26th
13 and everybody has received a copy of that. And in there I
14 made specific limitations with respect to the questions or
15 the scope of the questions of Mr. Killian.

16 And what I want to get at, I'm trying to reach a
17 point where I'm trying to ask you what really, what's the
18 problem here? Usually depositions are taken and the judge
19 doesn't even have to think much about them. And I know that
20 the questions go -- as a general proposition, questions go
21 beyond what is literally the relevant issues that need to be
22 asked. But for some reason or another these depositions,
23 everybody seems -- both sides seem to be concerned. One,
24 Mr. Friedman is concerned he's going to be cut off, and you
25 are concerned, Mr. Gehman, that your client is going to be

1 harassed, and some place in the middle lies what we want to
2 get accomplished here. The Bureau has participated in this
3 too, and the Bureau is trying to -- I think the Bureau is
4 trying to lend itself to giving the best to both parties.

5 Now, what really is the problem? Why can't Mr.
6 Killian just go and have his deposition taken? Why do we
7 have to get into all of this?

8 MR. GEHMAN: Well, first of all, he certainly can
9 just go and have his deposition taken, and he intends to be
10 deposed. He intends to appear for the deposition.

11 JUDGE SIPPEL: You're going to be out there with
12 him?

13 MR. GEHMAN: Probably not.

14 JUDGE SIPPEL: Is he going to have counsel out
15 there with him?

16 MR. GEHMAN: We haven't arranged that. I don't
17 know.

18 JUDGE SIPPEL: All right.

19 MR. GEHMAN: Frankly, he had hoped not to have to
20 hire counsel, but given all of this I think he's going to
21 have to do that.

22 So as I said, he's quite willing to take the
23 deposition. He's been concerned about this ongoing pattern
24 of, you know, things happening that look an awful lot like
25 harassment. So he doesn't mind giving evidence. He doesn't

1 mind answering questions. He doesn't even mind inquiry into
2 his credibility. What he does want is something that kind
3 of stops this -- this sequence of events that has been going
4 on.

5 JUDGE SIPPEL: Specifically, what? You mean like
6 with respect to that civil action, the defamation action out
7 on the west coast?

8 MR. GEHMAN: That, and there are other things
9 that, you know, frankly, we just didn't have the evidence to
10 put in the record. You know, strange phone calls to his
11 house; something got plastered up on the front gate of his
12 home. Someone has --

13 JUDGE SIPPEL: Well, how do you know those have
14 any connection with -- I don't want to get into this but I
15 mean, how do you know that has any connection with what we
16 are trying to get done here?

17 MR. GEHMAN: You know, Killian generally doesn't
18 get in scrapes with people. These things come up and they
19 have come up before. He has experienced a long history of,
20 you know, sabotage to his radio facilities and so on, but
21 it's always in connection with Kay somehow. Whenever
22 something is going on with Kay, then these things seem to
23 happen.

24 JUDGE SIPPEL: Are they in competition with each
25 other? I mean, is he in the same line of business as Mr.

1 Kay?

2 MR. GEHMAN: He used to be. He is actually
3 getting out. He has sold most of his licenses to Nextel.
4 He has a few more. Frankly, he's winding down. He has
5 other businesses and --

6 JUDGE SIPPEL: Communication type business or just
7 other -- you can give me as much as you want to tell me.

8 MR. GEHMAN: Sure.

9 JUDGE SIPPEL: I'm trying to understand what's
10 going on here.

11 MR. GEHMAN: Yes. Construction.

12 JUDGE SIPPEL: Construction work.

13 MR. GEHMAN: Yes, basically, he's getting out of
14 the communications business.

15 JUDGE SIPPEL: All right.

16 MR. GEHMAN: So, you know, and he's tired of this
17 whole thing, and he doesn't want to keep putting up with the
18 nonsense.

19 JUDGE SIPPEL: Well, all right. That's -- in any
20 event, okay. Now, all he has to do is show up. He will
21 have his deposition taken. The Bureau counsel are going to
22 ask him questions.

23 MR. GEHMAN: Um-hmm.

24 JUDGE SIPPEL: Virtually all those questions are
25 going to be something within the four corners of the hearing

1 designation order.

2 MR. GEHMAN: Sure.

3 JUDGE SIPPEL: Now, what would you be concerned
4 about, and I've already made my ruling with respect to that
5 petition, finding that the petition is just off limits. I
6 mean, that's not going to be --

7 MR. GEHMAN: Okay, that's --

8 JUDGE SIPPEL: There will be no questions asked on
9 the petition.

10 MR. GEHMAN: Yes.

11 JUDGE SIPPEL: But it's these other questions that
12 give me the concern. I mean, usually these depositions are
13 relatively free-wheeling. I mean, within -- obviously, you
14 know, it reaches a point where somebody says, "Hey, that's
15 enough. Enough is enough."

16 But what instructions -- why can't he just go and
17 have his deposition taken by Mr. Friedman?

18 I mean, you know, you have told me all about the
19 PIC stuff, the PIC situation, the PIC law suit. When I say
20 "the PIC stuff," I'm talking about the defamation action out
21 in California. You've told me now about some peripheral
22 things that are happening perhaps, and apparently you feel
23 there is -- these are my words now, but there is bad blood
24 between Mr. Killian and Mr. Kay?

25 MR. GEHMAN: I think so.

1 JUDGE SIPPEL: Okay. So that's all right. That's
2 a problem. Those problems happen sometimes when people are
3 deposed.

4 Why can we do to alleviate these concerns, Mr.
5 Friedman?

6 MR. FRIEDMAN: Let the deposition go forward as it
7 always does. That's why people are in lawsuits.

8 JUDGE SIPPEL: All right. But this is not a
9 lawsuit. He's just being a fact witness. This guy is --

10 MR. FRIEDMAN: Apparently he has communicated with
11 the Bureau and agreed to participate in the Bureau's case.

12 JUDGE SIPPEL: Right. Well, you have known that
13 since what, October of '95?

14 MR. FRIEDMAN: Right, and we are prepared to
15 depose him and to find out what he knows, what he is telling
16 the Bureau, and as well, as to look into his credibility so
17 we can deal with that on the witness stand should he be a
18 witness called by the Bureau here.

19 JUDGE SIPPEL: Well, do you have something
20 specific on credibility? What exactly are you talking
21 about?

22 MR. FRIEDMAN: Well, his veracity. He is now
23 apparently through counsel slandering my client. We want to
24 know the basis for the slander; what else he has done; what
25 other actions he's taken that raises credibility questions.

1 JUDGE SIPPEL: Well, he's answering my questions.
2 Would you agree with his characterization that there is bad
3 blood between Mr. Kay and Mr. Killian?

4 MR. FRIEDMAN: I believe that they are commercial
5 competitors, and I don't know what -- I don't know what the
6 extent of the bad blood is, but they are competitors who
7 seem to compete with their elbows right up close to each
8 other.

9 JUDGE SIPPEL: But that can be done without having
10 any, you know, personal --

11 MR. FRIEDMAN: But he has -- I guess that he has
12 participated in the structuring of the Bureau's case against
13 Mr. Kay, which leads to further animosity between the
14 parties.

15 JUDGE SIPPEL: Okay. Well, these are questions,
16 I'm assuming these are questions that can be cleared up in
17 the deposition; I mean, in terms of what he's done to
18 participate with the Bureau; what information he's provided
19 the Bureau. And, you know, if that information is -- the
20 nature of that information, the credibility of that
21 information, you know, that remains to be seen.

22 But what I am disinclined to do, you know, I don't
23 think this is any big surprise in terms of what I have
24 already written on this issue, is I am just disinclined to
25 open this interrogation, this deposition up to where there

1 is going to be open-ended inquiries on credibility.
2 Credibility can become, you know, a mini-issue in a case,
3 and I have no reason to open it up at this point for that
4 reason.

5 And the tradition -- I mean, I'm not going to be
6 able to give you chapter and verse, but there are
7 traditional types of questions that are asked in
8 depositions, and that's what I would think he would be asked
9 and answered in this case so the man can -- you know, a
10 couple of hours and he's off the stand.

11 MR. FRIEDMAN: I don't think it will take --
12 that's what we intend to do.

13 JUDGE SIPPEL: Okay.

14 MR. FRIEDMAN: But we're getting prepared. When
15 we come to trial, we are going to be very specific, but now
16 we're just in discovery. We need to get into discovery and
17 ask him the questions.

18 JUDGE SIPPEL: Well, you see -- well, all right.
19 You certainly must know a fair amount about Mr. Killian --

20 MR. FRIEDMAN: We do.

21 JUDGE SIPPEL: -- by virtue of the fact that he
22 has turned information over to the Bureau which you've known
23 about since October of '95. Mr. Gehman was good enough to
24 point that out to me. Plus you've had these depositions,
25 this discovery going on in these what I call unrelated

1 cases, but nonetheless over the objection of the parties
2 there have been questions asked about or information sought
3 with respect to what Mr. Killian has done with the FCC vis-
4 a-vis Mr. Kay.

5 So I don't know how much more from a discovery
6 standpoint this deposition should involve. I mean, I look
7 upon it more as I -- I looked upon it more as being here is
8 a person that has specific information. You certainly want
9 to get his position on the record and, you know, you may
10 want to go scope it out a little more, but basically both
11 sides know what this man is going to testify to, you know,
12 in the common parlance of that term.

13 But you feel that this is a traditional discovery
14 type deposition as opposed to a trial deposition, trial
15 preparation deposition, if you are following my distinction?

16 MR. FRIEDMAN: I am not. I mean, we are preparing
17 for trial.

18 JUDGE SIPPEL: All right. But I am trying to
19 distinguish between two types of deposition. There is a
20 discovery deposition which are generally relatively broad,
21 and, again, it depends on who is asking the questions and
22 what the nature of the action is, the nature of a lot of
23 things. But there is a trial deposition, what I would call
24 a trial deposition where you have a basic idea as to what
25 the information is going to be and you want to get it on the

1 record --

2 MR. FRIEDMAN: What we have --

3 JUDGE SIPPEL: -- so the witness is locked in.

4 MR. FRIEDMAN: We certainly want to lock him in on
5 everything. We have ideas but we don't know everything, and
6 we will be asking a number of questions to resolve these
7 issues that we have open, and to get him locked in in case
8 he should not be available to testify; in case we have to
9 put in his deposition; in case we have to examine him and
10 deal with credibility questions; in case we have to confront
11 him with conflicts between his testimony on the witness
12 stand and his deposition. We need all of this locked in,
13 and this is our first chance to do that.

14 JUDGE SIPPEL: Well, you did have an opportunity,
15 but you have had a chance, Mr. Kay has had a chance to talk
16 to him on the record in another context.

17 MR. FRIEDMAN: It's another context. It's not
18 within this context.

19 JUDGE SIPPEL: But the questions I understand, am
20 I right, the questions he was being asked to provide
21 information with respect to his contacts with the FCC, which
22 would involve information that would be related to this
23 matter that was covered?

24 MR. FRIEDMAN: Those are unique questions to this
25 case, and some were asked, but I don't know the totality of

1 the questions that were asked.

2 JUDGE SIPPEL: All right. Well, I'm not trying to
3 argue with you. I'm trying to get a feel for this. I mean,
4 some depositions are cleaning things up. Some depositions
5 are the first time out. Some depositions are, as I said
6 before, is to lock the witness in. This seems to be a little
7 bit of a hybrid of all of those things, and I'm hoping from
8 what I am hearing and from what I have read that this is
9 just going to go along relatively smoothly, and this man is
10 not going to be sitting there -- he is not going to be asked
11 to sit there for an extended period of time. As I say, he
12 should be out of there in a couple of hours.

13 MR. GEHMAN: If that's the case, then we are okay.

14 JUDGE SIPPEL: Okay. Well, I am going to do this.
15 I am going to -- and I will be perfectly candid. I mean, I
16 have spent time on that phone conference two days ago going
17 through hypotheticals, and I have a lot of difficulty with
18 narrowing questions, scopes of questions, putting limits on
19 the scopes of questions up front because I'm not asking the
20 questions, and I certainly don't want to restrain counsel in
21 any way inadvertently from doing their job, representing the
22 client.

23 But having said that and looking at the papers and
24 looking at the situation here, and what I perceive to be, as
25 I say, my characterization, not literally, but there is

1 something, there is tension between -- let me use that word,
2 tension between Mr. Kay and your client, Mr. Killian.

3 I am going to go along with what I did except I'm
4 going to -- I mean, in other words, my Order 195 will stay
5 basically as it is except I will modify it to the effect
6 that the questions on cross-examination will be limited to
7 those that are within the scope of the Bureau's direct
8 examination on the deposition.

9 I was a little more narrow on that. I was
10 confining it only to the questions that the Bureau asked
11 related to the issues in this case, and the Bureau may go
12 beyond that. And the reason I am making that ruling, and I
13 will note this in my order too, is the Bureau has indicated
14 in its latest pleading that it will take certain steps to
15 cooperate in an effort to try and allow -- not object to, I
16 mean not object to questions that may literally go beyond
17 those confines of that restriction, but nonetheless would
18 be, let me say, questions that are just colloquially fair
19 game in a deposition.

20 Am I essentially characterizing that the right
21 way, Mr. Schauble?

22 MR. SCHAUBLE: I think that's more or less
23 correct. You know, we reviewed, you know, the pleading
24 fairly carefully and it raised the specter of, you know, the
25 limitation causing a necessity for two separate depositions

1 of Mr. Killian, which is, you know -- you know, the Bureau
2 has an interest in getting this case moved along and going
3 forward as I think Your Honor has said on several occasions
4 that you have a very strong interest in making sure this
5 case moves along.

6 And, you know, if by, you know, expanding the
7 scope a little bit hopefully we can eliminate the need for a
8 dual deposition of Mr. Killian, you know, we think it would
9 be the better procedure overall to allow Mr. Kay to ask the
10 questions he has in this deposition as opposed to going
11 through the procedure of having one deposition, then re-
12 noticing him on a second deposition on matters that couldn't
13 be asked just because they weren't within the scope of the
14 Bureau's questions.

15 JUDGE SIPPPEL: Okay. I don't think I can do
16 anything more than that. And what I will do is I will
17 essentially use the language that is in the -- that has been
18 proposed by the Bureau with respect to, you know, describing
19 this kind of gray area field. But as a general proposition,
20 you're going to be limited to cross-examination on the
21 questions that they ask, that the Bureau is asking, and
22 certainly any questions that you want to ask with respect
23 to, you know, how he came to submit things to the Bureau
24 back in '95 and, you know, just what his involvement has
25 been in terms of as Mr. Kay believes the structuring of that

1 case because those -- well, I have said it. That's
2 essentially it.

3 And I mean, I think that that's giving everybody a
4 fair shot at what needs to be done out there and have taken
5 the interests of the witness into consideration too, which I
6 have an obligation to do. I mean, FRE 611 says you can't
7 harass witnesses, and this man is afraid he's going to get
8 harassed, otherwise he wouldn't have hired a lawyer and
9 filed all these papers with him. He's not trying to
10 stonewall the questions. He's just worried about being
11 harassed. Okay, now, that's it on Mr. Killian.

12 Now, there is another question that I have, and
13 that is there is an -- with respect to the Killian's, and
14 there is a request out for a copy of Mrs. Killian's
15 deposition; is that correct?

16 MR. SCHAUBLE: No, Your Honor. We had filed a
17 request for that. There was an objection raised by Mr.
18 Friedman. However, in the interim a copy of that -- I
19 believe a copy of that transcript was attached in the motion
20 filed by Mr. Killian. Therefore, we have that and the
21 motion to compel we filed was with respect to David
22 Pfeifer's deposition transcript.

23 JUDGE SIPPEL: All right.

24 MR. FRIEDMAN: Well, the transcript with respect
25 to Mrs. Killian is moot.

1 JUDGE SIPPEL: I'm sorry? Killian is moot.

2 MR. FRIEDMAN: Right.

3 MR. SCHAUBLE: Right.

4 JUDGE SIPPEL: The Killian deposition is moot, the
5 transcript to the deposition is moot. All right, but we
6 still have the Pfeifer deposition.

7 All right, well, I'm going to go down the
8 checklist again just to get a current perspective on that.

9 MR. FRIEDMAN: With regard to the Pfeifer
10 deposition, we will provide that, Your Honor. One reason,
11 I guess, we held it back is that there is some very damaging
12 information concerning Mr. Pfeifer's drug addiction and
13 other criminal matters.

14 JUDGE SIPPEL: Well, you don't have to tell me
15 that.

16 MR. FRIEDMAN: Well --

17 JUDGE SIPPEL: Just his personal matters.

18 MR. FRIEDMAN: Well, we just urge the Bureau, once
19 you get it, to treat it as we're trying to treat it as, you
20 know, having those very serious issues presented therein.
21 We will get that over to you.

22 JUDGE SIPPEL: Does Mr. Killian know that you're
23 getting the deposition or looking for it?

24 MR. SCHAUBLE: Mr. Pfeifer?

25 JUDGE SIPPEL: I'm sorry, Mr. Pfeifer.

1 MR. SCHAUBLE: Yes, Your Honor, he knows.

2 JUDGE SIPPEL: And he doesn't have any objection
3 to your getting a copy of it?

4 MR. SCHAUBLE: He has not expressed any such
5 objection to us.

6 MR. KNOWLES-KELLETT: Right, not expressed it.

7 JUDGE SIPPEL: All right.

8 MR. KNOWLES-KELLETT: We asked him for it and he
9 didn't have it.

10 JUDGE SIPPEL: Well, I think that you ought to let
11 him know that you understand that there are these sensitive
12 matters in there, if that's the case, and that, you know,
13 you'll do what you can to protect it. I don't know, it's
14 matter of public record now, I guess, isn't it?

15 MR. GEHMAN: Well, depositions aren't normally
16 filed any longer in court so they aren't public record.

17 JUDGE SIPPEL: It's not? What do you know about
18 that, Mr. Schauble?

19 MR. KNOWLES-KELLETT: If it's not of use to us,
20 Your Honor, we could potentially destroy it before there is
21 any request for it.

22 JUDGE SIPPEL: Well, I would --

23 MR. KNOWLES-KELLETT: The government has no --

24 JUDGE SIPPEL: All I am saying is that either by -
25 - somehow or other let Mr. Pfeifer know that you are aware

1 or you have been told or you have been alerted that there
2 might be some sensitive matters in there that you are going
3 to take care of protecting those sensitive matters, to the
4 extent you can. And if you don't have any use for it,
5 that's right, destroy it or get it back to him.

6 MR. KNOWLES-KELLETT: Okay, we'll try.

7 JUDGE SIPPEL: Him being, you know, Mr. Pfeifer.
8 Just send it back to him and say we're not going to use it.

9 MR. KNOWLES-KELLETT: Okay.

10 JUDGE SIPPEL: Or we have no intention of using
11 it, however you want to do it.

12 When is he going to get that? When are you going
13 to get that?

14 MR. FRIEDMAN: I'll try to get it in the next
15 couple of days.

16 JUDGE SIPPEL: Why can't they get it before they
17 leave?

18 MR. FRIEDMAN: I am just trying to find out where
19 it is and get it here.

20 JUDGE SIPPEL: Nobody knows where it is?

21 MR. FRIEDMAN: No, I don't at the moment know
22 where it is. I know we are going to turn it over, whether
23 it's in California at the moment or in Washington. If it's
24 here, we will hand deliver it to the Bureau.

25 MR. SCHAUBLE: Your Honor, if for some reason they

1 can't get it today or tomorrow, I mean, if it could be
2 produced next Tuesday.

3 MR. FRIEDMAN: Yes, within the next couple of
4 days. It's just a matter of logistics, that's all.

5 JUDGE SIPPEL: All right.

6 MR. KNOWLES-KELLETT: We've got a full weekend
7 anyway, Your Honor.

8 JUDGE SIPPEL: All right. All right, I'm just
9 trying to help.

10 MR. KNOWLES-KELLETT: Thank you.

11 JUDGE SIPPEL: Now, getting back to Mr. Killian
12 again, you do understand -- you received a copy of the
13 sequestration order that I issued yesterday; is that
14 correct?

15 MR. GEHMAN: Yes.

16 JUDGE SIPPEL: All right. Do you have any
17 questions with respect to that? Does your client have a
18 copy? Does he understand it?

19 MR. GEHMAN: I have not given it to the client.
20 Frankly, we were focused on the pleading from last night, so
21 I will address that.

22 JUDGE SIPPEL: Good use of time, but I think he
23 should have it.

24 MR. GEHMAN: Yes.

25 JUDGE SIPPEL: And particularly if he's going to

1 be working with a local counsel out there at the deposition,
2 his local counsel should be, you know, aware of this up
3 front.

4 MR. GEHMAN: Yes.

5 JUDGE SIPPEL: So that if there is any, you know,
6 if there is any question that comes with respect to this
7 sequestration order, I mean, he understand it before he goes
8 into the deposition, or at least he has a general
9 understanding of it.

10 MR. GEHMAN: Sure.

11 JUDGE SIPPEL: All right.

12 MR. FRIEDMAN: In light of that sequestration
13 order, I have talked to the client, and I don't want anybody
14 running afoul of the order, and as we have discussed in our
15 discussion.

16 JUDGE SIPPEL: Right.

17 MR. FRIEDMAN: The line there is not so bright and
18 it troubled us that we might come afoul of it
19 unintentionally because we try to be circumspect, and
20 perhaps the Bureau or whomever would question whether we
21 were sufficient circumspect. In light of that, we have
22 requested our client to make himself available Tuesday, and
23 to move the Tuesday people back so that there is going to be
24 no sequestration problem.

25 JUDGE SIPPEL: Well, that's what I was saying. It