

FCC MAIL SECTION

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC 98M-22

80515

In Matter 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.)	

O R D E R

Issued: February 24, 1998 ; Released: February 26, 1998

Due to circumstances brought to the attention of the Presiding Judge by counsel for both parties,¹ it is determined that the time for completing discovery should be extended and consideration should be given to new procedural and hearing dates. Kay is also entitled to additional time in which to file a responsive pleading and to furnish the Bureau a list of witnesses.

Accordingly, IT IS ORDERED that the procedural and hearing dates previously set [ORDER FCC 97M-170] ARE IN ABEYANCE.²

IT IS FURTHER ORDERED that Kay may file a responsive pleading to the Bureau's Consolidated Opposition To Notices Of Depositions and Motion For Protective Order on **February 27, 1998**.³

¹ For good cause, there shall be no activity in this case from **June 30 to July 8, 1998**. Thereafter, the LA phase of the case should conclude by **September 4, 1998**.

² A current schedule requires Kay's counsel to disclose witnesses to Bureau counsel on February 26, 1998. Order FCC 98M-21. Kay's counsel wanted two weeks to disclose his witnesses. A new date for Kay's witness identification is hereby set for **March 6, 1998**. In light of the schedule change to be considered, the time requested by Kay's counsel is reasonable and appropriate. Cumulative testimony is to be avoided. The witness list must include a brief description of the expected testimony as was provided to Kay's counsel by Bureau counsel.

³ Kay filed a Motion for Extension of Time on February 23, 1998. Kay did not receive prompt service of the Bureau's pleading. Therefore, Kay deserves an extra day to respond. Counsel should assure same day service by fax or hand-delivery where matters are time sensitive.

IT IS FURTHER ORDERED that counsel for the parties SHALL SUBMIT proposed new procedural and hearing dates in accordance with the hearing schedule in Order 97M-170 in the next status reports to be submitted by **March 12, 1998**.⁴

IT IS FURTHER ORDERED that by **March 16, 1998**, counsel SHALL SUBMIT a deposition schedule that will include the depositions of experts which counsel are encouraged to take in Washington, D.C.⁵

FEDERAL COMMUNICATIONS COMMISSION⁶



Richard L. Sippel
Administrative Law Judge

⁴ The testimony of Mr. Kay, the Sobels (if they are called to testify) and the experts shall be heard in Washington, D.C. Proposed dates for ending discovery and for commencing the hearing must take into account the Bureau's discovery needs of Kay's witnesses as well as Kay's deposition of Mr. Jensen and the experts' depositions. Telephone depositions of non-expert West Coast witnesses will be permitted.

⁵ The March 6 date for completing discovery and the March 20 date for a Joint Schedule of the current status of depositions are now moot. (Order FCC 98M-21).

⁶Copies of this Order were faxed or e-mailed to counsel on date of issuance.