

ORIGINAL

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

In re Applications of )  
READING BROADCASTING, INC. )  
For Renewal of License of )  
Station WTVE(TV), Channel 51 )  
Reading, Pennsylvania )  
and )  
ADAMS COMMUNICATIONS CORPORATION )  
For Construction Permit for a New )  
Television Station to Operate on )  
Channel 51, Reading, Pennsylvania )

MM Docket No. 99-153

File No. BRCT-9407KF

RECEIVED  
OCT 18 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

File No. BPCT-940630KG

To: Magalie Roman Salas, Secretary  
for direction to  
The Honorable Richard L. Sippel  
Administrative Law Judge

ADAMS' MOTION TO MODIFY PROCEDURAL DATES

1. Adams Communications Corporation ("Adams") moves this Court to modify procedural dates in this proceeding under the circumstances and for the reasons set forth below.

2. This Court's appropriately tight rein on the conduct of this proceeding has, to say the least, kept the nose of counsel and the parties to the grindstone. In our small firm of three attorneys, two (Messrs. Cole and Bechtel) have devoted virtually all or the vast majority of their time to the matter for a number of months now. Our partner, Ms. Farhat, has been pressed into extensive duty as well. We have added three new support staff to

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the operation, all devoted to work on this case.<sup>1</sup> We initially believed that the current timetable for the proceeding, while very tight, was do-able. It has become clear that it is not.

3. For one thing, there is the matter of a heavy volume of pleadings relative to motions to enlarge issues. We ask the Court to appreciate that counsel in ongoing hearing litigation do not reach out for extra things to do such as the homework involved in the preparation of such motions and related pleadings. But this is part of the litigation. When matters come to the attention of counsel, it is their duty to their client to pursue those matters and under FCC rules and policy, they cannot delay and must do so within a relatively short period of time.

4. As this Court is aware, the motion to enlarge issues stemming from certain adjudications by the Commission adversely to Mr. Parker generated pleadings, a ruling by this Court, and further pleadings relative to an appeal from that ruling. A second motion to enlarge issues is being filed, stemming from the unusual claim by RBI that it was relying on Mr. Parker's past broadcast experience in rescuing stations from bankruptcy proceedings, and our homework including the deposition of Mr. Parker only a few days ago, supporting a motion to disqualify Mr. Parker based on false statements and misrepresentations by him in

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<sup>1</sup> We of course do not purport to speak for counsel for Reading Broadcasting, Inc. ("RBI"). However, to our observation they, too, have been exceedingly busy in the matter on a continuous basis.

a broadcast-related bankruptcy proceeding. A third motion to enlarge issues is also being filed, stemming from the review of RBI corporate minutes reflecting a battle for corporate control during the license term, which was won by Mr. Parker and his contingent, although ownership reports falsely portrayed that the local governing board continued without change. Of necessity and regardless of the outcome of the Court's rulings, the time and attention of counsel and the parties will be drawn into the debate over these new motions during the period in which discovery is to be concluded and case preparation is required.

5. Notwithstanding diligence -- extreme diligence -- in the conduct of discovery, the ability to finish that task by a week from Friday, October 29th, has become totally unrealistic. Please be advised that the depositions of the local public witnesses identified by RBI, with a couple of possible exceptions for inability to serve the individuals or other reasons, are going forward at the rate of five per day commencing this Wednesday through Saturday.<sup>2</sup> We have wall-to-wall depositions scheduled for the following week, ending the 29th, as well.

6. The problem is that the documents needed to ask questions of key corporate officers have not been available. A major source of that problem relates to corporate minutes for the license term. Adams' seemingly routine request for those minutes

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<sup>2</sup> Adams is prepared to comply with the obligation to identify its local public witnesses by the 29th. Under the revised schedule proposed, RBI will be in a position to take depositions of those witnesses prior to the hearing should it wish to do so.

has met with resistance and delay on the part of RBI. At first, this resistance seemed untoward. Upon a review of the documents, the reason for the resistance has become clear. The minutes reflect a power struggle in which Mr. Parker prevailed. That is the subject of a disqualification motion that is being filed referred to above. But, in terms of the discovery rights of Adams under the currently designated issues, those minutes are critical.

7. RBI claims a comparative credit by virtue of its local ownership. Before learning about the situation regarding the minutes, we took the depositions of three of the local ownership contingent, Messrs. Clymer, Denby and Linton, who were directors and in the case of Mr. Linton, also corporate Secretary, during the license term. In these depositions, indeed in all of our depositions, we have asked questions concerning the role of local stockholders in relation to programming of the station. There were relevant lines of questions to ask Messrs. Clymer, Denby and Linton, central to the comparative credit for local ownership, that we did not ask because we did not have knowledge of the contents of the minutes. Viewed by any fair standard, we have the right to engage in those lines of questions in renewed depositions of Mr. Linton, an apparent leader of the local contingent and corporate Secretary, Messrs. Clymer and Denby as well, and for certain Mr. Parker, whose deposition was being taken during the very same two days that Mr. Cole spent reviewing the minutes, and concluded without opportunity to examine him

regarding the contents of the minutes.

8. There are additional problems of this nature. Probably most serious in terms of the need for more discovery time, we have been promised a list of the employees during the earlier period of the license term (August 1989-February 1992) since last summer. To date, that list has not been provided notwithstanding repeated inquiries. We were supposed to receive financial statements of RBI during the license term on October 8th. To date, they have not been received. We are supposed to have representative documents pertaining to the past broadcast experience of Messrs. Linton, McCracken and Parker. To date, these have not been received. We have not been provided approximately seven months of program logs from the five year license term. Only at the end of last week were we told that they could not be found, previous indications being that RBI was still looking for them. Various depositions reflect requests that RBI check for the existence of certain documents and provide them if found (in most instances, RBI agreed to the request, but has not yet responded; in at least one instance, RBI did not say whether it would agree to the request and a formal motion must be filed).

9. Before proposing revised procedural dates, we wish to raise considerations of the schedule of the undersigned counsel, who is to have a significant role in the conduct of depositions and in the hearing sessions, and must be involved in the preparation of the direct cases, rebuttal proofs and pretrial brief:

(a) A major brief as Intervenor for Glendale Broadcasting Company for which he has been the lead counsel in briefings before the Commission since 1996 is to be filed in the Court of Appeals on November 15, 1999 (Exhibit 1). This was not viewed as an actuality in light of the settlement of the controversy by the parties in the Spring of 1999. However, as consideration of that settlement by the Commission dragged on, the parties filed an emergency motion with the agency to complete its consideration so that the Intervenor's brief would not have to be filed or responded to by the Petitioners, the Trinity Broadcasting Network (Exhibit 2). As of this writing, there is no reason to believe that such Commission consideration of the settlement will occur in time, and work must be started on the Intervenor's brief within a matter of days, involving an estimated 10 working days by counsel.

(b) A major hearing regarding the government's motion to dismiss the Complaint of William A. Warren before Judge Friedman in the District Court will be held on November 19, 1999. This was scheduled for early September, which posed no substantial problem in relation to this proceeding, but was rescheduled due to change in counsel at the Justice Department (Exhibit 3). The undersigned is the lead counsel who personally conducted the research and drafted the Plaintiff's opposition to the motion to dismiss. This is a complex legal case involving constitutional issues of separation of powers and taking of property, and issues of international and maritime law (Exhibit 4). While co-counsel

will be here from the West Coast to help prepare for the hearing, the undersigned counsel cannot transfer responsibility for arguing the case before Judge Friedman. Preparation and attendance at the hearing will involve an estimated five working days.

(c) Counsel is under advice by his cardiologist (single bypass surgery in 1990, double stent-angioplasty surgery in November 1998) to work a 40-hour week and reduce stress by leisure activities in the evenings and on weekends. While such a schedule cannot always be maintained in the heat of litigation, the press of the instant litigation has generated 60-70 hour work weeks during the past two months with little leisure time, and meeting the current schedule of this proceeding, with the two court cases just described, puts too much on counsel's plate that cannot be reassigned, leading to the decision to submit this motion.

10. Adams moves the Court to modify the procedural dates to a schedule approximately as follows:

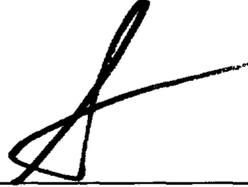
<u>Activity:</u>	<u>From:</u>	<u>To:</u>
Discovery Closes	Oct. 29	Nov. 26
Exchange Cases	Nov. 15	Dec. 14
Subpeonas for signature	Nov. 16	Dec. 15
Trial Briefs	Nov. 18	Dec. 17
Witn. Notice	Nov. 23	Dec. 20
Adm. Sessions	Nov. 29	Jan. 4

Hrg. Commences

Dec. 7

Jan. 10

Respectfully submitted,



---

Gene A. Bechtel  
Harry F. Cole

Bechtel & Cole, Chartered  
Suite 250, 1901 L Street, N.W.  
Washington, D.C. 20036  
Telephone 202-833-4190  
Telecopier 202-833-3084

Counsel for Adams Communications  
Corporation

October 18, 1999

EXHIBIT 1

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 99-1183**

**September Term, 1998**

Trinity Broadcasting of Florida, Inc. and Trinity  
Christian Center of Santa Ana, Inc., *d/b/a* Trinity  
Broadcasting Network,  
Appellants

v.

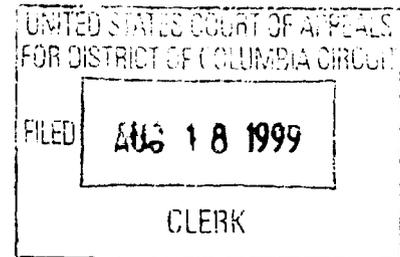
Federal Communications Commission,  
Appellee

---

Glendale Broadcasting Company, et al.,  
Intervenors

---

Consolidated with 99-1184, 99-1186



**BEFORE:** Silberman, Sentelle, and Henderson, Circuit Judges

## ORDER

Upon consideration of the motion to establish briefing and notification of support for appellants, it is

**ORDERED** that the motion to establish briefing be denied. Trinity Broadcasting of Florida, Inc., Trinity Christian Center of Santa Ana, Inc., dba Trinity Broadcasting Network, National Minority T.V., Inc., and Colby have failed to provide a detailed justification for their request for increased word limits and separate briefs. The following briefing schedule shall apply:

Joint Brief for Appellants and Intervenors in Support of Appellants (not to exceed 14,000 words)	September 29, 1999
Brief for Appellee (not to exceed 14,000 words)	October 29, 1999

United States Court of Appeals  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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No. 99-1183

September Term, 1998

Joint Brief for Intervenors  
in Support of Appellee  
(not to exceed 8,750 words)

November 15, 1999

Joint Reply Brief for Appellants and  
Intervenors in Support of Appellants  
(not to exceed 7,000 words)

November 29 1999

Deferred Appendix

December 6, 1999

Final Briefs for All Parties

December 20, 1999

Per Curiam



KIH

EXHIBIT 2

BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

In re Applications of

TRINITY BROADCASTING OF  
FLORIDA, INC.,

)  
) MM Docket No. 93-75  
)  
)

For Renewal of License of  
Television Station WHFT(TV)  
Miami, Florida

) MM Docket Nos. 93-156

) BRCT-940202KE

) BPCT-940426KG

) BRCT-930921LM

GLENDALE BROADCASTING  
COMPANY,

) BPCT-931230KF

) BRCT-930730KF

) BPCT-931028KS  
)  
)

For Construction Permit for a  
New Television Station in  
Miami, Florida,

and

Citizen Agreement of the Spanish American  
League Against Discrimination (SALAD) with  
Trinity Christian Center of Santa Ana,  
Inc. d/b/a Trinity Broadcasting Network,  
Trinity Broadcasting of Florida, Inc., and  
National Minority T.V., Inc.

and

Citizen Agreement of the California State  
Conference of Branches of the NAACP and the  
Alaska/Oregon/Washington State Conference  
of Branches of the NAACP with Trinity  
Christian Center of Santa Ana, Inc. d/b/a/  
Trinity Broadcasting Network and National  
Minority T.V., Inc.

and



Citizen Agreement of the League of )  
 United Latin American Citizens (LULAC) with )  
 Trinity Christian Center of Santa Ana, )  
 Inc. d/b/a/ Trinity Broadcasting Network, )  
 Trinity Broadcasting of Texas, Inc., and )  
 National Minority T.V., Inc. )

To: The Commission

**CONSENT MOTION REQUESTING IMMEDIATE  
 PROCESSING OF REQUEST FOR APPROVAL OF  
 AMENDED AND SUPERSEDING SETTLEMENT  
AGREEMENTS**

Trinity Broadcasting of Florida, Inc., Trinity Christian Center of Santa Ana, Inc., Trinity  
 Broadcasting of New York, Inc., National Minority T.V., Inc., Glendale Broadcasting Company,  
 Maravillas Broadcasting Company, the California State Conference of Branches of the NAACP,  
 the Alaska/Oregon/Washington State Conference of Branches of the NAACP, the League of  
 Latin American Citizens and the Spanish American League Against Discrimination (hereinafter  
 the "Parties" when referred to jointly), by their respective attorneys, hereby request the  
 Commission to immediately process the Joint Requests for approval of amended and  
 superseding settlement agreements that were filed in the above-referenced proceeding on May  
 17, 1999.

The pending settlement agreements were filed at the express invitation of the  
 Commission in its Decision in Trinity Broadcasting of Florida, Inc., FCC 98-313, released April  
 15, 1999 at para. 128, and if granted, will eliminate the need for additional evidentiary hearings.  
 The settlements have now been pending at the Commission for some time and, the parties have  
 been advised that an item concerning the settlement is pending before the Commissioners. In the

-3-

meantime, Notices of Appeal of the Commission's Decision were filed with the U.S. Court of Appeals for the D.C. Circuit, and the Court has recently issued a briefing schedule (Case No. 99-1183). The initial briefs for appellants, the FCC and intervenors for both parties are due on various dates between September 29, 1999 and November 23, 1999.

Resolution of the pending settlement prior to the date that briefs are due will result in a more efficacious processing of the appeal since the resolution will affect whether or not certain intervenors must file briefs and whether or not there must be replies to those intervenor briefs. Accordingly, for these reasons, the Parties hereby respectfully request the Commissioners to immediately act on the pending settlement agreements. Counsel for the FCC in the General Counsel's office has been contacted concerning this Consent Motion and has stated that the FCC will not interpose an objection to this motion.

Accordingly, for the reasons set forth above, the Parties respectfully request that the Commission immediately complete its processing of the pending settlement agreements.

Respectfully,

TRINITY BROADCASTING OF  
FLORIDA, INC.  
TRINITY CHRISTIAN CENTER OF  
SANTA ANA, INC.  
TRINITY BROADCASTING OF  
NEW YORK, INC.

By: \_\_\_\_\_  
Howard A. Topel  
Their Counsel

FLEISCHMAN AND WALSH, L.L.P.  
1400 16th Street, N.W.  
Washington, D.C. 20036  
(202) 939-7900

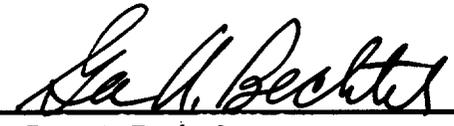
NATIONAL MINORITY T.V., INC.

FISHER WAYLAND COOPER  
LEADER AND Z ARAGOZA L.L.P.  
2001 Pennsylvania Ave., N.W.  
Suite 400  
Washington, D.C. 20006  
(202) 659-3494

By: \_\_\_\_\_  
Kathryn R. Schmeltzer  
Its Counsel

GLENDALE BROADCASTING COMPANY  
MARVAVILLAS BROADCASTING COMPANY

BECHTEL & COLE, CHARTERED  
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Suite 250  
Washington, D.C. 20036  
(202) 833-4190

By:  \_\_\_\_\_  
Gene A. Bechtel  
Their Counsel

CALIFORNIA STATE CONFERENCE OF  
BRANCHES OF THE NAACP  
THE ALASKA/OREGON/WASHINGTON  
STATE CONFERENCE OF BRANCHES  
OF THE NAACP  
SPANISH AMERICAN LEAGUE AGAINST  
DISCRIMINATION

LAW OFFICE OF DAVID E. HONIG  
3636 16th Street, N.W.  
Suite B-366  
Washington, D.C. 20010  
(202) 332-7005

By: \_\_\_\_\_  
David Earl Honig  
Their Counsel

EXHIBIT 3

CLERK'S OFFICE  
UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA  
3RD & CONSTITUTION AVE., NW  
WASHINGTON, D.C. 20001

September 20, 1999

WILLIAM A. WARREN  
Plaintiff(s)

v.

Civil Action No. 97-2415

UNITED STATES OF AMERICA  
Defendant(s)

**CIVIL NOTICE**

Please be advised that the above entitled case is scheduled in Court.

CASE SET FOR:           MOTIONS HEARING  
DATE:                    NOVEMBER 19, 1999  
TIME:                    10:00 A.M.  
JUDGE:                  PAUL L. FRIEDMAN  
COURTROOM:            No. 17 - SIXTH FLOOR

**PLEASE NOTE: Due to a heavy trial schedule, the motions hearing previously scheduled for 11/15/99 has been rescheduled to the above date and time.**

NANCY MAYER-WHITTINGTON, Clerk

By:                    Barbara P. Montgomery  
Deputy Clerk 354-3155

cc: Chambers  
File  
Courtroom Clerk

P: Gene A. Bechtel, Esquire  
D: Edward S. Gelderman, Esquire  
Jeffrey L. Karlin, Esquire

THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

\_\_\_\_\_  
WILLIAM A. WARREN,

Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.  
\_\_\_\_\_

Civil Action No. 97-2415 (PLF)

**FILED**

AUG 13 1999

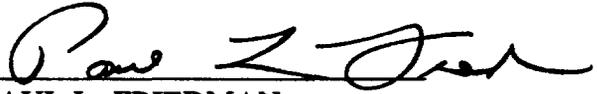
NANCY MAYER-WHITTINGTON, CLERK  
U.S. DISTRICT COURT

ORDER

Upon consideration of the Defendants' unopposed motion to change the date of the scheduled hearing on Defendants' motion to dismiss or, in the alternative, for summary judgment, and for good cause shown, it is hereby

ORDERED that the hearing date is changed from September 2, 1999, to November 15, 1999, at 10 a.m.

SO ORDERED.

  
PAUL L. FRIEDMAN  
United States District Judge

DATE: August 13<sup>th</sup>, 1999.

(M)

53

CLERK'S OFFICE  
UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA  
3RD & CONSTITUTION AVE., NW  
WASHINGTON, D.C. 20001

cc f-clerk  
File

May 24, 1999

WILLIAM A. WARREN  
Plaintiff(s)

v.

Civil Action No. 97-2415

UNITED STATES OF AMERICA, et al  
Defendant(s)

**CIVIL NOTICE**

Please be advised that the above entitled case is scheduled in Court.

CASE SET FOR: MOTION HEARING  
DATE: SEPTEMBER 2, 1999  
TIME: 10:00 A.M.  
JUDGE: PAUL L. FRIEDMAN  
COURTROOM: No. 17 - SIXTH FLOOR

NANCY MAYER-WHITTINGTON, Clerk

By: Barbara P. Montgomery  
Deputy Clerk 354-3155

cc: Chambers  
File  
Courtroom Clerk

P: Gene A. Bechtel, Esquire  
D: Michael J. Robinson, Esquire

EXHIBIT 4

BECHTEL & COLE  
CHARTERED  
ATTORNEYS AT LAW  
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WASHINGTON, D.C. 20036  
TELEPHONE (202) 833-4190

GENE A. BECHTEL

TELECOPIER  
(202) 833-3084  
INTERNET/E-MAIL  
COLESLAW@EROLS.COM

April 12, 1999

VIA HAND DELIVERY

Clerk's Office  
United States District Court  
for the District of Columbia  
333 Constitution Avenue, N.W.  
Washington, D.C. 20001

RECEIVED  
APR 12 3 13 PM '99  
N. MAYER WHITTINGTON  
CLERK  
U.S. DISTRICT COURT  
DISTRICT OF COLUMBIA

Re: William A. Warren v. United States, et al.  
Civil Action No. 97-2415 (PLF)

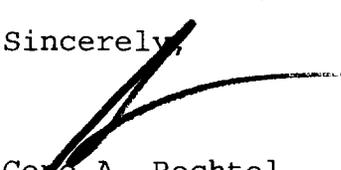
Dear Clerk:

Pursuant to the Court's Order dated April 7, 1999, please accept for filing in the referenced case, one original and one copy of:

- 1) Plaintiff's Memorandum in Support of Opposition to Defendants' Motion to Dismiss or, in the Alternative, for Summary Judgment.

Please note that the original Opposition and exhibits annexed to the Memorandum were filed with the Court on April 5, 1999.

Sincerely,

  
Gene A. Bechtel  
(D.C. Bar # 620)

Counsel for the Plaintiff

cc: Michael J. Robinson, Esq.  
Jeffrey L. Karlin, Esq.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

\_\_\_\_\_  
WILLIAM A. WARREN,

Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.  
\_\_\_\_\_

)  
)  
) Civil Action No.  
) 97-2415 (PLF)  
)

) Memorandum in  
) Support of  
) Opposition to Motion  
) to Dismiss or for  
) Summary Judgment  
)

PLAINTIFF'S MEMORANDUM IN SUPPORT OF  
OPPOSITION TO DEFENDANTS' MOTION  
TO DISMISS OR, IN THE ALTERNATIVE, FOR  
SUMMARY JUDGMENT

Gene A. Bechtel

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Patrick C. Clary

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Chartered  
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Las Vegas, Nevada 89101  
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Telecopier 702-382-7277

Counsel for Plaintiff

April 12, 1999

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