

1 I should be doing. You want to talk to me about it, talk
2 to me about it. But I object to somebody here coming up
3 with suggestions for the judge on what I should and should
4 not do, how I should spend my time and what burdens it
5 might place on me.

6 JUDGE SIPPEL: I think really that Ms. Norwinski
7 was making an effort to try to move the ball along a little
8 bit; that she was not trying to overstep herself in any
9 way. But I accept your position with respect to talking
10 about this.

11 We will just move on to something else. Let me
12 ask this question. I have got to frame it right.

13 What I am trying to determine -- and by the way,
14 any such limitations on representation -- well that is what
15 I wanted to ask. Any such limitations on representation
16 should be stated clearly and an appearance of counsel or in
17 a special appearance of counsel on a notice of appearance
18 filed in accordance with the Commission's Rules and with
19 Rule of Evidence of the Federal Rules of Federal Proce-
20 dures. I mean, it is very simple. I am left here without
21 anything.

22 Now, let me start with Mr. Endes on this one --
23 Mr. Ende. I'm sorry. Was any thought given to filing a
24 Notice of Appearance in this case by your law firm?

25 MR. LONGSTRETH: Your Honor, respectfully, we

1 would like to ask Mr. Havens if he asserts a privilege to
2 the answer to that question. Again, with all of the state-
3 ments that have been undertaken beforehand that he is not
4 being asked to testify, he is simply being asked to state
5 what he is asserting at a hearing in which his participa-
6 tion was required.

7 JUDGE SIPPEL: Do you understand that Mr. Ha-
8 vens?

9 MR. HAVENS: I have given my answer a number of
10 times.

11 JUDGE SIPPEL: Well you have to say it again.
12 You have to say it to every question.

13 MR. HAVENS: My answer is that if I am required
14 to give information, testimony, or talking by the Agency
15 here, then once I am ordered to do that, then in reasonable
16 time then I will get counsel and I will have counsel guide
17 my responses.

18 I was not -- in this order, there is nothing in
19 the order that says I am to do anything but attend. And I
20 have. I am attending but in terms of giving further infor-
21 mation here, I don't want to do that further than I have.

22 I have filed, ahead of this conference today or
23 as the order says a hearing --

24 JUDGE SIPPEL: Did I say hearing in the order?

25 MR. HAVENS: Let me read it.

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1 MS. KANE: Your Honor, I hate to jump into the
2 melee but in Footnote 5 of your order, you required --

3 MR. HAVENS: No, I was -- if you might let me
4 finish here. The order beings, number one, a pre-hearing
5 conference is --

6 JUDGE SIPPEL: Yes, pre-hearing.

7 MR. HAVENS: I mean it uses the word conference.
8 It also uses the word pre-hearing. I took it to mean a
9 hearing but anyway, that is my answer to that.

10 JUDGE SIPPEL: All right, well, that is an
11 interesting interpretation. But let me just clarify that
12 this is not a hearing. This is a conference. It has to
13 be, as a subset, a pre-hearing conference but it is a
14 conference and it is on the record.

15 Now, I'm sorry, Ms. Kane, Footnote 5?

16 MS. KANE: Footnote 5, you specifically required
17 Mr. Havens' participation, not merely his attendance.

18 We have now been at this for over an hour with-
19 out furthering any of the purposes of this pre-hearing
20 conference. So I don't know how you would like to proceed,
21 Your Honor, but it is getting rather circular.

22 Mr. Havens identified on the face of his plead-
23 ings that he obtained assistance from counsel for those
24 pleadings and yet now is asserting a privilege over the
25 same information he already asserted as waived, basically,

1 by having it on the face of the pleading.

2 JUDGE SIPPEL: Well, --

3 MS. KANE: He won't even allow his counsel to
4 admit that they participated in a pleading, which he al-
5 ready told Your Honor that they participated in.

6 JUDGE SIPPEL: So you see my frustration.

7 MS. KANE: Well, we feel your frustration,
8 certainly Your Honor.

9 JUDGE SIPPEL: We are getting to the end, here
10 but you are right. I mean everything you said is right.
11 But again, I am not asking for any commentary on that from
12 Mr. Havens.

13 MR. HAVENS: I think that is a misrepresenta-
14 tion. My pleadings speak for themselves. In several
15 pleadings, I specifically put footnotes that --

16 JUDGE SIPPEL: You did?

17 MR. HAVENS: -- Copeland, Taylor and Bush and
18 Mr. Chen have provided assistance in the particular plead-
19 ing.

20 In other pleadings if I said I had counsel
21 assisting but didn't say anything more than that, then that
22 is a different statement.

23 JUDGE SIPPEL: Well then, what is the harm in my
24 clarifying that for myself? That is all I am asking these
25 questions to do.

1 MR. HAVENS: I don't think that needs any clari-
2 fication.

3 JUDGE SIPPEL: Well, you know --

4 MR. HAVENS: It is a statement. I mean apart
5 from that, if -- go ahead. Sorry.

6 JUDGE SIPPEL: No, I would just say give me the
7 benefit of the doubt. Put yourself in my shoes. I mean I
8 don't really fully understand what that all means. Yes, it
9 has got an obvious meaning on the face of it but there is
10 more to it than just what is on the face of it. And I
11 don't understand the full significance of those statements.

12 MR. HAVENS: Well respectfully, Your Honor, I
13 didn't understand any rule or law which is the basis for
14 this entire order. I mean what is it? Rule 11? Is it
15 Rule 11 the basis for this?

16 I think your order cited only Rule 11 and FCC
17 Rule 1.52. If there is any other law, I would appreciate
18 knowing what we are doing here.

19 JUDGE SIPPEL: Well do you know what Rule 11 I
20 am talking about? It is the Federal Rules of Civil Proce-
21 dure.

22 MR. HAVENS: I know for attorneys signing plead-
23 ings.

24 JUDGE SIPPEL: Documents. Yes, okay. But why
25 are you taking me down this road now? I am simply trying

1 to clarify your statement in these pleadings, these motions
2 and objections, where you say that counsel participated in
3 part in this and in part in that, somehow in this, somehow
4 in that. I just want to get it clarified.

5 MR. HAVENS: Right. Your Honor, my point is
6 this and you are all attorneys. I am not. I am doing the
7 best I can and I think I am fairly clear.

8 I object to the government asking me my birth-
9 day, asking me things that the government does not have any
10 business asking.

11 Now, in this matter, I think what the govern-
12 ment, what you are asking specifically in your order gets
13 into attorney-client privilege, other protected informa-
14 tion.

15 But in addition, the question I raised is I
16 don't understand the legal basis of your order. What is it
17 that you think is wrong in the first place by your citing
18 Rule 11 or FCC Rule 1.52?

19 JUDGE SIPPEL: That has to do more with the
20 attorneys than it has to do with you.

21 I mean my first complaint was that I haven't
22 gotten a notice of appearance. Then, two notices of ap-
23 pearances came in. Actually, three ultimately came in; one
24 from Mr. Ende, one from Mr. Chen, and one from the bank-
25 ruptcy attorneys.

1 MR. HAVENS: Well, it is more --

2 JUDGE SIPPEL: And I wanted to clarify those --
3 again, I wanted to get to the rock bottom of what all this
4 meant.

5 MR. HAVENS: I know.

6 JUDGE SIPPEL: Why are these coming in so late?

7 MR. HAVENS: What I am asking, Your Honor, what
8 is the law where they have to, if they were assisting me
9 and they are my counsel, what is the law that they have to
10 file a notice of appearance at all? Why can't they just
11 provide assistance to me without being representative
12 counsel? I mean, that is not a topic today that it is not.

13 But you are expressing frustration. I am, too.
14 I am expressing my frustration here. This is taking a lot
15 of time and money from me away from what I have available
16 to pursue this hearing. And I don't know the legal basis
17 of what you are doing, what you are trying to get at, what
18 you think is wrong here.

19 JUDGE SIPPEL: All right, let me get to that.
20 Let me try and get to that issue. And that is a good
21 question that you are asking.

22 What I am trying to establish, you are filing
23 papers asserting that since you are acting pro se that you
24 are entitled to certain leniency in how your positions are
25 viewed with respect to motions for summary decision.

1 MR. HAVENS: My --

2 JUDGE SIPPEL: Wait just a minute now. I am not
3 finished.

4 I gave that leniency to you in one situation and
5 now we are coming back again to revisit in another context.

6 And since that time, this question has come up
7 about notices of appearance. And what does that mean. It
8 is a question of ghost writing. I said what the heck is
9 going on here with the ghost writers. Okay?

10 Why should I give you any leniency for being pro
11 se if you have got ghost writer lawyers behind you cranking
12 this stuff out? Think about that.

13 MR. HAVENS: Well, I appreciate the clarifica-
14 tion. It wasn't clear in the order.

15 JUDGE SIPPEL: No, it is not going to be clear
16 in the order. I don't see that I had to lay it out for you
17 that way. I am just looking for straight up answers. That
18 is all I am asking for.

19 MR. HAVENS: I am looking for straight up from
20 the government, too.

21 JUDGE SIPPEL: Well, you got it. That is my
22 story and I'm sticking to it.

23 MR. HAVENS: Well, thanks for the clarification.

24 JUDGE SIPPEL: All right.

25 MR. HAVENS: And I have a further question, if

1 you will permit.

2 JUDGE SIPPEL: Well, we are not here to talk
3 about that, are we?

4 MR. HAVENS: Well, if we are not then we are
5 not. But I tried to ask for legal cases for what you are
6 talking about and the previous one that requires the notice
7 of appearance. That is my frustration. I think I am
8 entitled to ask the government when it imposes a lot of
9 time and hardship on me and counsel I am trying to work
10 with, what is the legal basis of the imposition? I think I
11 am entitled to that.

12 JUDGE SIPPEL: A notice of appearance is a very
13 simple document. It is very clear what it does and it is
14 very clear what I was looking for. Who is representing you
15 in this case on certain matter?

16 MR. HAVENS: They are not representing me or
17 they would have filed a notice of representation.

18 JUDGE SIPPEL: Okay, that is your answer. So
19 you feel that there is no notice of appearance necessary
20 because they weren't representing you.

21 MR. HAVENS: I think there is a clear difference
22 between representing a party in a hearing and providing
23 assistance, whether it is on the phone or at a café or
24 doing case research or drafting a paragraph or editing a
25 document. I think there is a big difference.

1 And I am not aware of any FCC rule that prohib-
2 its an attorney from assisting a pro se party. And I don't
3 think it is one, respectfully as a layman here, I don't
4 think it is 1.52 or FRCP Rule 11.

5 That is my frustration. I don't know what we
6 are doing here. I appreciate your story today, sticking to
7 it and all. I think that is very helpful clarification but
8 I still don't know the answer to that.

9 JUDGE SIPPEL: Well, stay tuned. I mean, Ms.
10 Kane is right. This thing is being beaten like a dead
11 horse.

12 Let me just ask two other -- really two more
13 questions. Let me ask this. Again, let me ask this of
14 counsel for the bankruptcy attorneys. Did you ever think
15 to file a notice of appearance? Well, I am asking the
16 question, I guess, through Ms. Waid. Can they answer that
17 question?

18 MS. WAID: Well, --

19 JUDGE SIPPEL: Well, you can start all over
20 again.

21 MS. WAID: Well you know in the limited notice
22 of appearance, it does state that they had filed a notice
23 of appearance for the bankruptcy proceedings, Your Honor.

24 JUDGE SIPPEL: That's not my court, though.

25 MS. WAID: Okay, right. Pursuant to your ques-

1tion now, unfortunately, again, I would have to ask Mr.
2Havens if he is asserting his privilege or waiving it to
3let my clients answer your question.

4 JUDGE SIPPEL: This is with respect to a notice
5of appearance.

6 MS. WAID: Correct.

7 JUDGE SIPPEL: I know, Mr. Havens, you are
8getting tired of this.

9 MS. WAID: So just Mr. Havens, just so you are
10clear, the answer to the question is either I am asserting
11the privilege or I am waiving the privilege, period.

12 So the judge is asking my clients. They are
13asking Tim and Danny a question about whether or not they
14thought about filing a notice of appearance.

15 Are you going to allow Danny and Tim to answer
16that question or are you asserting and invoking a privi-
17lege?

18 MR. HAVENS: They did file a notice of appear-
19ance. I don't know what your question is.

20 JUDGE SIPPEL: I am talking about a notice of
21appearance at the time that you retained their services. I
22am not talking about the last ones that were filed. Those
23were filed because I raised the issue in an order. I am
24talking about when they first came to work for you about
25this case and they started helping you on these pleadings.

1 And I was not aware of the fact who they were. I know that
2 -- and they are supposed to file a notice of appearance so
3 that I can know. Hello?

4 MR. HAVENS: What is the question?

5 JUDGE SIPPEL: You want the question?

6 MR. HAVENS: Yes.

7 JUDGE SIPPEL: The questions is, I am asking the
8 bankruptcy attorneys, at the time they agreed to assist you
9 in the Maritime case, as you have disclosed assistance in
10 the Maritime case, did they think of filing a notice of
11 appearance. I would like to know what their reasons are,
12 pro or con.

13 MR. HAVENS: Okay, I am asserting the privilege.

14 JUDGE SIPPEL: Okay, there you go.

15 I am going to ask the same question of Mr. Chen.
16 Can you tell me what your position is going to be there?

17 MS. NORWINSKI: And, Your Honor, as I understand
18 --

19 JUDGE SIPPEL: Go ahead but first of all, wait a
20 minute. Just let Ms. Norwinski clarify this.

21 MS. NORWINSKI: And Your Honor, the question is
22 whether Mr. Chen has filed a notice of appearance. Is that
23 correct?

24 JUDGE SIPPEL: No, I know he has ultimately.

25 MS. NORWINSKI: Yes.

1 JUDGE SIPPEL: But at the time that he was
2 retained to work on these Maritime matters, which was way
3 back before that notice of appearance, had he considered,
4 pro or con, filing a notice of appearance?

5 MS. NORWINSKI: And Your Honor, I can speak to
6 this because this is already on the record. In November of
7 2012, Mr. Chen did file a notice of appearance because he
8 was representing Mr. Havens in this particular matter.

9 MR. CHEN: The companies.

10 MS. NORWINSKI: Mr. Havens --

11 MR. CHEN: The companies.

12 MS. NORWINSKI: Okay.

13 JUDGE SIPPEL: Look, both Mr. Havens -- I have
14 got that document right here and I wasn't trying to subma-
15 rine you on this.

16 MS. NORWINSKI: Yes, let me clarify it for the
17 record. Mr. Chen filed a notice of appearance for Mr.
18 Havens' companies because he was representing the compa-
19 nies.

20 JUDGE SIPPEL: No.

21 MS. NORWINSKI: Okay, individual and companies.
22 Okay.

23 JUDGE SIPPEL: Right, that is the way I read it,
24 too.

25 MS. NORWINSKI: Then in February of 2013, there

1 was an issue because Mr. Chen was serving as an expert for
2 Mr. Havens on an unrelated matter in Federal District Court
3 and Mr. Havens --

4 JUDGE SIPPEL: That was in the antitrust matter?

5 MS. NORWINSKI: Correct. So, at that point, Mr.
6 Havens asked Mr. Chen to withdraw as representative counsel
7 in this particular matter so that there would not -- so
8 that they could resolve the issue of his expert services in
9 the antitrust matter in Federal District Court.

10 Mr. Chen did file a notice of withdrawal, which
11 Your Honor accepted, I believe about a month later.

12 JUDGE SIPPEL: Yes, I am familiar with that.

13 MS. NORWINSKI: May? Yes, a couple of months
14 later, it was May.

15 JUDGE SIPPEL: I am familiar with that.

16 MS. NORWINSKI: And --

17 JUDGE SIPPEL: And that is the end of it. Then
18 he came back in again, though.

19 MS. NORWINSKI: Then he filed on January 6th,
20 his notice of limited special appearance.

21 JUDGE SIPPEL: Of what year?

22 MS. NORWINSKI: Of 2013 --

23 JUDGE SIPPEL: Fourteen?

24 MS. NORWINSKI: Fourteen.

25 JUDGE SIPPEL: That's a long time.

1 MS. NORWINSKI: Let me restate that. On January
26, 2014, Mr. Chen filed his notice of limited or special
3 appearance in that he informed Your Honor that he has not
4 been authorized by Mr. Havens to serve as general represen-
5 tative counsel but that he was giving Mr. Havens assistance
6 in this matter.

7 JUDGE SIPPEL: All right and Mr. Havens cleared
8 that before it was filed?

9 MS. NORWINSKI: Yes, he did, Your Honor.

10 JUDGE SIPPEL: Is that true, Mr. Havens?

11 MR. HAVENS: I have been making notice. Cleared
12 what?

13 JUDGE SIPPEL: Mr. Chen's filing of the notice
14 of appearance, special notice of appearance on January 6th
15 of this year. Did you approve of that?

16 MR. HAVENS: Yes, I did.

17 JUDGE SIPPEL: All right, thank you.

18 Now, I am going to ask Mr. Chen, you had been
19 representing, after your pull out, your come back, after
20 your expert phase of this case was completed, I guess, you
21 started doing work for Mr. Havens but you didn't file a
22 notice of appearance.

23 MS. NORWINSKI: Your Honor, as stated --

24 JUDGE SIPPEL: Now, I am asking him, did he give
25 any thought to that up or down, back or forth, pro or con.

1 MS. NORWINSKI: Your Honor, we are going to ask
2 Mr. Havens if he asserts the privilege over that. I assume
3 he is going to say yes, in which case we are not at liberty
4 to answer whether it was considered.

5 MR. HAVENS: I'm here to respond to the judge.

6 JUDGE SIPPEL: Well, I am going to ask a ques-
7 tion. Do you assert the privilege with respect to the last
8 question I asked?

9 MR. HAVENS: Yes, I do.

10 JUDGE SIPPEL: Thank you. I thank you for
11 responding.

12 Okay, I --

13 MS. KANE: Your Honor, --

14 JUDGE SIPPEL: Yes?

15 MS. KANE: -- may we clarify which entities, if
16 any, these additional counsel represent? Because Mr. Chen
17 originally said he represented some of the SkyTel Entities
18 but it is unclear from his notice of appearance whether he
19 now represents the SkyTel Entities and Mr. Havens, in which
20 case they were providing assistance not to a pro se party -
21 -

22 JUDGE SIPPEL: That is a good question.

23 MS. KANE: -- and the same with Mr. Ende's group
24 and with the bankruptcy.

25 JUDGE SIPPEL: Well, I was going to get into

1 that but apparently I am being blocked.

2 MS. NORWINSKI: I can at least speak to the
3 question about whether this latest entry of limited appear-
4 ance is for Mr. Havens or the SkyTel or other entities. It
5 is just a limited appearance on behalf of Mr. Havens.

6 JUDGE SIPPEL: Well, Mr. Havens is also appear-
7 ing pro se, according to his latest representation.

8 MS. NORWINSKI: Yes, and in the limited appear-
9 ance, Mr. Chen says that he is not acting as general repre-
10 sentative counsel for Mr. Havens, he is assisting as re-
11 quired by Mr. Havens.

12 JUDGE SIPPEL: Can you slice the cheese that
13 narrow? Have you ever been in a situation where you have
14 done that?

15 MS. NORWINSKI: Are you asking me, personally?

16 JUDGE SIPPEL: Yes, --

17 MS. NORWINSKI: No, I have not.

18 JUDGE SIPPEL: -- in your experience as an
19 attorney. I mean I have had experience as an attorney and
20 I never did that.

21 You had to go in as -- unless you made a special
22 appearance, for example, if you want a continuance and your
23 last attorney he got fired or something like that, you want
24 a special appearance to get more time for something.

25 But for something that goes to the substance of

1 the case, go in and say as counsel, a limited counsel and
2 the party stays pro se in a case like that, Maritime?

3 That is not a fair question. It is not a ques-
4 tion for you to answer. But anyway, this is really hard to
5 think of that, to wrap my head around that one.

6 MR. LONGSTRETH: Yes, there are standby counsel
7 in some criminal proceedings, I think. There is this idea
8 of standby counsel for somebody who wants to go pro se and
9 the judge thinks he needs some help but doesn't want to
10 interfere with his sixth amendment right to represent
11 himself. So, there is a concept, I think, that may be kind
12 of analogous.

13 MS. WAID: I think D.C. rules --

14 JUDGE SIPPEL: We don't do crimes here. Go
15 ahead.

16 MS. WAID: The D.C. Rules of Professional Re-
17 sponsibility 1.2, it does discuss unbundled legal services
18 and the ABA has actually adopted that in a formal opinion,
19 07-446, which specifically discusses unbundled legal ser-
20 vices and assistance of counsel, as opposed to actually
21 representative counsel and things of that nature.

22 So, I actually think as of recent, it is becom-
23 ing more likely in the legal world, just because of finan-
24 cial reasons, frankly. And I can get Your Honor those
25 formal opinions and D.C. rule, if Your Honor would like to

1 look at those.

2 MS. NORWINSKI: And if I may, again, --

3 JUDGE SIPPEL: All right, just a second. I am
4 generally familiar with that. I am not specifically famil-
5 iar with it but we can handle that. We can handle that.

6 I'm sorry.

7 MS. NORWINSKI: If I can, again, in suggesting a
8 way forward, this might be something that you consider in
9 setting rules for the hearing over which you preside. If
10 there is limited assistance given by counsel, how do you
11 want that handled? Do you want that handled by counsel
12 submitted a notice of limited appearance and specifying
13 what they assisted with or is their assistance behind the
14 scenes that Your Honor doesn't need to be disclosed? And
15 will you allow limited appearance by counsel, if counsel
16 wants to help with one filing but Mr. Havens wants to
17 proceed pro se in a subsequent filing?

18 JUDGE SIPPEL: Well no, I have no problem about
19 a limited appearance if it is specified -- if the limita-
20 tions are made clear. Because again, I have got this
21 problem measuring the substantial participation, whether
22 Mr. Havens is substantially participating in these plead-
23 ings as to whether he is entitled to me looking at him in a
24 lenient fashion as opposed to an attorney. In other words,
25 he kind of gets and advantage.

1 And yet, he doesn't get that advantage if he
2 has substantially participated in the paper. Do you under-
3 stand?

4 MS. NORWINSKI: Yes.

5 JUDGE SIPPEL: And that is clear. I mean, I'm
6 not saying there is not some kind of -- the ABA has got
7 that rule that I don't think too much of but I know it is
8 there. And I also know District Court cases, at least,
9 trial judges who are very critical of that and who have
10 gone out and written on this anyway.

11 You have probably found those cases, hopefully
12 you have.

13 MS. WAID: I have.

14 JUDGE SIPPEL: And this is not treated lightly
15 in some cases, in some courts. Not at all.

16 So yes, if you want to know further guidance,
17 sure. Let yourself be known if you are acting as an attor-
18 ney, even if it is by letter. Let yourself be known. But
19 my preference is always a notice of appearance, whether it
20 is limited, special, whatever it might be and the scope of
21 the representation. Not the fees. I don't care whether
22 you are going to be paid or not, just the scope of the
23 representation.

24 MR. HAVENS: And my request, Your Honor, is the
25 same as I have stated. I want to proceed under law. And

1 of course I understand in your order that arises out of
2 this or any future order that you, of course, state the
3 law. I haven't understood it thus far. What is the law
4 that prevents assisting counsel that is not representative
5 counsel? And further, what is the definition of when
6 assisting counsel rises to the level of whatever you think
7 is objectionable, not in the D.C. rules, not in the ABA
8 decision, but in some other precedence that you recall? I
9 don't know what the law is behind what we are even doing
10 here today.

11 JUDGE SIPPEL: Well, --

12 MR. HAVENS: That is my frustration. Whatever
13 energy and time and resources I have in this hearing is
14 being eaten up in this matter for which, thus far, you
15 haven't articulated the law, respectfully.

16 JUDGE SIPPEL: Well first of all, I am not
17 supposed to be giving legal advice to parties, number one.
18 And number two, I have been telling you from day one, or
19 asking you in day one, pleading with you since day one to
20 get an attorney, to get an attorney to sit with you
21 throughout this case.

22 MR. HAVENS: Respectfully, Your Honor, my an-
23 swers have been consistent and if anyone cares to go throu-
24 gh all the pleadings I have filed, you will see many times
25 where I have stated that I intend to have representative

1 counsel, I know what the word meant, for this hearing and
2 possibly some pre-hearing matters. And I have many times
3 said I am proceeding to seek assisting counsel but I pro-
4 posed a scheduled to you after the government shutdown. I
5 said that I could not access the ECFS record. I could not
6 and counsel, at that time, working with me could not.

7 And so, therefore, I have made clear, if you go
8 back and review my filings, that the difference between
9 representative counsel and assisting counsel. And I don't
10 think there is any -- there was nothing misleading you. I
11 haven't asked you in a pleading until a recent one, where I
12 cited to a guide book of administrative law judges that had
13 portions on pro se, I haven't asked you for special conces-
14 sions pro se.

15 I am aware of your decision on summary judgment
16 where you denied on the merits but made a comment that Mr.
17 Havens is pro se. I was pro se. In my view, Your Honor, I
18 am pro se until I have representative counsel. And what
19 level of assisting counsel I have, I am not aware of any
20 FCC law or anything you have articulated that equates
21 assisting counsel was representative counsel or that de-
22 fines when assisting counsel rises to the level that under
23 some FCC law or court precedent or your conference, to keep
24 order in your proceedings that has to be stated.

25 JUDGE SIPPEL: All right.

1 MR. HAVENS: And if you come out with a decision
2 in law, whatever it is, I will be happy to apply. If I
3 agree, I will get legal counsel. If I disagree, I will be
4 very up-front about that.

5 JUDGE SIPPEL: Let me read to you from my memo-
6 randum opinion of August the 14th, 2013. However, the
7 presiding judge agrees with SkyTel-O that summary decision
8 was inappropriate at the time that motion was filed as
9 discovery had not yet closed -- okay, that is something
10 else. Summary Judgment is to be refused where the nonmovi-
11 ng party -- the nonmoving party. That is you. You were
12 the nonmoving party -- has not had the opportunity to
13 discovery information that is essential. Although discovery
14 is now closed, Mr. Havens is now without counsel, rendering
15 summary judgment not inappropriate in most respects for the
16 reasons stated above.

17 So as of that time, you were without counsel,
18 August 14, 2013, according to my finding, based on your
19 representation. But that wasn't true. You were being
20 represented at that time by Mr. Chen.

21 MR. HAVENS: That is not true, Your Honor. I am
22 represented in this hearing if counsel represents me. If
23 they file a notice of appearance and they take on that
24 legal responsibility as an attorney, which is entirely
25 different than if I hire an attorney for a chat in the café

1 or doing a case research whatever it might be. It is not
2 at all the same thing. That is my understanding.

3 And again, if you had previously articulated to
4 me or the Commission passed a rule that defines assisting
5 counsel and equates it with representative counsel, makes
6 anything assisting counsel does, subject to Rule 1.5 or
7 adopts Federal Rules of Civil Procedure 11 and then defines
8 when does an assistance rise to the level to where it is
9 equivalent to representative counsel. If there was a law
10 in clarity on it, then that is one thing. But when there
11 is not and there is -- when an attorney files a notice of
12 appearance to represent someone, then they are in charge.
13 They sign the pleadings. They have liability.

14 I don't think there is a lack of clarity in this
15 proceeding or in FCC law as to what representative counsel
16 is in a proceeding like this. And I don't think there is
17 anything prohibiting assisting counsel or acquiring assist-
18 ing counsel to file a notice and then having that deemed to
19 be the same as representative counsel.

20 JUDGE SIPPEL: Let me quote you your own words,
21 then. You said on December 16, 2013 that Havens is not
22 appearing pro se in connection with his opposition to the
23 joint motion. Therefore, summary decision should not, in
24 fairness, be used against him, unless the limited exception
25 applies and then only in the discretion of the judge.

1 However, in the memo opinion, the presiding judge effec-
2 tively found the limited exception does not apply here.
3 That is my saying that you have an unusually good knowledge
4 of the area.

5 Specifically, the judge found that while the
6 Commission has determined that summary decision against
7 parties appearing pro se may be appropriate in situations
8 where the litigation is simple, the litigation in this
9 proceeding is complex. Accordingly, the joint motion
10 should be denied for this reason alone.

11 So, I gave you one. I gave you a leg up because
12 you were appearing pro se.

13 MR. HAVENS: Well wait a minute.

14 JUDGE SIPPEL: You were telling me this.

15 MR. HAVENS: Your Honor, I am glad to respond.
16 You are talking about a filing I made on December 16, 2013.
17 Correct?

18 JUDGE SIPPEL: Yes.

19 MR. HAVENS: And when have you ruled on that?
20 When have you given me a leg up?

21 JUDGE SIPPEL: I denied their motion. The
22 motion should be denied. The joint motion against you that
23 you were objecting to, rather, for summary decision, I
24 denied it.

25 MR. HAVENS: I thought you said December 16,