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UNITED STATES COPYRIGHT ROYALTY JUDGES

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In re: ) CONSOLIDATED PROCEEDING  
DISTRIBUTION OF CABLE ) NO. 16-CRB-0009-CD  
ROYALTY FUNDS ) (2014-17)

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[PUBLIC TRANSCRIPT]

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10 BEFORE: THE HONORABLE DAVID P. SHAW, Chief

11 THE HONORABLE DAVID R. STRICKLER

12 THE HONORABLE STEVE RUWE

13 Copyright Royalty Judges

14

15 Library of Congress

16 Madison Building

17 101 Independence Avenue, S.E.

18 Washington, D.C.

19

20 Thursday, March 16, 2023

21 10:08 a.m.

22 Prehearing Conference - Remote

23

Reported by:

24

Karen Brynteson, RMR, CRR, FAPR

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1 P R O C E E D I N G S

2 (10:08 a.m.)

3 CHIEF JUDGE SHAW: We'll go on the record  
4 now.

5 Good morning, everyone. This is a  
6 prehearing conference in the matter of Distribution  
7 of Cable Royalty Funds, Consolidated Proceeding  
8 Number 16-CRB-0009-CD (2014-'17).

9 And we're on the public record, unless  
10 someone tells me otherwise. And let's hear who is  
11 present today for the parties, beginning with Public  
12 TV.

13 MR. DOVE: Good morning, Your Honors.  
14 This is Ron Dove from Covington & Burling on behalf  
15 of Public Television.

16 CHIEF JUDGE SHAW: Thank you.

17 MR. CHO: Dustin Cho on behalf of Public  
18 Television.

19 CHIEF JUDGE SHAW: We had a little  
20 feedback there.

21 MR. CHO: Sorry. Dustin Cho on behalf of  
22 Public Television.

23 CHIEF JUDGE SHAW: Very good. Thank you.  
24 Anyone else for Public TV? All right.

25 We'll go to the Joint Sports Claimants.

1           MR. CANTOR: Good morning, Your Honors.  
2 Dan Cantor for the Joint Sports Claimants. And with  
3 me are my colleagues Rosemary Szanyi and Michael  
4 Kientzle.

5           CHIEF JUDGE SHAW: Good morning.  
6 Settling Devotional Claimants.

7           MR. MacLEAN: Good morning, Your Honor.  
8 I'm Matthew MacLean from Pillsbury Winthrop Shaw  
9 Pittman for the Settling Devotional Claimants. And  
10 also with me with are my colleagues Michael Warley,  
11 Jessica Nyman, Caroline Block, and from the law firm  
12 Lutzker & Lutzker, Arnie Lutzker and Ben Sternberg.

13           CHIEF JUDGE SHAW: Thank you.  
14 The Canadian Claimants Group.

15           MR. SATTERFIELD: Good morning, Your  
16 Honor. This is Kendall Satterfield on behalf of  
17 Canadian Claimants Group. And with me today is  
18 Victor Cosentino and Michelle Moy of the firm of  
19 Larson & Gaston. Thank you.

20           CHIEF JUDGE SHAW: Thank you.  
21 CTV.

22           MR. ERVIN: Good morning, Your Honors.  
23 I'm Dave Ervin from Crowell & Moring on behalf of  
24 the Commercial Television Claimants. With me this  
25 morning is my colleague Preetha Chakrabarti.

1 CHIEF JUDGE SHAW: Thank you.

2 And finally I have Program Suppliers.

3 MR. OLANIRAN: Good morning, Your Honors.

4 Greg Olaniran for Program Suppliers with Mitchell  
5 Silberberg & Knupp. And my colleagues are with me,  
6 Lucy Plovnick and also Jake Albertson.

7 CHIEF JUDGE SHAW: Thank you.

8 I don't think I have missed anyone. As  
9 you'll probably notice, I tend to look around to  
10 establish eye contact with the little box on the  
11 screen, and I realize that I'm not really  
12 establishing eye contact with you, but I'm zeroing  
13 in on the box.

14 I have only four things for today's  
15 conference and then to open the floor to anything  
16 that the parties want to discuss. And, frankly, one  
17 of them we basically covered yesterday when we were  
18 having our dress rehearsal, and that was foreign  
19 witnesses.

20 So far it looks like we have only  
21 Canadian witnesses, and we don't have an issue  
22 there, but, you know, if we have anyone from other  
23 foreign countries, make sure to give us plenty of  
24 notice and the briefing that I, you know, outlined  
25 yesterday. It should be short.

1           The second thing that I wanted to discuss  
2 has to do with some good things that I received, we  
3 received from the parties. One was to admit a whole  
4 lot of exhibits en masse. And the other was -- just  
5 looking through it today a little closer, we have a  
6 couple of witnesses that we're going to do on the  
7 papers, I understand.

8           And my only message there is that I think  
9 very briefly we should address that during the  
10 hearing, so that -- because that involves evidence  
11 and witnesses, that sort of thing. And we'll want  
12 it all indexed together in the main evidentiary  
13 hearing transcript. It will also allow the court  
14 reporter to index, record information.

15           And to that end, although you may want to  
16 read exhibits into the record or groups of exhibits  
17 identified that way when you talk to us during the  
18 hearing, I think it would be good to have a piece of  
19 paper that all the parties have seen and agreed to  
20 that lays out all the exhibits involved so that the  
21 court reporter can enter those into the transcript  
22 as evidence.

23           And it need not be -- I mean, it's up to  
24 you. You all can discuss it. I know we're going to  
25 begin the -- formally begin the hearing with opening

1 statements, so you might not want to do it before  
2 those or you might, or you might want to do it  
3 before the first witness and housekeeping. You  
4 know, whatever you want to do, but I want to get it  
5 on the bulk of the hearing record and get the  
6 evidence entered by the court reporter.

7           I have another thing, it may be a little  
8 out of order here, but I want to do it before my  
9 last issue, and that has to do with the post-hearing  
10 briefing. I know that's a long way away, but I just  
11 wanted, in case anyone was thinking about it and  
12 wondering, to let you know that I think we'll  
13 revisit -- there definitely will be post-hearing  
14 briefing, but we'll revisit the topic toward the end  
15 of the hearing and talk about things such as length  
16 of briefing, how many briefs, if anyone wants  
17 consolidated briefing, separate briefing, how many  
18 pages. You know, all those mechanics, I think, it  
19 would be -- frequently, I do that at the beginning  
20 of the hearing, but I am looking over just the  
21 circumstances of this proceeding and I think we can  
22 get a much better handle on that and what's  
23 appropriate toward the end of the hearing. And I  
24 just wanted, you know, the parties to know that I've  
25 been thinking about that, and it's not an issue, but

1 we'll address it later.

2           And then the final issue that I had for  
3 today, but, you know, there may be others from the  
4 parties, has to do with the examination of witnesses  
5 and time. And let me just see here.

6           So the parties filed -- let's see -- the  
7 notice of parties' joint proposal of witnesses whose  
8 testimony may be submitted on the papers and joint  
9 witness list including estimated time for direct and  
10 cross-examination. All right. And that's where we  
11 had the two witnesses who will be done on the  
12 papers.

13           And then at the very back, we have the  
14 list of -- I really appreciate this document, of  
15 course -- all of the witnesses and an estimate or  
16 actually it probably looks like something the  
17 parties have stipulated to, total witness direct,  
18 total witness cross, and total witness time. And  
19 it's fine, but -- and I'm not trying to change  
20 anything the parties have agreed to. I just want to  
21 understand exactly what we're going to have happen.  
22 I want the timekeeper to understand what's going to  
23 happen, what's going to happen here.

24           And when I, you know, look at this chart,  
25 I see direct, which in some cases is lengthy, and

1 I'd like to discuss that, and then I see a cross and  
2 a total, but elsewhere in the document, elsewhere in  
3 the pleadings, I see that the parties, you know,  
4 want to reserve time to do more than just direct and  
5 cross.

6           So I just -- and I don't think there is  
7 any issue here. I just want to walk through this.  
8 And I would like to talk perhaps -- in looking at  
9 this list, the person with the most time allotted is  
10 Dr. Johnson with 8.6 hours, and he is going to be  
11 here from Public TV, it looks like.

12           And so I just wanted to ask what you plan  
13 to do during direct and how you would -- you know,  
14 what are your thoughts about reserving time and what  
15 other kind of examination, other than the two that I  
16 see here on this list, would equal 8.6. It's kind  
17 of a walk-through.

18           MR. DOVE: Well, Your Honor, this is Ron  
19 Dove from Public Television. Would you like me to  
20 address that?

21           CHIEF JUDGE SHAW: Yeah. Yeah, yeah.

22           MR. DOVE: Well, I think, Your Honor,  
23 what the parties attempted to do with that document  
24 was just to give their best estimate of the times,  
25 both for direct and the more difficult estimate of

1 predicting how much time it would take to cross the  
2 different witnesses based on, you know, not exactly  
3 knowing, you know, which party is going to go first  
4 on cross-examination and so forth. So they are by  
5 their nature estimates.

6           For Dr. Johnson, he is our, you know, our  
7 principal central witness with our -- with the  
8 underlying methodology, plus he's the first witness  
9 in the proceeding, so there will be some background  
10 that will need to be covered in his testimony. His  
11 -- you know, he will also be spending a good bit of  
12 his time rebutting various, you know, claims that  
13 have been made against his testimony and other  
14 witnesses' rebuttal testimony.

15           And so, you know -- but that's our best  
16 estimate of his direct time at this point.

17           CHIEF JUDGE SHAW: Okay. But then  
18 there's this -- and that's -- the good news is  
19 that's what I expected you to say, so -- but there's  
20 also a statement, in addition to the time estimates  
21 provided in the attached, the parties note that they  
22 will also reserve a portion of their allotted  
23 time -- times available for opening statements,  
24 redirect examination, objections, and argument.

25           So you're reserving -- I'm just trying to

1 avoid any confusions or math problems at the  
2 hearing. What's being reserved, then?

3 MR. DOVE: I think what our intention  
4 with that was, Your Honor, was the recognition that  
5 out of our 100 hours of total hearing time, each  
6 party can use what it wishes for an opening  
7 statement. And we didn't really provide precise  
8 estimates as to how long our opening statements  
9 would be.

10 And then there's also a recognition, of  
11 course, that there will be inevitably questions from  
12 the Judges. There will be objections and arguments.  
13 And under the order there, the time that it takes to  
14 resolve those objections can sometimes be recorded  
15 against a particular party. And so we wanted to  
16 provide enough of wiggle room to allow that and  
17 still stay within our 100-hour limitation.

18 CHIEF JUDGE SHAW: All right. That  
19 sounds great.

20 So --

21 JUDGE STRICKLER: Judge Shaw, may I ask a  
22 question?

23 CHIEF JUDGE SHAW: Yeah. It might be the  
24 one I was about to ask. Go ahead.

25 JUDGE STRICKLER: Why don't I let you go

1 first. We'll see --

2 CHIEF JUDGE SHAW: Well, you've had more  
3 experience in these hearings than I have, Judge  
4 Strickler, so you go right ahead.

5 JUDGE STRICKLER: Okay. Let me --

6 CHIEF JUDGE SHAW: You might get right to  
7 the heart of the matter.

8 JUDGE STRICKLER: Let me address this to  
9 Mr. Dove.

10 Good morning, Mr. Dove. How are you?

11 MR. DOVE: Good morning, Judge.

12 JUDGE STRICKLER: Just to clarify, with  
13 regard to potential additional questioning, which I  
14 take it to be redirect and recross, to the extent  
15 the Judges allow it going forward, is that carved  
16 out of the 8.6 hours that's in the estimate?

17 MR. DOVE: I don't believe -- or, at  
18 least with regard to Public Television, we didn't --  
19 the parties didn't really specifically think about  
20 how much time they thought they would need for  
21 redirect or recross as to individual witnesses, that  
22 we just recognized there might be some of that.  
23 Hopefully, that will be minimal, but there might be  
24 some of that.

25 And so that's just included as a larger

1 sort of buffer as part of the overall estimate --  
2 the reason why we didn't predict 100 hours in our  
3 estimates, if that makes sense.

4 JUDGE STRICKLER: It does. But, again,  
5 getting to my question, so does that potential for  
6 redirect and recross come out of the 8.6 estimate or  
7 is that out of the overall total?

8 MR. DOVE: My understanding is that is  
9 out of the overall total, though other parties can  
10 correct me if they did it differently. That's  
11 certainly how Public Television looks at it.

12 JUDGE STRICKLER: Yeah, I guess if  
13 anybody else -- Judge Shaw, if anybody else is going  
14 to weigh in after you're through with your question  
15 on this issue, maybe they can weigh in on where they  
16 think the redirect and recross gets carved out.

17 CHIEF JUDGE SHAW: Well, and that's where  
18 I was going, Judge Strickler, because I've often  
19 seen in here as people say, well, we have eight  
20 hours for this witness, but I'm only going to do,  
21 you know, so many minutes of direct and I'll reserve  
22 the rest for, you know, redirect or, you know,  
23 whatever else happens or Judges' questions that are  
24 under the threshold for when it slips. I think we  
25 had a five-minute threshold or something, but that's

1 not what's happening here.

2                   And so that's fine. You know, then it's  
3 coming out of the rest of the pool of time we have  
4 for the 100, but I just want to make sure that the  
5 parties are on board with one another because I  
6 don't want to have an objection during the hearing  
7 saying: Well, he used his eight hours, and now he's  
8 using five more hours for something else, but my  
9 client is going to be prejudiced because I don't  
10 have -- you know, we're going to run out of 100  
11 hours.

12                   So I just want to make sure the parties  
13 have thought this through mathematically, so that  
14 not only does it add up to 100, but that, you know,  
15 there's not going to be any dispute. And I'm not  
16 trying to stir the pot or create one. I was just  
17 trying to get a good handle on, you know, on how  
18 mechanically and mathematically this was going to  
19 work.

20                   I got the part about the eight hours, but  
21 then there's still a gray area about, well --  
22 because I think there probably will be redirect and  
23 other things going on, and so, you know --

24                   MR. DOVE: Sorry.

25                   CHIEF JUDGE SHAW: No, no, no, if you can

1 finish the sentence for me, that's fine.

2 MR. DOVE: No, no, no. Well, I was just  
3 going to say, Your Honor, that the parties intended  
4 these to be non-binding estimates. I mean, we're  
5 operating --

6 CHIEF JUDGE SHAW: I'm not worried about  
7 the estimates. I'm worried about what's outside of  
8 the estimate. I'm not even worried. I'm just  
9 trying to get a handle on it. As I said, I'm not  
10 trying to create trouble.

11 I'm just saying, have the parties talked  
12 about who gets more time for redirect than someone  
13 else? You know, I just don't want an issue. And  
14 I'm not trying to create one. Maybe it's just going  
15 to flow so easily I don't need to worry about this.  
16 I just wanted to make sure I had a handle on it.

17 MR. OLANIRAN: May I address the Judges  
18 for a second?

19 CHIEF JUDGE SHAW: Sure.

20 MR. OLANIRAN: This is Greg Olaniran for  
21 Respondents.

22 CHIEF JUDGE SHAW: Yeah. Yeah,  
23 absolutely.

24 MR. OLANIRAN: Yeah, each party has a  
25 finite number, allocation of hours.

1 CHIEF JUDGE SHAW: Okay.

2 MR. OLANIRAN: Which they have the  
3 discretion to use as they wish. So the -- and  
4 everything adds up to 100.

5 CHIEF JUDGE SHAW: Okay.

6 MR. OLANIRAN: Okay. So we have done  
7 this. We did this in the last proceeding. And we  
8 have, fortunately, a timekeeper this time that is  
9 not affiliated with any of the parties. So,  
10 hopefully, there wouldn't be any dispute about how  
11 much time has been spent. But I think that's the  
12 general idea, so we just move forward with whatever  
13 estimates we can to let the parties, but really to  
14 the benefit of the witnesses, so that the witnesses  
15 know how much time they will be around.

16 But, generally speaking, the parties have  
17 the discretion to spend as much time or as little  
18 time as they want on each witness. And it's just an  
19 estimate of how they're going to -- or how we think  
20 we're going to move through the proceeding.

21 JUDGE STRICKLER: May I respond, Judge  
22 Shaw?

23 CHIEF JUDGE SHAW: Well, I just want to  
24 say that I think that's what I was looking for, Mr.  
25 Olaniran. And so, you know --

1 MR. OLANIRAN: I thought so. So that's  
2 --

3 CHIEF JUDGE SHAW: And it sounds like --  
4 but yes, Judge Strickler, any follow-up to that?

5 JUDGE STRICKLER: Yes. Mr. Olaniran,  
6 good morning, sir.

7 MR. OLANIRAN: Good morning, Judge  
8 Strickler.

9 JUDGE STRICKLER: So if I understand you  
10 correctly, the 8.6 hours is sort of like a guidepost  
11 for the witnesses and for the Court to understand  
12 exactly how long it might be for a particular  
13 witness. And the carveouts, if any, for redirect or  
14 recross simply come out of the bank of hours for  
15 each individual party out of the 100 hours going  
16 forward. So it's not a carveout of the 8.6; it's  
17 just a carveout on a per party basis?

18 MR. OLANIRAN: That is correct, Your  
19 Honor.

20 JUDGE STRICKLER: Thank you.

21 CHIEF JUDGE SHAW: And it sounds like it  
22 will just be on auto pilot, then, because everyone  
23 has thought this through and we won't have any  
24 controversies. And that's wonderful. So --

25 JUDGE STRICKLER: Does anyone else

1 disagree with Mr. Olaniran's conception of how  
2 that's going to work?

3           MR. CANTOR: Judge Strickler, this is Dan  
4 Cantor for the Joint Sports Claimants, if I may. I  
5 don't disagree at all. And I think this has already  
6 been expressed, but just to be really clear, the  
7 notion of the 8.6 you're referring to is an  
8 estimate, so some folks' cross might be shorter,  
9 some might be longer, depending upon what happens on  
10 direct, but the notion -- and even direct could be  
11 shorter or longer than estimated. But Mr.  
12 Olaniran's point, at the end of the day, that  
13 everyone has their finite amount of time and they  
14 can't exceed that is the governing rule. At least  
15 that's our understanding.

16           JUDGE STRICKLER: Thank you, Mr. Cantor.

17           CHIEF JUDGE SHAW: Would anyone else like  
18 to weigh in on this issue, because I don't have any  
19 more. All right.

20           Well, good. That takes me to the end of  
21 the agenda that I had, but the parties may very well  
22 have more they would like to talk about. We have  
23 now a customary order, so we might as well go back  
24 to you, Mr. Dove. Public TV's A on the list here, A  
25 through F.

1           MR. DOVE: Yes, Your Honor. The parties  
2 conferred yesterday in preparation for this hearing  
3 and we agreed on three issues that we would like to  
4 raise this morning. And, you know, it's possible  
5 that one of the parties may have another issue, but  
6 at least these three issues.

7           One is an agreed proposal relating to the  
8 filing of additional supplemental testimony in  
9 response to the continuing document productions of  
10 the Joint Sports Claimants. And I'll address that  
11 issue.

12           Then there's also a trial timing issue  
13 relating to next Thursday that Mr. Cantor for the  
14 Joint Sports Claimants will address. And then we  
15 have an issue with the Judges' preferences relating  
16 to the distribution of demonstrative slides in  
17 advance of the parties' opening statements. And I  
18 believe Ms. Plovnick for the Program Suppliers will  
19 address that issue.

20           I'm not sure -- there may be other  
21 issues, for example -- and I know there's a pending  
22 motion in limine. There may be additional issues  
23 that I'm not aware of, but those are the three that  
24 the parties agreed to address this morning.

25           CHIEF JUDGE SHAW: Sounds good. Well, I

1 think the first one was supplemental testimony. And  
2 was that yours?

3 MR. DOVE: Yes, Your Honor.

4 Just to give you some background on this  
5 issue, one month ago on February 15th, Your Honors  
6 ordered the Joint Sports Claimants to produce within  
7 ten days a wide range of documents in response to  
8 Public Television's motion to compel.

9 And the Joint Sports Claimants made an  
10 initial production on March 2nd. The Public  
11 Television Claimants and the Joint Sports Claimants  
12 met and conferred regarding the appropriate scope of  
13 production after that initial production, and as a  
14 result, JSC produced additional documents and a  
15 privilege log last Friday, March 10th, and JSC also  
16 informed all the parties that earlier in the week,  
17 they had learned that, contrary to JSC's earlier  
18 understanding, the Bortz Media & Sports Group had  
19 retained a physical server in its office space that  
20 contained responsive documents.

21 So as a result of that, the Joint Sports  
22 Claimants informed the parties that it would  
23 immediately begin the process of extracting  
24 potentially responsive files from that server, which  
25 contained e-mails and other electronic documents

1 dated from 2019 and earlier.

2           So continuing forward, earlier this week  
3 on Monday, March 13th, the Joint Sports Claimants  
4 produced an initial batch of approximately 800  
5 documents from that server and informed the parties  
6 that it expected to produce a further and final  
7 batch of documents from the server by the end of  
8 today, March 16th.

9           In response to those continuing  
10 productions past the Judges' deadline, the parties  
11 met and conferred and reached an agreement as to a  
12 proposal for the filing of additional supplemental  
13 testimony based on these newly discovered and  
14 produced documents. And so we wanted to present  
15 that to the Judges this morning and ask that the  
16 Judges either approve this proposal on the record  
17 here this morning or, if the Judges prefer, we can  
18 file a proposed order.

19           But here is the outline of the proposed  
20 agreement. First of all, in accordance with Order  
21 28, paragraph 46, all parties may file an initial  
22 round of supplemental rebuttal testimony today based  
23 on the documents that the Joint Sports Claimants  
24 already produced.

25           Then all parties, with the exception of

1 the Joint Sports Claimants, shall have 21 days from  
2 the last day on which JSC produces documents to file  
3 additional written supplemental rebuttal testimony  
4 with regard to JSC's supplemental productions that  
5 occurred after the Judges' original March 2nd  
6 deadline.

7 JUDGE STRICKLER: And you're anticipating  
8 that that final production will be today, March  
9 16th?

10 MR. DOVE: That's my understanding, based  
11 on Joint Sports Claimants' representation. We, you  
12 know, we haven't had a chance to review that  
13 production, you know, to see if there are any  
14 deficiencies or anything with regard to that or any  
15 privilege log issues, but that's our understanding  
16 based on the Sports Claimants' correspondence.

17 JUDGE STRICKLER: So, as a soft measure,  
18 we're looking at 21 days from March 16th, pending  
19 the uncertainties that you just mentioned?

20 MR. DOVE: That's correct, Your Honor.

21 JUDGE STRICKLER: Thank you.

22 MR. CANTOR: Judge Strickler, this is Dan  
23 Cantor for JSC. I can confirm we're intending to  
24 have the final production out to the parties today.

25 JUDGE STRICKLER: Thank you, Mr. Cantor.

1           MR. DOVE:  So continuing on then with our  
2  agreed proposal, the Joint Sports Claimants would  
3  have the right at their discretion to recall the  
4  witness that's producing the additional supplemental  
5  testimony for additional cross-examination on that  
6  testimony, if that testimony is submitted after the  
7  witness has already testified or within three days  
8  prior to the witness' testimony.

9           JUDGE STRICKLER:  Maybe I didn't catch  
10 that because I was writing something down.  When you  
11 refer to the witness, are you referring to your  
12 witness with -- who is going to testify based on the  
13 supplemental proceeding or recalled for  
14 cross-examination from -- a witness from Joint  
15 Sports Claimants or both?

16           MR. DOVE:  It's going to end up being  
17 both, Your Honor.  You know, we're contemplating  
18 potential situations where a witness may have  
19 already testified earlier in the proceeding before  
20 that witness is able to supplement the testimony,  
21 and so the agreed proposal would be that the Joint  
22 Sports Claimants would have the right to recall that  
23 witness for additional cross-examination on -- you  
24 know, limited in scope to that supplemental --  
25 additional supplemental testimony.

1           And then, going to your next point, the  
2 proponents of the supplemental testimony would also  
3 have the right to recall that witness for additional  
4 direct testimony at their discretion. And,  
5 furthermore, if the supplemental testimony is  
6 submitted after the Joint Sports Claimants have put  
7 on their direct case or within three days prior to a  
8 given Joint Sports Claimant witness testifying, the  
9 Joint Sports Claimants shall have the right to  
10 recall its witnesses to address the supplemental  
11 testimony, and the proponent of the supplemental  
12 testimony shall have the right to recall Joint  
13 Sports Claimants' witnesses to cross-examine them on  
14 the subject matter of the supplemental testimony.

15           Now, admittedly, all this may sound  
16 complex when orally delivered, but the bottom line  
17 is that the agreement would not impact the 100-hour  
18 hearing time limitation, and -- nor the even split  
19 of each party's hearing time that Mr. Olaniran  
20 referred to earlier. So it would be up to the  
21 parties to figure out how they wanted to -- still  
22 how they wanted to allocate their hearing time,  
23 including these recalled witnesses, if necessary.

24           JUDGE STRICKLER: Mr. Dove, with regard  
25 to the supplemental filings that are contemplated

1 once the discovery is completed, is it just a  
2 supplemental submission by you on behalf of Public  
3 Television or you're contemplating the right of all  
4 other parties to supplement their filings with  
5 regard to the JSC supplemental production?

6 MR. DOVE: There would be -- all other  
7 parties would have that right, obviously with the  
8 exception of the Joint Sports Claimants themselves.

9 JUDGE STRICKLER: And you're not  
10 proposing a page limit, at least at this point in  
11 time, for that supplemental filing?

12 MR. DOVE: That's correct, Your Honor,  
13 because we don't have any idea what the production  
14 will include.

15 JUDGE STRICKLER: Thank you.

16 MR. DOVE: So, again, we would jointly  
17 ask that the Judges, you know, approve this proposal  
18 on the record or, again, if the Judges prefer, we  
19 can file a proposed order that sets --

20 JUDGE RUWE: I would prefer to see a  
21 filed proposal.

22 JUDGE STRICKLER: I agree with Judge  
23 Ruwe.

24 JUDGE RUWE: I also have a question about  
25 the 21 hours -- I mean, the 21 days, because I'm

1 seeing 14 in Order 28. Maybe I'm not identifying it  
2 correctly.

3 MR. DOVE: Yes, Your Honor. There is a  
4 provision in Order 28, paragraph 46, where the  
5 parties agreed and the Judges ordered that it would  
6 be 14 -- the parties would have 14 days to file an  
7 initial round of supplemental rebuttal testimony  
8 based on documents that had been produced by the  
9 deadline.

10 And the reason -- and we actually got an  
11 extension of the hearing itself in recognition that  
12 we needed that time, the full 14 days, to prepare  
13 that supplemental testimony. Fast forward to this  
14 issue, the parties agreed to a longer period, the 21  
15 days, because of the fact that we're all in -- we'll  
16 be in a hearing and it would be much more difficult  
17 to put this supplemental testimony together, so we  
18 just needed extra time to do that while we were in  
19 the hearing.

20 JUDGE RUWE: Thank you.

21 MR. DOVE: So we would be happy to --  
22 we'll put together this in the form of a proposed  
23 order, but happy to answer any other questions about  
24 it.

25 CHIEF JUDGE SHAW: I have no --

1 personally no questions about it. I'm glad that the  
2 parties had these discussions and put this detailed  
3 proposal together. It's very helpful, especially  
4 since we are in the midst of the hearing.

5 I too would like to have it in writing,  
6 if for no other reason than the parties went to all  
7 this trouble to work this out, and it would be nice  
8 to have at least a reference in writing as we go  
9 forward.

10 So I think that we'll look forward to a  
11 written proposal from you and, you know, even if we  
12 just accept it as is, at least we'll have that, and  
13 on eCRB, and, you know, we can easily refer to it,  
14 if need be, during the course of the hearing, but  
15 thank you.

16 MR. DOVE: Thank you, Your Honor. That's  
17 -- nothing further from Public Television at this  
18 time.

19 CHIEF JUDGE SHAW: Thank you very much.

20 Now, there was some timing issue  
21 involving Joint Sports Claimants, I believe, was the  
22 second thing you raised today? Who is going to  
23 speak to that?

24 MR. CANTOR: Yes, Your Honor. This is  
25 Dan Cantor for the Joint Sports Claimants.

1 CHIEF JUDGE SHAW: Yes.

2 MR. CANTOR: This relates to the parties'  
3 joint effort to have the jigsaw puzzle of witness  
4 order and timing, which is, as you might imagine,  
5 has been a monumental task with the 30-plus  
6 witnesses and a couple trial date changes.

7 I think the overall good news is the  
8 parties have largely, if not completely, solved this  
9 through a lot of work, but there are two points that  
10 we've identified where there might be a slight gap  
11 that we wanted to alert the Judges to and propose a  
12 recommendation of how to handle.

13 And the first deals with the end of the  
14 first week of trial, next week, where, as Your Honor  
15 knows, Public Television is beginning -- is the  
16 first party up to put on its direct case. And based  
17 on the hour estimate, and given that there is oral  
18 argument on Monday, based on estimates, we think  
19 that the Public Television case will take up the  
20 remainder of the week through Thursday.

21 But since none of us have an exact  
22 predictive ability, there's some possibility there  
23 could be, you know, you name it, an hour or two at  
24 the end of Thursday where there's -- where they're  
25 done with their case but we're not at the end of the

1 day yet.

2                   And the parties had worked, when we were  
3 putting together this witness ordering, to determine  
4 who could go next during that period, because Joint  
5 Sports Claimants witnesses aren't available until  
6 the following week, to begin on the Monday of the  
7 27th.

8                   And, again, I don't think this is going  
9 to be an issue, given the estimated timing, but the  
10 parties conferred on this and wanted to present to  
11 the Judges that, should we find ourselves midway  
12 through Thursday afternoon and the infeasibility of  
13 another witness, that the parties were in agreement  
14 that if the Judges -- if acceptable to the Judges,  
15 that we might just end early that day and that time  
16 wouldn't be charged to anyone because, again, the  
17 parties working collectively weren't able to quite  
18 figure out that jigsaw piece of the puzzle. So that  
19 was part 1.

20                   Part 2, and it's a similar issue, relates  
21 to the next week, which is the week of the 27th.  
22 And as I mentioned, the Joint Sports Claimants'  
23 witnesses are available to begin the first thing on  
24 the week of the 27th or five of those witnesses are.  
25 When trial was changed, there are a couple of

1 witnesses who, due to preexisting obligations, can't  
2 go on until the week of the 3rd.

3           And so, again, we find ourselves that we  
4 could be, during the second week of trial, somewhere  
5 on Thursday afternoon where there isn't a witness  
6 available to go next. And that has been part of the  
7 parties' considerations. And I think we're talking  
8 even again tomorrow as parties to see if there was  
9 someone who could be slotted into that period.

10           But I think, speaking for all the  
11 parties, there's an agreement that if either on the  
12 first week or the second week we find ourselves with  
13 that little bit of time where there isn't a witness  
14 available, again, with the Judges' permission, that  
15 we would conclude and that wouldn't be charged to  
16 anyone just due to the scheduling infeasibilities.

17           So sorry if that was long-winded, but we  
18 wanted to address that and make sure Your Honors  
19 understood the challenges that we were all dealing  
20 with collectively to figure out the schedule here.

21           CHIEF JUDGE SHAW: Not at all. It was  
22 very helpful.

23           I don't know if the other Judges want to  
24 chime in, but I'm glad you came to me with a  
25 proposal and not just a problem, and it sounds

1 reasonable to me. I don't have any questions about  
2 it, if the other Judges do.

3 JUDGE RUWE: I guess on April 3rd, if I'm  
4 looking at that correctly -- I'm sorry, the 2nd --  
5 wait a minute. My calendar is not making sense to  
6 me.

7 Are we talking about -- on the second  
8 Thursday, are we talking about ending early or --  
9 and, if so, how much of the day, can you give any  
10 guess as to how far into that Thursday we would be  
11 active?

12 MR. CANTOR: So, based on guesses, it's  
13 possible there may be a few hours on Thursday  
14 afternoon that are unaccounted for.

15 JUDGE RUWE: Okay. Thanks.

16 MR. CANTOR: Based on the current  
17 guesses, we don't think that issue is going to be  
18 there on the first week, but, again, because these  
19 are all estimates, there is uncertainty with all of  
20 these predictions, Your Honor.

21 CHIEF JUDGE SHAW: Well, you sort of  
22 warned us before, or someone did, that, you know, as  
23 we moved the hearing and so forth, that there would  
24 be, as you said, parts of the jigsaw puzzle that  
25 might not exactly fit together evenly anymore. So

1 I'm not surprised to hear this. And I'm glad the  
2 parties worked it out. It seems like a reasonable,  
3 you know, adjustment that might be made.

4 I guess the most important thing is --  
5 that you want to know is whether we would charge a  
6 party for a dark courtroom, and I don't plan to do  
7 that. I also must say that, you know, my experience  
8 has been that we usually don't end up having a lot  
9 of time in situations like this, but, you know,  
10 pleasantly surprising, I'd be delighted to find out  
11 that we finish early on Thursday.

12 But, you know, if we do, I don't see any  
13 need to charge the party for having -- closing the  
14 curtain a little bit early that day, but we'll see  
15 what happens.

16 MR. CANTOR: Thank you, Your Honor. If I  
17 may, as long as I'm talking so I don't have to  
18 interrupt again later, just -- I was seeking one  
19 other clarification on an issue from the Judges.

20 CHIEF JUDGE SHAW: Sure.

21 MR. CANTOR: When you were talking about  
22 the en masse entrance of exhibits, which I think  
23 works to everyone's advantage, once -- assuming an  
24 exhibit is introduced en masse, is there any need  
25 during direct examination to go through another

1 round of authentication and introduction, or is that  
2 the whole point here of the en masse?

3 CHIEF JUDGE SHAW: To me that's the point  
4 of the en masse.

5 MR. CANTOR: Me too. We just wanted to  
6 make sure the Judges concurred and that we weren't  
7 missing a formalistic step in the process.

8 CHIEF JUDGE SHAW: No, not at all. And  
9 thanks for using the Norman French. You don't see  
10 that in law very much in the United States anymore.  
11 It makes me feel young again. So thank you. All  
12 right.

13 Now, we have a third issue here, and I  
14 don't know who will speak to that.

15 MS. PLOVNICK: Yes, Your Honor. This is  
16 Lucy Plovnick for Program Suppliers.

17 CHIEF JUDGE SHAW: Yes.

18 MS. PLOVNICK: And I'm going to talk  
19 about this. It was regarding demonstrative exhibits  
20 that may be used in connection with our opening  
21 statements. So in paragraph 16 of Order 28, there  
22 is some language in there about providing the Judges  
23 with copies of those in advance via e-mail and  
24 potentially hard copies. And we wanted to just kind  
25 of get some clarity from the Judges about what the

1 expectation was about, you know, do you want them in  
2 advance; if so, how do you want them and when do you  
3 want them? And how would you like the parties to  
4 facilitate that so that you have them, you know, as  
5 you need them?

6 CHIEF JUDGE SHAW: Well, that's great.  
7 And I think the best thing for me to do is to just  
8 first defer to the other two Judges, who may all  
9 want slightly different things and we're given a  
10 menu of opportunity here.

11 So let me begin with you, Judge  
12 Strickler. Do you have any preference about these  
13 exhibits?

14 JUDGE STRICKLER: Yes, I do. Knowing my  
15 own personal schedule for the weekend, I would  
16 either like them, the hard copies, today, which I'm  
17 guessing is not a likelihood, but you'll tell me,  
18 Ms. Plovnick, and the other counsel will join in, or  
19 first thing Monday morning.

20 JUDGE RUWE: I would also like hard  
21 copies, and first thing Monday morning is fine for  
22 me.

23 CHIEF JUDGE SHAW: Well, I'm just going  
24 to mix things up a bit and say I'd also like hard  
25 copies, but I would not like to get them on Monday

1 morning because I think we're going to be --  
2 personally -- you know, I don't know exactly what's  
3 going to be going on, but Monday morning is fine.  
4 You just might see me having to get up during the  
5 hearing, and I don't want to disrupt the argument or  
6 anything, but any time from -- any time between now  
7 and opening statements, arguments, is fine.

8 I'm just guessing. I'll be around all  
9 weekend. I don't know if this is something we have  
10 to sign for, but, you know, either way, I'm going to  
11 be around all weekend. So whenever they get here is  
12 fine.

13 JUDGE RUWE: Just to add to that, I  
14 understand -- I'm also going to be available. If  
15 it's something that can be delivered prior to Monday  
16 morning, I will be able to accept it. And I would  
17 appreciate it as early as I could get them.

18 MS. PLOVNICK: Well, further to that,  
19 Your Honor, I'm not sure the parties are aware where  
20 we should send them if we're going to have something  
21 sent via, you know, hard copy. I don't know, would  
22 we get that information from Ms. Whittle? Like  
23 maybe we would be sending them to your homes or to a  
24 particular location. We would like some clarity on,  
25 you know, where to send them.

1                   And then when to send them, I can speak  
2 for, you know, for Program Suppliers, you know,  
3 we'll do whatever the Judges would like to have  
4 happen. So it might be a little easier to deliver  
5 them before Monday morning, just if you're thinking  
6 about-- if we're having to get something sent over  
7 Fed Ex or something like that and you're looking for  
8 the delivery, if it doesn't show up on time, I would  
9 hate for that to happen. But I don't know, what  
10 should we -- where do you want them sent, I guess,  
11 and then maybe that answers --

12                   CHIEF JUDGE SHAW: Yes.

13                   MS. PLOVNICK: -- the question of how  
14 best to do it.

15                   CHIEF JUDGE SHAW: Let me just jump in  
16 there. A couple thoughts. We might be able to do a  
17 lot of business here at once.

18                   The first is I know we asked for  
19 demonstratives for opening statements, but I think  
20 there was a request, at least from one, maybe both,  
21 maybe all of us, regarding demonstratives all  
22 through the case, so maybe we can kind of address  
23 the whole issue.

24                   So, you know, I would like to the other  
25 Judges to weigh in, but to think about, you know,

1 did we ask for all the demonstratives to be sent in  
2 hard copy to us? And this kind of might be a guide  
3 for all of that. And so let me turn it over to  
4 Judge Strickler and see what he has to say.

5 JUDGE STRICKLER: It's my recollection  
6 that we asked for hard copies of demonstratives in  
7 conjunction with testimony, as well as with opening  
8 statements, to be delivered before the witness  
9 testified.

10 CHIEF JUDGE SHAW: Right. And so maybe  
11 the instructions -- I don't know if we want to  
12 handle instructions for the whole hearing or just  
13 the opening statements, but I just threw that out  
14 there because I know this isn't in a vacuum because,  
15 in other words, the address we give now may be what  
16 we want all through the hearing, and maybe it will  
17 change. I just put that out there. But --

18 JUDGE RUWE: It's not going to change for  
19 me, but I think we should handle that, the  
20 instructions as to addresses through Kim. I would  
21 also appreciate, to the extent possible, if it's Fed  
22 Ex'ed, to have tracking numbers provided, just as  
23 far as, you know, being able to expect what time to  
24 accept delivery. If it's courier, that's a  
25 different matter.

1           But, yeah, I think I would like the  
2 demonstratives for witnesses prior to the witness  
3 testimony and final. I think we made that very  
4 clear, that they should be the exact same material  
5 that is presented without any edits, last-minute  
6 edits.

7           JUDGE STRICKLER: I would also say that,  
8 by way of experience with regard to other Zoom  
9 proceedings we've had, with regard to this issue,  
10 that we've had couriers typically from the law firms  
11 or some other courier who was hired if there was no  
12 law firm office in the city in question, come to our  
13 homes in essence and drop off the demonstratives  
14 roughly speaking an hour or so before the hearing  
15 would begin. So that was the usual.

16           And that seemed to work well, so if  
17 that's -- if that protocol could be followed -- the  
18 other Judges can comment, obviously, on that -- but  
19 it would seem to me that that protocol would work  
20 throughout the proceeding here as well.

21           JUDGE RUWE: I agree that works for me.  
22 I have no objection to them arriving earlier.  
23 Sometimes they were the night before, and that's  
24 welcome also.

25           CHIEF JUDGE SHAW: Let me just say from

1 my angle, as far as -- that was very interesting  
2 information. I don't want couriers or law firms  
3 coming to my house an hour before the hearing. I  
4 don't want anybody coming to my house. I don't want  
5 the squirrels, the birds, the neighbors.

6           And I don't even know if I want all these  
7 demonstratives. And this is, as you know, my first  
8 hearing here at Library of Congress, but it's not my  
9 first rodeo. And what happens to me is, you know,  
10 actually I just can get inundated with exhibit books  
11 and physical demonstratives.

12           And during the pandemic, I've really  
13 become very accustomed to PDFs. But I think,  
14 certainly, this first time out for the opening  
15 statements and as something to have later -- well,  
16 let me address that in a minute -- I definitely want  
17 to get the demonstratives before the opening  
18 statements. That's going to be very helpful to me.  
19 Any time you want to get them here, you know, is  
20 fine.

21           But I'm just putting you -- just letting  
22 you know that as the hearing progresses, I might  
23 tell you I don't want to get physical demonstratives  
24 anymore, although I might want them when I go back  
25 to the office after the hearing to work on the

1 decision. I might want to have them delivered  
2 there, you know, as a memory jog and go through  
3 pictures and, you know, see what happens.

4           So I'm not saying I won't want them. I  
5 just might not want all these binders piling up in  
6 my house, you know, over five weeks, but everybody  
7 is different, you know.

8           And so I may change my mind. I just  
9 don't know what will work best for me during the  
10 hearing, but I'll probably want all of them at some  
11 point in binders on shelves in my office. So this  
12 first time, though, please deliver to my house any  
13 method you want, any time you want, the earlier the  
14 better. And then we'll just take it from there.

15           In the end, I'll want all of them. I  
16 just might choose e-mail delivery on PDF or  
17 something like that.

18           MS. PLOVNICK: Well, Your Honor, for  
19 purposes of just clarity, it might be helpful to  
20 have a deadline for when we should deliver the  
21 opening statement demonstratives. And it sounds  
22 like that you want them earlier than the morning of  
23 the hearing, which would be Monday morning.

24           So should we do like 7 p.m. the night  
25 before or is that too late? I mean, I just -- I

1 think that parties certainly could do it earlier,  
2 but having a deadline to shoot for would certainly  
3 be very helpful, I think, for all the parties of  
4 when they should try to have them couriered or  
5 delivered by and what the preference is.

6 CHIEF JUDGE SHAW: That deadline is fine  
7 for me. I don't know how, you know, what the other  
8 Judges are doing over the weekend, you know.

9 JUDGE STRICKLER: Let me weigh in. I  
10 know what my weekend schedule is, and 7 p.m. on  
11 Sunday won't work because I won't be here to be able  
12 to receive it. So I think you're going to need to  
13 customize, at least for me and maybe for Judge Ruwe  
14 as well, but I would -- so if counsel want to jot it  
15 down, I would want the demonstratives Monday morning  
16 by 9 a.m. eastern time.

17 JUDGE RUWE: I would say that it sounds  
18 like Judge Shaw and I are -- should just go with the  
19 evening before as the deadline.

20 MS. PLOVNICK: Is that the correct  
21 deadline for both Judge Shaw and Judge Ruwe, 7 p.m.  
22 Sunday?

23 CHIEF JUDGE SHAW: Works for me.

24 JUDGE RUWE: Correct.

25 MS. PLOVNICK: Okay.

1 JUDGE STRICKLER: And again, just for  
2 clarity --

3 MS. PLOVNICK: Thank you.

4 JUDGE STRICKLER: -- for me, not on  
5 Sunday night; only Monday morning.

6 MS. PLOVNICK: Thank you, Your Honor.  
7 For Judge Strickler, Monday morning by 9 a.m.  
8 eastern. And --

9 JUDGE STRICKLER: Right. And that's not  
10 a deadline. That's the period. It could be any  
11 time on Monday morning, but not Sunday evening.

12 MS. PLOVNICK: But not Sunday evening.  
13 Thank you, Your Honor.

14 So should we reach out to Ms. Whittle to  
15 get address information or will she send it to us?  
16 What would be the best protocol for us to get the  
17 right information to deliver these?

18 CHIEF JUDGE SHAW: I think that you  
19 should reach out to her because she -- you know,  
20 you, and I don't mean you personally, whoever this  
21 person is, I don't know if Ms. Whittle knows exactly  
22 whom to contact, and so whoever it is who needs the  
23 address should probably, you know, reach out to her.

24 MS. PLOVNICK: Reach out to Ms. Whittle,  
25 okay. We can all, I'm sure, handle that, Your

1 Honor.

2                   And then I guess there's another  
3 provision in paragraph -- I think it's 16 of Order  
4 28 about e-mailing copies of these demonstratives in  
5 the context of openings. So what time would you  
6 like us to do that? I think it says to e-mail --  
7 I'll just check right here. It says Ms. Whittle and  
8 Mr. Painter should get e-mailed a copy of all of the  
9 opening statement demonstratives. So when should we  
10 do that, a PDF copy of those, in terms of timing?

11                   CHIEF JUDGE SHAW: Okay. I just got a  
12 blurb in the right corner of my screen, and luckily  
13 it's not from Zoom.

14                   So I think again why don't you coordinate  
15 with Ms. Whittle on that.

16                   MS. PLOVNICK: Okay. Thank you, Your  
17 Honor.

18                   CHIEF JUDGE SHAW: I think there are a  
19 lot of reasons why.

20                   MS. PLOVNICK: We can do that.

21                   CHIEF JUDGE SHAW: I just didn't share  
22 them all with you. I'm sorry.

23                   MS. PLOVNICK: And also, further, just to  
24 clarify, it's our understanding that these  
25 demonstratives do not get filed in eCRB and -- but I

1 think we are supposed to upload them into Exhibit  
2 Share, so I just wanted to clarify that I've got the  
3 correct understanding of the process for that.

4 JUDGE RUWE: That is correct, and I think  
5 it is addressed in item 16 as well. The e-mail --  
6 you e-mail Ms. Whittle and Mr. Painter, as well as  
7 upload them into Exhibit Share.

8 MS. PLOVNICK: Okay. So we will  
9 coordinate with Ms. Whittle about the timing of when  
10 she would like to receive that PDF. We can send an  
11 e-mail and get some clarity from her. All right.  
12 Thank you.

13 CHIEF JUDGE SHAW: Certainly. I think we  
14 reached the end of the list that I got at the  
15 beginning of the conference, but let me just see, is  
16 there anything else the parties want to address at  
17 this conference before we close it?

18 MR. MacLEAN: Your Honor, this is Matthew  
19 MacLean from the Settling Devotional Claimants. I  
20 just wanted to have just one follow-up question on  
21 the demonstratives.

22 The order says demonstratives for direct  
23 examination should be submitted ahead of time. It's  
24 silent, though, with respect to cross-examination  
25 demonstratives, other than that they should be

1 uploaded to the Exhibit Share.

2           It's very easy, I think, or it's at least  
3 doable to come up with a set of demonstratives for  
4 opening statements or for direct examinations where  
5 we have control of the witnesses. For us, anyway, I  
6 think it's going to be very difficult to know  
7 exactly what demonstratives we're going to use with  
8 a cross-examination witness until that witness has  
9 started to testify.

10           And so I just want to ask a clarification  
11 with respect to what Judge Ruwe said as to whether  
12 we can be permitted to edit or pare down or  
13 something with respect to demonstratives that we  
14 might or might not use on cross.

15           CHIEF JUDGE SHAW: I see your point  
16 because it is important that the demonstratives we  
17 have are accurate.

18           I don't know, Judge Ruwe, do you have a  
19 preference on cross-examination demonstratives?

20           JUDGE RUWE: I don't have a problem with  
21 accepting a delivery during the day, but I have more  
22 of a problem with getting -- the demonstrative not  
23 matching what you're actually presenting. I do use  
24 the hard copy, and when it's different from what  
25 you're actually presenting, that's difficult.

1           So, you know, but I don't mind -- are you  
2 going to be -- you envision that you're editing  
3 during the -- while you're using a demonstrative?

4           MR. MacLEAN: Well, that was my vision,  
5 Your Honor, but, you know what, we can adjust.

6           CHIEF JUDGE SHAW: Well --

7           JUDGE RUWE: I really would prefer to  
8 have the hard copy demonstrative be identical to  
9 what you're presenting. As far as scheduling, if  
10 it's delivered at the very last minute, that's fine  
11 for me personally also, but the hard copy is  
12 helpful.

13           If there's some sort of page limit, then  
14 I wouldn't have a problem printing out something  
15 that is just uploaded electronically, but that would  
16 foreclose changing the demonstrative in the course  
17 of the cross.

18           MR. MacLEAN: Right. No problem, Your  
19 Honor. We're going to adjust and we're going to  
20 adjust accordingly. I would also just, while I have  
21 the floor, like to acknowledge Victor Cosentino from  
22 the Canadian Claimants and all the very, very, very  
23 difficult work he did fitting together this jigsaw  
24 puzzle of witnesses, which was a gigantic job.

25           And also I'd like to thank Lucy Plovnick

1 for all the work that she has done managing all the  
2 similar logistics with respect to our exhibit lists  
3 and so forth.

4 CHIEF JUDGE SHAW: Thank you. Thank you.  
5 All right. Anything else from any party  
6 for clarification or another issue?

7 MR. OLANIRAN: Yes, Your Honor. Greg  
8 Olaniran from Program Suppliers.

9 Mr. Dove had mentioned earlier that -- a  
10 motion in limine that's outstanding, and we wanted  
11 to know when we should anticipate determination on  
12 that or if you wanted to sort of get a framework for  
13 what the dispute is now.

14 CHIEF JUDGE SHAW: Oh, no. I think we're  
15 working on it. You'll have a ruling -- I'm shooting  
16 for before the witness would testify to get a limine  
17 ruling out there.

18 MR. OLANIRAN: Thank you, Your Honor.

19 CHIEF JUDGE SHAW: It will probably be a  
20 written order.

21 Any other issues? All right.

22 Very good. Well, I think this conference  
23 has been extremely productive. Thank you all very  
24 much.

25 I guess we'll just see you all for the

1 opening statements on Monday. Thank you all. This  
2 conference is closed.

3 (Whereupon, at 11:00 a.m., the prehearing  
4 conference concluded.)

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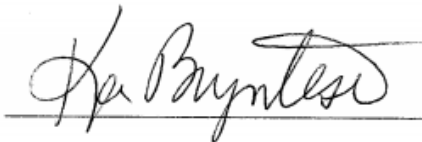
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## CERTIFICATE

I certify that the foregoing is a true and accurate transcript, to the best of my skill and ability, from my stenographic notes of this proceeding.

3/30/23



Date

Karen Brynteson, RMR, CRR, FAPR

Signature of the Court Reporter

## [Public Transcript]

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