

Transcripts of Clark's July 16, 2008 phone calls re preservation of evidence¹

REDACTED attorney-client communication.

...

Clark: Trying to get to CBS corporate legal department.

(Dialing)

Clark: Hello I'd like to try to get the CBS legal department? Thanks. Bye bye.

(Dialing)

Clark: New York, New York. CBS Legal Department. K. Yeah, the Legal Department. It's a television station. Well, do you have the main number for CBS the Television Station? You don't have any way of knowing if it's the television station? (pause) Well, OK, I want you to read them to me, don't send me to the computer yet 'cause I have some other numbers I can compare against and see if we're in the ballpark. (pause) And what's the other one? (pause) Hmmm. Maybe that does sound right. And what about if you spell out the words, Columbia Broadcasting System? (pause) OK. Thank You.

(Dialing)

...

REDACTED attorney-client communication.

...

(Dialing)

Clark: Yes, I am trying to reach the legal department.

Clark: Is this the legal department? I am an attorney in Minneapolis, MN and we would like to ask that video footage from the Minneapolis WCCO location would be preserved in anticipation of litigation. (pause) It's pre-litigation and we want to make sure that the video footage is preserved.

Clark: Hello? Hi. Are you one of the litigation attorneys? I am calling to ask that some video footage at WCCO in Minneapolis be preserved in anticipation of litigation.

¹ Transcript draft #1, June4, 2009. Transcription is more of an art than a science. Jill Clark, P.A. has made best efforts in preparing this transcript, but ideas for corrections or increased accuracy are always welcome.

Clark: OK, who do you think I should speak to? Judy Scott? OK. OK. Um-hm. OK. Thank you.

(Dialing)

...

REDACTED attorney-client communication.

...

Clark: Oh, Judy, I was referred to you by one of the other litigation assistants. My name is Jill Clark. I am an attorney in the Minneapolis area, and last night some ...a package aired on your WCCO outlet in the Minneapolis area, and we would like to ask that the video footage be preserved in anticipation of litigation and I was told, well, you should talk with Judy Scott. (laughs) OK.

Clark: Um, actually, I've spoken with Anthony before on other matters. Um-hm. Um-hm. Right...you know, rather than you writing it up, I can just talk to his voice mail. I want to make sure to have it happen as soon as possible, obviously, because once they make the package, sometimes they get rid of stuff, so...

(pause)

Clark: O.K. O.K. 763-417-9102 is my office phone. Just aired last night. And footage ... We know footage was shot yesterday. It's possible some footage was shot last week too. But it just aired last night and I know that you need to hop on these things to make sure they don't just otherwise throw away the footage.

(pause)

Clark: O.K. Thank you.

(pause)

Clark: Yeah, Mr. Bonjourno, my name is Jill Clark. I am an attorney in the Minneapolis Minnesota area, and your, I believe your assistant indicated that I should leave you a detailed voice mail because you are in Court today. This is July 16, 2008, and it's about mid-afternoon, and I'm calling, I'm trying to hop on this right away, and ask that your organization preserve all video footage concerning a story that aired last night on WCCO in the Minnesota area that had to do with Paul Stepnes, S-t-e-p-n-e-s and a contest otherwise known as the Big House Giveaway. Now it appears that there was at a minimum there was a videotaped interview of a contestant. There was apparently a videotaped interview with a Minneapolis Police Officer. There was definitely a videotaped interview of Mr. Stepnes

and his attorney. And it's possible that there were other interviews as well. And so we would like to ask that all of that footage be, whether it was used in the package or not, be preserved in anticipation of litigation. At this time it is anticipated that there will be a defamation litigation or similar, and so we are asking that for obvious reasons that all video footage be preserved.

We do have a copy of the package, um, just that we Tivo'd, but uh, obviously the more full interview would provide context and proof of certain statements and things of the like. So again, it kind of sounded like maybe the phone was cutting in and out a bit. I just want to repeat just to make sure that I am clear. For July 15, 2008 package that aired regarding a Paul, I can't tell if I am still recording, Paul Stepnes, we ask that it be preserved in anticipation of litigation. (763) 417-9102. Thank you.

Clark to tape: Voice mail to Anthony Bonjourno per his assistant, July 16, 2008.
Midafternoon.

(new call)

Clark: How do I put it on speaker?

(Dialing, ringing)

Receptionist: Good afternoon, WCCO television.

Clark: Yeah I need to speak with someone there regarding securing video footage.

Receptionist: OK one moment.

(Ringing)

Voice Mail: Hi this is Carrie Nolan, Communications and contact coordinator at WCCO TV. Sorry I missed your call. Leave me a message, and I'll get back with you shortly. Thanks.

Clark: Carrie, my name is Jill Clark. I am an attorney in the Minneapolis area. And I have already put a call in to New York, but the Attorney out there was in Court today, and I want to make sure that this information is received by the local station right away. I am asking that in anticipation of litigation your station secure any and all video footage, or audio footage, for any interviews related to the package that aired last night on July 15, 2008, regarding Paul Stepnes and property at 2857 Irving (inaudible) a contest or a Big House Giveaway. That all video footage, whether it was in the package or not, that it be immediately secured and preserved in anticipation of litigation. 763-417-9102.

(Dialing and ringing)

Receptionist: Good Afternoon, WCCO Television.

Clark: Yes, you just ...I was just calling regarding video footage, and you referred me to some someone in Communications? I think maybe Carrie, and got a...I was talking on her voice mail and I got a little beep, beep. Does that mean my time is up?

(Static)

Receptionist: Is this video footage (inaudible) ...You just want to get a copy of clip or something, I mean, are you going to use it for something? Er.

Clark: No I want it to be preserved in anticipation of litigation.

Receptionist: I am sorry your phone's cutting out.

Receptionist: Yeah, I don't know why it's doing that. Is that better?

Receptionist: Yeah.

Clark: I would like it to be preserved in anticipation of litigation. I want everything preserved, so...

Receptionist: Yeah, that would be Carrie Nolan, and that beep beep does mean your time is up, so I can transfer you again.

Carrie Nolan: This is Carrie.

Clark: Oh, Carrie, I am glad I got you. My name is Jill Clark. I was leaving you a voice mail before and I think I ran out of time.

Carrie: O.K.

Clark: Um, I ...The receptionist told me to speak with you. I have actually already left a message at the legal department in New York, but uh, Anthony, I am blanking on his last name right now, anyway the head of the litigation out there was in Court. And so, I just wanted to make sure that as soon as possible you got this information. We are asking that you preserve any and all videotape related to a specific package in anticipation of litigation,

Carrie: OK

Clark: And it relates to a story run last night about Paul Stepnes S-t-e-p-n-e-s.

Carrie: OK

Clark: And we know that there was an interview with Stepnes and his attorney, we know there was an interview with one of the contestants. It appears there was an, also an interview of the police officer Peter Ritchel, but we don't know what other interviews she did do. This was uh Esme Murphy story. And so we'd just like to ask that all of the footage

be preserved, even if it wasn't used in the package. The packages I assume you preserve anyway, right? ...For a time period.

Carrie: Yeah, and you know, we can't preserve anything without ...without our attorney knowing it and ...and giving that instruction.

Clark: Well you're not going to destroy anything, are you?

Carrie: Some of the tapes do get recycled.

Clark: OK, But that ...the whole point is whatever you do internally is your business, but the case law says that if ...litigation is anticipated, that it needs to be, pre ...I'm just summarizing this, obviously. But it needs to be preserved, or exfoliation (?) motion can be brought, and the client can lose ...

Carrie: Right. And that's, that's fine. But I can't take any action without, without our attorney giving me that instruction.

Clark: Well, I mean, I'm hearing you say that. What I'm saying is, I am not an internal CBS person, and I am not going to advise, try to advise you on whatever, You know, you do what you think you need to do, but I am putting you on notice that it should not be destroyed, and if we find out it was destroyed after you were put on this notice, then you know,, then I guess my client will have to pursue his remedies in Court. But it would seem awfully, uh it would be awfully disappointing, I think on a number of levels if after there's actual notice, someone makes an argument that well we got to destroy it because our attorney didn't tell us, whatever. I am not going to take a position on that, I am not going to advise you, and I am not going to say anything more to you, except that um, we are asking that it all be preserved. OK? I already left a voice mail for the head of Litigation Department in New York

Carrie: OK and that's good, and I will take my instruction from him.

Clark: Of course, of course. I mean, I am, I am not, you know, attempting in any way to give legal advice to your company, I am just thinking since he was in Court, You know I didn't want it by chance to be routinely destroyed this afternoon, or tomorrow, or you know ...So I mean if someone intentionally destroys it that's a different issue, but we'll cross that bridge if we ever come to it.

Carrie: Alright, well I will wait for ...I will wait for that cue from our attorney.

Clark: ...Uh, and is that the person you normally deal with out there ...Anthony?

Carrie: His name is Andy. Are you speaking of Andy Segal?

Clark: Well I know Andy Segal is also an Attorney out there. Does he ...Alright, what I ...Maybe I should ...Do you have a direct number for him?

Carrie: Sure. I can give you that.

Clark: 'Cause the number I was trying for Andy today ...I have dealt with him on a different matter. Uh, for some reason I just was ...would stop ringing. ...Oh Anthony Bonjourno is the one that I left a message for,

Carrie: OK.

Clark: But if you have a direct dial for Andy Segal, I can try him as well.

Carrie: Sure. (212) ...

Clark: 612?

Carrie: No. (212)-975-4480 And Wayne Hutchinson, is also, we work with, and his number is (212) 975-5271.

Clark: OK. All right. Thank you. Bye bye.

Clark to self: Carrie, I believe Carrie at WCCO local.

(Ringing)

[Voicemail to Andy Siegel]

Outgoing voicemail voice (sounds like Siegel): This is Andrew J. Siegel. Please leave a message at the sound of the beep.

Clark: Hi Andy, It's Jill Clark calling from Minneapolis. We worked on another small matter together. Um. I have a client who is anticipating some litigation against a reporter at the WCCO outlet here in Minneapolis and we wanted to make sure that, ASAP, that all video footage is preserved. I actually already left a message for Anthony Bonjourno but I guess he's in court. Because he is in Court, I also made a call to, I think her name was Carrie, at the local station, just to give her *actual* notice that we're asking they preserve the footage. She said we're not going to do anything until we hear from our attorney, and you know, I get all that, and I'm certainly not going to try to get in the way between you and your client. You guys do what you do. I just thought, since Bonjourno was in Court, it would be a shame if, you know, in this afternoon, or whatever, someone recycled a bunch of tapes and uh we didn't have it as a prac.... As a practical matter, once it's gone, it makes everything more complicated. So, um, let me give you the details as well.

My client's name is Paul Stepnes. S-t-e-p-n-e-s. He is also associated with 2857 Irving Avenue South, sometimes called a Contest, and sometimes called the Big House Giveaway. So, he, um, had a there was a package that aired about him, and about a business he was trying to do. Last evening, July 15th, 2008, aired on the 10 o'clock news, and I think maybe, it was replayed later, um. There's something on the website today; I don't know if it's the same, I haven't been able to compare them. But at any rate, know that at a minimum, there was an interview of my client, and me, yesterday, with Esme Murphy reporting. There was an intern there, and then there was also a cameraman, and then she had done already [voicemail female voice: you have reached the maximum time permitted for recording your message.]

REDACTED communications between attorney and client.

[Phoning back and second voicemail to Siegel]

Female voice: Mr. Siegel's office.

Clark: Oh, you know, I was talking to his voicemail and then I see that the time allowed. So is he around or do you just want to put me back into the voicemail?

Female voice: Who is calling?

Clark: It's Jill Clark. I'm calling from Minneapolis.

Female voice: I'm sorry, Jo Clack.

Clark: Jill Clar..., I'm an attorney in Minneapolis

Female voice: Joan...I'm sorry I couldn't get that.

Clark: It's Jill J-I-LL

Female voice: Uh huh.

Clark: C-L-A-R-k Clark

Female voice: Ok.

Female voice: Uh, he's not in his office at the moment. Can I transfer you to voicemail or have him call you back?

Clark: why don't you just transfer me to voicemail?

Female voice: Ok.

(sounds like outgoing voicemail message but breaks up)

Hi, Andy, Jill Clark finishing up. Sorry for the long voicemail. Anyway, we know there was a video interview of a contestant. We presume there was a video interview she did. Anyway, we know there was a video interview of a Peter Ritschel, Minneapolis Police Officer, although it aired with just his badge, a picture of his badge. I-I'm not sure why that was. But we don't know what other interviews she did. Um, anyway, we would like to have all of that preserved. Litigation is anticipated. I, like I said, I already left a message for Bonjourno, um, and then I did call to the station, too, just to make sure they had *actual* notice. I didn't want, you know um, without their, you know, without knowledge, things do get destroyed before you guys could call and say "put a hold on it." So, if you want to call me, 763-417-9102. I'm actually not in my office right now. Um. And won't be in much of tomorrow. Unfortunately. But I do have some drive time, and if you call, I'm sure my secretary can reach me. Jill Clark J-i-l-l C-l-a-r-k. And again, the individual's name is Paul Stepnes, S-t-e-p [as in Paul]-n-e-s. Thanks so much. Ba'bye.

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