

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Paul C. Stepnes, Pete Girard, Jan Girard,  
David B. Holland, Terry Yzaguirre,  
Ray Neset, Bennett Ross Taylor, Jr., and  
Judith Wallen Taylor,

Case No. 0:08-cv-5296 ADM/JJK

Plaintiffs,

v.

Peter Ritschel (individual capacity),  
Jane Moore (individual capacity),  
City of Minneapolis, CBS Broadcasting,  
Inc., foreign corporation, and Esme Murphy  
(individual),

Defendants.

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**SUPPLEMENTAL RESPONSES BY  
DEFENDANTS  
CBS BROADCASTING INC.  
AND ESME MURPHY TO  
PLAINTIFFS' FIRST SET OF  
INTERROGATORIES**

Pursuant to Rules 26(e) and 33 of the Federal Rules of Civil Procedure,  
Defendants CBS Broadcasting Inc. ("CBS") and Esme Murphy ("Murphy") (collectively,  
"Defendants") hereby supplement their Responses to Plaintiffs' First Set of  
Interrogatories (the "Interrogatories").

Defendants hereby incorporate by reference as if set forth fully herein the General  
Objections set forth in their original Responses to the Interrogatories.

The responses below are provided in lieu of Defendants' original Responses to the  
specified Interrogatories:

**Interrogatory No. 12:** Identify the person(s) who destroyed the video footage of Esme Murphy's interview of Paul Stepnes and his attorney on July 15, 2008.

**CBS RESPONSE:** CBS objects to this interrogatory to the extent that it assumes that the video footage in question has been destroyed. As outlined in response to Interrogatory Nos. 6-7 and 14, which are incorporated herein by reference, reporters and photojournalists at WCCO do not as a matter of practice routinely preserve the raw footage used to create news reports, but once tapes are used they are typically placed in a bin for recycling (re-use in another story) within the week. In this case, seven videotapes containing footage relating to the news report were located and preserved very shortly after a potential legal claim was informally asserted on July 16, 2008. However, it was later discovered that an eighth tape, containing footage of the interview on July 15, 2008, was not part of those materials. As outlined in response to Interrogatory No. 14, despite its diligent investigation CBS has not located this one interview tape.

**MURPHY RESPONSE:** Based on information and belief, Murphy incorporates the response of CBS.

**Interrogatory No. 14:** Describe in detail the actions that defendant(s) took to preserve video footage of Paul Stepnes and/or his attorney of July 15, 2008.

**CBS RESPONSE:** CBS objects to this interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege or the attorney work product doctrine. Subject to and without waiving its general and specific objections, CBS states as follows: The afternoon of July 16, 2008, Jill Clark placed several calls to CBS, including a call to CBS in-house counsel Andrew Siegel advising CBS of a potential legal

challenge to the news report at issue. That same day, Scott Libin sent an email to Esme Murphy, WCCO Station Manager Susan A. Loyd and the “WCCO TV-News Managers” email distribution group with a subject line as follows: “House raffle: SAVE YOUR TAPES.” Shortly thereafter, the chief photojournalist at WCCO, Bill Kruskop, checked the “Today’s Tape” shelf, as described in Interrogatory Response No. 6, which is incorporated here by reference. He also checked the daily bins for Tuesday through Friday and the station’s editing rooms. As a result of this process, Kruskop located seven tapes as follows:

Tape Number <sup>1</sup>	Length of tape <sup>2</sup>	Characters on tape label	Save sticker on tape?
1	24 minutes	Cop, Dream House, Esmé/Skinner, 8-06	Yes
2	12 minutes	News Edit, Dream House, Web Photos/Video, 5-06	Yes
3	24 minutes	7-13, 3, Dream House Interview, Carly, Esme, 6-08	Yes
4	24 minutes	Website tour, 2-08	Yes
5	12 minutes	* House Anim FX, 9-04	No
6	12 minutes	News Edit, House Anim	No
7	24 minutes	Dream House?, Esmé, Exteriors Raw, BK, 3-04	Yes

<sup>1</sup> This is a random number assigned by defense counsel simply to identify the tape for purposes of responding to this interrogatory.

<sup>2</sup> Refers only to the length of the videotape, not the length of the footage recorded on the tape.

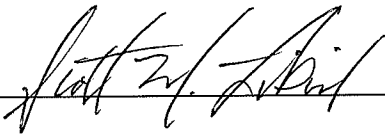
Kruskop immediately placed all of the tapes in his office for safekeeping, but did not review the contents of all of these tapes at that time. He believed that he had located and collected all of the videotapes relating to the news report. Shortly thereafter, Kruskop made a copy of the portion of the July 15 and July 16 WCCO newscasts regarding the Irving House contest and labeled the tape "Stepnes Air Checks."

Several weeks later, after CBS counsel requested to review the tape containing footage of the July 15, 2008 interview, station personnel became aware that the interview with Stepnes and his attorney was not included on the tapes that had been collected and preserved. Kruskop then reviewed the content of the videotapes that had been saved by WCCO, checked videotapes in the editing rooms, and searched behind desks and machines in case the videotape of the July 15, 2008 interview had fallen or been misplaced. He was unable to find the videotape of the July 15, 2008 interview. WCCO has since reviewed all videotapes still in its possession that were in circulation as of July 15, 2008, to see whether some portion of the approximately fifteen-minute interview might remain on any tape, even if that tape had been partially recycled. WCCO did not locate any part of the interview as a result of this review.

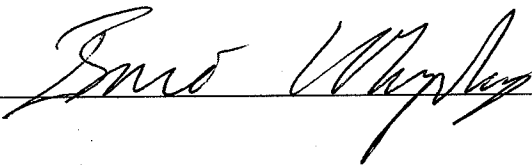
**MURPHY RESPONSE:** Based on information and belief, Murphy incorporates the response of CBS.

I HEREBY AFFIRM, UNDER THE PENALTY OF PERJURY, THAT THE  
CONTENTS OF THE FOREGOING ARE TRUE AND CORRECT TO THE  
BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

Dated: August 18, 2009

  
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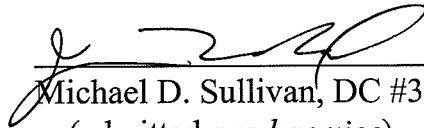
Dated: August 18, 2009

  
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Dated: September 4, 2009

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**ATTORNEYS FOR DEFENDANTS  
CBS BROADCASTING INC. AND  
ESME MURPHY**

**Certificate of Service**

I hereby certify that on this the 4th day of September, 2009, I served by email, following agreement of the parties to service by such means, a true and correct copy of the foregoing **Supplemental Responses By Defendants CBS Broadcasting Inc. and Esme Murphy to Plaintiffs' First Set of Interrogatories** as follows:

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