

**BROOKS, PIERCE, McLENDON, HUMPHREY & LEONARD, L.L.P.**

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GREENSBORO OFFICE  
2000 RENAISSANCE PLAZA  
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GREENSBORO, N.C. 27401

WRITER'S DIRECT DIAL

February 23, 2009

Via Federal Express

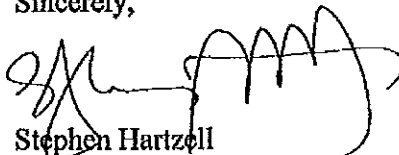
Ms. Jennifer Halupnik  
65 Bristol Court  
Hamilton, Ohio 45013

Re: **Official Notice of Informal Complaint, dated February 17, 2009**  
**09-C00090932-FC (J. Halupnik)**

Dear Ms. Halupnik:

This law firm represents Ohio/Oklahoma Hearst-Argyle Television, Inc., licensee of television station WLWT, Cincinnati, Ohio. This letter is to inform you that we have received from the Federal Communications Commission ("FCC") an Official Notice of Informal Complaint and a description of your complaint in the above-referenced matter. Pursuant to federal regulations, we will timely respond to the FCC's request for certain information concerning material broadcast by WLWT.

Sincerely,

  
Stephen Hartzell  
Attorney for Ohio/Oklahoma  
Hearst-Argyle Television, Inc.

United States Government  
Federal Communications Commission  
Consumer & Governmental Affairs Bureau  
Disability Rights Office  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

**OFFICIAL**  
**NOTICE OF INFORMAL COMPLAINT**

February 17, 2009

In Reply Refer To: 09-C00090932-FC  
WLWT-TV (J. Halupnik)

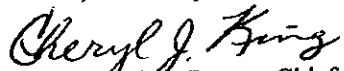
**THE COMPANY IDENTIFIED IN THE ATTACHED COMPLAINT IS REQUIRED TO RESPOND TO THIS NOTICE OF INFORMAL COMPLAINT WITHIN 30 DAYS OF THE DATE OF THIS NOTICE.**

Failure of any person to answer any lawful Commission inquiry is considered a misdemeanor punishable by a fine under Section 409(m) of the Communications Act (Act), 47 U.S.C. § 409(m). Further, failure to comply with any order of the Commission can result in prosecution under Section 401(b) of the Act, 47 U.S.C. § 401(b). Section 501 of the Act, 47 U.S.C. § 501, and Section 503(b)(1)(B) of the Act, 47 U.S.C. § 503(b)(1)(B), provide for forfeiture penalties against any person who willfully fails to follow the directives of the Act or of a Commission order. The Commission can impose forfeiture penalties of up to \$1.2 million for certain types of violations.

The attached complaint was filed with the Commission pursuant to Section 713 of the Act, 47 U.S.C. § 613, and Section 79.2 of the Commission's Rules, 47 C.F.R. § 79.2. A letter acknowledging your company's receipt of this Notice and of the enclosed complaint should be sent to each consumer Complainant as soon as your company receives this Notice. Pursuant to Sections 713 and 4(i) of the Act, 47 U.S.C. §§ 613, 154(i), and Section 79.2(c) of the Commission's Rules, 47 C.F.R. § 79.2(c), we are forwarding a copy of the complaint so that your company may satisfy or answer the complaint based on a thorough review of all relevant records and other information. Your company should respond specifically to all material allegations raised in each complaint and summarize the actions taken by your company to satisfy the complaint.

Your response should include: (1) the Complainant's name, and (2) the Case number. Please also include some form of recording (CD, DVD, VHS) of the time(s) and date(s) of the complained about event(s). For hand deliveries, the Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m., Monday-Friday. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.

Due to heightened security measures undertaken in Washington, D.C., and at this agency, you should also send an electronic copy of the response letter to [Cheryl.King@fcc.gov](mailto:Cheryl.King@fcc.gov). Companies are directed to send copies of their responses to consumers at the same time their responses are forwarded to the Commission. Each company required to respond to this Notice is directed to retain all records until final Commission disposition of the complaints. If you have any questions regarding this Notice, please call or email Francine Crawford at (202) 418-2085 or [Francine.crawford@fcc.gov](mailto:Francine.crawford@fcc.gov), and leave a detailed message specifying the calling company name, the Case number, and the specific questions that you would like to have answered.

  
Cheryl J. King, Deputy Chief  
Disability Rights Office/CGB

Attachment(s)  
K:613/79.2



Admin 2000

[HOME](#)   [SERVE](#)   [SEARCH](#)   [NEW COMPLAINT](#)   [ASSIGN](#)   [ADMIN](#)   [HELP](#)

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Form 2000C: 09-C00090932-1

[« Back to Complaints](#)

User Form
Admin Comments
Serve Process
File Attachments
Letters
Show All
Sub Complaints(0)
Print Form

USER FORM

[Consumer Party History](#)   [Consumer History](#)   [Form History](#)   [Edit Form](#)

User Complaint Number: 09-C00090932   User Complaint Key: 09-C00090932-1

Complaint Source: Web   Added User: Consumer

CONSUMER'S INFORMATION

First Name: Jennifer   Last Name: Halupnik

Company Name:  
(Complete only if you are filing this complaint on behalf of a company or an organization.)

Street Address or Post Office Box Number: 65 Bristol Ct

City: Hamilton   State: OH   Zip Code: 45013

Telephone Number(Residential or Business): (888) 577 -2479   Ext:

E-mail Address: blueyej@fuse.net

Are you filing information on behalf of another party, such as client, parent, spouse or roommate? No  
If yes, complete items a through h.

Your relationship with the party:

The party's first name:

The party's last name:

party\_daytime\_phpne ( ) - Ext:

The party's street address or post office box number:

City: State: Zip Code:

E-mail Address:

Fax Number: ( ) -

**IMPORTANT:** Please indicate the preferred format or method of response to the complaint by the Commission and defendant:

- ☐ Letter    ☐ Facsimile (fax)    ☐ Telephone Voice  
☐ TRS (designate form of TRS and appropriate contact information)  
☐ TTY    ☒ Internet E-mail    ☐ ASCII Text    ☐ Audio-Cassette Recording    ☐ Braille

#### FORM 2000C:

1. Check the appropriate box for your type of complaint:
- ☐ Telecommunications Relay Service (TRS) (i.e., TTY-based, IP Relay, CapTel, IP CapTel, Speech-to-Speech, Video Relay Service (VRS))

☐ Accessibility of emergency information on television

☒ **Closed Captioning (absence, quality or pass through High Definition (HD) programs)**

NOTE: If your complaint is about closed captioning only, you must first contact the station or video programming distributor. For additional information, see <http://www.fcc.gov/cgb/consumerfacts/closedcaption.html>

☐ Wireless telephone equipment or service (includes hearing aid compatibility and other accessibility issues)

☐ Wire line telephone equipment or service (includes hearing aid compatibility and other accessibility issues)

2. Provide the name, address and telephone number (if known) of the company(s) involved in your complaint:

Name: **Channel 5 WLWT-TV**

City: **Cincinnati** State: **OH** Zip Code: **45202**

Telephone number: **(513) 412- 5000**

3. If your complaint is about accessibility of telecommunications services or equipment, provide the make and model number of the equipment or device that this complaint is about:

4. If your complaint is about closed captioning or emergency information on television,

provide the date (mm/dd/yyyy) **02/03/2009** Time: **03:00 PM** and any details of when the event or action you are complaining about occurred: **Channel 5 decided to put all their t.v. shows on digital channel 5.2 so they can put weather alert news on the main channel. Judge Judy and several shows were on 5.2 and it does not display closed captions. This has happened more than once. The emergency weather alert news on the main channel lasted for several hours and it did not display captions either. I contacted the station, they dismissed my complaint and stated that there are no options and do not have equipment to have it captioned. They informed me to quit playing the victim.**

5. If your complaint is about access to emergency information on television, provide the following information:

a. Television station call sign (e.g., "WZUE-TV"):

b. Station channel (e.g., "13"):

c. Station location: City: State:

- d. Date(s) and time(s) of emergency: Time:  
Detailed description of the emergency (i.e., flood, hurricane, tornado, etc., as well as the areas in which the emergency occurred):
6. If your complaint is about closed captioning, provide the following:
- a. Station call sign (e.g., "KDID," "WZUF," "KDIU-FM," "WZUE-TV"): **wlwt-tv**
  - b. Station frequency (e.g., "1020" or "88.5"): or channel (e.g., "13"):
  - c. Station location: City: State:
  - d. Name of program(s) involved:

**Note: If your complaint is about closed captioning only, you must first contact the station or video programming distributor. For additional information, see <http://www.fcc.gov/cgb/consumerfacts/closedcaption.html>.**

7. Briefly describe your complaint and include the resolution you are seeking. If applicable, provide a full description of the telecommunications equipment or customer premises equipment (CPE) and/or the telecommunications service about which the complaint is made, and the date or dates on which the complaint either purchased, acquired or used, or attempted to purchase, acquire or use the telecommunications equipment, CPE or telecommunications service about which the complaint is being made.

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WRITER'S DIRECT DIAL

March 30, 2009

Federal Communications Commission  
Consumer & Governmental Affairs Bureau  
Disability Rights Office  
Attn: Cheryl J. King, Deputy Chief  
445 12th Street SW  
Washington, D.C. 20554

**Re: Complaint of Ms. Jennifer Halupnik**  
**FCC No. 09-C00090932-FC (J. Halupnik)**

Dear Ms. King:

This firm is counsel to Ohio/Oklahoma Hearst-Argyle Television, Inc., licensee of Television Station WLWT(TV), Cincinnati, Ohio ("WLWT").

This letter responds to the informal complaint submitted to the Federal Communications Commission ("FCC") by Ms. Jennifer Halupnik pursuant to Section 713 of the Communications Act, 47 U.S.C. § 613, and Section 79.2 of the FCC's Rules, 47 C.F.R. § 79.2. This complaint has been assigned FCC file number 09-C00090932-FC by your office.

WLWT received notice of Ms. Halupnik's complaint through a letter dated February 17, 2009, from the FCC's Consumer & Governmental Affairs Bureau's Disability Rights Office.<sup>1</sup>

<sup>1</sup> Pursuant to the directive in the Commission's February 17, 2009, letter, a notice acknowledging the Station's receipt of the Complaint was sent via Federal Express to Ms. Halupnik on February 23, 2009, and records show it was delivered on February 25.

By email on March 16, 2009, from Francine Crawford to Stephen Hartzell, an extension of time to file this response was granted through and including March 30; thus, this response is timely filed.

The VHS tapes enclosed herewith demonstrate that, contrary to Ms. Halupnik's complaint, WLWT's programming at issue on February 3 was, in fact, close captioned. To the extent that the FCC's emergency access rule is implicated by the Complaint, the enclosed tapes also demonstrate that the Station substantially complied with its obligations. Further detail is provided below.

## **I. The Complaint and Background**

Ms. Halupnik contends in her complaint that on February 3, 2009, at 3:00 p.m.,

"Channel 5 decided to put all their t.v. shows on digital channel 5.2 so they can put weather alert news on the main channel. Judge Judy and several shows were on 5.2 and it does not display closed captions. This has happened more than once. The emergency weather alert news on the main channel lasted for several hours and it did not display captions either. I contacted the station, they dismissed my complaint and stated that there are no options and do not have equipment to have it captioned. They informed me to quit playing the victim."

WLWT remembers Ms. Halupnik's call to the station on the afternoon of February 3. WLWT is sensitive to the needs of its viewers, particularly those who are hearing impaired such as Ms. Halupnik, and has trained relevant personnel to expect calls from Telecommunications Relay Service and Ohio Relay TDD (Telecommunications Device for the Deaf) operators. WLWT appreciates this opportunity to clarify what actually occurred on February 3, 2009.

Further details about February 3 provide more context. On February 3, 2009, the greater Cincinnati area was experiencing a weather event that merited extended coverage by WLWT. WLWT made a decision in mid-afternoon that the station would shift its regular entertainment programming line-up during the 4:00 p.m. hour (i.e., 4:00 p.m. to 5:00 p.m.) from its primary digital channel to its multicast digital channel 5.2 so that it could provide a special weather newscast on its primary digital channel.<sup>2</sup> The entertainment programming during that hour consisted of two episodes of *Judge Judy*, run back to back. At 5:00 p.m. the station was to resume (and did in fact resume) its regularly scheduled programming on its primary digital channel, which was the 5 p.m. newscast. Thus, as an initial matter, Ms. Halupnik is mistaken when she observes that "Judge Judy and several shows" were moved to channel 5.2; in fact, only

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<sup>2</sup> WLWT's primary digital channel and analog channel were running in simulcast mode; thus the entertainment programming scheduled during the 4:00 p.m. to 5:00 p.m. hour was preempted from the analog channel and the special weather coverage aired on the analog channel as well.

two episodes of *Judge Judy* were moved and no other programming was affected. Similarly, her description of WLWT's special weather newscast is inaccurate: the station aired one, hour-long special weather newscast before returning to regularly scheduled programming and did not air "emergency weather alert news on the main channel . . . for several hours."<sup>3</sup> Finally, her characterization of the exchange with station personnel which suggests that she was treated rudely, is similarly inaccurate.

## II. Closed Captioning of *Judge Judy* on Channel 5.2

Soon after deciding to move the two episodes of *Judge Judy* from the primary digital channel to the channel 5.2, at about 3:00 p.m., WLWT broadcast a crawl to alert viewers of the programming change. The station received a call from Ms. Halupnik after the crawl began to air, and nearly one hour before *Judge Judy* came on the air on channel 5.2. Two WLWT representatives spoke with Ms. Halupnik: Ms. Lisa Snell, who is the General Manager's Executive Assistant/Programming Coordinator, and Mr. Richard Dyer, who is General Manager of WLWT. According to Ms. Snell, she received an Ohio Relay TDD (Telecommunications Device for the Deaf) operator call around 3:00 p.m.

Although Ms. Snell did initially advise Ms. Halupnik that *Judge Judy* would not be close captioned on channel 5.2, Ms. Snell was mistaken. After communicating with Ms. Halupnik, Ms. Snell contacted legal counsel about the issue. Because *Judge Judy* is provided to the station by the program distributor with captions already embedded, WLWT was obligated to pass those captions through. WLWT would not have aired *Judge Judy* without closed captioning, and as the enclosed tapes demonstrate, WLWT did, in fact, pass those captions through when *Judge Judy* aired on channel 5.2 from 4:00 p.m. to 5:00 p.m.<sup>4</sup> Apparently, Ms. Halupnik did not watch *Judge Judy* at all during that hour or, perhaps, she prematurely filed her complaint prior to the beginning of the program but after Ms. Snell erroneously informed her that the shows would not be captioned.<sup>5</sup> It is unclear from the complaint whether Ms. Halupnik receives WLWT over the air or whether she subscribes to an MVPD service. If she receives WLWT over-the-air, it may be the case that her television (or digital converter box) is not properly configured to display

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<sup>3</sup> WLWT was aware that other Cincinnati area television stations were engaged in special weather news coverage as well, and it could be the case that Ms. Halupnik's description of WLWT's weather newscast is the result of confusion of WLWT's programming with that of another station.

<sup>4</sup> In light of Ms. Halupnik's call, WLWT decided to record *Judge Judy* as it aired that afternoon, in the event it became necessary (as it has) to demonstrate that both episodes aired with intact closed captioning.

<sup>5</sup> While not relevant to the evaluation or disposition of the closed captioning compliance issue, WLWT feels compelled to set the record straight with respect to Ms. Halupnik's allegation that "They informed me to quit playing the victim." As discussed in the enclosed Declaration of Lisa K. Snell, neither Mr. Dyer nor Ms. Snell at any time allowed the discussion to devolve to such a base level. To the contrary, it was Ms. Halupnik who made a statement along the lines of "I am not playing the victim here." See Declaration of Lisa K. Snell, ¶ 4.



closed captions. If she received WLWT from an MVPD, it may be that the MVPD was having technical difficulties on February 3 that caused WLWT's captioning not to display properly on Ms. Halupnik's television. Indeed, it is possible that Ms. Halupnik owns a legacy digital television that lacks closed captioning capacity. In any event, WLWT did pass through the closed captioning in *Judge Judy* and that portion of Ms. Halupnik's complaint lacks merit.

### **III. Special 4:00-5:00 p.m. Weather Newscast on Channel 5.1**

#### **A. Closed Captioning**

As an initial matter, Ms. Halupnik's over-generalized allegation that "[t]he emergency weather alert news on the main channel lasted for several hours and it did not display captions either" is plainly inaccurate. First, WLWT's special weather newscast was one hour long, from 4:00 – 5:00 p.m. and not "several hours."<sup>6</sup> Second, as the enclosed VHS tape demonstrates, the station met its closed captioning obligation during the 4:00 p.m. weather newscast.

WLWT is permitted to rely on the electronic newsroom captioning technique to meet its closed captioning obligations. See 47 C.F.R. § 79.1(e)(3) ("Live programming or repeats of programming originally transmitted live that are captioned using the so-called 'electronic newsroom technique' will be considered captioned" except for, in relevant part, Big Four network affiliates in the top 25 DMAs). WLWT is licensed to Cincinnati, Ohio, which is not part of a top-25 market (and was not part of a top-25 market when the closed captioning rules were adopted). As such, for its locally produced live programming, WLWT routinely relies on electronic newsroom technique ("ENT") captioning to meet its closed captioning obligations, and, as the enclosed VHS tape demonstrates, WLWT did so during its 4:00 p.m. special weather newscast on February 3. Closed captioning using the ENT method is evidenced throughout the 4:00 newscast, especially during periods that anchors Sheree Paoello and Sandra Ali are speaking, and during certain segments featuring reporters in the field, including Michelle Hopkins, Karin Johnson, John London, and others.

#### **B. Emergency Access Rule, Section 79.2**

Ms. Halupnik's complaint, by referring to WLWT's 4:00 p.m. weather newscast as "emergency weather alert news," appears to reference WLWT's obligation to make accessible

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<sup>6</sup> WLWT's special weather newscast was immediately followed by the station's regularly scheduled 5:00 p.m. newscast, which commenced at approximately 4:59 p.m. The complainant referenced 3:00 p.m. as the relevant time in the complaint—WLWT did not air a newscast at 3:00 p.m. on February 3. WLWT does not know whether the complainant was viewing a different station at 3:00 p.m. or whether the complainant really meant 4:00 p.m. In the interest of candor, WLWT is responding to this portion of the complaint by discussing its 4:00-5:00 p.m. special weather newscast. The tape of the 4:00 p.m. weather newscast contains a time code "burned" into it in the bottom center of the screen. The only recording the Station maintained of this newscast is in its mass logger tapes, all of which are routinely burned with a time code. As discussed above, the *Judge Judy* tapes submitted with this response were taped off-air that day, which is why they do not contain the time code.

“emergency information” to viewers. Because Ms. Halupnik’s complaint appears to invoke Section 79.2, WLWT retained a court reporter to provide a transcript of the 4:00 p.m. weather newscast. A sealed copy of the transcript and an unsealed copy of the transcript are enclosed herewith. As a review of the transcript and VHS tape reveal, WLWT’s special weather newscast was long on weather reporting, the vast majority of which simply was not “emergency information” and “critical details.”

1. *Section 79.2*

Section 79.2 defines “emergency information” as

information, about a current emergency, that is intended to further the protection of life, health, safety, and property, i.e., critical details regarding the emergency and how to respond to the emergency. Examples of the types of emergencies covered include . . . icing conditions, heavy snows, . . . school closings and changes in school bus schedules resulting from such conditions, and warnings and watches of impending changes in weather.

47 C.F.R. § 79.2(a)(2). A note to the rule observes:

Critical details include, but are not limited to, specific details regarding the areas that will be affected by the emergency, evacuation orders, detailed descriptions of areas to be evacuated, specific evacuation routes, approved shelters or the way to take shelter in one’s home, instructions on how to secure personal property, road closures, and how to obtain relief assistance.

*Id.* note to paragraph (a)(2). As discussed in detail below, WLWT’s special weather newscast covering a routine snow event in the Cincinnati area on February 3 involved the broadcast of very little “emergency information.”

2. *WLWT’s Special Weather Newscast*

WLWT’s special weather newscast on February 3 covered what was believed at the time to be a largely routine snow event. For purposes of understanding the broadcast, the station’s coverage can be broken into four general elements: (1) reporters (John London, Brian Hamrick, Karin Johnson, Eric Flack, Andrew Setters, John Bateman, Michelle Hopkins) in the field<sup>7</sup> discussing and visually showing salt truck activities, road, traffic, and visibility conditions; (2) a meteorologist (Valeria Abati) in the studio aurally and visually providing forecast updates, snow fall predictions, and tracking the event on the radar and weather maps; (3) a traffic anchor (Brandon Hamilton) in the studio covering traffic-related issues with maps and visual aids; and (4) anchors (Sheree Paoello, Sandra Ali) in the studio reporting on various other aspects of the

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<sup>7</sup> Driving conditions clearly permitted personnel to drive around the viewing area to provide live reports.

event, including the availability of child care. Coverage throughout the hour moved between and among these various on-air talent.

The vast majority of the WLWT 4:00 p.m. weather newscast provided non-emergency weather report information. The newscast provided snow accumulation forecasts, information about a local daycare center, routine information about commuter traffic accidents, temperature information, visibility information, commonsense observations about the possibility of slick roads, bridges, and overpasses, and gentle, cautionary admonitions to "take it slow" and drive carefully. While much of this information was also provided visually (for example, virtually all aural discussions of visibility were accompanied either by textual information showing visibility distances or by showing live images depicting how the current rate of snowfall affected visibility), none of it comprised "emergency information" or the "critical details" of an emergency. Instead, it was a general news report about certain routine and commonsense aspects of a snow event that viewers in the Cincinnati market are familiar with because of the amount of snow that falls annually in that area.

Reporting that roads are slick and snow covered and that visibility is limited during a snowstorm are not the "critical details" contemplated by the emergency access rule for a geographic area that routinely receives numerous snow events, freezing weather, and multiple inches of snow each year. In fact, much of the news coverage provided by WLWT fits neatly into a description used by WLWT reporter Eric Flack: "But you know, kind of what you'd expect out here right now. Snow-covered roads, traffic moving slowly. Moving, but definitely when people get moving too fast, end up into another vehicle and dinged up on the side of the road"—in other words, nothing special; common sense for what appeared at the time of the broadcast to be common snow conditions. With one exception, the station did not issue any advisories directing viewers to take specific action, other than the exercise of common sense, to deal with the snow event.

The following table lists all instances in which "emergency information" and "critical details" were provided aurally during the 4:00 pm weather newscast as well as a description of the relevant visual depiction. The transcript page and line numbers are provided, as are the times (in HH:MM:SS format) at which the relevant visual depiction appeared on-screen. The VHS tape of the newscast was made from an "aircheck" tape (which is the only recording the station has of the newscast), which means that a timecode bar is "burned" into the tape—the timecode bar obscures some visual material that aired during the newscast, and, in some instances, it is apparent that more information may have been provided visually but those details are not visible due to the location of the timecode bar.

Aural Emergency Information	Transcript Page and Line Numbers	Description of Visual Presentation	Time of Visual Presentation
"winter weather advisory"	Page 2, line 24 to page 3, line 5	"winter weather advisory" displayed on-screen with map graphic	16:00:46
"Let's . . . show you how road conditions look on 471. Again, it is at the Grand Avenue off ramp. . . . As you can see, no cars are going by on the off ramp. That is because it's temporarily closed for a salt truck to get by and treat the roads."	Page 7, line 23, to Page 8, line 6	Graphic indicates location. Image of road on screen shows no cars on it and anchor points to it.	16:05:49
"this is now a winter storm warning for Hamilton, Butler Counties in Ohio, as well as Franklin, Union and Fayette in Indiana. So it's been upgraded from a watch to now a winter storm warning."	Page 14, lines 18-21	No visual	16:14:17
"the National Weather Service has upgraded some of our counties in the viewing area from a winter weather advisory to a winter storm warning"	Page 16, line 25, to Page 17, line 4	"WARNINGS TUESDAY THRU 10 PM Winter Storm Warning" and counties highlighted on map	16:16:27 to 16:17:16
"if you're not shaded in that blue, you're still in that winter weather advisory"	Page 17, line 24	"Winter weather advisory" and "Advisory Tuesday Thru 10 PM" with map and affected counties highlighted	16:17:16 to 16:17:28

Aural Emergency Information	Transcript Page and Line Numbers	Description of Visual Presentation	Time of Visual Presentation
<p>"I want to give you the latest with our storm watches and warnings. And we do now have a winter storm warning for portions of the Tri-State. This does include Hamilton County, Butler County, Franklin County, Union and Fayette Counties. So this is about five counties in our News 5 viewing area that have been upgraded from a winter weather advisory to a winter storm warning. . . . Now the rest of you mainly in a winter weather advisory. . . . So Ripley County, Ohio, Switzerland, even Gallatin County, Owen and Grant Counties in northern Kentucky, you are out of the winter weather advisory. The rest of us will continue in this until 10:00 . . . ."</p>	<p>Page 27, lines 7-12, 19-25</p>	<p>"WARNINGS TUESDAY THRU 10 PM Winter Storm Warning" and counties highlighted on map</p> <p>"ADVISORIES TUESDAY THRU 10 PM Winter Weather Advisory" and counties highlighted on map</p>	<p>16:31:17 to 16:31:55</p> <p>16:31:55 to 16:32:17</p>
<p>"We do have a warning now. This was a winter weather advisory. This has been upgraded to a winter storm warning. This is for Hamilton, Butler, Franklin, Union and Fayette County in Indiana. . . . They are in this winter storm warning and that's why we have to kind of up it."</p>	<p>Page 42, lines 14-22</p>	<p>"WARNINGS TUESDAY THRU 10 PM Winter Storm Warning" and counties highlighted on map</p>	<p>16:47:55 to 16:48:18</p>
<p>"So I know Brandon said the visibility is at times basically white out. If you're in this area [south and east, New Town, Middleford, Blue Ash], definitely don't go out until this band pushes through."</p>	<p>Page 43, lines 15-17</p>	<p>No visual</p>	<p>16:49:06</p>
<p>"Winter storm warning. This has been upgraded from the winter weather advisory that we heard – had earlier this afternoon. This is mainly for Fayette, Union, Franklin County in Indiana, Butler and Hamilton County in Ohio. This goes through 10:00 this evening."</p>	<p>Page 50, line 21 through Page 51, line 3.</p>	<p>"WARNINGS TUESDAY THRU 10 PM Winter Storm Warning" and counties highlighted on map</p>	<p>16:59:21 to 16:59:39</p>

As described above, WLWT's 4:00 newscast programming aired on February 3, 2009, concerning the snow complied substantially, if not perfectly, with the FCC's rules regarding the accessibility of such coverage to hearing impaired viewers. WLWT regrets that there were a couple of intermittent statements relating to the snow that may not have been perfectly captured through visual presentation.

### 3. *Commission Decisions and Interpretations of Section 79.2*

That the vast majority of WLWT's 4:00 p.m. weather newscast did not provide "critical details" and "emergency information" is borne out by Commission decisions relating to Section 79.2. To date, the Commission has published interpretations of Section 79.2 and the note describing "critical details" only with respect to a deadly hurricane in Florida,<sup>8</sup> a tornado-spawning thunderstorm in the Washington, D.C. area,<sup>9</sup> and rapidly-spreading wildfires burning in the vicinity of San Diego.<sup>10</sup> No routine weather event, such as the one at issue here, has resulted in a Commission decision interpreting Section 79.2.

#### a. *Hurricane Charley Case*

In the *Hurricane Charley Case*, the Commission described the emergency as follows:

On August 13, 2004, Hurricane Charley hit Florida's western coast between Fort Myers and Punta Gorda causing deaths, injuries, and extensive damage to property and natural resources in Florida. A Category 4 Hurricane, Hurricane Charley came ashore with winds of 145 miles per hour, later reaching 180 miles per hour and causing ten foot waves. Hurricane Charley is reported to have been the most powerful storm to hit the Fort Myers area since 1960. WBBH-TV and WZVN-TV broadcast emergency information regarding Hurricane Charley on August 12 and 13, 2004. . . .

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<sup>8</sup> *Waterman Broadcasting Corp. of Florida, Inc., Montclair Communications, Inc.*, Notice of Apparent Liability, 20 FCC Rcd 13534 (2005) ("*Hurricane Charley Case*").

<sup>9</sup> *ACC Licensee, Inc. Licensee of WJLA-TV*, Notice of Apparent Liability, 20 FCC Rcd 9832 (2005) ("*WJLA-TV*"); *NBC Telemundo License Co. Licensee of WRC-TV*, Notice of Apparent Liability, 20 FCC Rcd 9839 (2005) ("*WRC-TV*"); *Fox Television Stations, Inc. Licensee of WTTG(TV)*, 20 FCC Rcd 9847 (2005) ("*WTTG*") (collectively, the "*Washington Tornado Cases*").

<sup>10</sup> *Midwest Television, Inc. Licensee of KFMB-TV*, Notice of Apparent Liability, 20 FCC Rcd 3959 (2005) ("*KFMB-TV*"); *Channel 51 of San Diego, Inc. Licensee of KUSI-TV*, Notice of Apparent Liability, 20 FCC Rcd 3969 (2005) ("*KUSI-TV*"); *McGraw-Hill Broadcasting Company, Inc. Licensee of KGTV*, Notice of Apparent Liability, 20 FCC Rcd 3981 (2005) ("*KGTV*") (collectively, the "*Wildfire Cases*").

During this coverage, the stations provided their viewers with emergency information, including the closing of government facilities, evacuation routes, shelters, the course of the storm, and the predicted time and counties that Hurricane Charley would hit. [WBBH-TV] and [WZVN-TV] joined forces, pursuant to a pre-November 5, 1996 time brokerage agreement, to bring greater resources to bear on coverage of Hurricane Charley. . . .

*Hurricane Charley Case*, ¶¶ 7-8. The critical details about this 50-year storm event that were provided aurally but not visually involved “evacuation orders, up-to-date information on the path of the storm, anticipated times the storm would hit particular communities, and road and bridge closures. The stations’ personnel characterized the storm as a very serious threat to life and property in southwest Florida.” *Id.* ¶ 14.

Specific statements made aurally but not provided visually were:

- “[t]he biggest news, the Sanibel Causeway is shut down, you will not be able to get on it. They tell us, the only way to get off the island is to swim off.”
- “[t]he Sanibel Causeway is shut down” and after “3:45 or 4:00 it is no longer safe to go to shelters, if you want to go, go now after 4:00 no longer safe.”
- “warning now to Glades County residences, there’s a mandatory evacuation, effective immediately for people in manufactured homes and low lying areas are required to leave and seek shelter.”
- “[w]e just got [an] urgent request from Emergency Management Office Charlotte County, urging residents at this point, do not evacuate, it’s too dangerous, stay where you are hunker down as best you can. Residents of Charlotte County, Punta Gorda, Port Charlotte and all around Charlotte Harbor, stay where you are.”

*Id.* ¶¶ 14-18. Hurricane Charley, the most powerful Hurricane to hit the viewing area in over 50 years, was an emergency situation that even Floridians who experience Hurricanes annually were not accustomed to responding to, and the station failed to provide visual information concerning certain specific “action items” relating to taking shelter, evacuations, and orders not to evacuate.

*b. Washington Tornado Cases*

In the *Washington Tornado Cases*, the Commission described the emergency event thusly: “On May25, 2004, the Washington, D.C. Metropolitan area was subject to a severe thunderstorm/tornado watch.” *WJLA-TV*, ¶ 6; *WRC-TV*, ¶ 6; *WTTG*, ¶ 6.

In *WJLA-TV*, an anchor had advised viewers “to take cover in their homes, go to the basement or an interior room, and cover themselves with blankets and quilts.” *WJLA-TV*, ¶ 8. Similarly, in *WRC-TV*, “to get away from their windows, and go to an interior room, such as a bathroom or closet” and to “get away from windows and go to a bathroom or basement when

they observe high winds.” *WRC-TV*, ¶ 8. Finally, in *WTTG*, the anchor “told viewers in the Frederick and Hagerstown, Maryland areas that they should take cover, go to the lowest level of their house, and stay close to the floor” and also “told viewers located in Lovettsville, Leesburg, and Lucketts, Virginia, to take cover, go to the lowest level of their house, and go to an interior room.” *WTTG*, ¶ 8.

In each of the *Washington Tornado Cases*, then, the “critical information” about the emergency that was not provided visually was an “action item” where the station told viewers to take certain actions in order to directly protect their health and safety in the face of a tornado potentially touching down in their area.

c. *San Diego Wildfire Cases*

In each of the *Wildfire Cases*, the Commission described the emergency event as follows:

During the week beginning October 26, 2003, there were wildfires throughout Southern California, including the San Diego area. These wildfires caused loss of life, injuries, and extensive damage to property and natural resources. Due to high winds, these fires spread extremely rapidly, and caused the evacuation of many of San Diego’s residents.

*KFMB-TV*, ¶ 3; *KUSI-TV*, ¶ 3; *KGTV*, ¶ 3.

In *KFMB-TV*, the critical details all related to specific road closures and certain specific “action items” that viewers were advised to take to protect their health, which was otherwise at risk due to the quality of the ambient air, which was severely compromised as a result of the burning wildfires and wind. The health-related action items involved:

- “advis[ing] viewers at home to protect themselves against air pollution caused by the fires by running their air conditioner, filtering the air, avoiding painting, shutting the windows and drinking plenty of fluids”;
- “advis[ing] viewers at home to avoid exercise and painting, and, if having breathing difficulties, to run their air conditioner through the filter and breathe through a damp cloth and through their noses”;
- “advis[ing] viewers at home to close their windows and doors, drink fluids, run their air conditioner, wash out their eyes with water, and call their doctor if they have health problems”;
- “advis[ing] viewers at home to keep their windows closed and their air conditioning on”; and



- “advis[ing] viewers at home to stay inside, close their doors and windows, put on their air conditioning, breathe through a damp cloth, and breathe through their noses”

*See KFMB-TV, Appendix A.*

Similarly, in *KUSI-TV*, the critical details all related to evacuations in specific areas, specific road closures, location of evacuation centers and shelters and certain specific “action items” that viewers were advised to take to protect their health, which was otherwise at risk due to the quality of the ambient air, which was severely compromised as a result of the burning wildfires and wind. The health-related action items were described by the Commission as follows:

- “reporter Steve Bosch advised viewers to protect themselves from air pollution by staying indoors, avoiding strenuous activity, and breathing through a damp cloth”;
- “Dr. Mark Pian advised viewers to protect their children from air pollution by keeping them inside, having them participate in quiet activities to avoid breathing, and making sure they take their medications”;
- “a representative of the American Lung Association advised viewers to stay inside, avoid exercise, use an air conditioner, and replace their filter”;
- “the American Lung Association representative advised residents to stay indoors with the windows closed, to replace their air filters, to hold wet handkerchiefs around their noses and mouths and breathe through their noses.”

*See KUSI-TV, Appendix A.*

Finally, in *KGTV*, the critical details all related to evacuations in specific areas, specific road closures, and certain specific “action items” that viewers were advised to take to protect their health, which was otherwise at risk due to the quality of the ambient air, which was severely compromised as a result of the burning wildfires and wind. The health-related action items were described thusly:

- “the anchor said that since 12:00 midnight, the police had been evacuating homes in the East County and in San Diego County Estates. She also advised viewers to stay inside, turn on their air conditioning, shut the windows and doors, and limit exercise”;
- “a representative of the American Lung Association advised viewers to stay indoors, run their air conditioner with a filter, and avoid exercise.”

*See KGTV, Appendix A.*

d. *The Instant Case Differs from the Cases Above*

At least two factors distinguish the *Hurricane Charley Case*, the *Washington Tornado Cases*, and the *Wildfire Cases* from the snow event coverage provided by WLWT's 4:00 p.m. weather newscast. First, the *Hurricane Charley Case*, the *Washington Tornado Cases*, and the *Wildfire Cases* involved deadly and destructive events (a severe hurricane, rapidly moving tornados, and wildfires) that were spreading rapidly and causing authorities to evacuate various areas or provide specific direction about taking shelter. In strict contrast, the February 3 snow event in the Cincinnati area was a routine weather event: it caused no destruction, threatened no lives, barely slowed traffic, and did not even result in widespread school closures. While WLWT's special newscast provided an important public service, the event simply did not rise to the level of being a widespread emergency of a magnitude commensurate with the *Wildfire Cases*, the *Hurricane Charley Case*, or the *Washington Tornado Cases*. Second, in each of the above cases, the television stations were providing (either through anchors or guests) specific road closure, evacuation, and shelter information as well as specific health and safety advice, including "action items" that viewers were directed to take. Again, in strict contrast, during the February 3 snow event, WLWT provided information about no road closures (except one temporary road closure for the limited purpose of salting), no evacuations, and no shelter locations—only one time did WLWT's on-air talent direct viewers to take a specific action ("If you're in this area [south and east, New Town, Middleford, Blue Ash], definitely don't go out until this band pushes through.") Furthermore, WLWT provided virtually no specific health or safety advice and offered no "action items." The few references during the weather newscast to safety were common-sense, run-of-the-mill references that amounted to little more than a precautionary "be careful out there"—admonitions that any viewer accustomed to snow would already know. Any other interpretation would convert virtually all weather reports into "emergency information" and "critical details," a result that is not intended by the Commission's emergency access rule.

#### IV. Conclusion

WLWT takes very seriously its obligation to make its programming accessible to individuals with hearing impairments and will continue to strive for full compliance with these rules. WLWT regrets that it did not contact Ms. Halupnik after determining that the *Judge Judy* closed captioning would be passed through on channel 5.2—had WLWT done so, it believes that this entire complaint would have been avoided.

In light of this complaint and in light of the Commission's new rules adopted (but not yet effective) in 2008, WLWT has instituted procedures whereby the station would be sure to provide accurate closed captioning information to a caller and to call a viewer back after an initial telephone call such as the one placed by Ms. Halupnik on February 3.

The signature of the Licensee's officer in the Certification of Licensee attached hereto indicates that he has read this letter and that to the best of his knowledge the information is true and correct.

Should you have any further questions regarding the above-referenced complaint, please do not hesitate to contact the undersigned.

Sincerely,

BROOKS, PIERCE, McLENDON,  
HUMPHREY & LEONARD, L.L.P.

A handwritten signature in black ink, appearing to read 'Mark J. Prak', with a stylized, flowing script.

Mark J. Prak  
Stephen Hartzell  
*Counsel to Ohio/Oklahoma Hearst-Argyle  
Television, Inc.*

Enclosures

cc: Francine Crawford, FCC (via email)  
Ms. Jennifer Halupnik  
Cheryl King, FCC (via email)

## DECLARATION OF LISA K. SNELL

1. My name is Lisa K. Snell. I am over the age of eighteen, and I am competent to testify to the matters set forth in this declaration. Unless and except as specifically stated otherwise, I have personal knowledge of all the facts stated herein. I have reviewed the foregoing correspondence from Mark J. Prak in response to the February 17, 2009, Notice of Informal Complaint, and, to the extent set forth below, I hereby verify the truth and accuracy of the information contained therein.

2. I am and have been at all relevant times the General Manager's Executive Assistant/Programming Coordinator for Television Station WLWT, Cincinnati, Ohio. I have reviewed the Notice of Informal Complaint dated February 17, 2009, and I am familiar with its contents.

3. I communicated with Ms. Halupnik on February 3, 2009, when she contacted the Station via an Ohio Relay TDD (Telecommunications Device for the Deaf) operator. Because WLWT endeavors to serve the hearing-impaired community and takes seriously its related regulatory obligations, I am familiar with Ohio Relay TDD operator protocol.

4. On February 3, WLWT's newsroom decided to provide 4:00 p.m. to 5:00 p.m. coverage of a snow event on its analog and main digital channel. In order to do so, we preempted two 30-minute regularly scheduled episodes of *Judge Judy* during that time period. Based on the weather conditions developing on February 3, WLWT decided to move *Judge Judy* to our multicast channel 5.2 so that it could air while we also provided special newscast coverage of the snow. Around 2:30 p.m., we aired a crawl on the main channel telling viewers that we would be moving *Judge Judy* to channel 5.2. It was in response to those crawls that Ms. Halupnik contacted the station around 3:00 p.m. and inquired about whether we would provide

closed captioning for *Judge Judy* on channel 5.2. I erroneously advised Ms. Halupnik that we would not provide closed captioning of *Judge Judy*. When Ms. Halupnik informed me that we were required to provide it, WLWT's General Manager Richard Dyer joined the call. At one point, Ms. Halupnik expressed a sentiment along the lines of: "I am not playing the victim here." At no time did Mr. Dyer or I accuse Ms. Halupnik of playing the victim, and Mr. Dyer even reassured Ms. Halupnik that we did not think she was "playing the victim."

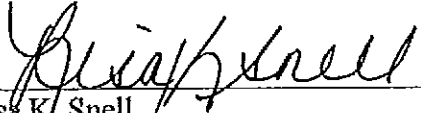
5. Following the end of our telephone call with Ms. Halupnik, I immediately contacted our communications counsel, who confirmed that because *Judge Judy* was provided to us by the programmer with closed captioning, we did have to pass through that captioning. I advised the General Manager and the engineering department and was advised that the closed captioning would air in *Judge Judy*. From 4:00 p.m. to 5:00 p.m., we aired two episodes of *Judge Judy* in their entirety on channel 5.2, complete with closed captioning. After the decision to air *Judge Judy* in full-screen format was made, I did not contact Ms. Halupnik again (I believe that she would have been happy to have the corrected information; however, I did not have contact information for her).

6. In light of our discussions with Ms. Halupnik, we taped off-the-air both episodes of *Judge Judy* as they aired on channel 5.2. Thus, the tapes submitted herewith reflect the programming in the form that it actually aired.

[signature appears on following page]

The undersigned, under penalty of perjury, declares the foregoing to be true, complete, and correct to the best of her personal knowledge.

This, the 27<sup>th</sup> day of March, 2009.

  
\_\_\_\_\_

Lisa K. Snell

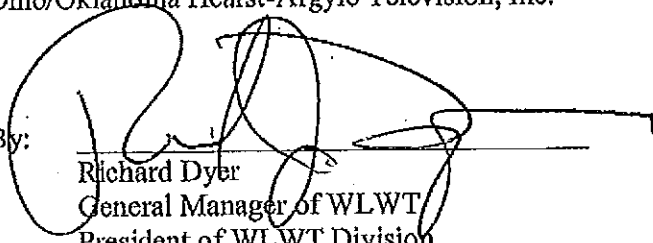
Executive Assistant/Programming Coordinator

**CERTIFICATION OF LICENSEE**

The signature of the Licensee's officer below indicates that he has read the foregoing letter and that to the best of his knowledge the information is true and correct.

Ohio/Oklahoma Hearst-Argyle Television, Inc.

By:



Richard Dyer  
General Manager of WLWT  
President of WLWT Division

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TRANSCRIPT OF VHS TAPE ENTITLED

WLWT - AIRCHECK - 2/3/09

4p - 5p

5-1

(MAIN CHANNEL)

PROVIDED BY

BROOKS, PIERCE, MCLENDON, HUMPHREY & LEONARD LAW FIRM

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Transcribed by: Michele Boyles  
At Raleigh, North Carolina  
March 10, 2009

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3 UNIDENTIFIED VOICE: From the Power of 5 Radar  
4 Network, this is a winter weather alert.

5 SANDRA ALI: We are bringing you special extended  
6 coverage of this latest round of winter weather. These  
7 are live pictures right now from Butler County.

8 SHEREE PAOLELLO: Yeah, the snow began falling  
9 earlier this afternoon and we are expecting it to stay  
10 with us for a while.

11 SANDRA ALI: And tonight we have a team of  
12 reporters keeping an eye on conditions from Butler and  
13 Warren Counties to northern Kentucky and all places in  
14 between.

15 SHEREE PAOLELLO: We're going to be with you until  
16 6:30 tonight to bring you extended coverage of this  
17 winter storm. And for those of you who may want to see  
18 Judge Judy, all you have to do to see that show is go  
19 to our weather plus channel.

20 SANDRA ALI: For now, let's get straight to  
21 meteorologist Valerie Abati for a first look at your  
22 forecast. Valerie.

23 VALERIE ABATI: Well, Sandra and Sheree, we do  
24 have a winter weather advisory for everybody in the  
25 News 5 viewing area. The time has been extended. It's

3 going into 11:00 tonight. So if you hear my voice,  
4 you're in this winter weather advisory. It means some  
5 heavy snow possible at times. Unfortunately, the  
6 timing with it, it's bad because it's through the  
7 afternoon and evening when most people are going to be  
8 out on the roads.

9 Now, after 10:00, things will slowly start to  
10 taper off, but we're not done with the snow completely  
11 until we head into tomorrow afternoon.

12 Here's a live look at our Cincinnati radar and you  
13 can see the snow bands all across the Tri-State. And  
14 look at these temperatures. We're going to be upper  
15 teens and 20s. So all this, it is sticking around.

16 Now, some of the heavier snow bands that we're  
17 seeing, you kind of have to look really closely with  
18 our Cincinnati radar here. You have to look for that  
19 dark gray shading. Moderate snow being reported around  
20 Hamilton and Fairfield. Looks like some light snow  
21 around Oxford. Harrison seeing some light to moderate  
22 snow. Eric Green is putting on our snow machine here.  
23 This is indicating where we're seeing the heaviest snow  
24 indicated by the pinks and the reds here. Two inches  
25 per hour. That's the rate of snow that's coming down.

So it can quickly accumulate on roads, side streets, and side walks. So you can see that heaviest band, it's slowly pushing into the Hamilton area right now. If you do have to do any errands in Hamilton, you might want to wait until this band pushes through. Looks like another band right along the Ohio River in southwestern Ohio and Northern Kentucky. Rates here about an inch an hour.

Now, not only do we have a heavy snow, but when you factor that in with driving conditions, visibility is really reduced. Look at this. In a few locations, Hamilton, Northern Kentucky, around the Cincinnati Lumpkin Airport, visibilities are less than half of a mile. That's why you really have to take it slow. In the Wilmington area, visibility is not quite as bad. Looks like three miles. At least at this point.

Now, as we take a larger view, and this is all five of our radars. Notice how that one band is right around Cincinnati, right around that Ohio River, and it looks like it's going to ramp up, but this is moving very slowly. So even though that western band is now just east of Indianapolis, it doesn't mean that we're going to be out of this until later tonight. So on and

off snow showers, at times moderate snow, and then we'll start to slowly taper over to a few flurries as we head into tonight and tomorrow.

So your timeline, through about midnight, say anywhere from 10:00, 11:00 to midnight tonight, snow showers and some accumulations. We already have reports of two to four inches in a few locations. Tonight snow flurries, light snow, that will continue. And even on into Wednesday with mostly cloudy skies, we'll have some Lake-enhanced snow showers making their way down into the Tri-State. We'll be drying out late in the day on Wednesday.

So coming up, we have this clipper system. It's still with us until late tonight. Then tonight and tomorrow we have to worry about the Great Lake because that's going to usher in a little bit more moisture. These flurries are going to continue as long as we have these winds out of the northwest. When we have those northwesterly winds, temperatures stay really cold. So for tonight, we're down into the teens. Highs tomorrow only staying in the 20s. I'll have more of your forecast and what you can expect coming up.

SANDRA ALI: And this latest round of snow is bad

3 news for drivers and for road crews as well.

4 SHEREE PAOLELLO: It really seems like they have  
5 been working just around the clock for a week now. And  
6 News 5's John London is live with how Cincinnati Crews  
7 are tackling for this latest round of snow. John.

8 JOHN LONDON: Well, they are proactive. They have  
9 been very proactive, these road crews out here today.  
10 In fact, they started last night. Here's a live look  
11 at current conditions. This is Warsaw Avenue in Price  
12 Hill. You can see the snow is not sticking to the  
13 streets so far, and rather windy at times. We've been  
14 watching the flags across the way to get an indication  
15 of wind speed.

16 Now, here's a look at road crews in action.  
17 They're fueled up on another 12-hour go-round. Salt  
18 trucks are out throughout the city. They started  
19 laying down lines of brine along main streets and the  
20 2800 lane miles in the city last night. The snow  
21 started gaining some sky-to-ground velocity around mid-  
22 afternoon. The primary worry involves slick spots any  
23 -- under any accumulated snow tonight. So they are  
24 encouraging those of you who will be on the roads  
25 tonight to be aware of that possibility. Seventy-some

3 trucks are out. Road crews say they'll be out working  
4 until the streets are cleared no matter how long it  
5 takes. They're coming off of a week that packed a  
6 winter wallop and they're getting another punch of it  
7 tonight. Live at Price Hill, John London, News 5.

8 SHEREE PAOLELLO: All right, they are working hard  
9 yet again. We also want to give you an idea of what  
10 some of the area interstates are looking like tonight.

11 SANDRA ALI: News 5's Brandon Hamilton keeping an  
12 eye on things for us with real time Trafficpulse. Hi  
13 Brandon.

14 BRANDON HAMILTON: Hey, how's it going? We do  
15 have a lot of accidents out there. And that just  
16 proves that the interstates are very slick and as well  
17 as the secondary roads. Good news, only a few  
18 accidents on the interstates. One of those westbound  
19 US 50, Columbia Parkway near Delta Avenue. We have  
20 multiple accidents reported on 275 between Five Mile  
21 Road and Milford Parkway. And then we do have one more  
22 on 471 northbound. All in the Grand Avenue off ramp.  
23 Let's go ahead and take you outside of that area and  
24 show you how road conditions look on 471. Again, it is  
25 at the Grand Avenue off ramp. So this is the

northbound side of Grand Avenue. The off ramp is over here. As you can see, no cars are going by on the off ramp. That is because it's temporarily closed for a salt truck to get by and treat the roads.

Here's how you look. 75 at the Western Hills viaduct. This is the northbound traffic here on this side. As you can see, very slow traffic -- slow traffic. Expect that for your evening commute. But not looking too bad on the interstate. It's a little bit farther north, 75 over Vine Street. This is the northbound traffic here, southbound here on the other side. As you can see, the interstates are partially covered with snow in this area and they do look very slick as well as very slow.

A couple of spots on 275. This is at Route 131 Milford Parkway. As you can see, it is snowing so hard in this area we can barely see the road. But it does look very covered and very slick in that area. That is the southbound side that you are currently looking at.

275 on the Kentucky side. This is right by our international airport. You have eastbound traffic going around the bend, westbound traffic coming this way. As you can see, the roads do look very slick in

3 that area as well.

4 over on 71, this is how road conditions look.  
5 This is at Martin Luther King Drive. You have the  
6 southbound traffic going away from you, northbound at  
7 you. As again, you can see that northbound traffic is  
8 very slow on 71 as well as very slick conditions on the  
9 interstates.

10 A couple of spots on 71-75. This is at the Cut-  
11 In-The-Hill, northbound traffic going away from you,  
12 southbound traffic coming up the hill. As you can see,  
13 it is not looking too bad in that area. The roads do  
14 look pretty cleared out. Road crews are doing a great  
15 job at the Cut-In-The-Hill.

16 71-75, this is at US 42. You have the northbound  
17 traffic going this way, southbound here. Keep in mind,  
18 those bridges, off ramps, on ramps and overpasses are  
19 very slick this evening. So do drive carefully if you  
20 do have to head out. I'll be back at 4:40 with another  
21 update. Sandra.

22 SANDRA ALI: All right, Brandon, thank you. We do  
23 have a team of reporters from Northern Kentucky to  
24 Butler and Warren Counties, all keeping an eye on  
25 things for you.



3 SHEREE PAOLELLO: So let's go ahead and check in  
4 now with News 5's Brian Hamrick. He's been watching  
5 the changing conditions in northern Kentucky for us  
6 today. And Brian, what does it look like now?

7 BRIAN HAMRICK: Well, right now, we're having some  
8 snow come down. We're in Covington here just at the  
9 foot of the Cut-In-The-Hill. You can see the  
10 northbound traffic coming at us here. Right now, the  
11 snow is steady, but even worse than that, it's the  
12 wind. And it's really blowing the snow across right  
13 now. And that's where you're going to have to be  
14 careful about drifting and even drifting into roadways.  
15 We followed some salt trucks around today. Take a  
16 look. You can see Fort Wright. Their salt trucks out  
17 today hitting as much as they could pre-treating at  
18 that point. They're really getting in the middle of  
19 all that snow that was coming down. And some of the  
20 roads, despite that, were still getting covered because  
21 it was coming down so hard.

22 Now, the Highway Department for Kentucky, they  
23 have 100 trucks out in about 4500 lane miles at this  
24 hour. But they are most focused on the Cut-In-The-  
25 Hill. We talked to Nancy Woods, their spokesman there

3 at

4 NANCY WOODS: well, luckily we didn't have any  
5 freezing rain before this snow. So we still have the  
6 three trucks that are out just monitoring the Cut-In-  
7 The-Hill area. So they'll be out there throughout this  
8 snow event.

9 BRIAN HAMRICK: As you can see, this is the Cut-  
10 In-The-Hill. Again, the lights coming at you are the  
11 northbound traffic. Just wet at this point. But you  
12 can see as you look through there, snow is coming down  
13 pretty strong at this point. So their main problem  
14 with the Cut-In-The-Hill is when folks get a little out  
15 of hand over there, somebody slides out of control, a  
16 truck gets out of the way, and as we saw in the last  
17 storm, shuts it down. Those road crews can't get on  
18 that hill and that's what creates the problem. They're  
19 asking everyone to be extremely careful as you go  
20 through the Cut-In-The-Hill all the way through  
21 Buttermilk. Just use extra caution there because one  
22 accident, they get behind and then they just don't get  
23 caught up and it creates a problem for everyone.  
24 Reporting live, Brian Hamrick, News 5.

25 SHEREE PAOLELLO: Yeah, it definitely creates a

3 huge mess there. That's Kentucky. Let's go ahead and  
4 see what things are like in Butler -- Butler and Warren  
5 Counties tonight.

6 SANDRA ALI: News host Karin Johnson keeping an  
7 eye on conditions for us there. Karen.

8 KARIN JOHNSON: And Sandra, I heard Valerie  
9 mention a few minutes ago that Hamilton was getting hit  
10 right now. And I can tell you, we just came from  
11 Hamilton to West Chester and it is a mess. Not only  
12 Hamilton, but Fairfield Township, West Chester, 129 a  
13 complete mess. People sliding off the roads, going  
14 into ditches. We saw a three-car accident. Luckily,  
15 no one was injured. Also, the side streets, too, I  
16 mean, they're just completely covered here. You can  
17 see Tylersville, a lot of the break lights. It's just  
18 covered in snow and ice. The trucks are out, but  
19 apparently having a little bit of a hard time keeping  
20 up with this.

21 One thing I did want to mention. We've seen a lot  
22 of school buses go through here with kids. So if  
23 you're a parent and maybe your child has not come home  
24 from school yet, they're running a little late. Don't  
25 panic because they're stuck in this traffic, too. And

3 I have noticed within the last 20 minutes, the  
4 interstate I-75 here northbound, I can see that it's  
5 just at a crawls pace. So if you're waiting for a  
6 loved one to get home, it's going to take them a while.  
7 Live in West Chester, Karin Johnson, News 5.

8 SANDRA ALI: All right, Karin, thank you. Now,  
9 let's go ahead and take a look at current road  
10 conditions. We do have a live streaming look right now  
11 outside.

12 SHEREE PAOLELLO: News 5 Eric Flack is rolling  
13 around with one of our live drive-by cameras. Eric,  
14 where are you and what are you seeing? It looks like  
15 at least traffic is moving.

16 ERIC FLACK: Traffic is moving here on 275 in  
17 Clermont County. Everybody is going pretty slow,  
18 though, Sheree. Here on the interstates, we've seen a  
19 number of different accidents. None involving  
20 injuries, but damage to cars for sure. A lot of people  
21 sitting on the side of the road as police obviously  
22 taking care of just keeping traffic moving and it's one  
23 of those situations where they're responding to -- to --  
24 -- non-injury accidents are not on the top of their  
25 priority list. A lot of snow-covered roads here on the

3 interstate. Mostly there are grooves for your -- for  
4 your tires to go into and some of the four-wheel drive  
5 vehicles are moving along at a quicker pace than the  
6 other just regular cars driving home from work. But  
7 you know, kind of what you'd expect out here right now.  
8 Snow-covered roads, traffic moving slowly. Moving, but  
9 definitely when people get moving too fast, end up into  
10 another vehicle and dinged up on the side of the road.  
11 Sheree and Sandra, back to you.

12 SANDRA ALI: All right, we have much more winter  
13 storm coverage coming your way. We're going to take a  
14 look at the side streets coming up after the break.

15 (COMMERCIALS)

16 SHEREE PAOLELLO: All right, new information just  
17 in from our weather department. Apparently, this is  
18 now a winter storm warning for Hamilton, Butler  
19 Counties in Ohio, as well as Franklin, Union and  
20 Fayette in Indiana. So it's been upgraded from a watch  
21 to now a winter storm warning.

22 SANDRA ALI: Yeah, looks like some of the toughest  
23 driving may not be out on the highway.

24 SHEREE PAOLELLO: The roads right in your own  
25 neighborhood may be the worst of all. News 5's Andrew

3 Setters joins us now with a live look.

4 SANDRA ALI: And Andrew, how are the side streets  
5 looking right now?

6 ANDREW SETTERS: The big thing about the side  
7 streets, depending on how much traffic they've got,  
8 they could be in fairly decent shape or they could be  
9 pretty nasty. Take a look at this road right here  
10 behind me. You can see there are definitely two  
11 distinct lanes. One closest to us is getting a lot of  
12 traffic and it's in fairly good shape. But the one  
13 next to it going in the opposite direction is --  
14 there's a lot more snow on it. There hasn't been  
15 nearly as many cars going on it and we also have not  
16 seen any salt crews out here throwing anything down to  
17 try and break this up. As you look further down the  
18 street, you can see there's a lot more snow on that  
19 stretch of road. Not nearly as much traffic. You can  
20 imagine that that is very difficult to get around on.  
21 You can see cars trying to come down that hill and  
22 they're going to have some trouble as they try to stop.

23 Now, one of the things that we tell you time and  
24 again as we're dealing with winter weather conditions  
25 here in the Tri-State, watch out for bridges and

3 overpasses. There's really no more clear example as to  
4 why you need to do that than right here behind us. You  
5 can see this overpass right over I-71 is almost  
6 completely snow covered. One lane. You can see some  
7 tire tracks the other lane. It's completely snow  
8 covered. Then it gets really cold, the snow sticks,  
9 piles up and makes it very treacherous driving. You  
10 can imagine if you were coming down that road thinking  
11 that the roads were passable and you hit that stretch  
12 of road where the overpass is, it could turn very slick  
13 very quickly.

14 So as you're out on the roads today, the side  
15 streets definitely are ones you want to watch out for  
16 because the salt trucks are focusing on the main roads  
17 trying to get people around, and they're not going to  
18 get into the neighborhoods anytime soon. Reporting  
19 live, Walnut Hills, Andrew Setters, News 5.

20 SANDRA ALI: Gosh, it seems like the roads have  
21 gotten messy really, really quickly this afternoon.

22 VALERIE ABATI: I think it's all coming down at  
23 once. We're talking about moderate to even heavy snow  
24 show showers at this point. And that's why the  
25 National Weather Service has upgraded some of our

counties in the viewing area from a winter weather advisory to a winter storm warning.

So it looks like the storm system is just kind of dumping all that snow into Hamilton, Butler even Franklin, Warren and Union Counties and Indiana. So heavier snow fall amounts. Yeah, we're going to have to ante up the accumulations just because this has slowed down and that means it just kind of dumps all that snow on top of us at once. And you know this timing with this storm, bad timing because it's right in time for that evening commute.

Looks like upwards of four inches now possible around the metro area. And this not only includes Cincinnati, but places like West Chester, even up around Hamilton, Fairfield, over into Franklin County. So all across the Tri-State heavy snow amounts. Take it slow out there and just be prepared if you have loved ones who are going to be coming home during that evening commute, it's probably going to take a while. You're going to have to add on, maybe even, half an hour, hour, hour and a half in a few instances.

Otherwise, if you're not shaded in that blue, you're still in that winter weather advisory, two to



3 four inches of snow will be falling throughout the  
4 afternoon and evening hours before this storm system  
5 finally starts to wrap up.

6 Now, here's a live look at our Cincinnati radar.  
7 Notice all the snow across the region. It does look  
8 like it's dry, at least at this point, down around Bebe  
9 and Owenton. But in northern Kentucky, we have not  
10 only light snow showers, but moderate to heavy at  
11 times. You have to look really closely. I know on  
12 radar it gets kind of confusing at times with all the  
13 white. So we'll put on our heavy storm machine here  
14 and wherever we have this red, that's where it's coming  
15 down with the most intensity. And notice, as Eric  
16 Green is putting on some of our rates -- our snow rates  
17 is falling at two inches per hour.

18 Now, this radar, it typically overdoes it at least  
19 by a little bit. So I'd say anywhere from an inch to  
20 an inch and a half coming down per hour. And this  
21 little band right here around Hamilton is pushing  
22 slowly down to the south. But I just showed you this  
23 band about 15 minutes ago and that southern tip was  
24 just right on Hamilton. So it's slowly pushing by.  
25 This probably won't be out of the Hamilton or Fairfield

3 area probably through the next half of an hour. So  
4 you'll probably see two, maybe even four inches, as  
5 that band pushes through.

6 Also, it looks like down here around Clermont and  
7 Brown Counties some heavy snow in your location here,  
8 too. So that's probably coming down at an inch, an  
9 inch and a half per hour where we'll quickly pick up to  
10 maybe even three inches of snow.

11 Now, as we head around downtown Cincinnati, Eric,  
12 if we can kind of zoom into the 275 loop, give people  
13 an idea of what's going on here. Yeah, we have  
14 moderate snow showers coming down at this point. It  
15 will quickly leave a coating of snow, especially on  
16 some of those back streets that aren't going to be  
17 treated. Looks like snow fall rates at this point  
18 about an inch, two inches, three inches per two to  
19 three hour window. So we'll see accumulations all  
20 across the region.

21 Now, here's the bigger picture. Notice the snow  
22 all the way from Interstate 70 down through Interstate  
23 74, 71, all of the 275 loop including northern Kentucky  
24 right in this band. And if we kind of pan out -- Eric,  
25 can you pan out a little bit more? I just kind of want

to show you the general feel here. This is really the only band that we're talking about. But it's slowly moving through. And it's going to be dumping all that snow in the meantime.

Snow accumulations, you have had a few reports here. Mt. Carmel, so far, four inches being reported. Harrison, two inches. If you want to give us some of your snow accumulations, you can go to [weatherdesk@wlwt.com](mailto:weatherdesk@wlwt.com). Just send it there. We want to see your snowfall totals and also some of your pictures.

Here's a look at accumulations. We're upping the ante. Where we do have that winter storm warning, as much as four, five, maybe even six inches before this slowly starts to wrap up. Generally speaking, I'd say about two to four inches in northern Kentucky and then a dusting to an inch farther up to the north and east and further down to the south and west.

Now, kind of timing out the storm, heaviest band pushing through about 4:00, 5:00, 6:00. Then we go into about 11:00, midnight. And this is slowly going to come to an end. But the snow showers, they just kind of taper over to a few flurries.

3 Through the rest of the overnight, cloudy skies.  
4 Flurries will continue even through the morning commute  
5 before this finally starts to wrap up tomorrow  
6 afternoon.

7 So, we're going to have to talk about the snow for  
8 the next couple of hours. Actually, next couple of  
9 days, possibly. So the snow lightens, we turn cloudy.  
10 Tonight's low temperature down to 13. Tomorrow, light  
11 snow, staying cold, high temperature only at 22  
12 degrees. Coming up at the 5:00 hour, we'll take a look  
13 at our seven-day forecast. Over to you guys.

14 SHEREE PAOLELLO: All right, Valerie, thanks.  
15 Let's go ahead and get back out onto the roads now.

16 SANDRA ALI: Yeah, let's go ahead and check in  
17 with News 5's John Bateman this afternoon. He is with  
18 one of our Live Drive 5 cams. John.

19 JOHN BATEMAN: Good afternoon, guys. Yeah, you  
20 know a lot hills in Cincinnati as you know and so we  
21 decided to head to East Price Hill. We just went up  
22 Mount Hope and that's a pretty steep incline. Not too  
23 bad there, yet. And we're on one of the main streets  
24 at this time about at the intersection of Price Avenue  
25 it looks like. The main street is not bad, but there

3 are still some snow-covered back roads that have been  
4 picking up this light snow accumulation. So a dusting,  
5 a little bit more. You may notice we have a school bus  
6 in front of us. It looks like he was able to be -- he  
7 was able to negotiate these hills okay so far.

8 And lots of the pre-treatment, I think, has been  
9 doing well also because mostly the roads seem to be  
10 wet. But when you get into those, of course, more off  
11 the main route places, you start getting some more in  
12 the way of snow out on the roads. And you may see here  
13 coming up that we are looking at a dusting on some of  
14 these back roads as we continue through the region.

15 I do want to mention, though, another thing that  
16 seems to have been a problem. On the way here, of  
17 course, folks that are familiar with the Incline  
18 District know usually what a great view you have of  
19 downtown Cincinnati from it. But on the way here, not  
20 only the falling snow, but the fog really limited the  
21 visibility. And that will be a factor as people are  
22 driving around tonight it looks like. And we only saw  
23 basically silhouettes of the downtown buildings when we  
24 were looking from the East Price (inaudible). Of  
25 course, I'll be back with more updates and we'll be

continuing at the roads and letting you know how things are shaping up. Reporting live John Bateman, News 5.

SHEREE PAOLELLO: And you saw it right there. John Bateman following a school bus. A lot of school officials having a tough decision to make. Do they keep the kids at school or risk maybe letting them out early, keeping them too late? We're going to check in with the decisions that schools had to make. And the scramble for parents who -- some of them had to pick up early today when we return.

(COMMERCIALS)

SHEREE PAOLELLO: This storm was really tough for school officials trying to make the decision should they dismiss early or maybe take their chances waiting it out.

SANDRA ALI: News 5's Michelle Hopkins live with that part of our winter weather coverage today. Michelle.

MICHELLE HOPKINS: Yeah, live in Florence here where it is coming down, it's been like this since about 2:00 this afternoon, which I think played a part in the decision of some school districts to kind of just wait it out. But there were about a dozen that

1  
2  
3 did call off early. Mason County, Robinson County,  
4 Franklin County, Indiana, just some of those that  
5 called off early now. We now the Kenton County and  
6 Mount Healthy are just a few of the districts that have  
7 called off school activities for the evening because of  
8 this weather. And you know, it is a tough decision for  
9 districts. Superintendents really (inaudible) the  
10 radar when snow is blowing in like this. With this  
11 one, a lot of districts in our immediate area decided  
12 not to call off school early. It's a worry either way  
13 for parents who just want their kids to be safe.

14 UNIDENTIFIED WOMAN: It's great for the parents.  
15 They get in a crunch, they get in a bind, they don't  
16 know what to do with their kids. So I think it's a  
17 great place for them to know that they have that  
18 resource to bring them when school's out.

19 MICHELLE HOPKINS: You know, places like  
20 skidaddles here, require no appointment, no  
21 reservation, you can just walk in. And they even have  
22 snow day specials. You get half off registration and  
23 some -- 25%, I think, off the regular rate. So this is  
24 one place that a lot of at least north Kentucky parents  
25 go with their kids when there is a snow day or if there

3 is an early dismissal. And the way the snow is coming  
4 down right now, I tell you what, they may want to hit  
5 this place tomorrow because there may be a snow day.  
6 But keep it right here on Channel 5 for the latest.  
7 Reporting live, Michelle Hopkins, News 5.

8 SHEREE PAOLELLO: All right, Michelle. Much more  
9 winter storm coverage when we return.

10 (COMMERCIALS)

11 SHEREE PAOLELLO: Well, we are continuing to bring  
12 you an exclusive look from street level.

13 SANDRA ALI: News 5 Eric Flack is checking out the  
14 streets with one of our Live Drive 5 cameras. And  
15 Eric, what are you seeing and where are you exactly?

16 ERIC FLACK: We're in Clermont County, Sandra.  
17 And I've seen the Interstate 275 get increasingly  
18 messy, traffic moving along pretty well, but it can get  
19 slow. We've seen a number of accidents. We're  
20 actually on our way to a report of a bus, a school bus,  
21 on Cook Road off of Route 28 here in Clermont County,  
22 that apparently is stuck and can't get up a hill. That  
23 school bus actually has students in it. We're on our  
24 way to that scene to see what the situation is and  
25 we'll bring you a report from there as soon as we can.



3 Back to you.

4 SHEREE PAOLELLO: All right, Eric, thank you.  
5 We're going to have much more winter weather coverage  
6 coming your way with live reports from all across the  
7 Tri-State and we're going to take you back live on the  
8 roads with our Live Drive 5 cam. Stay with us.

9 (COMMERCIALS)

10 SANDRA ALI: And we continue to bring you extended  
11 coverage of this latest round of winter weather. These  
12 are live pictures you're looking at right now from  
13 Butler County.

14 SHEREE PAOLELLO: You know what, this snow began  
15 early this afternoon and it is just not letting up.

16 SANDRA ALI: We do have a team of reporters  
17 keeping an eye on conditions for you from Butler and  
18 Warren Counties to northern Kentucky and pretty much  
19 everywhere in between.

20 SHEREE PAOLELLO: We are going to be with you  
21 until 6:30 tonight to bring you extended coverage of  
22 this winter storm. For those of you who maybe do want  
23 to still check out Judge Judy, you can see that show on  
24 our weather plus channel.

25 SANDRA ALI: But for now, let's get straight to

meteorologist Valerie Abati for a first look at your forecast.

VALERIE ABATI: Well, Sandra and Sheree, I want to give you the latest with our storm watches and warnings. And we do now have a winter storm warning for portions of the Tri-State. This does include Hamilton County, Butler County, Franklin County, Union and Fayette Counties. So this is about five counties in our News 5 viewing area that have been upgraded from a winter weather advisory to a winter storm warning.

We have a small band of snow that -- we'll get to the radar in just a minute -- we have a small band of snow that's pushing through and visibilities with that band greatly reduced to even a quarter of a mile at times. And it's quickly dumping a lot of snow as it's slowly pushing through.

Now, the rest of you mainly in a winter weather advisory. We have had a few counties out of this. It looks like you're not seeing quite the snow as the rest of us. So Ripley County, Ohio, Switzerland, even Gallatin County, Owen and Grant Counties in northern Kentucky, you are out of the winter weather advisory. The rest of us will continue in this until 10:00 where

heavy snow fall amounts are possible. And we've been seeing this already for a couple of hours.

Now, here's a look at our Cincinnati radar. You see here down to the south and out to the west, you've been alleviated from that winter weather advisory because you're really not seeing that snow that the rest of us are.

But elsewhere, heavy to moderate snowfall. And Eric Green, meteorologist Eric Green, he's in to where we're seeing the heaviest snow. This one band has just pushed through the Hamilton area. You can kind of see in here in the West Chester area, we're going to kind of go over from a reflectivity to our winter storm mode. And this pink to red shading that you're seeing, that's the very heavy snow. And it's a concern because it's moving slowly to the south and east and look at these snow fall rates, as much as two inches per hour. And this intensity causes almost whiteout conditions. Plus those winds at times up to ten miles per hour cause blowing snow. Visibility is greatly reduced. And this is moving down to the south and east about 20, 25, 30 miles per hour. That's not really quick. So this is going to be moving through the West Chester

area, Sharonville, Blue Ash, Colerain, Grosback, you're all going to see this band here in the next half an hour and it's going to dump a lot of snow. And that includes parts of the 275 loop. So it looks like some traffic headaches are going to be created as that band slowly moves through the 275 loop. It looks like it could even clip downtown Cincinnati as it pushes off to the east.

But elsewhere, that light to moderate snow will continue for the next couple of hours. But we'll continue to pick up a couple of inches. Snowfall rates with this blue shading here right around the Ohio River including Boone, Kent and Campbell Counties as much as about an inch an hour. So we'll quickly see additional accumulations with that.

Visibilities. Notice here around Hamilton where we just had that band push through, about only a third of a mile. So visibility is greatly reduced. Close to a mile visibility in northern Kentucky. But as some of those heavier bands push through, less than a quarter of a mile at times. So if you don't have to move -- or if you don't have to go out do any driving, especially north of the 275 loop, you probably don't want to. At

3 least for the next hour as that band pushes through.

4 Now, here's a larger view. Notice how this kind  
5 of snow, it's only around Cincinnati and the Tri-State  
6 right in our News 5 viewing area. Up around Dayton,  
7 the snow is starting to end. Down around Lexington,  
8 Louisville, they're dry. This band, it's slowly  
9 working its way down to the south and east. It just  
10 kind of opened up the sky and that's what's dumping all  
11 that snow.

12 So totals, anywhere from a dusting up to an inch  
13 from Wilmington up into Columbus. For most of our  
14 viewing area, two to four inches. We've already had a  
15 few reports of two to three inches in Harrison and  
16 Mount Carmel. But upwards of four inches will be seen  
17 where we do have winter storm warnings. So that  
18 includes Hamilton County, Butler County and even  
19 Franklin County.

20 Here's your timeline. This evening, snow showers  
21 and accumulating snow. Late tonight after 10:00,  
22 11:00, or even after midnight, those snow showers will  
23 taper over to light snow and flurries. Wednesday some  
24 of those flurries will continue. Otherwise, tomorrow,  
25 we'll finally start to dry out. Sheree and Sandra.

3 SANDRA ALI: All right, thank you so much, Val.  
4 We do have a team of reporters from northern Kentucky  
5 to Butler and Warren Counties all keeping an eye on  
6 things for you.

7 SHEREE PAOLELLO: Let's go ahead and check in now  
8 with News 5's Brian Hamrick. He's been watching the  
9 changing conditions over in northern Kentucky tonight.  
10 And Brian, boy, it looks like you're really getting hit  
11 with the snow over there.

12 BRIAN HAMRICK: Yeah, well, the snow is coming  
13 down at a pretty good rate right now. We're in  
14 Covington just at the bottom of the Cut-In-The-Hill.  
15 These are the lights of the folks coming north that you  
16 can see behind me here. The wind is really the factor  
17 out here at this point. We have a good deal of snow  
18 coming down, but that wind is really blowing it at you.  
19 You can really feel it. It's starting to make a  
20 difference on the roads and drifting areas. I wanted  
21 you to take a look at this little side street here  
22 where they're building that new hospital over there the  
23 streets is coming into that, you can tell, this is  
24 coming down pretty quickly here. We pulled up not to  
25 long ago. There was, really, this was bare and right

now there's quite a bit of snow here. We followed some trucks around. They are out salting. Over in Ft. Wright they were salting the streets over there. But it is difficult to keep up with whenever the snow begins coming down at rates like these. So the crews were out there doing their best. We also talked with folks at the Kentucky Department of Highways. They have 100 trucks out there. But they're most focused here on the Cut-In-The-Hill. You know, a lot of people we talked to say, you know, that last storm, they were pretty much done with winter.

DIANE GOETZ: I'm done with it. I'm ready for just a nice warm weather. Definitely.

BRIAN HAMRICK: Yeah, that sounds pretty good right about now. I want to give you a quick look at the Cut-In-The-Hill here. This is the traffic coming at you is northbound. Moving very smoothly right now, but again, this snow is coming down at a pretty good rate. And we talked to the folks with the Northern Kentucky Transportation. They just want to remind everyone if you're out driving, use especially -- special caution coming through this area. They're just trying to keep the trucks moving through that area. If

3 someone has a wreck, they spin out, that's when we all  
4 have trouble. Reporting live, Brian Hamrick, News 5.

5 SHEREE PAOLELLO: All right, and if you think it's  
6 bad there in northern Kentucky, boy, you should see  
7 what it looks like up in Butler and Warren Counties.

8 SANDRA ALI: Yeah, that area always seems to get  
9 hit the hardest. News 5 Karin Johnson keeping an eye  
10 on conditions for us there this afternoon. Karin.

11 KARIN JOHNSON: Well, if you're watching this from  
12 work and haven't left yet, all I have to say is be  
13 prepared for a long drive home. We just came into West  
14 Chester from Hamilton and it took us about 45 minutes.  
15 Usually that's 15 minutes tops. Now, cars were just  
16 sliding all over the highway. And these poor guys slid  
17 into each other. And this is typical of what we've  
18 been seeing on the highways and side streets right now  
19 in Butler County. And at Millikin and Hamilton, a  
20 police officer actually had stopped cars from going  
21 down the street because of the hill. They were sliding  
22 everywhere. And one woman had stopped halfway down and  
23 -- just to wait for a salt truck.

24 CATHY HURST: I started down this hill and I just  
25 slid into, you know, over here. And I'd keep trying to



3 get out. And so, I called 911 and they said please --  
4 they're going to salt the hill. So he said not to go  
5 forward and not to go backwards.

6 KARIN JOHNSON: And I just talked to some  
7 gentleman that just came over from the Tri-County area  
8 and he said it's just -- between 275, 75, everything is  
9 just a mess. It looks right now like a complete stop,  
10 so it's going to be a long drive home. Live from West  
11 Chester, Karin Johnson, News 5.

12 SANDRA ALI: Yeah, and this latest round of snow  
13 is bad news for drivers and also for road crews.

14 SHEREE PAOLELLO: Yeah, it really seems like  
15 they've been working straight for the last week now.  
16 News 5's John London is live with how Cincinnati crews  
17 are tackling this latest storm. John.

18 JOHN LONDON: Well, up until a few moments ago,  
19 not too badly. It seemed like that the pro-active  
20 efforts of city road crews were paying off. But as you  
21 look live here at Warsaw Avenue in Price Hill, you can  
22 see a change within the past half hour to an hour.  
23 They're now becoming a little more slushy. Traffic  
24 moving slower, and the thing is becoming a little bit  
25 more slick and snow covered as the snow starts to stick

3 to the surface of the road.

4 The city trying to live up to the high expectation  
5 of extensive pre-treatment, salt trucks have been on  
6 the move since last night putting brine down on the  
7 roads. Another stretch of 12-hour shifts for a second  
8 week to try to stay ahead of any accumulation. The  
9 salt dome at Cap Washington steady with activity this  
10 morning as trucks loaded up and headed out.

11 The main concern is the slick spots under fresh  
12 snow by late tonight that could catch unsuspecting  
13 motorists by surprise. So road crews tried to get to  
14 all the bridges and overpasses. They are also still --  
15 still dealing with ice-covered cul-de-sacs and some  
16 side streets from last week's snow and ice storm. So  
17 this latest round of winter on top of last week's  
18 difficulty and all the interior streets, they weren't  
19 doing too badly this afternoon. We saw them out here  
20 working hard and they seem to be ahead of the storm.  
21 But it's catching up with them a little bit now as  
22 these roads are starting to get snow covered here on  
23 the west side. We're live in Price Hills. John  
24 London, News 5.

25 SHEREE PAOLELLO: All right, well, within about

3 the next hour or so the highways are really going to be  
4 packed with people trying to get home from work.

5 SANDRA ALI: News 5's Brandon Hamilton has been  
6 keeping an eye on things for us with Real Time Traffic  
7 Pulse. How do things look now, Brandon?

8 BRANDON HAMILTON: Well, we're dealing with about  
9 over 30 accidents this evening all scattered throughout  
10 the Tri-State. That is due to very slick roadways.  
11 And if you can look at the traffic map, you can see a  
12 lot of red and yellow indicators, which means the  
13 interstates are already congested this evening.

14 So, I do want to take you outside all across the  
15 Tri-State and show you exactly how conditions look. As  
16 you can see, this is north of Union Center Boulevard  
17 around 75 and West Chester and as Valerie mentioned,  
18 the snow is falling very heavily in that area. And you  
19 can see it's completely whited out. This is the  
20 southbound traffic. You can see, if you look very  
21 closely, as you can see, the interstates are completely  
22 covered in that area and very slick, so keep that spot  
23 in mind.

24 A little bit farther south on 75, not looking too  
25 bad in this area. This is just north of Paddock Road.

3 The northbound traffic on this side, southbound on that  
4 side. As you can see, traffic is moving very slow in  
5 that area, though. But as you can see, the interstates  
6 are just slightly covered with snow in that area.

7 Even farther south on 75 at Ezra Charles Drive,  
8 this is the northbound traffic you see going away from  
9 you, southbound coming at you. As you can see, that  
10 northbound side is very slow in that area. But the  
11 interstates aren't looking too bad there.

12 On 71, far north, this is at Kings Mills Road in  
13 Mason. Interstates are looking in pretty good shape in  
14 this area. This is the southbound side here,  
15 northbound on that side. Now as you can see, not too  
16 many cars on the roadway in that area.

17 A little bit farther south on 71, this is at  
18 Pfieffer Road. You have the northbound traffic here on  
19 your right side, southbound on this side. As you can  
20 see, southbound not too many cars on the road, but  
21 northbound side is very slow and very slick in that  
22 area. Another spot on 71, this is at Smith Edwards  
23 Road right by the Rookwood Mall. Northbound traffic  
24 here on this side, southbound on this side. And again,  
25 the southbound side is not congested currently, but

that northbound side is congested as you make your way towards the Norwood Lateral. So keep that spot in mind as well.

A couple of spots on 275. This is at Mosteller Road. As you can see again, the snow is falling very heavily in this area. The interstates are completely covered. If you can look very closely, you can see a couple of taillights. That is the eastbound side and as you can see, they are completely stopped in that area.

Another spot on 275, this is at Route 32 and Eastgate. You have the northbound traffic on this side, southbound over here on this left side. As you can see again, keep in mind the bridges and overpasses are very slick. They usually are the slickest for your evening commute.

A couple of more spots. 71-75. This is at Turfway Road, southbound traffic going away from you, northbound as you -- as you can see, not too many cars on the roadway in that area. And the interstates actually looking in pretty good shape in that spot.

Another spot, 71-75, this is at 5th Street. Southbound traffic going away from you, northbound

3 traffic here on your left side approaching the Brent  
4 Spence. Again, not too many cars on the roadway in  
5 that area. And the interstates do look pretty good.

6 One more spot, 71. This is looking southbound.  
7 As you approach the Big Mac Bridge, the Big Mac is on  
8 the left side of your screen off to the distance. This  
9 is the ramp here to Columbia Parkway. As you can see,  
10 not too many cars on the roadway in that area. But  
11 again, I can't stress it enough, do drive cautiously  
12 this evening because the roadways are very slick.  
13 Guys.

14 SANDRA ALI: All right, thank you so much Brandon.  
15 Now, let's go ahead and take a look at current road  
16 conditions. We have a live streaming look for you  
17 outside.

18 SHEREE PAOLELLO: And News 5's Eric Flack is  
19 rolling around with one of our Live Drive 5 cams.  
20 Eric, I know you were at Clermont County before. Are  
21 you still there? And it looks like the roads there  
22 look pretty good.

23 ERIC FLACK: Yeah, you know, I'm sure they do look  
24 pretty good, but really, you know, it's kind of  
25 deceiving and I think a lot of drivers are being

deceived, Sheree, because you can see through our Live Drive 5 cam the black pavement. But we've also seen a number of accidents. People pulled over to the side of the road. Probably anywhere from a half dozen to a dozen accidents just starting up north and south 275 right here in Clermont County. So obviously, people kind of getting lulled into a sense of security. Really slick out here. We're trying to go check out a bus that may have had some problems getting up a hill with some students on board. So we're in route to that. In the meantime, we continue to try and take it easy ourselves. Watching every -- traffic moving. Definitely having some problems out here with some slick roads along 275 in Clermont County. Sheree, Sandra, back to you.

SHEREE PAOLELLO: All right, Erick, thank you so much. We do have much more weather storm coverage coming your way. Valerie will have an updated look at your radar coming up after the break.

(COMMERCIALS)

SANDRA ALI: All right, it looks like the snow really is continuing to come down in certain pockets of the area.

3 VALERIE ABATI: Right, and the one band that we're  
4 really watching is now pushing through the 275.  
5 visibility at times down to about zero. And so, what  
6 time is it, quarter to five? A lot of people getting  
7 off work. Bad timing.

8 SHEREE PAOLELLO: (Unitelligible).

9 VALERIE ABATI: Yeah, let's take a live look. I  
10 actually have one of our cameras. I think this is our  
11 Tower Cam that you're going to see. Visibility is  
12 greatly reduced. Here, we're just kind of looking at  
13 one of those side streets from the Auburn area. You  
14 can see how it's starting to coat the ground. You can  
15 hardly see from -- the visibility really reduced at  
16 this point. Less than a half of a mile in many  
17 locations. For those of you a bit farther up to the  
18 north and east and south and west, you're not really  
19 seeing the snowfall that the rest of us are seeing. So  
20 here you can see that visibility in the Wilmington area  
21 up to four miles. So that's not bad. But anywhere  
22 from northern Kentucky less than a mile, less than a  
23 half of a mile from the Cincinnati Lumpkin Airport all  
24 the way into the Hamilton area. So if you don't have  
25 to go out here in the next hour to two, you might want



3 to stay in.

4 Snow accumulations so far, we're getting a few  
5 reports. And the heaviest that I've seen, Brookville  
6 area. This is five inches already today. Hamilton, as  
7 much as six inches of snow. And that's our one band  
8 that we're watching for because that just pushed  
9 through your area. In Madeira, four inches being  
10 reported. If you want to report to us some of your  
11 accumulations, you want to go out there, send them to  
12 the weatherdesk@wlwt.com. We're going to be updating  
13 this as we go through the 6:30 show.

14 We do have a warning now. This was a winter  
15 weather advisory. This has been upgraded to a winter  
16 storm warning. This is for Hamilton, Butler, Franklin,  
17 Union and Fayette County in Indiana. This is where we  
18 have the heaviest snow pushing through. We were  
19 looking at about two to four inches of snow. Now we're  
20 upgrading it to four inches plus. So you can see some  
21 of those accumulations. They are in this winter storm  
22 warning and that's why we have to kind of up it.  
23 Because that band, it's moving through very, very  
24 slowly.

25 Here's a look at our Cincinnati radar. Snow all

across the 275 loop. Now, if you'll look closely, we have dark shadings of gray. That's where the heaviest snow is coming down at this point. Anywhere from Shivia, into Crosback, Colerain, West Chester, even around Sharonville and Blue Ash, some of the heaviest snow. And this band is just starting to move into that northern edge of the 275 loop. Slowly pushing to the south and east so places like New Town, Middleford, Blue Ash, you're going to see that band. Here it is. We kind of push over from our reef (ph) activity to a winter storm mode and where you see that pink. It's coming down at rates of an inch to two inches per hour at times. So I know Brandon said the visibility is at times basically white out. If you're in this area, definitely don't go out until this band pushes through.

For those of us in downtown Cincinnati and northern Kentucky, you're still seeing some heavy snowfall. And that is leading to moderate to heavy snow coming down. Inches of snow, I know, already being reported and we're going to add on a few more inches by the time this is all said and done.

Futurecast model heaviest snow going to push through through the 6:00 and 7:00 hours. As we head

into about 10:00, 11:00, the heavy snow, it tapers over to just flurries. Late tonight through tomorrow morning, cloudy skies, flurries will continue. We'll even see some Lake-enhanced snow so this really isn't going to be wrapping up until tomorrow. But it will lessen in its intensity. Tomorrow morning for the commute, not really snow showers. More in the way of just a few flurries. That snow, though, already on the ground. Then as we head into the afternoon on Wednesday, we'll finally start to see some improvement.

Now, as we head into Wednesday and Thursday, all that snow is done, but it's going to leave some effects. A dusting to an inch from Wilmington north and east. South and west, it looks like we could see two to four inches. This includes places like Hillsboro, Batavia, also into northern Kentucky, and then from Hamilton County all the way into Hamilton four, five, six maybe even seven inches of snow. We'll have more on this as we progress through this evening.

SHEREE PAOLELLO: All right, Valerie, thanks. We're going to have much more on your winter weather coverage as well as a check in with how schools did today. Stay with us, we'll be right back.

3 (COMMERCIALS)

4 SHEREE PAOLELLO: The roads are really starting to  
5 get bad out there as the snow is picking up. Let's go  
6 ahead and take a live look now as you can see from one  
7 of our city cameras here. The snow continues to fall.  
8 This has been going on for a couple of hours now.

9 SANDRA ALI: I know. And as we've been telling  
10 you, schools are forced to make some hard decisions  
11 this afternoon trying to decide whether or not to let  
12 students out early. Let's go ahead and check in again  
13 with News 5's Michelle Hopkins. She's live with more  
14 on that part of our winter weather coverage. Michelle.

15 MICHELLE HOPKINS: Yes, Sandra, the snow coming  
16 down pretty good here in Florence. But with the  
17 heaviest of the snowfall hitting so close to regular  
18 dismissal time for a lot of schools, many districts in  
19 our immediate area decided to leave well enough along  
20 and not call off early. What they have done in many  
21 cases is cancel evening activities. Now, and that's a  
22 safe bet with most of this keeping up until the evening  
23 hours. Looking at near white-out conditions here in  
24 Florence off and on. And this has been going on since,  
25 again, about 2:00 this afternoon. Heavy snowfall has

3 been piling up out here ever since.

4 And out here, parents rely on places like  
5 Skidaddles Daycare to help them out in a pinch when  
6 snow days force them to scramble for childcare.

7 UNIDENTIFIED FEMALE: Parents can only take off as  
8 many days from work as well. So what are you supposed  
9 to do with them? You can drop them off here and go on.

10 MICHELLE HOPKINS: And here they offer snow day  
11 specials. You can half off registration and something  
12 off -- 25 percent off regular rates. And it's a good  
13 deal out here for parents and again, no appointment  
14 necessary. You just kind of walk in and say you need  
15 childcare and you've got it. Reporting live, Michelle  
16 Hopkins. News 5.

17 SHEREE PAOLELLO: All right, Michelle, thank you.  
18 And stay with us. Much more of our winter storm  
19 coverage is going to be still ahead.

20 (COMMERCIALS)

21 SHEREE PAOLELLO: Road crews are really having to  
22 focus on the highways right now so those side streets  
23 are really getting slick.

24 SANDRA ALI: Yeah, let's go ahead and check back  
25 in with News 5's Andrew Setters. And Andrew, how do

3 the side streets look right now?

4 ANDREW SETTERS: The side streets are definitely  
5 getting snow covered right now. We have been here for  
6 about an hour and just an hour ago, these roads were  
7 not all that bad. Take a look at the streets here and  
8 you can see the tire tracks are already getting snow  
9 covered from cars that have just gone by. The snow is  
10 coming down at a really fast pace. People are doing a  
11 decent job of getting around on it, but we have seen a  
12 lot of cars slipping and sliding on these roads.

13 Take a look up the road as well. As you take a  
14 look down this side street here, you can see the  
15 visibility problems that Valerie has been talking to us  
16 about. Just a couple of hundred yards down the road,  
17 you can't see that truck that just drove past us just a  
18 moment ago. So you're going to have a hard time  
19 finding out what kind of road conditions, what kind of  
20 traffic conditions you're coming up on as you're out  
21 driving around because you can't see all that far in  
22 front of you. But definitely side streets are slick  
23 and snow covered. You're going to want to slow down  
24 because the road crews are not focusing on these.  
25 They're trying to get everybody home on all the main

3 drives. Live in Walnut Hills, Andres Setters, News 5.

4 SANDRA ALI: Andrew, I know you're kind of  
5 positioned in one place right there, but are you  
6 hearing about any accidents? We're told that  
7 Cincinnati is saying if you have an accident, no  
8 serious injuries, just exchange numbers and report it  
9 to police later. Are you seeing accidents where you  
10 are?

11 ANDREW SETTERS: We've not seen any accidents  
12 right here near us, but we've definitely seen a lot of  
13 cars slipping and sliding on these roads. I can  
14 imagine it's like that all over the city. Cincinnati,  
15 when they do have road conditions like this and are  
16 dealing with a lot of accidents, they've got to get to  
17 the ones that are serious where people are injured. So  
18 if you could -- have a wreck and you're able to drive  
19 your car away from the scene, exchange that  
20 information, get in touch with them tomorrow when  
21 things have died down and go ahead and get on your way.  
22 Don't sit around and wait for the police to show up  
23 because they have much bigger issues to deal with out  
24 on the roads right now.

25 SHEREE PAOLELLO: And Andrew, I know you've been

3 out there for several hours now. Have you seen any  
4 snow plows? I know the side streets are really  
5 secondary, of course, at this point to the highways.

6 ANDREW SETTERS: We have seen no snowplows in this  
7 area where we are now. We are not that far from I-71,  
8 though. Looking down on I-71, we've seen some plows  
9 out there. They're definitely focusing on that kind of  
10 main drags, the interstates, the places where a lot of  
11 people are getting around on. But right here, we  
12 haven't seen anybody. We've seen a lot of traffic and  
13 a lot of people sliding, but that's about it.

14 SHEREE PAOLELLO: All right, Andrew Setters  
15 reporting live for us tonight. We appreciate it.  
16 We'll be checking back in with you. Our winter weather  
17 coverage continues in just a moment. You're looking  
18 live here at a live picture over the city of Cincinnati  
19 right now.

20 SANDRA ALI: Stay with us. News 5 at 5:00 is  
21 still ahead.

22 (COMMERCIAL)

23 SANDRA ALI: Slammed by another winter storm.  
24 This time right in the middle of the day. Tonight the  
25 snow and the ice turning the roads into a collision



3 course.

4 SHEREE PAOLELLO: Plus we have live cameras in our  
5 cars showing you in real time the conditions you're  
6 going to face with technology you'll see only on 5.

7 SANDRA ALI: Plus, we are checking the interstates  
8 for you. This is I-75 at Glendale Milford Road. You  
9 can see even the highways are snow covered in areas  
10 right now.

11 SHEREE PAOLELLO: Derek said it would and now we  
12 are dealing with another nasty storm.

13 SANDRA ALI: Derek kicks off the Top Five tonight  
14 with his up-to-the-second Power 5 Forecast in our  
15 number one story. Derek.

16 DEREK BEASLEY: That's right, guys. We've been  
17 seeing heavy snow throughout the afternoon. This is  
18 what we're dealing with right now as you see from City  
19 Cam here, you can barely see across the street there.  
20 Visibility is being reduced down to a quarter to a half  
21 a mile in some spots. Winter storm warning. This has  
22 been upgraded from the winter weather advisory that we  
23 heard -- had earlier this afternoon. This is mainly  
24 for Fayette, Union, Franklin County in Indiana, Butler  
25 and Hamilton County in Ohio. This goes through 10:00

3 this evening. And it's really for one small area of  
4 snow where we could be looking at one to two inch per  
5 hour snowfall rates. And this thing is going to really  
6 dump some heavy snow. It's not moving that fast. And  
7 couple that with the heavy snowfall rates, it could  
8 dump up to eight inches in some parts of the Tri-State.

9 Let me show you the Power of 5 right now. The  
10 feature I want to point out to you is this thing here  
11 that looks like a comma. It's a little area of low  
12 pressure, a very small area of low pressure. We're  
13 getting lots of rising motion in the atmosphere and  
14 what that's doing is creating very heavy snowfall rates  
15 in a very localized area. Where you see these dark  
16 gray colors here from Mason over towards West Chester,  
17 some very heavy snow falling at the present time. Just  
18 leaving the Hamilton area, although you guys are still  
19 seeing some heavy snow out towards Colerain. And this  
20 is going to be tracking in a southeasterly direction  
21 towards you folks in Sharonville, down towards Bull  
22 Ash, you guys are seeing some heavy snow now. Milford,  
23 you're about to see some of the heaviest snow. And  
24 this will be tracking down around New Town, Anderson  
25 Township, Milford on the east sides of the 275 loop and

likely skirting the eastern sides of Campbell County in Kentucky. So if you live in Alexandria, points off towards the east in the California area, western parts of Clermont County through Batavia and off towards the south around the Felicity area, you could be looking at snowfall rates up to about one to two inches per hour.

And really, this is, other than everywhere else in the Tri-State, this is really the only game in town as far as the heaviest snow is concerned. Everybody else is seeing generally a light snow. But this is where your heaviest snow is concentrated. And again, it will be tracking towards areas of eastern Hamilton County and the western parts of Clermont County here over the next hour or so.

What are we looking at? Potentially over four inches. We've already had several reports upwards of four, five, six inches of snow. And before it's all said and done, by later on this evening, we could be seeing snowfall amounts even heavier than that.

Again, what we're expecting is the snow to gradually lighten up through the evening hours. I think the heaviest snow will occur here in Cincinnati, especially on the east sides of town within the next

3 couple of hours. And then it should start to slide off  
4 to the south and east affecting areas of Campbell  
5 County and eventually Clermont County before gradually  
6 tapering off later on this evening into tonight.

7 The rest of tonight just mainly some flurries  
8 around with temperatures cold, into the lower teens.  
9 Not only that, we're going to have a wind and that's  
10 going to create areas of blowing and drifting snow. So  
11 likely, it's going to be a difficult evening and  
12 overnight for travel here in the Tri-State. Of course,  
13 I'll have more for you coming up in the complete  
14 forecast in just a few -- just a few minutes. Sandra.

15 SANDRA ALI: All right, Derek. And don't forget  
16 when winter weather hits, News 5 is your official  
17 school closing station. We have closings and delays  
18 scrolling at the bottom of your screen right now. And  
19 you can always get live updates on [wlwt.com](http://wlwt.com).

20 SHEREE PAOLELLO: And now, let's get straight to -  
21 -

22 (END OF VIDEO RECORDING)  
23  
24  
25

NORTH CAROLINA

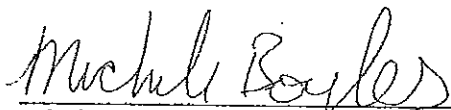
WAKE COUNTY

C E R T I F I C A T E

I, Michele Boyles, transcriptionist for Court Reporting Services, do hereby certify that the foregoing pages are a direct transcription of an audio/video recording of the matter/cause in this action and that it is as true and accurate as could be determined by such recording.

I do further certify that I am not of counsel for or in the employment of any party to this action.

IN WITNESS WHEREOF, I have hereunto subscribed my name this the 11th day of March, 2009

  
Michele Boyles,  
Transcriptionist