



Federal Communications Commission  
Washington, D.C. 20554

January 25, 2013

Mr. Ryan Fitzgerald  
2 Armor Court  
Kings Park, NY 11754

RE: FCC # IC 12-C00419768 (WESH)

Dear Mr. Fitzgerald:

This letter is in reference to the informal complaint, referenced above, that you filed with the Federal Communications Commission (Commission). A copy of your complaint is enclosed. The complaint implicates the Commission's rules requiring closed captioning. See Section 713 of the Act, 47 U.S.C. § 613, and Section 79.1 of the Commission's Rules, 47 C.F.R. § 79.1 *et seq.* Pursuant to the informal complaint process set forth in section 79.1 (g) of the Commission forwarded your informal complaint to the company named in the complaint, along with a Notice of Informal Complaint (NOIC). The NOIC instructed the company to file a response within 30 days of the date of the NOIC, and to send you a copy their response.

We have reviewed the informal complaint, the company's response and supporting evidence if warranted, and other information relevant to the claims made in the complaint. Based on the record, we find that the concerns you raised in your complaint have been addressed and, consistent with the complaint provisions of section 79.1 (g), no further action is required by the Commission. If you are still experiencing captioning problems, please file a new informal complaint using FCC Form 2000C an on-line complaint form found at the web site:

[www.fcc.gov/cgb/complaints.html](http://www.fcc.gov/cgb/complaints.html). Please include detailed information e.g., the specific movie titles, dates and times.

Under the 21<sup>st</sup> Century Communications and Video Accessibility Act, there is a provision to improve user interfaces so consumers can access captions more easily. The Commission is in the process of drafting these rules. To stay informed about this and other disability issues, you may subscribe to a listserv provided by the Disability Rights Office. To do so send an email to [Accessinfo@fcc.gov](mailto:Accessinfo@fcc.gov) with the word "subscribe" in the subject line.

If you have any questions about this matter, please do not hesitate to write us at 445 12<sup>th</sup> Street, SW, Washington, D.C. 20554, or call us at 1-888-CALL-FCC (1-888-225-5322). TTY users may dial 1-888-835-5322.

Sincerely,

A handwritten signature in cursive script that reads "Susan Kimmel".

Susan Kimmel, Deputy Chief  
Disability Rights Office  
Consumer & Governmental Affairs Bureau

Encl.

## Solita Griffis

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**From:** Solita Griffis  
**Sent:** Thursday, January 17, 2013 6:28 PM  
**Subject:** FCC Disability Complaint

Good Afternoon,

This email is in reference to your closed captioning complaint filed with the Federal Communications Commission. I have reviewed your complaint and the company response in its entirety. Please confirm the resolution of your complaint and/or status. If your closed captioning issue has not been resolved (pertaining to the original complaint filed) respond with brief, detailed and specific information (dates, channel, explanation of current caption status etc.).

Please email me by Tuesday, January 22, 2013. If I do not receive the requested information I will close your complaint.

Thanks in Advance

Solita L. Griffis  
Management Analyst  
Disability Rights Office  
Federal Communications Commission  
Phone - 202-418-1564  
Fax - 202-418-0037  
Solita.Griffis@fcc.gov

\*\*\*Non Public: For Internal Use Only\*\*\*

November 30, 2012

Federal Communications Commission  
Consumer & Governmental Affairs Bureau  
Disability Rights Office  
Attn: Susan L. Kimmel, Deputy Chief  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

*Via Hand Delivery*

**RECEIVED - FCC**  
**NOV 30 2012**  
Federal Communications Commission  
Bureau / Office

Re: Official Notice of Informal Complaint, dated October 31, 2012  
FCC Case No. 12-C00419768-1 (Fitzgerald) (WESH)

Dear Ms. Kimmel:

This firm is counsel to Orlando Hearst Television Inc., licensee of Television Station WESH, Daytona Beach, Florida (“WESH”).

This letter responds to the informal complaint submitted to the Federal Communications Commission (“FCC”) by Mr. Ryan Fitzgerald pursuant to Section 713 of the Communications Act, 47 U.S.C. § 613, and Section 79.1 of the FCC’s Rules, 47 C.F.R. § 79.1. This complaint has been assigned Case No. 12-C00419768-1 by the Disability Rights Office. WESH received notice of Mr. Fitzgerald’s complaint by Notice of Informal Complaint dated October 31, 2012, (the “Notice”) delivered by U.S. Mail.

Mr. Fitzgerald’s complaint identified August 20, 2012, at 12:00 AM as the date and time on which he was unable to see closed captions on WESH and another station. Because it is unclear whether Mr. Fitzgerald meant the midnight between August 19 and 20 or the midnight between August 20 and 21, WESH investigated both dates and times. See Declaration of Brian Darragh (“Darragh Declaration”), ¶ 4. As demonstrated by the recordings on the enclosed CDs, WESH’s midnight programming on both dates was closed captioned.<sup>1</sup> See Darragh Declaration, ¶ 4.

WESH had learned in late August that there was a potential issue with closed captioning on its channel on Cablevision of Marion County’s cable system. At that time, WESH investigated, and, finding no issues with its own equipment, WESH contacted Cablevision. See

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<sup>1</sup> For reasons that are not germane to the Notice, the quality of the recordings on the enclosed CDs is less than ideal, but they are the best recordings that WESH was able to make. In any event, each recording shows that the programming was closed captioned. See Darragh Declaration, ¶ 4.

Darragh Declaration, ¶ 3. By August 22, 2012, WESH's Assistant Chief Engineer, Brian Darragh, communicated with Cablevision of Marion County about the issue and Cablevision personnel confirmed that they were having an equipment issue with an encoder. *See* Darragh Declaration, ¶ 3. At that time, Cablevision personnel indicated that they expected to have the issue addressed within a week's time. To WESH's knowledge, Cablevision did successfully repair or replace the equipment. *See* Darragh Declaration, ¶ 3.

WESH takes its closed captioning service seriously and endeavors to ensure that viewers have a positive closed captioning experience. In the event Mr. Fitzgerald—or his grandmother, whose home Mr. Fitzgerald was visiting at the time of the complaint—have difficulties with WESH's closed captioning again, WESH invites them to contact the station for assistance, and WESH wants Mr. Fitzgerald to know he can count on WESH to take the issue seriously and diagnose it. *See* Darragh Declaration, ¶ 4.

In light of the information provided herein, WESH respectfully requests that the complaint against it be dismissed.

This Response is supported by the Declaration of Brian Darragh, Assistant Chief Engineer for WESH, and the Certification of James J. Carter, President and General Manager of Orlando Hearst Television Inc., who has indicated that he has reviewed this letter in his capacity as an officer of the licensee and that to the best of his knowledge and belief the information herein 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.



Stephen Hartzell  
*Counsel to Orlando Hearst Television Inc.*

Enclosures

cc: DROinquiries&complaints@fcc.gov  
Susan L. Kimmel, FCC (via email)  
Mr. Ryan Fitzgerald (via U.S. Mail and via email: rfitzgerald@invodo.com)

## CERTIFICATION OF LICENSEE

I, James J. Carter, hereby declare, under penalty of perjury, as follows:

1. I am greater than eighteen years of age and am competent to make this Certification. I am President and General Manager of Orlando Hearst Television Inc., licensee of WESH, Daytona Beach, Florida ("WESH"). I have held these positions at all relevant times.

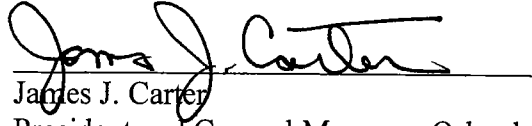
2. My signature below indicates, under penalty of perjury, that I have reviewed the Notice of Informal Complaint dated October 31, 2012 ("Notice"), and I am familiar with its contents, I have reviewed the foregoing correspondence from Stephen Hartzell in response to the Notice, and, to the best of my knowledge, information, and belief, I hereby verify the truth and accuracy of the information contained therein. To the extent that I do not have personal knowledge of any relevant facts, I am relying on the statements made in the Declaration of Brian Darragh, which I have reviewed and with which I am familiar.

**[signature appears on following page]**

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

This, the 30<sup>th</sup> day of November, 2012.

By:

A handwritten signature in black ink, appearing to read "James J. Carter", written over a horizontal line.

James J. Carter  
President and General Manager, Orlando Hearst  
Television Inc.

## DECLARATION OF BRIAN DARRAGH

I, Brian Darragh, hereby declare, under penalty of perjury, as follows:

1. I am greater than eighteen years of age and am competent to make this Declaration. I am Assistant Chief Engineer of WESH, Daytona Beach, Florida (“WESH”). I have held this position at all relevant times.

2. I have reviewed the Notice of Informal Complaint dated October 31, 2012 (“Notice”), and I am familiar with its contents. I submit this Declaration in support of WESH’s Response to the Notice. I have personal knowledge of all matters discussed in this Declaration. I have reviewed the foregoing correspondence from Stephen Hartzell in response to the Notice, and, to the extent set forth below, I hereby verify the truth and accuracy of the information contained therein.

3. In late August 2012, WESH learned of the closed captioning issue that was being experienced by Mr. Ryan at his grandmother’s home in Ocala, Florida. I investigated the issue and determined that WESH’s closed captioning was functioning properly. I then attempted to contact Cablevision of Marion County which provides cable service in Ocala. On August 22, 2012, I was able to secure oral confirmation from Cablevision personnel that they were aware of a closed captioning encoder issue and that they had sent their equipment out for repair or replacement and that they expected it to be resolved within a week. As I understand, the issue was thereafter resolved.

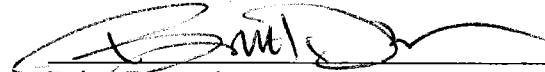
4. It is a high priority for WESH to ensure that closed captioning functions properly at the Station so that all viewers have access to the Station’s programming. WESH routinely “passes through” closed captioning received in programming in compliance with FCC rules, and did so for the programming that aired at midnight between August 19 and 20, 2012, and the programming that aired at midnight between August 20 and 21, 2012. I made or oversaw the making of the recordings that are being submitted with WESH’s Response. Both recordings show, albeit in less-than-ideal video quality, that closed captioning was intact and functioning during the programming on the dates and times referenced above. In the event Mr. Fitzgerald or his grandmother has any further closed captioning issues, I hope they will again contact WESH so that we can help to diagnose and resolve the issue.

**[signature appears on following page]**

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

This, the 30<sup>th</sup> day of November, 2012.

By:



Brian Darragh  
Assistant Chief Engineer, WESH



Federal Communications Commission  
Consumer & Governmental Affairs Bureau  
Disability Rights Office  
445 12th Street, S.W.  
Washington, D.C. 20554

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

October 31, 2012  
(FITZGERALD) (WESH)  
FCC Case No. 12-C00419768-1

Attached is a copy of an informal complaint naming your company that was recently filed with the Disability Rights Office (DRO) of the Federal Communications Commission. Pursuant to Section 713 of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 613, and Section 79.1 of the Commission's Rules, 47 C.F.R. § 79.1, we direct your company to respond to the complaint. **Your response is due within thirty (30) days of the date of this Notice.**

Your company, as the Multichannel Video Programming Distributor (MVPD), must respond specifically to each matter raised in the complaint and summarize the actions that it has taken to satisfy each such matter. If the programming at issue is reaching you without captions, in responding to the complaint, you have the responsibility to check with the supplying network or program producer before responding to determine that either the material is exempt from the captioning requirements pursuant to one of the categorical exemptions in 47 CFR §79.1(d) or pursuant to an individual petition for exemption filed under 47 CFR §79.1(f).

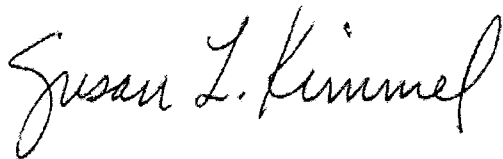
Please provide the complainant's name and the complaint number at the top of your response. A company that receives and responds to informal complaints electronically **must** submit its responses to the Commission via the FCC website using its DRO log-in. If your company does not receive and respond to informal complaints electronically via the FCC website, you must file a hard copy of your response with the Disability Rights Office of the Federal Communications Commission at 445 12th St., SW, Washington, D.C. 20554. Only if you are required to file a hard copy, please also send a courtesy electronic copy of the response to [DROinquiries&complaints@fcc.gov](mailto:DROinquiries&complaints@fcc.gov) which will expedite processing.

You are further directed to send a copy of your response to the complainant at the time that you forward the response to the Commission. To ensure that your response is received by the complainant in an accessible format, please send it pursuant to the preferred format or method of response indicated by the complainant on the complaint form. Finally, your company is directed to retain all records that are or may be pertinent to the allegations raised in each complaint until final Commission disposition of the complaint at issue.

A failure to answer any lawful Commission inquiry is considered a misdemeanor punishable by a fine under Section 409(m) of the Act, 47 U.S.C. § 409(m). Section 503(b)(1)(B) of the Act, 47 U.S.C. § 503(b)(1)(B), provides for the imposition by the Commission of forfeiture penalties against any person who willfully fails to follow the directives of the Act or of a Commission order.

If you have any questions regarding this Notice, please call the DRO inquiries and complaints assistance line at 202-418-7020 or write to [DROinquiries&complaints@fcc.gov](mailto:DROinquiries&complaints@fcc.gov). To ensure that we can adequately respond to your inquiry, please provide the names of the complainant and your company, the complaint number, and the specific questions that you would like to have answered.

Sincerely,



Susan L. Kimmel, Deputy Chief  
Disability Rights Office  
Consumer and Governmental Affairs Bureau

Federal Communications Commission  
Consumer & Governmental Affairs Bureau  
Disability Rights Office  
445 12th Street, S.W.  
Washington, D.C. 20554

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

October 31, 2012  
(FITZGERALD) (WKMG-TV Local 6)  
FCC Case No. 12-C00419768-1

Attached is a copy of an informal complaint naming your company that was recently filed with the Disability Rights Office (DRO) of the Federal Communications Commission. Pursuant to Section 713 of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 613, and Section 79.1 of the Commission's Rules, 47 C.F.R. § 79.1, we direct your company to respond to the complaint. **Your response is due within thirty (30) days of the date of this Notice.**

Your company, as the Multichannel Video Programming Distributor (MVPD), must respond specifically to each matter raised in the complaint and summarize the actions that it has taken to satisfy each such matter. If the programming at issue is reaching you without captions, in responding to the complaint, you have the responsibility to check with the supplying network or program producer before responding to determine that either the material is exempt from the captioning requirements pursuant to one of the categorical exemptions in 47 CFR §79.1(d) or pursuant to an individual petition for exemption filed under 47 CFR §79.1(f).

Please provide the complainant's name and the complaint number at the top of your response. A company that receives and responds to informal complaints electronically **must** submit its responses to the Commission via the FCC website using its DRO log-in. If your company does not receive and respond to informal complaints electronically via the FCC website, you must file a hard copy of your response with the Disability Rights Office of the Federal Communications Commission at 445 12th St., SW, Washington, D.C. 20554. Only if you are required to file a hard copy, please also send a courtesy electronic copy of the response to [DROinquiries&complaints@fcc.gov](mailto:DROinquiries&complaints@fcc.gov) which will expedite processing.

You are further directed to send a copy of your response to the complainant at the time that you forward the response to the Commission. To ensure that your response is received by the complainant in an accessible format, please send it pursuant to the preferred format or method of response indicated by the complainant on the complaint form. Finally, your company is directed to retain all records that are or may be pertinent to the allegations raised in each complaint until final Commission disposition of the complaint at issue.

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Sincerely,



Susan L. Kimmel, Deputy Chief  
Disability Rights Office  
Consumer and Governmental Affairs Bureau

## Solita Griffis

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**From:** DROinquiries&complaints  
**Sent:** Friday, November 30, 2012 9:53 AM  
**To:** Solita Griffis  
**Subject:** FW: Response of WESH to Complaint of Ryan Fitzgerald, FCC Case No. 12-C00419768-1 (Fitzgerald) (WESH)  
**Importance:** High  
**Attachments:** WESH - 11-30-12 Response to Informal Complaint (Fitzgerald).PDF

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**From:** Stephen Hartzell [mailto:SHARTZELL@brookspierce.com]  
**Sent:** Friday, November 30, 2012 9:37 AM  
**To:** DROinquiries&complaints  
**Cc:** Susan Kimmel; rfitzgerald@invodo.com  
**Subject:** Response of WESH to Complaint of Ryan Fitzgerald, FCC Case No. 12-C00419768-1 (Fitzgerald) (WESH)  
**Importance:** High

Attached please find the Response of Orlando Hearst Television Inc., licensee of WESH, Daytona Beach, Florida, to the Notice of Informal Complaint dated October 31, 2012, in FCC Case No. 12-C00419768-1 (Fitzgerald) (WESH).

Hard copy of this Response is scheduled to be hand-filed through the Secretary's Office later today. (However, we have been advised that there has been a problem with FedEx delivering the package to our courier who is supposed to hand-file it today. In the event FedEx is unable to timely deliver it to our courier, we respectfully request an extension of time until Monday, December 3, to effectuate the hand-filing at the Commission. In light of the fact that the attached PDF is being timely submitted by email, we believe the one-business day extension of time would be reasonable under the circumstances and not prejudice the process. It is hoped, of course, that FedEx is able to timely deliver the package to our courier so that the Response will be timely hand-filed today in any event.)

By CC of this email to Mr. Fitzgerald, he is receiving a copy of WESH's response. Because the "hard copy" response also includes two CDs, we are also serving the complete response on Mr. Fitzgerald by mail.

In addition, if Mr. Fitzgerald or his grandmother has any closed captioning issues at any time, WESH wants to make sure that Mr. Fitzgerald understands that WESH will gladly help diagnose and resolve the issue.

If there are any further questions about this matter, please let me know.

Best regards,  
**Stephen Hartzell**  
Counsel to WESH

[shartzell@brookspierce.com](mailto:shartzell@brookspierce.com)

Brooks Pierce  
1600 Wells Fargo Capitol Center  
150 Fayetteville Street

12/3/2012

Raleigh, NC 27601  
T 919-839-0300  
F 336-232-9209  
[www.brookspierce.com](http://www.brookspierce.com)

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**Confidentiality Notice:**

The information contained in this e-mail transmittal is privileged and confidential intended for the addressee only. If you are neither the intended recipient nor the employee or agent responsible for delivering this e-mail to the intended recipient, any disclosure of this information in any way or taking of any action in reliance on this information is strictly prohibited. If you have received this e-mail in error, please notify the person transmitting the information immediately.

This e-mail message has been scanned and cleared by MailMarshal SMTP.

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Admin 2000 [ Switch to Admin1088 ]

Director of Programming & Public Affairs  
1621 N. Wymore Road  
Winter Park, FL 32789  
Bryant Cochran  
NEW COMPLAINT  
enough info.  
called  
customer  
12/9/12

WESH WKMG  
FOR FCC INTERNAL USE ONLY  
solita.griffis [ADMIN] Logout

HOME SERVE  
Basic Search Advanced Search

Form 2000C (Disability Access Complaint) : 12-C00419768-1

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

USER FORM

User Complaint Number: 12-C00419768

Complaint Source: Web

Submission date: 08/22/2012

Consumer Party History

Consumer History

Form History

Edit Form

User Complaint Key: 12-C00419768-1

Added User: Consumer

CONSUMER'S INFORMATION

First Name: Ryan

Last Name: Fitzgerald

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

PO Box:

Address1: 1220 Indian Run Drive

Address2:

City: Carrollton

State: TX Zip Code: 75010

Telephone Number(Residential or Business): (972) 841-9271 Ext:

E-mail Address:

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:

The party's daytime phone number: 0 - Ext:

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

City: State: Zip Code:

WKMG-TV Local  
4466 N. John Young Parkway  
Orlando, FL 32804 - Captioning  
Click  
orlando.com

RES 10/18/12

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:**

- 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**
  - 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)
  - Video Description (audio narrated descriptions of a TV program's key visual elements)
- Provide the name, address and telephone number (if known) of the company(s) involved in your complaint:
 

Name:

City: State: Zip Code:

Telephone number: () -
- 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:
- If your complaint is about closed captioning or emergency information on television, provide the date (mm/dd/yyyy) **08/20/2012** Time: **12:00 AM** and any details of when the event or action you are complaining about occurred: **Stations WESH Channel 2 (NBC) and WKMG Channel 6 (CBS) in Orlando Florida are not showing Closed Captioning. How can this be corrected? Please contact Ryan Fitzgerald at 972-841-9271 for additional information.**
- If your complaint is about access to emergency information on television, provide the following information:
  - Television station call sign and network name (if applicable), or channel name (e.g., "WZUF, CBC," "WZUE-TV," "Sportingchannel West"):
  - Channel (e.g., "13"):

c. Station or subscription TV provider system location:  
City: County: State:

d. Date(s) and time(s) of emergency: and time

e. 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 video description or closed captioning on television, provide the following:

a. Television station call sign and network name (if applicable), or channel name (e.g., "WZUF, CBC," "WZUE-TV," "Sportingchannel West");

b. Channel (e.g., "13");

c. Station or subscription TV provider system location:  
City: County: State:

d. If you pay to receive television programming, type of subscription service (e.g., cable, satellite):

e. If you pay to receive television programming, name of company to whom you subscribe:

f. Name of program(s) involved:

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.

*email customer*

**POST-NEWSWEEK**  
**STATIONS, INC.**

RECEIVED - FCC

NOV 28 2012

Federal Communications Commission  
Bureau / Office

November 27, 2012

Ms. Susan L. Kimmel  
Deputy Chief  
Federal Communications Commission  
Disability Rights Office/CGB  
445 12th St., SW  
Washington, D.C. 20554

Re: WKMG – TV 6  
Complaint No. 12-C00419768-1 (Fitzgerald)

Dear Ms. Kimmel:

WKMG-TV, Orlando, Florida (“WKMG” or “Station”), licensed to Post-Newsweek Stations, Orlando, Inc., a subsidiary of Post-Newsweek Stations, Inc., hereby responds to the Official Notice of Informal Complaint, dated October 31, 2012, concerning a Complaint by Ryan Fitzgerald regarding the absence of closed captioning on WKMG on or about August 20, 2012.<sup>1</sup> The Complaint does not identify specific programs or instances when the closed captioning was absent.

WKMG is somewhat perplexed by this complaint. In August 2012, WKMG received complaints from two viewers concerning the lack of closed captioning. Each complaint apparently involved all of the Station’s programming. Both viewers were customers of Cablevision of Marion County (also referred to as Marion County Cable), a small cable system having approximately 3,100 subscribers.

The first complaint was received from viewer Patricia Davis. The Station was confident that it was not the source of the problem because no problem had been detected by its redundant monitoring procedures. The Station’s Chief Engineer spoke with Marion County Cable and was advised that Marion County Cable was experiencing a problem with a head-end receiver and that a replacement part was on order. The Station’s Chief Engineer reminded the cable company of its captioning obligations and attempted to impart a need for a sense of urgency in its efforts to correct the problem. In due course, WKMG confirmed that the problem at Marion County Cable had been corrected.

The second viewer to complain was the instant Complainant, Ryan Fitzgerald. Mr. Fitzgerald contacted WKMG on behalf of his grandmother, who was also a Cablevision/Marion County Cable customer. The entire email exchange is attached as Exhibit A. It concludes with

<sup>1</sup> The Complaint contains similar allegations against WESH-TV, which is not owned by Post-Newsweek Stations.



Ms. Susan Kimmel  
November 27, 2012  
Page Two

Mr. Fitzgerald's email indicating that captioning had been restored and thanking WKMG for its help.

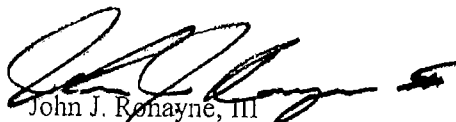
It may be that this complaint had been filed before Mr. Fitzgerald contacted WKMG.<sup>2</sup> In an effort to clarify the situation, WKMG left a message for Mr. Fitzgerald at the telephone number provided. The call has not been returned.

Post-Newsweek Stations and WKMG take seriously their closed captioning obligations. In this case, however, the Station was not responsible for the absence of closed captioning. The Station did, however, identify the viewer's cable provider as the source of the problem and believes it was responsible for accelerating its correction.

For the foregoing reasons, WKMG requests that the Complaint be dismissed or denied. If you have any questions, please contact me.

Sincerely,

POST-NEWSWEEK STATIONS, INC.



John J. Ronayne, III  
Vice President and General Counsel

JJR/pb

Attachment

cc: DRO [Inquiries&Complaints@fcc.gov](mailto:Inquiries&Complaints@fcc.gov)  
Ryan Fitzgerald (via e-mail: [RFitzgerald@invodo.com](mailto:RFitzgerald@invodo.com))

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<sup>2</sup> In Mr. Fitzgerald's initial email on August 20, 2012 he refers to the possible need to file "another FCC Complaint," perhaps suggesting that he had filed a first complaint (perhaps the instant complaint), before contacting WKMG.

**EXHIBIT A**

**Frank D. Torbert**

---

**From:** Ryan Fitzgerald [rfitzgerald@invodo.com]  
**Sent:** Wednesday, August 29, 2012 9:47 AM  
**To:** captioning  
**Subject:** RE: Local6.com - Website Feedback

It just came back on this past Monday. Thank you for all your help!

Ryan Fitzgerald | Associate Producer | Invodo  
mobile: 972-841-9271 | [rfitzgerald@invodo.com](mailto:rfitzgerald@invodo.com)

 invodo

Invodo Studios  
4101 International Pkwy  
Carrollton, TX 75007  
[www.invodo.com](http://www.invodo.com)

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**From:** captioning [mailto:captioning@wkmg.com]  
**Sent:** Wednesday, August 29, 2012 8:44 AM  
**To:** Ryan Fitzgerald  
**Cc:** ViewerEMajl  
**Subject:** RE: Local6.com - Website Feedback

Has this problem be resolved yet?

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**From:** Ryan Fitzgerald [mailto:rfitzgerald@invodo.com]  
**Sent:** Tuesday, August 21, 2012 1:54 PM  
**To:** captioning  
**Subject:** RE: Local6.com - Website Feedback

This problem has actually happened before, and both times the technician has told them their "wiring is old", "you need a new TV", "it's the local television stations problem, not ours" and exactly like last time they are lying about the problem. The company is extremely small, and the only option in their area for television, besides satellite, and the monopoly they run over the issue is ridiculous. The company cannot afford a box of Kleenex, let alone new equipment on their head end, they even pass along the cost of a non-purchasable, only Rental \$6 a month digital converter box for the basic cable service, because they were too small to absorb the cost of the digital converter equipment on their end during the Digital TV transition.

I studied Broadcast Law when I got my degree in Film & Television broadcasting, so I know that they are in danger of a large fine not carrying captions on Local channels outside the 2 a.m. - 6 a.m. window, and last time the letter from the FCC with the problems they were having, definitely changed their attitude, so I guess to the FCC I go again.

It just sickens me that they take advantage of their customers, and can get away with things like this, and try and "sell their customers" on expensive solutions to remedy this problem, when those solutions wouldn't even solve the problem. Sounds like an investigative news piece to me! Haha..

Well thank you for all your help on the issue, Have a great week!

Ryan Fitzgerald | Associate Producer | Invodo  
mobile: 972-841-9271 | [rfitzgerald@invodo.com](mailto:rfitzgerald@invodo.com)

**invodo**

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**From:** captioning [<mailto:captioning@wkmg.com>]  
**Sent:** Tuesday, August 21, 2012 8:30 AM  
**To:** Ryan Fitzgerald; captioning  
**Cc:** ViewerEMail  
**Subject:** RE: Local6.com - Website Feedback

I have received other complains from Marion County Cable subscribers. I have discussed this with Marion County cable who told me that the problem is in a receiver in their head end. I reminded them that Closed Captioning is a very important part of their responsibility to the community. I would suggest that you contact the FCC and file another complaint about this with them, I know that they already have at least one from another viewer that contacted me. The number for the Tampa office is 813-348-1741. Please let me know when this problem is resolved with Marion County.

Frank

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**From:** Ryan Fitzgerald [<mailto:rfitzgerald@invodo.com>]  
**Sent:** Monday, August 20, 2012 9:10 PM  
**To:** captioning  
**Subject:** Local6.com - Website Feedback

Good Afternoon.

For the past several years my grandmother has been hard of hearing, and therefore needs Closed Captioning to not only enjoy television, but to hear understand important news broadcasts, and unfortunately her Closed Captioning on your station has disappeared. It is not an issue on their end as they are receiving the captions on all of their other channels, and the "Caption 1" Setting is enabled on their television.

Their local cable company came out for a visit and they were told that it was an issue on "Your End" as the station transmitter, which I find hard to believe due to FCC regulations, and the legal responsibilities. This problem has happened before, and it was there equipment that had failed, but before I open another FCC complaint I wanted to check with your station about its current status.

Their Address is

5336 SW 103<sup>rd</sup> Loop  
Ocala, FL 34476

And Cable provider is Cablevision of Marion County (Channel 6), if either of that information is pertinent to your response.

Thank you very much, and am looking forward to your response!

Ryan Fitzgerald | Associate Producer | Invodo  
mobile: 972-841-9271 | [rfitzgerald@invodo.com](mailto:rfitzgerald@invodo.com)

The logo for Invodo, featuring the word "invodo" in a lowercase, sans-serif font. A small, dark, stylized icon resembling a bird or a wing is positioned to the left of the letter "i".

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