

1 THE FOREPERSON: Unanimous.

2 THE COURT: Folks, I am going to ask you to step
3 back into the jury room.

4 (At this time, the jury left the courtroom)

5 THE COURT: I think part of this is my fault. I
6 gave the instructions false arrest, malicious
7 prosecution -- I'm sorry. I gave the instructions false
8 arrest, battery and malicious prosecution. I gave the
9 verdict sheet false arrest -- hold it. Let me just look at
10 my charge.

11 My charge in terms of the liability -- you can
12 sit. In terms of liability I gave the charge false arrest,
13 malicious prosecution, battery and I did the same thing on
14 the damages charge. However, the verdict sheet had false
15 arrest, battery, malicious prosecution. It seems to me
16 that the jury and, in fact, when Mr. Tucker was
17 recommending particular items of damages, he didn't follow
18 the verdict sheet. He first did false arrest, then
19 malicious prosecution and then battery. And it seems as if
20 the jury followed both the order of my instructions and the
21 order of Mr. Tucker's summation. I assume you are going to
22 have a post trial motion as to excessiveness.

23 MR. MURRELL: Yes.

24 THE COURT: Either we can agree here that I will
25 evaluate the malicious prosecution award as the battery

1 award and the battery award as the malicious prosecution
2 award. I would call back the jury and clarify with them,
3 have them go back, but I think that it is clear what
4 happened. And if you agree that that's how I would
5 evaluate any remittitur motion, then we can just let it
6 stand as it is. Otherwise, I think I am going to have to
7 ask the jury to go back.

8 MR. TUCKER: I am comfortable either way.

9 MR. MURRELL: If you were to ask the jury to go
10 back, Your Honor, what is it exactly that you will be --

11 THE COURT: Well, that's the next thing. I need
12 to take input in terms of -- go ahead.

13 MR. TUCKER: I would just think it would be
14 treated like any other mixed verdict would be treated and
15 explain to them that it doesn't seem to make sense, you
16 know. What did they intend by it? But I am not the judge.

17 THE COURT: I can say something like -- and I
18 need to take input from you. The award for the malicious
19 prosecution is to take account of the damages between
20 arraignment and acquittal and the damages for excessive
21 force are to cover the damages for the injury, the injury
22 that he received in the course of his arrest or words to
23 that effect. It's clear to me that that's what they did.
24 Certainly, they pretty much adopted Mr. Tucker's
25 suggestions.

1 MR. TUCKER: Almost dollar for dollar.

2 THE COURT: Right. As I said, I will consider
3 any remittitur applications in light that obvious
4 confusion.

5 MR. TUCKER: So we would be stipulating just to
6 swap those two numbers?

7 THE COURT: Yes, that the \$500,000 represents the
8 battery and the \$75,000 represents the malicious
9 prosecution. If you agree to that, we can send the jury
10 home now.

11 MR. MURRELL: Yes, Your Honor. That's fine. I
12 agree to that.

13 MR. TUCKER: So stipulated.

14 THE COURT: Okay, bring the jury back.

15 (Pause in the proceedings)

16 COURT OFFICER: Jury entering.

17 (At this time, the jury entered the courtroom)

18 THE COURT: Okay, does anybody wish the jury
19 polled?

20 MR. MURRELL: Yes, Your Honor.

21 THE COURT: Please poll the jury.

22 THE CLERK: As to question number one, "Did the
23 police have reasonable cause to arrest the plaintiff", the
24 verdict was "No".

25 Juror number one, is that your verdict?