

1 when I would ask you to please do justice.

2 Thank you.

3 THE COURT: You are all okay?

4 We have now come to that portion of the trial
5 when I instruct you on the law applicable to the case and
6 after which you will retire for your final deliberations.
7 You have now heard all the evidence and through the
8 arguments of the attorneys you have learned the conclusions
9 which each party believes should be drawn from the evidence
10 presented to you. It now becomes your responsibility to
11 reach a just verdict, determining the differences between
12 the parties without regard to sympathy, prejudice or
13 passion.

14 In deciding this case, you may consider only the
15 exhibits and testimony, the evidence. Now, the evidence in
16 addition to the testimony and exhibits that you have seen
17 and heard in court, include that one stipulation that I
18 just gave you this morning as to the date of the
19 arraignment. Anything else, arguments, remarks, summations
20 of the attorneys are not evidence, nor is anything that I
21 now say or may have said with regard to the facts evidence.

22 As the jurors your fundamental duty is to decide
23 from all the evidence that you have heard and seen what the
24 facts are. You are the sole, the exclusive judges of the
25 facts. In that field you are supreme and neither I, nor

1 anyone else may invade your province. Any reference that I
2 may make to the facts during these instructions is not
3 intended, nor should you allow it to influence your
4 decision as to what the facts are. As the sole judges of
5 the facts you must decide which of the witnesses you
6 believe, what portion of their testimony you accept and
7 what weight you give to it.

8 On the other hand and with equal emphasis, I
9 charge you that you are required to accept the law as it is
10 given to you in this charge and in any instructions that I
11 have given to you during the course of the trial. Whether
12 you agree with it the law as given to you by me or not, you
13 are bound by it. The process by which you arrive at a
14 verdict is, first, to decide from all of the evidence what
15 the facts are. And, second, to apply the law as I give it
16 to you to the facts as you have decided them to be. And
17 the conclusion thus reached will be your verdict which will
18 be in the form of answers to the written questions which
19 the lawyers have referred to and I will go over them as
20 well at the end of my charge.

21 In the course of the trial it has been necessary
22 for me to rule on the admission of evidence and on motions
23 made with respect to the applicable law. You must not
24 conclude from any such ruling that I have made, or from any
25 questions that I may have asked, or from anything that I

1 have said during the course of the trial or from these
2 instructions, or the manner in which they are given or you
3 perceive they are being given that I favor any party to
4 this lawsuit. It is your recollection of the evidence and
5 your decision on the issues of fact which will decide this
6 case.

7 At times during the trial I have sustained
8 objections to questions asked without allowing the witness
9 to answer or where an answer was made instructed that it be
10 stricken from the record and that you disregard it, dismiss
11 it from your minds. You may not draw any inference or
12 conclusion from an unanswered question, nor may you
13 consider testimony which has been stricken from the record
14 in reaching your decision. The law requires that your
15 decision be made solely upon the evidence before you.
16 Such items as I have excluded from your consideration were
17 excluded because they were not legally admissible. The law
18 does not, however, require you to accept all of the
19 evidence I admit. In deciding what evidence you will
20 accept, you must make your own evaluation of the testimony
21 given by each of the witnesses and decide how much weight
22 you choose to give to that testimony.

23 Now, the testimony of a witness may not conform
24 to the facts as they occurred because he or she is
25 intentionally lying but that's only one reason. I can

1 suggest some others in addition to anything else you may
2 consider. It could be that the witness did not accurately
3 see or hear what he or she is testifying about. It could
4 be because the witness' recollection is faulty or because
5 the witness has not expressed himself or herself clearly
6 while testifying. There is no mathematical formula that I
7 can give you for you to evaluate the testimony. If I had
8 that, I would feed it all into the computer there, come up
9 with a verdict and we wouldn't need you. But obviously we
10 can't do that.

11 You bring with you into this courtroom all of the
12 experience and background of your lives. In your every day
13 affairs you decide for yourselves the reliability or
14 unreliability of things people tell you. The same tests
15 that you use in your every day dealings are the tests which
16 you apply in your deliberations. What are some of these?
17 The interest or lack of interest of any witness in the
18 outcome of the case, the relationship, the bias or
19 prejudice of a witness, if there be any, the appearance,
20 the manner in which the witness gives testimony on the
21 stand, what we call the demeanor of the witness, the
22 opportunity that the witness had to observe the facts about
23 which he testifies, the probability or improbability of the
24 witness' testimony when considered in light of all the
25 other evidence in the case. These are all things in

1 addition to any other factors that you consider important
2 which may be considered by you in deciding how much weight,
3 if any, you will give to that witness' testimony.

4 If it appears that there is a discrepancy in the
5 evidence, you will have to consider whether the apparent
6 discrepancy can be reconciled by fitting the two accounts
7 together. If, however, that is not possible, you will then
8 have to decide which of the conflicting accounts you will
9 accept.

10 Now, the plaintiff, Mr. Gill, testified before
11 you. As a party to the action he is what we consider to be
12 an interested witness. Now, an interested witness is not
13 necessarily less believable than a disinterested witness.
14 The fact that he is interested in the outcome of the case
15 does not mean that he has not told the truth. It is for
16 you to decide from the demeanor of the witness on the stand
17 and such other tests as your experience dictates whether or
18 not the testimony has been influenced intentionally or
19 unintentionally by his interest. You may if you consider
20 it proper under all of the circumstances not believe the
21 testimony of such a witness, even if it is not otherwise
22 challenged or contradicted. However, you are not required
23 to reject the testimony of such a witness and may accept
24 all or such part of his testimony as you find reliable and
25 reject such part you as you find unworthy of acceptance.

1 The witnesses, Detective Paribello and Detective
2 Aponte, were and still are employed by the defendant. Let
3 me just say a word about this. The defendant in this case
4 is the City of New York. The police officers are not named
5 defendants in this case, although it is their conduct which
6 is at issue in this case. I will say a few more words
7 about that a little bit later. So any way the fact that
8 Detective Paribello and Detective Aponte were and still are
9 employed by the defendant, the City of New York, and the
10 testimony that you have heard of their relationship with
11 their employer may be considered by you in deciding whether
12 their testimony was in any way influenced by their
13 employment relationship with the defendant.

14 If you find that any witness has willfully
15 testified falsely as to any material fact, that is, as to
16 an important matter, the law permits you to disregard
17 completely the entire testimony of that witness. You are
18 not required, however, to consider such a witness as
19 totally unbelievable. You may accept so much of his
20 testimony as you deem true and disregard what you feel is
21 false. By all of these processes which I have just
22 described to you, you as the sole judges of the facts
23 decide which of the witnesses you will believe, what
24 portion of their testimony you accept and what weight you
25 will give to it.

1 Now, getting back to the City of New York, an
2 employer, the general rule of law is that an employer is
3 responsible for the acts of its employees if the acts are
4 in furtherance of the employer's business and is within the
5 scope of the employee's authority. And in this case there
6 is no dispute that the police officers, Detective Paribello
7 and Detective Aponte, were acting within the scope of their
8 authority and on behalf of their employer, the defendant,
9 City of New York. So that when I talk about, you know,
10 what the defendant did and what the defendant didn't do, we
11 are talking about what the police officers, the detectives
12 did or didn't do, because the defendant, City, is
13 responsible for their behavior in this case.

14 In this case there are what we call three causes
15 of action. That is, three claims made by the plaintiff.
16 One for false arrest, one for malicious prosecution and one
17 for battery which is the use of excessive force. With
18 respect to the claim of false arrest, the defendant has the
19 burden of proving that the police had reasonable cause for
20 the arrest. With respect to the claim of malicious
21 prosecution, the plaintiff has the burden of proving that
22 they did not have reasonable cause. And with respect to
23 the claim of battery, the plaintiff has the burden of
24 proving that the police used excessive force to make the
25 arrest.

1 To say that a party has the burden of proof on a
2 particular issue means that considering all of the evidence
3 in the case the party's claim on that issue must be
4 established by a fair preponderance of the credible
5 evidence. The credible evidence means the testimony or
6 exhibits that you find worthy of belief. A preponderance
7 means the greater part of the evidence. That does not mean
8 the greater number of witnesses or the greater length of
9 time taken by either side.

10 The phrase "preponderance of the evidence" refers
11 to the quality of the evidence, it's weight, the effect
12 that it has on your minds. In order for a party to prevail
13 on an issue on which it has the burden of proof, the
14 evidence that supports its claim on that issue must appeal
15 to you as more nearly representing what happened than the
16 evidence opposed to it. If it does not, and that includes
17 if the evidence weighs so evenly that you are unable to say
18 that there is a preponderance on either side, you must
19 decide the question against the party who has the burden of
20 proof and in favor of the opposing party.

21 Okay, in the first cause of action the plaintiff
22 seeks damages for false arrest. One commits a false arrest
23 if he intentionally and without the right to do so arrests
24 or causes the arrest of a person who is aware of such
25 arrest and does not consent to it. The plaintiff claims

1 that Detective Paribello and Detective Aponte caused his
2 arrest without a warrant for the crime of criminal
3 possession of a weapon in the second degree and caused him
4 to sustain damages. The defendant admits that the
5 plaintiff was arrested without a warrant but says that
6 under the circumstances the arrest was lawful. The police
7 had the right to arrest the plaintiff without a warrant if
8 they had reasonable cause to believe that a crime had been
9 committed and that plaintiff had committed it.

10 The burden is upon the defendant to prove by a
11 fair preponderance of the credible evidence that the police
12 had reasonable cause for believing that the crime of
13 criminal possession of a weapon in the second degree had
14 been committed and that the plaintiff was the person who
15 had committed it. Reasonable cause for the arrest existed
16 if the facts and circumstances known to the police before
17 the arrest were such as to lead a reasonably prudent person
18 to believe that the crime of criminal possession of a
19 weapon in the second degree had been committed and that
20 plaintiff was the person who had committed it. If the
21 arrest of the plaintiff was made without reasonable cause,
22 it was lawful, even though he was not convicted of the
23 crime for which he was arrested.

24 A person is guilty of criminal possession of a
25 weapon in the second degree when with intent to use the

1 same unlawfully against another that person knowingly
2 possesses a loaded firearm. The detectives testified that
3 the plaintiff had a gun in his waistband which he attempted
4 to point at them prior to their placing the plaintiff under
5 arrest. If you find that the facts appear to the police as
6 they claim, and those facts were such as to lead a
7 reasonably prudent person to believe that the plaintiff had
8 committed the crime of criminal possession of a weapon in
9 the second degree, your finding will be that there was no
10 false arrest. If you find that the facts as they appear to
11 the police were not as they claim or that those facts were
12 not such as to lead a reasonably prudent person to believe
13 that the plaintiff had committed the crime of criminal
14 possession of a weapon in the second degree, your finding
15 will be that there was a false arrest.

16 In the second cause of action the plaintiff seeks
17 damages that he claims resulted from his prosecution for
18 the crime of criminal possession of a weapon in the second
19 degree. The defendant does not deny that it was
20 responsible for the prosecution but contends that it acted
21 in good faith and on reasonable grounds. In order to
22 recover, the plaintiff must establish that at the time the
23 prosecution was initiated the defendant did not have
24 probable cause to believe that the plaintiff was guilty of
25 criminal possession of a weapon in the second degree and,

1 therefore, by initiating the prosecution the defendants
2 acted maliciously. Whether reasonable cause existed
3 depends upon whether a reasonably prudent person would have
4 believed that the plaintiff was guilty of the crime charged
5 based on the basis --

6 Let me start that again.

7 Whether reasonable cause existed depends upon
8 whether a reasonably prudent person would have believed
9 that the plaintiff was guilty of the crime charged on the
10 basis of the facts known to the police at the time the
11 prosecution was initiated. The fact that the police
12 personally believed that the plaintiff was guilty is not
13 enough if a reasonably prudent person would not have
14 believed that to be so. On the other hand, the fact that
15 the plaintiff was acquitted after the trial does not
16 establish that the defendant lacked probable cause at the
17 time the prosecution was initiated. The question on the
18 issue of probable cause is not whether the plaintiff was,
19 in fact, guilty or innocent or whether the defendant was,
20 in fact, mistaken or correct but rather whether on the
21 facts known to or reasonably believed by the defendant a
22 reasonably prudent person would have believed the plaintiff
23 was guilty.

24 The defendant initiated a prosecution against the
25 plaintiff for the crime, among others, of criminal

1 possession of a weapon in the second degree. The
2 detectives testified as to the facts as they appeared to
3 them at the time they initiated the prosecution. If you
4 find that the facts reasonably appeared to the police as
5 they claim and that based on those facts a reasonably
6 prudent person would have believed that the plaintiff had
7 committed the crime, your finding will be that the
8 defendant had probable cause for believing the plaintiff
9 was guilty and you will need proceed no further. If,
10 however, you find that the facts did not appear to the
11 police as they claim, or that they were not reasonable in
12 their beliefs as to the facts or that it was not reasonable
13 for them to have believed that the plaintiff committed the
14 crime, your finding will be that the defendant did not have
15 probable cause to believe that the defendant was guilty.
16 You will then proceed to consider whether the defendant
17 acted maliciously in initiating the prosecution.

18 A prosecution is initiated maliciously if it is
19 brought for a purpose other than bringing an offender to
20 justice or out of personal ill will. If you find that the
21 police did not have probable cause for believing that the
22 plaintiff was guilty at the time that they initiated the
23 prosecution, you may, although you are not required to,
24 infer from that fact alone that they acted maliciously. If
25 you find that they gave a false statement of the facts to

1 the District Attorney and testified falsely before the
2 Grand Jury and during the criminal trial, your finding will
3 be that they acted maliciously.

4 If you find that the police did not act
5 maliciously, you will find for the defendant, even though
6 you find that they did not have probable cause to believe
7 that the plaintiff was guilty. If you find that the
8 plaintiff has proved both that the defendant did not have
9 probable cause and that the defendant acted maliciously you
10 will find for the plaintiff.

11 One who seeks to make a lawful arrest has the
12 right to use as much force as he reasonably believes
13 necessary in order to make the arrest and can be held
14 liable only if no force was necessary or the force used was
15 excessive. So in the third cause of action, the plaintiff
16 claims that the defendants in the process of arresting the
17 plaintiff struck him in the face without provocation
18 causing the plaintiff to sustain a fractured zygoma and a
19 fractured nose. The defendants admit striking the
20 plaintiff but say that the plaintiff was resisting arrest
21 and reaching for the defendant's guns and that the
22 defendants used only as much force as they reasonably
23 believed necessary under the circumstances.

24 Taking into consideration all of the
25 circumstances existing at the time and place of the

1 incident, if you find that it was not reasonable for the
2 defendants to believe that the plaintiff was resisting
3 arrest in reaching for the defendants' guns, then the
4 defendants were not justified in using force at all and you
5 will find that the defendants committed a battery. If,
6 however, you find that the defendants reasonably believed
7 that the plaintiff was resisting arrest in reaching for the
8 defendants' guns and that the defendants were justified in
9 using force to the extent that the defendants reasonably
10 believed it necessary to make the arrest, you must then
11 decide whether the force used was reasonably believed by
12 the defendants to be necessary.

13 In making that decision you must take into
14 consideration all of the circumstances confronting the
15 defendants at the time and place of the incident, including
16 what defendants saw and heard. The defendants were not
17 required at their own peril to measure the precise amount
18 of force necessary. If by these standards defendants used
19 excessive force to accomplish their purpose, the defendants
20 committed a battery and are liable for damages resulting
21 from their act. If you find that the defendants reasonably
22 believed that the plaintiff was resisting arrest in
23 reaching for the defendants' guns and that the defendants
24 used no more force than the defendants reasonably believed
25 necessary, you will find that the defendants committed no

1 battery. If you find that the defendants did not
2 reasonably believe that the plaintiff was resisting arrest
3 in reaching for the defendants' guns or you find that the
4 defendants did not reasonably believe the force used was
5 necessary under the circumstances, you will find that the
6 defendants committed a battery.

7 If you find in favor of the plaintiff on one or
8 more of his claims, you will proceed to the question of
9 damages as to that claim or claims. The fact that I charge
10 you on the law of damages must not be taken as an
11 indication that you should find for the plaintiff. If your
12 verdict is in favor of the plaintiff, plaintiff will not be
13 required to pay income taxes on the award and you must not
14 add to or subtract from the award any amount on account of
15 income taxes. The plaintiff has the burden of proof on the
16 issue of damages.

17 During his closing remarks counsel for plaintiff
18 suggested a specific dollar amount he believes to be
19 appropriate compensation for the specific elements of
20 plaintiff's damages. An attorney is permitted to make
21 suggestions as to the amount that should be awarded but
22 those suggestions are argument only and not evidence and
23 should not be considered by you as evidence of the
24 plaintiff's damages. The determination of damages is
25 solely for you, the jury, to decide.

1 If you find for plaintiff on his claim of false
2 arrest, he is entitled to recover for the actual damage
3 resulting from such arrest up until the time of
4 arraignment. If you find for the plaintiff on his claim of
5 malicious prosecution, he is entitled to recover for the
6 actual damage resulting from the criminal prosecution from
7 the time of his arraignment up until his acquittal after
8 trial. You will award him such amount as in the exercise
9 of your good judgment and common sense you find is fair and
10 just compensation for his inconvenience, humiliation and
11 mental anguish resulting from the arrest and/or criminal
12 prosecution as well as the amount of legal fees necessarily
13 incurred.

14 If you find for the plaintiff on his claim of
15 battery, the plaintiff is entitled to recover a sum of
16 money which will justly and fairly compensate him for any
17 injury and conscious pain and suffering caused by the
18 defendant. Plaintiff is also entitled to recover from the
19 defendant damages for any mental suffering, emotional and
20 psychological injury resulting from the emotional distress
21 caused by the wrongful acts of the defendant.

22 As I have indicated, the case will be decided on
23 the basis of the answers that you give to the questions
24 contained in this verdict sheet. For each cause of action
25 there is one question which you will answer yes or no and

1 depending upon your answer to that question you may answer
2 another question as to a dollar figure.

3 Now, while it is important that the views of all
4 jurors be considered, only five out of the six of you need
5 agree on the answer to any question and the same five
6 persons need not agree on all of the answers. When any
7 five have agreed on any answer, the foreperson of the jury,
8 and I will get to that in a few minutes, will write the
9 answer in the space provided for each answer and each juror
10 will sign in the appropriate place to indicate his or her
11 agreement or disagreement.

12 So this is what the sheet looks like. And so for
13 question one, "Did the police have reasonable cause to
14 arrest plaintiff?" Your foreperson will mark on the line,
15 either on the line next to "yes" or next to "no". Any mark
16 will do, whatever you choose, a check, an X, Prince's name,
17 if you can write that, that's a good symbol, whatever, just
18 so we know what the answer is. And then each juror will
19 sign next to his or her number, one, two, three, four,
20 five, six. No seven. No eight.

21 There is one line that says, "Dissent, if any."
22 If you are dissenting, sign on that line. Do not sign next
23 to your number. Sign only once. And, of course, there is
24 only one line that says "dissent" because if more than one
25 of you dissents, that means that five of you have not

1 agreed and you have not reached a verdict.

2 Now, if your answer to question one is "no", you
3 will proceed to the next question which is the question of
4 damages. If your answer is "yes", you will proceed to
5 question three which is the next cause of action. So
6 question two, "What is the amount of damages to be awarded
7 to the plaintiff on his claim for false arrest?" Here
8 there is a dollar sign followed by a line. You will put in
9 a number. And then you proceed to question three. "Did
10 the police use excessive force in effecting the arrest of
11 plaintiff? Again, yes or no. Sign. In this case if your
12 answer is "yes", you will proceed to the question of
13 damages. If your answer is "no", you will proceed to
14 question five which is the third cause of action.

15 And then question four "What is the amount of
16 damages to be awarded to plaintiff on his claim for
17 battery?" And then you will proceed -- put in a figure, of
18 course, and proceed to question five. "Did the police act
19 maliciously in initiating the prosecution of the
20 plaintiff?" Yes or no. Sign. If your answer is "yes",
21 you will proceed to the next question which is the question
22 of damages. And if not, that's the end of your
23 deliberations. Question six, "What is the amount of
24 damages to be awarded to plaintiff on his claim for
25 malicious prosecution?" Fill in a number and report back

1 to the Court.

2 With respect to the damages question, should you
3 get to damages, if you do not award any damages for a
4 particular cause of action, put a zero on the line just so
5 that we know that you have considered it and have not just
6 inadvertently passed over it. By the way, my directions as
7 to which question you go to depending upon your answer, it
8 is all written at the bottom of the page. You don't have
9 to have that memorized so don't worry about that.

10 When you have answered all of the questions which
11 require answers, you will report back to the Court. Do not
12 assume from the questions or from the wording of the
13 questions or from my instructions on them what the answers
14 should be. That's entirely up to you. If in the course of
15 your deliberations your recollection of any part of the
16 testimony should fail or you have any question about my
17 instructions to you on the law, you have the right to
18 return to the courtroom for the purpose of having such
19 testimony read back to you or having such question
20 answered. You also have a right to see any and all of the
21 exhibits which have been introduced into evidence.

22 If you need read back, try to narrow your request
23 as much as you can, if it's a specific question and answer,
24 a specific line of inquiry, whether it was on direct, or on
25 cross to the extent that you can narrow it, that will help

1 us. But we will read back as much as you feel you need.
2 With respect to my instructions on the law, let me know
3 whether you just want a read back of a particular
4 instruction or whether you need some greater explanation of
5 it. Your requests, and this is job number two for your
6 foreperson, your requests will be written on official
7 Supreme Court notepaper. Okay, that's it on that.

8 I have now outlined for you the rules of law that
9 apply to the case and the processes by which you weigh the
10 evidence and decide the facts. In a few minutes you will
11 retire to the jury room for your deliberations. Now, I
12 mentioned the foreperson. Why do you need a foreperson? I
13 mean, anybody can put a mark on a verdict sheet, write out
14 a question. Everybody has one vote, no more, no less.
15 Everybody's opinion is equally important. The reason you
16 really need a foreperson is so everybody doesn't talk at
17 the same time.

18 Now, by default, Mr. Gonzalez, because he is
19 sitting in seat number one, would be your foreperson. That
20 allows you to get right down to deliberations without long
21 drawn out campaigns, counting of hanging chads, pregnant
22 chads. However, that's not written in stone anywhere and
23 you are free if Mr. Gonzalez would prefer not to have that
24 responsibility or somebody else has strong feelings, you
25 can choose your own. But in order to get right down to

1 work, Mr. Gonzalez you are it.

2 Now, your function to reach a fair decision from
3 the law and the evidence is an important one. When you are
4 in the jury room, listen to each other. Discuss the
5 evidence and issues in the case among yourselves. It is
6 the duty of each of you as jurors to consult with one
7 another and to deliberate with a view of reaching an
8 agreement on a verdict, if you can do so without violating
9 your individual judgment and your conscience. While you
10 should not surrender conscientious convictions of what the
11 truth is and of the weight and effect of the evidence, and
12 while each of you must decide the case for yourselves and
13 not merely consent to the decision of your fellow jurors,
14 you should examine the issues and the evidence before you
15 with candor and frankness and with proper respect and
16 regard to the opinions of each other.

17 Remember in your deliberations that the dispute
18 between the parties is for them a very important matter.
19 They and the Court rely upon you to give full conscientious
20 deliberation and consideration to the issuance of evidence
21 before you. By so doing you carry out to the fullest your
22 oaths as jurors to truly try the issues of this case and
23 render a true verdict.

24 Now, if you will, just stay in your seats for a
25 couple of minutes, we are going to go outside on the

1 record.

2 (The following occurred at sidebar out of the
3 presence of the jury:)

4 THE COURT: Other than what has already been
5 preserved, any exceptions to the charge?

6 MR. TUCKER: No.

7 MR. MURRELL: None.

8 THE COURT: Any requests for additional charges?

9 MR. MURRELL: Just the comparative fault charge.

10 THE COURT: I said other than --

11 MR. MURRUEEL: Just making sure.

12 THE COURT: Thank you.

13 (The sidebar matter concluded. At this time, all
14 parties returned to the courtroom:)

15 THE COURT: See, it was only a couple of minutes.
16 Now, remember what I said about keeping an open mind and
17 not discussing the case, forget about it. That's what you
18 have to do now. You have to discuss the case and reach a
19 verdict and we will be waiting here for you.

20 Just a word, deliberations may only take place
21 when all six of you are together. If somebody needs a
22 break, the bathroom or whatever, out to lunch, whatever,
23 all deliberations must cease until all six of you are
24 together. Because, remember what I said, everybody's
25 opinion is equally important. So if somebody is in the

1 bathroom while you are talking, not fair to you because
2 that person won't have the benefit of your opinion and it
3 is not fair to him or her that they don't get the benefit
4 of your opinion. So just only when all six of you are
5 together.

6 Now, come up just a minute, please.

7 (Off-the-record discussion held at the bench)

8 THE COURT: Okay, Ms. Marte, do you have anything
9 in the jury room? If you do, all of you go to the jury
10 room and Ms. Marte and Ms. Orr, you come back.

11 COURT OFFICER: Are you ready?

12 All rise. Jury exiting.

13 (At this time, the jury left the courtroom to
14 begin its deliberations)

15 MR. MURRELL: Your Honor, could we, if the jury
16 so requests, stipulate to sending them the evidence without
17 the need to reconvene?

18 MR. TUCKER: That's quite fine with me.

19 THE COURT: Okay, there you go. But I hope you
20 are not going to be too far away.

21 THE CLERK: Do I have your cell phone numbers?

22 MR. MURRELL: I believe you do.

23 MR. TUCKER: Yes.

24 MR. MURRELL: I can give it again, not a problem.

25 THE COURT: By the way, I don't know if there