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SUPERIOR COURT OF CALIFORNIA

COUNTY OF ALAMEDA

BEFORE THE HONORABLE JUDGE ROBERT MCGUINESS

DEPARTMENT 22

JANE DOE, ) No. HG115588324  
)  
Plaintiff, )  
) ASSIGNED FOR ALL PURPOSES TO  
v. ) JUDGE ROBERT MCGUINESS,  
) DEPARTMENT 22  
WATCHTOWER BIBLE AND )  
TRACT SOCIETY OF NEW )  
YORK, INC., a )  
corporation, et al., )  
)  
Defendants. )  
\_\_\_\_\_ )

JURY TRIAL

JUNE 14, 2012

DAY 10

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REPORTED BY: KATHRYN LLOYD, CSR NO. 5955

JOB NO: A605EC5

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1 INDEX OF EXHIBITS:

2 NUMBER

ADMITTED

3 (NO EXHIBITS WERE ADMITTED)

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1 JUNE 14, 2012

10:17 A.M.

2

PROCEEDINGS

3

(Whereupon, the following proceedings

4

were heard outside the presence of jurors)

5

THE COURT: Back on the record in the matter

6

of the Candace Conti versus The Watchtower Bible and

7

Tract Society of New York, Inc.

8

The record should reflect that the jury

9

returned a verdict yesterday; that the issue of punitive

10

damages was bifurcated; that they determined, pursuant

11

to special verdict that was agreed upon, that The

12

Watchtower Bible and Tract Society of New York, Inc. did

13

act with malice.

14

Relative to the proceedings this morning, and

15

that may occur in this fashion at this time, based upon

16

prior court orders that I made pretrial in terms of

17

amendment of Complaint, timing and disclosure of

18

financial information.

19

Regarding financial information, by

20

agreement, the Court is going to first read to the jury

21

this morning something that I will tell them is a

22

stipulated fact. And that stipulation is as follows:

23

"It is hereby stipulated to the

24

Defendant, Watchtower Bible and Tract Society

25

of New York, Inc. and Plaintiff, that

1 Watchtower has current assets of \$30 million  
2 in cash, and real property estimated to be  
3 valued at approximately \$1 billion."

4 It is so stipulated.

5 To Defense counsel, Mr. Schnack, and to  
6 Plaintiff's counsel, Mr. Simons. Correct? I am allowed  
7 to read that one stipulated fact to the jury?

8 MR. McCABE: Correct, your Honor.

9 MR. SIMONS: Correct, your Honor.

10 THE COURT: Okay. Moving on. Mr. Simons  
11 presented to the Defense, Casey 3949, Punitive Damages  
12 Corporate Defendants, Second Phase.

13 The Defense, appropriately in the Court's  
14 opinion under the Gagnon case felt that the Casey  
15 instruction was deficient relative to what the jury must  
16 consider, vis-a-vis, the current draft of Casey that  
17 basically said in quotes.

18 "Is there a reasonable relationship between  
19 the amount of punitive damages and Plaintiff's harm?"

20 After discussion -- multi-level discussions  
21 between Court and counsel, I believe that the parties  
22 have agreed that this instruction, as modified, may be  
23 read as the instruction given to the jury this morning.

24 I am going to put it in the record -- so  
25 there can be no question about it -- as amended as

1 follows:

2 "You must now decide the amount, if  
3 any, that you should award punitive damages.  
4 The purposes of punitive damages are to punish  
5 a wrongdoer for the conduct that harmed the  
6 Plaintiff and to discourage similar conduct in  
7 the future.

8 There is no fixed formula for  
9 determining the amount of punitive damages,  
10 and you are not required to award any punitive  
11 damages. Any amount of punitive damages that  
12 you award must bear a reasonable relationship  
13 to Candace Conti's harm.

14 If you decide to award punitive  
15 damages, you should consider all of the  
16 following factors separately in determining  
17 the amount.

18 (A) How reprehensible was Defendant,  
19 Watchtower Bible and Tract Society Inc.'s  
20 conduct?

21 In deciding however reprehensible a  
22 Defendant's conduct was, you may consider,  
23 among other factors:

24 (1) whether the conduct caused  
25 physical harm;



1 (2) whether the Defendant disregarded  
2 the health or safety of others;

3 (3) whether the Defendant's conduct  
4 involved a pattern or practice;

5 (4) whether the Defendant acted with  
6 trickery or deceit.

7 (B) In view of Watchtower Bible and  
8 Tract Society Inc.'s financial condition, what  
9 amount is necessary to punish it and  
10 discourage future wrongful conduct?

11 You may not increase the punitive  
12 damage award above an amount that is otherwise  
13 appropriate merely because Defendant has  
14 substantial financial resources.

15 And the award you impose may not  
16 exceed that Defendant's ability to pay.  
17 Punitive damages must not be used to punish a  
18 defendant for the impact of its alleged  
19 misconduct on persons other than Candace  
20 Conti."

21 As read, counsel agreed to, relative to the  
22 discussion of the Court and yourself?

23 Mr. Simons?

24 MR. SIMONS: Yes.

25 THE COURT: Mr. Schnack?

1           MR. SCHNACK: Subject to our prior motions  
2 and that to withdraw punitive damages from the jury, we  
3 do agree with this.

4           THE COURT: Subject to prior motions it  
5 involves.

6           All right. Do we have everybody with us?

7                           (Break taken)

8           (Whereupon, the following proceedings  
9 were heard in the presence of jurors)

10          THE COURT: First of all to the jury, thank  
11 you, as always, for your incredible commitment to this  
12 case. I'm going to address this now. I noted, when I  
13 read the jury verdict yesterday that -- and I told you  
14 you would have to do a little bit more jury work,  
15 otherwise known as judging, I gave you an instruction.  
16 And I think you have a sense of what I told the lawyers.  
17 I don't pretend to be omniscient up here.

18                        I don't think it is any mystery to you, I  
19 have been making a lot of decisions in this case outside  
20 of your purview. And I'm going to talk about that when  
21 the dust settles on the next decision you are going to  
22 make.

23                        But when I read the instruction, it said it  
24 would be decided later. And I didn't make that  
25 instruction. That's the instruction the courts give

1 throughout the State of California. And then when I  
2 noticed in the body of the language read back, and when  
3 I went home last night and I read that, I realized it  
4 doesn't say by whom.

5           Although I didn't like it, I'm going to take  
6 responsibility for it, I'm going to get better about  
7 that communication to a jury because I never thought  
8 about it before. They spent eight years trying to get  
9 these instructions right. Always remember, whether you  
10 are a lawyer, whether you are doing business otherwise,  
11 the art of communication often carries the day.

12           So I want to be very clear, when I tried to  
13 walk in your shoes, I realized it didn't say decided  
14 later by whom. So I just wanted to say that as you  
15 start this morning.

16           Let me explain the process so you can just  
17 get a sense. In a moment I'm going to read to you a  
18 stipulated fact. It is going to be about three  
19 sentences long. I am then going to read an instruction  
20 that we can work out this morning. One instruction.  
21 Then counsel are going to argue their respective  
22 positions.

23           Mr. Simons, for Plaintiff, will start first,  
24 Mr. Schnack, for The Watchtower Bible and Tract Society  
25 will then respond, and then Mr. Simons will have time



1 instruction:

2 Casey 3949 Punitive Damages Corporate  
3 Defendant Second Phase as amended by agreement:

4 You must decide the amount, if any, that you  
5 should award in punitive damages. The purposes of  
6 punitive damages are to punish a wrongdoer for the  
7 conduct it harmed the Plaintiff and to discourage  
8 similar conduct in the future.

9 There is no fixed formula for determining the  
10 amount of punitive damages, and you are not required to  
11 award any punitive damages. Any amount of punitive  
12 damages you award must bear a reasonable relationship to  
13 Candace Conti's harm.

14 If you decide to award punitive damages, you  
15 should consider all of the following factors separately  
16 in determining the amount:

17 (A) How reprehensible was Defendant,  
18 Watchtower Bible and Tract Society Inc.'s conduct?

19 In deciding how reprehensible a defendant's  
20 conduct was, you may consider, among other factors:

21 (1) whether the conduct caused physical harm;

22 (2) whether the Defendant disregarded the  
23 health or safety of others;

24 (3) whether the Defendant's conduct involved  
25 a pattern or practice;

1 (4) whether the Defendant acted with trickery  
2 or deceit.

3 (B) In view of Watchtower Bible and Tract  
4 Society, Inc.'s financial condition, what amount is  
5 necessary to punish it and discourage future wrongful  
6 conduct?

7 You may not increase the punitive damages  
8 award above an amount that is otherwise appropriate  
9 merely because Defendant has substantial financial  
10 resources. Any award you impose may not exceed that  
11 defendant's ability to pay.

12 Punitive damages may not be used to punish a  
13 defendant for the impact of its alleged misconduct of  
14 persons other than Candace Conti.

15 Mr. Simons.

16

17 CLOSING ARGUMENT BY MR. SIMONS

18 MR. SIMONS: Ladies and Gentlemen, thank you  
19 all once again for your dedication and your service and  
20 the seriousness of which you have approached your tasks  
21 in this case.

22 And we do have the one remaining issue for us  
23 to discuss and for you to determine, and that is the  
24 question, as his Honor has put forth in the instruction,  
25 of punitive damages to discourage future conduct in the

1 future that would be similar to what harmed Candace  
2 Conti in this case.

3           And if you believe, from all you have seen  
4 and heard, that Watchtower New York and its managing  
5 agents, the governing body, fully appreciate and  
6 understand that the policy of secrecy which allows for  
7 an identified child sex offender to strike again is  
8 wrong and that it was wrong in 1983 and it remains wrong  
9 today, then there is no need for further damages of a  
10 punitive nature.

11           But if you find from all you have seen and  
12 heard that the understanding and acceptance of the need  
13 to change that policy are not there, then the law  
14 authorizes you and gives you the power, through the use  
15 of punitive damages, to provide an incentive to provide  
16 discouragement, if you will, of future repetitions of  
17 the type that we have learned about here.

18           And if we could look at the instructions very  
19 briefly:

20                   "The purposes of the punitive damages  
21           are to punish for the conduct that harmed  
22           Candace Conti and to discourage similar  
23           conduct in the future."

24           Let's look at the criteria that we are going  
25 to be considering. There are a number of factors the

1 instruction has laid out for consideration, including:

2 "How reprehensible was the Defendant's  
3 conduct?"

4 This was the question that you previously  
5 decided with regard to what is despicable conduct,  
6 deliberate indifference.

7 And, specifically, we look at whether the  
8 conduct caused physical harm. We know that it did.

9 We look at whether the Defendant disregarded  
10 the health and safety of others. And that has been your  
11 finding. That is what the policy's root and the  
12 information that we saw in the earlier part of the trial  
13 established by clear and convincing evidence.

14 "Whether the conduct involved a pattern and  
15 practice."

16 And we know that it did because the Body of  
17 Elder Letter must be followed by every elder in every  
18 congregation throughout the country with no power, no  
19 discretion to deviate whatsoever.

20 And so, even though you have found that the  
21 Watchtower's fault was 27 percent of what caused Candace  
22 Conti's harm, they are 100 percent responsible for this  
23 policy and its enforcement. And that is what this  
24 particular part of the issue that you are now going to  
25 address concerns.



1           "Whether the Defendants acted with deceit or  
2 trickery."

3           And I would submit to you, Ladies and  
4 Gentlemen, that allowing a known child sex offender to  
5 sit in the congregation and to go out into field service  
6 and to hide who he is from the parents and from the  
7 others in the congregation who could act to protect  
8 children is deceit. And that is the root of the problem  
9 of this policy.

10           The second category that is listed is whether  
11 or not, in view of the financial condition, there is an  
12 appropriate amount to discourage future wrongful  
13 conduct.

14           You may not increase the punitive damage  
15 award above an amount that is otherwise appropriate  
16 merely because this Defendant is a billion-dollar plus  
17 organization.

18           We do not punish that -- well, that is not  
19 the purpose of the punitive damages. However, it is  
20 appropriate to consider it in determining the amount of  
21 punitive damages just for two reasons.

22           First of all, we cannot exceed the  
23 Defendant's ability to pay. That, I don't think is a  
24 relevant factor, given the amount of assets that are  
25 here.

1                   And, secondly, the fact that they have  
2 substantial resources is not a reason to increase the  
3 award above what is appropriate.

4                   But turning that around is also not  
5 appropriate to award less than what is necessary to  
6 accomplish the goal here. And that is to change this  
7 policy, discourage it from being conducted in the  
8 future. That is the mission that Candace Conti set out  
9 on three years ago.

10                   Can we go back to the beginning?

11                   There is a rule you must follow. And that is  
12 that the amount of punitive damages, if you so choose to  
13 award, must bear a reasonable relationship to Candace  
14 Conti's harm.

15                   You have found that to be in a dollar amount.  
16 And there was really not contrary evidence or argument  
17 as to that amount.

18                   And so we must find: What is a reasonable  
19 relationship if you choose to award these kinds of  
20 damages to the harm?

21                   And some people may view that as a one-to-one  
22 ratio, that the amount of the damages necessary to  
23 discourage the conduct in the future is equal to the  
24 amount of the damages of the harm that Candace Conti  
25 suffered.

1           Some people may feel that this is childhood  
2 sexual abuse, and it has been found to be despicable  
3 conduct, and that amount should be ten times the amount  
4 of harm that Candace Conti has suffered.

5           I would submit to you that in the law, we  
6 have a principle called Treble damages. And it assesses  
7 a punishment where a party was found to have acted in a  
8 manner that requires and is appropriate to administer  
9 punishment by awarding three times the amount of the  
10 actual harm that is measured in compensable damages.  
11 And I would submit to you, Ladies and Gentlemen, that  
12 that is the appropriate measure here.

13           I would like to say, on behalf of Candace  
14 Conti, that you we trust in your judgment and we will  
15 accept it. Thank you.

16           THE COURT: Mr. Schnack.

17

18           CLOSING ARGUMENT BY MR. SCHNACK

19           MR. SCHNACK: Ladies and Gentlemen of the  
20 jury, the judge has instructed you that it is your  
21 choice to award or not to award punitive damages. You  
22 have been read the instruction and you have seen it  
23 there.

24           Does Watchtower need to be punished? The  
25 policies of Watchtower continue to evolve. You heard

1 Monica Applewhite testify that Watchtower has published  
2 articles and educational materials for parents, for its  
3 church members starting in the 1970s and into the '80s  
4 and it continues up to the present day.

5           Those materials were in the forefront of  
6 educational materials for parents and for members in  
7 this regard.

8           Plaintiff's counsel has made a lot of the  
9 July 1, 1989 letter. Indeed, that's what he referred  
10 here to today. However, you also heard Mr. Shuster  
11 testify that that was never the last word. It wasn't  
12 the be-all end-all on policies.

13           So let me just briefly go through a few of  
14 the other All Bodies of Elders Letters that were in  
15 evidence before you today.

16           Remember the March 23, 1992 letter? Several  
17 references there that the elders in the congregation  
18 should be conscious of victims of abuse, treat them with  
19 thoroughness and kindness, that you should be tenderly  
20 compassionate to them.

21           It also says in that same letter:

22           "If a current case of child abuse  
23 comes to light in the congregation, the elders  
24 should do what they can to protect the  
25 children from further abuse. These policies

1           are evolving as we go forward."

2                     In evidence was the August 1, 1995 letter.

3 There it says:

4                     "Steps should be taken to protect the  
5           child or other children from further sexual  
6           abuse once abuse became apparent."

7                     The elders, too, wanted to act -- should act  
8 in a way that demonstrates their protective care since  
9 the word "overseer" as that's used within the church,  
10 carries the thought of one who watches over in guarding  
11 and shepherding the flock.

12                    In that same letter, the August 1, 1995  
13 letter that you had in evidence and that you had in the  
14 room with you, it also says on the first page that:

15                    "It would be appropriate to talk very  
16           frankly with the abuser that he should never  
17           be in the presence of a child without another  
18           adult being present."

19                    And just one last one here this morning. The  
20 March 14, 1997 All Bodies of Elders Letter that was  
21 before you. That addressed the issue of when a member  
22 moves from one congregation to another. And if that  
23 member is known to be a child molester, that letter  
24 directed the elders in the local congregations to:

25                    "Outline his background, including

1           any needs for cautions that should be provided  
2           to the body of elders."

3                   That letter would be presented to the  
4 congregation to which that person would move. And so,  
5 again, that's taking steps to help prevent child abuse.

6                   Mr. Shuster also testified, when he was up on  
7 the stand, that the church has a long history, since he  
8 has been an elder, since '79, that child abusers cannot  
9 be appointed to serve as elders, as ministerial servants  
10 or pioneers.

11                   That was reiterated in the March 14, 1997  
12 that I just referenced.

13                   The policy of Watchtower has continued to  
14 emerge on a case-by-case basis in which the Service  
15 Department elders sent letters to the local  
16 congregations, to the local elders to strongly warn, if  
17 they have a known child abuser within their  
18 congregation, that he should not be alone with children,  
19 and how the elders can deal with that if the member that  
20 is an abuser violates those instructions.

21                   Now, I have no doubt that your verdict  
22 yesterday has already sent a message to Watchtower, and  
23 we will soon see another All Bodies of Elders Letter  
24 addressing the very issues that were raised.

25                   One thing I would ask you to keep in mind.

1 The Jehovah's Witnesses Church is not the Catholic  
2 Church, that it has had verdict after verdict after  
3 verdict over the years. It's been in the press. We are  
4 all aware of it. This is the first verdict that the  
5 Jehovah's Witnesses church has faced. So, again, it is  
6 not the Catholic Church with multitudes of cases over a  
7 couple of decades.

8 We have been on the telephone, both last  
9 night and early this morning, speaking with the managing  
10 directors of Watchtower and the elders in the --

11 MR. SIMONS: I'm going to object, your Honor.  
12 It is not evidence.

13 THE COURT: Well, it is argument. But,  
14 counsel, why don't you go forward for a minute to make  
15 sure it is legit.

16 MR. SCHNACK: Your Honor, I didn't interrupt  
17 his argument.

18 THE COURT: Understood.

19 MR. SCHNACK: As I mentioned, we were on the  
20 phone to managing directors of Watchtower and to the  
21 elders in the Service Department. And I can tell you  
22 they are stunned by the verdict. Again, I mentioned, it  
23 is the first one. And it's, indeed, the first one we  
24 are all aware of that has ever found liability on a  
25 congregation in a church based on a congregation member

1 causing harm to the child of another member.

2           However, I sincerely believe, and I put this  
3 to you, that Watchtower does not need to be punished by  
4 another monetary award.

5           Why is that?

6           Ms. Conti said she wanted to change policies.  
7 That's why she brought this suit. And we feel bad for  
8 Ms. Conti. But I can assure you, and I can assure her,  
9 that Watchtower's policies continue to evolve. And I  
10 can safely say that, with her verdict yesterday, Ms.  
11 Conti has succeeded. I encourage you to award no  
12 punitive damages in this case.

13           Again, I thank you for your service, for your  
14 time and your attention.

15           Thank you, your Honor.

16           THE COURT: Any rebuttal, Mr. Simons?

17           MR. SIMONS: Yes.

18

19           REBUTTAL ARGUMENT BY MR. SIMONS

20 BY MR. SIMONS:

21           Q. I am sad to say that I did not hear that the  
22 policy will be changed.

23           I am sad to hear that the governing body has  
24 not sent a person to this evidentiary phase of the trial  
25 to so testify.



1 I am sad to hear that we are still talking  
2 about Dr. Applewhite, who said great education program  
3 for parents. I'm not saying a thing about the child sex  
4 abuse prevention program.

5 I am sad to hear from counsel's comments that  
6 we have representations but no evidence.

7 We have no way to believe that this policy  
8 will be changed in any manner other than from the  
9 outside, by the power that the law gives to you.

10 And, therefore, I ask you to exercise it.

11 Thank you.

12 THE COURT: Okay. All right. Mr. Bailiff,  
13 would you be kind enough to put the jury -- I believe  
14 they are in Department 21.

15 You have been the most mobile jury I have  
16 had. So, again, thank you for your consideration,  
17 patience and mobility.

18 (Whereupon, the following proceedings  
19 were heard outside the presence of jurors)

20 THE COURT: All right. Counsel, I will hand  
21 you the instruction. I want you to all take a look at  
22 it again as modified and the special verdict form before  
23 I give it to the jury.

24 So, I'll start with Mr. Simons and then to  
25 Mr. Schnack.

1 MR. SIMONS: To Chance?

2 THE COURT: No. Ms. Eckert.

3 MR. SCHNACK: These are both fine, Judge.

4 MR. SIMONS: Yes, they are.

5 THE COURT: Counsel's, each and all, have  
6 reviewed the special verdict form and the Casey  
7 instruction as revised by agreement which will now be  
8 given to the jury for their consideration during  
9 deliberations.

10 All right. And the court will stand in  
11 recess, pending --

12 Oh, let's talk a little bit -- I, of course  
13 will do the same thing I have done with you. I would  
14 like to have you a little closer. And if you need a  
15 room, I will try to find one for you. But you are  
16 welcome to hang around the courtroom. Or if you need  
17 another place, I will try to find one for you.

18 (Break taken)

19 (Whereupon, the following proceedings  
20 were heard in the presence of jurors)

21 THE COURT: All right. The record should  
22 reflect that Ms. Kraetsch is here with us by agreement  
23 with Ms. Conti. Mr. Simons' partner is here, Mr.  
24 Jaspovice is sitting in for him at this time. Correct,  
25 Ms. Conti?

1 MS. CONTI: Correct.

2 THE COURT: Do we have a verdict?

3 MR. FOREPERSON: We do, your Honor.

4 THE COURT: All right. Madam Clerk, if you  
5 would be kind enough to read the verdict.

6 THE CLERK: Ladies and Gentlemen of the jury,  
7 you will now listen to the reading of the verdict  
8 omitting the title of court and cause.

9 Special Verdict, Phase 2: We, the jury in  
10 the above-entitled action, answer the question submitted  
11 to us as follows:

12 Question 1: Did you award punitive damages  
13 against The Watchtower Bible and Tract Society of New  
14 York, Incorporated?

15 Answer: Yes.

16 If your answer to Number 1 is yes, what  
17 amount of punitive damages do you award?

18 Answer: \$21,000,001. Dated June 14, 2012,  
19 Presiding Juror, Hugh Huey.

20 THE COURT: Mr. Huey, is that the jury's  
21 verdict?

22 MR. FOREPERSON: Yes, your Honor.

23 THE COURT: All right. Would you like the  
24 jury polled?

25 MR. SCHNACK: Yes, your Honor.

1 THE COURT: All right. May I have the  
2 verdict form?

3 First of all, you were asked a question:  
4 Do you award punitive damages against The  
5 Watchtower Bible and Tract Society of New York, Inc.?

6 The answer is yes.

7 How many voted yes?

8 (Jurors raised hands)

9 THE COURT: All right. The record may  
10 reflect ten jurors voted yes.

11 All right. And then having answered the  
12 question "yes," the amount of punitive damages awarded  
13 is \$21,000,001.

14 How many jurors voted that punitive damages  
15 be awarded in this matter against Watchtower Bible and  
16 Tract Society of New York, Inc. in the amount of  
17 \$21,000,001?

18 (Jurors raised hands)

19 THE COURT: The record may reflect -- let me  
20 make sure I got the accounting right.

21 (Jurors raised hands)

22 THE COURT: Nine jurors voted for that  
23 verdict.

24 That being the case, the jury having been  
25 polled, this portion of the verdict is now entered.

1           Several weeks ago I invited you into my  
2 courtroom, and I said, "Welcome to judging." And I also  
3 told you that the only thing about judges is when they  
4 make tough decisions. I think we all agree this has  
5 been a very difficult case.

6           I told the lawyers early on outside of your  
7 presence, this is a case that is tough on this judge,  
8 tough on the professionals involved, and tough on the  
9 jurors.

10           And I don't think there is any mystery why  
11 that is the case. The subject matter, its nature, its  
12 evolution, its fundamental violation of trust -- and  
13 let's be clear, that most decent human beings would  
14 prefer to have trust in their lives, whether it's their  
15 friends, their coaches or whatnot.

16           And clearly and equally the circumstance, I  
17 don't think anyone of good character would wish or would  
18 have any support relative at all to the nature of the  
19 circumstance and conduct.

20           This case was further complicated by the  
21 passage of time in terms of all that has gone on. And  
22 throughout, and life judging, people can have very  
23 different opinions, as you did, in terms of your  
24 discussions as to what the result should be.

25           This was a tough case. And I told you when

1 we started that my preference is not to do a lot of  
2 sidebars. And, again, as I sit here, I made a number of  
3 decisions about what evidence you could hear. That's  
4 what judges do. And there was a lot of complexity in  
5 terms of the time and the nature and circumstance as to  
6 both sides.

7           My goal -- and perhaps other's goals -- which  
8 I made -- was to try to fashion it so that any prejudice  
9 any of us had would not be visited upon your  
10 deliberation. I made in limine instructions in this  
11 case. I did it because I thought it was the right thing  
12 to do as a judge.

13           I will say to each of you, how you carried  
14 out your tasks -- and, candidly, I don't say this in  
15 every case -- it is not about money, it's not about the  
16 nature, and with the verdict as a matter of money --  
17 each of you could -- I had an alternate around here for  
18 the last seven and a half days -- may I say that that is  
19 an unusual circumstance. It is. But how you went about  
20 your task was quite impressive.

21           Certainly, I think early on you understood  
22 the solemnity of what this case was about and what your  
23 task is as jurors. And how you did it without any tinge  
24 of what certainly I or anyone else in this courtroom  
25 agrees with your verdict, how you went about it, the

1 decency you showed of the fundamental understanding of  
2 the importance of what you considered was obvious,  
3 certainly to me, and I would hope to all parties  
4 involved in this case.

5           This is serious stuff. And as a society, the  
6 challenge -- your challenge as jurors is to sit in  
7 judgment.

8           But the challenge is: How can everyone get  
9 better in terms of recognition, dealing and whatnot?  
10 And there is no magic ball to that.

11           But what is heartening is that each of you  
12 could take the substantial challenge here for the amount  
13 of days involved in your everyday lives and render as  
14 diligent a judgment collectively as you did.

15           Mr. Huey, I can say this: You had a number  
16 of questions. Each of those questions was thoughtful,  
17 well-paced, in terms of the time of deliberations up to  
18 that point, and insightful, including Table A. So we  
19 knew.

20           But, again, we can all have disagreements as  
21 to what has gone here and the result and whatnot, but  
22 anybody objectively observing knew that you were very  
23 serious about what you were doing. And, for that, I  
24 will, I do, I have thanked you before, but I thank you  
25 as deeply from this position as I can. Because,

1 again --

2 I actually had one of my sons say, "Dad, your  
3 hair seems to have gotten a little whiter."

4 The honest answer is: I didn't know it could  
5 get any whiter. And it perhaps did.

6 But the respect you showed everyone, the  
7 amount of time you dedicated to the task, how you went  
8 about it is -- I told you when we first met each  
9 other -- it is what distinguishes this country from all  
10 others.

11 I am hopeful -- and please understand in  
12 terms of the management of this case as a judicial  
13 officer, in terms of the interruptions, in terms of the  
14 timing. Now, a lot of this, as a matter of law, is what  
15 we will call a case of first impression. Okay.  
16 Because, again, as society evolves its understanding of  
17 the kind of response to these sorts of issues, the law  
18 is catching up also.

19 And honestly, because I have said it outside  
20 of you, the quality of professional lawyering in this  
21 case was as good as it gets for these lawyers in terms  
22 of their professional integrity, their skills and  
23 whatnot. This is not the type of case where you are  
24 going to see inexperienced lawyers.

25 And I said to them, as I will say to you,



1 that, as difficult a case as this is, and was, on all  
2 and each of us, my job was considerably aided by the  
3 professionalism and skills of all lawyers involved in  
4 this proceeding. I don't say that in many cases either.  
5 But this is a case, as a matter of professionalism,  
6 needs good lawyers.

7           So, again, I want to thank you. In a moment,  
8 you will be free to go. You can choose, as is your  
9 election, to speak to a counsel or not.

10           Again, once I excuse you -- I'm going to take  
11 a look at my parting instruction so I don't forget  
12 anything.

13           You are free to go. I think we all agree  
14 that you have done your service. And I wish I could say  
15 to you, because of the quality of the service, it is  
16 attainable, that you won't hear from the system for  
17 several years because you have earned your time.

18           As I told you this morning, I like to always  
19 judge myself in terms of how I deal with juries, and I  
20 will spend my experience in, literally my lifetime, in  
21 the courtroom. I'm going to be better, in terms of  
22 communication and be sensitive in a bifurcated trial as  
23 to that instruction as to whose judgment it is.

24           A lot of what I did was designed not to tilt  
25 the wheel on behalf of either party here. And it was a

1 very -- candidly, I tried to be very careful in  
2 everything I did. But what I did, when I was a trial  
3 lawyer, after every trial, I assessed what worked, what  
4 didn't, and how I could have been better. And I tell  
5 you, in a case like this, and in terms of not only in  
6 its nature and because of it, but in terms of how the  
7 process evolved.

8 I do the same thing as the judge. And there  
9 are a couple things that I have learned dealing with you  
10 in this case and the quality of lawyers I have here that  
11 I will do differently the next time.

12 So give me a minute. I want to make sure I  
13 have covered everything. That was hardly a written  
14 speech. Let me take a look at my parting instructions.  
15 Otherwise, at which time I will dismiss you.

16 All right. Again, I'm going to dismiss you.  
17 You are free to --

18 Madame Clerk, you may record the verdict.

19 I will now dismiss you. Again, you may speak  
20 with counsel if that is your wish. Otherwise, you have  
21 no obligation to do so. Enjoy the evening, and thank  
22 you for your service.

23 (Proceedings were concluded at 4:23 p.m.)

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REPORTER'S CERTIFICATE

I, KATHRYN LLOYD, CSR No. 5955, Certified Shorthand Reporter, certify:

That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witnesses were put under oath by the court clerk;

That the testimony of the witnesses, the questions propounded, and all objections and statements made at the time of the examination were recorded

stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct transcript of my shorthand notes so taken.

I further certify that I am not a relative or employee of any attorney of the parties, nor financially interested in the action.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2012.

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KATHRYN LLOYD, CSR 5955