

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

THE HON. KENT J. DAWSON, JUDGE PRESIDING

UNITED STATES OF AMERICA,)
)
 Plaintiff,) Case No. CR-S-04-119-KJD(LRL)
)
 vs.)
)
 IRWIN SCHIFF, CYNTHIA NEUN,)
 and LAWRENCE COHEN,)
)
 Defendants.)
)

REPORTER'S TRANSCRIPT OF JURY TRIAL (DAY 22)

Wednesday, October 19, 2005

APPEARANCES: (See Page 2)

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1 APPEARANCES:

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24 Also Present:

25 Adam Steiner, Special Agent, IRS
Sam Holland, Special Agent, IRS
Gary Modafferi, J.D.

1 LAS VEGAS, NEVADA; WEDNESDAY, OCTOBER 19, 2005; 10:28 A.M.

2 --oOo--

3 P R O C E E D I N G S

4 THE CLERK: All rise.

5 THE COURT: Thank you. Please be seated.

6 THE CLERK: CR-S-04-119-KJD(LRL), USA vs. Irwin Schiff,
7 Cindy Neun, and Lawrence Cohen.

8 Counsel, enter your appearances, please.

9 MR. IGNALL: Good morning, your Honor. David Ignall
10 and Jeffrey Neiman for the United States.

11 THE COURT: Good morning.

12 MR. CRISTALLI: Good morning, your Honor. Michael
13 Cristalli and Gary Modafferi on behalf of the Cynthia Neun.

14 THE COURT: Thank you.

15 MR. BOWERS: Good morning, Judge. Chad Bowers on
16 behalf of Mr. Cohen.

17 THE COURT: Thank you.

18 MR. SCHIFF: Irwin Schiff on behalf of myself.

19 MR. LEVENTHAL: Good morning, your Honor.
20 Todd Leventhal, standby counsel for Mr. Schiff.

21 THE COURT: Thank you.

22 Court received a message this morning from Juror
23 No. 12, Christina Steinagel, who is at Spring Valley Hospital
24 with premature labor. It -- it appears that she is in the
25 emergency room awaiting treatment. I requested the clerk to

1 return the phone call of Ms. Steinagel to determine whether in
2 the opinion of that juror she would be able to continue to
3 serve. I believe she is carrying twins. And, uh, given the
4 problem of premature labor, it's not likely she'll be able to
5 return.

6 The Court will hear counsel on this. But I believe
7 that this is a good, uh, reason to excuse Juror No. 12.

8 Government?

9 MR. IGNALL: We agree with that. I don't know much
10 about medicine, but it seems like the stress of coming back to
11 jury deliberations is probably not gonna be what her doctor
12 recommends.

13 MR. CRISTALLI: Yeah. Your Honor, I kind of
14 anticipated that that could be a problem. Uh, so, um,
15 certainly, you know, we -- we don't object to that particular
16 juror being excused.

17 THE COURT: Thank you.

18 Mr. Bowers.

19 MR. BOWERS: Uh, yeah, that's fine, your Honor. I have
20 no objection to that.

21 MR. SCHIFF: No objection.

22 THE COURT: All right.

23 Good cause having been found, Juror No. 12 is excused.

24 Now, the Court can order the jury of 11 to continue to
25 deliberate or we can, uh, take one of the alternates and order

1 the jury to commence their deliberations anew. In pursuit of
2 that possibility, the Court first attempted to call Al Dishon,
3 first alternate, and he apparently took the bus to the Test
4 Site; would have no way of returning today.

5 We called Melissa Stoddard next. She reported that she
6 had driven her own vehicle today and would be able to report.
7 And not knowing what counsel's position would be, we asked her
8 if she would -- if she would drive in. And that was about an
9 hour and a half ago. So she should be arriving any moment.

10 Mr. Dishon -- we left two -- two phone messages with
11 Mr. Dishon and he still has not returned the call. I'm
12 reluctant to -- to send the jury home when we -- when we have an
13 alternate available. But I'll -- again, I will hear counsel's
14 input on whether we proceed with the jury of 11 or agree to --
15 to, uh, have, uh, Ms. Stoddard commence participation when she
16 arrives. Or the third alternative is to send the jury home and
17 wait for Mr. Dishon tomorrow.

18 I'll hear your input.

19 MR. IGNALL: We'd probably go with the second option,
20 would be our preference; out of an abundance of caution have the
21 second alternate here, assuming she can be canvassed and she
22 hasn't had any outside influence, and then instruct the jury to
23 begin deliberations anew.

24 If the Court wants to exercise its discretion to go
25 with 11, obviously we wouldn't object to that. But I think

1 that -- that leaves less margin for error going forward.

2 Uh, I think we'd prefer not to wait for the possibility
3 that the first alternate will be here tomorrow because we don't
4 know one way or the other that he would be and that that just, I
5 think, continues to delay things. But...

6 THE COURT: It does. Okay. Thank you.

7 Mr. Cristalli.

8 MR. CRISTALLI: Your Honor, I hate to be difficult.
9 Um, in terms of, uh, procedure, however, I think it's only
10 appropriate, um, because of the current situation that we
11 impanel 12 jurors for the purposes of deliberation. And I think
12 it's only appropriate that in terms of impaneling the 12 jurors
13 it should be the first alternate.

14 There's a number of reasons for that. Number one is
15 jury selection is a strategy. Jury selection is done for a
16 particular purpose. And, if we have an alternate available
17 and -- and that alternate is the first that is to be chosen and
18 go into that particular slot, then, um, I would -- I would
19 request that that be the case.

20 Um, to be perfectly honest with ya, I have not been in
21 this situation before. I do not know whether or not or it's
22 discretionary call or not. Um, but, uh, in terms of following
23 certain procedures and rules, I would request that 12 be
24 impanelled and the first alternate be impanelled. And I hate to
25 inconvenience everyone with regard to this. But I think it's

1 only appropriate.

2 THE COURT: Okay. Well, let me tell you what I -- how
3 I view the situation.

4 The Court has absolute discretion under the rules,
5 which is Rule 23, um, (b)(3), to permit a jury of 11 to return a
6 verdict, even without a stipulation of the parties if the Court
7 finds good cause to excuse a juror. I'm not -- I'm not inclined
8 take a chance that Mr. Dishon will be available tomorrow. And
9 so I think, uh -- I think I listed that as alternative No. 3.
10 But that's one I don't have to take.

11 MR. SCHIFF: Can I speak on this?

12 THE COURT: Just a moment. We're gonna do it in the
13 order of -- we're gonna do it in the order of --

14 MR. SCHIFF: Yeah. I thought you were making a ruling.

15 THE COURT: Mr. Bowers.

16 MR. BOWERS: He's just giving us some information.

17 THE COURT: I'm just providing information.

18 MR. BOWERS: Uh, like -- like Mr. Cristalli, I would
19 prefer if I could do what I want to have maybe both alternates
20 return in the morning tomorrow and -- and if Mr. Dishon isn't
21 here then proceed. I understand if the Court's not going to do
22 that that I would certainly, uh, prefer not to have 11 jurors.

23 So, if -- if the Court's gonna use its discretion over
24 whatever the defense request is, I would -- I would rather have
25 deliberations continue with the second alternate than go with

1 the 11 jurors. My primary preference, like Mr. Cristalli, would
2 be to try to have the jury return today with the first alternate
3 juror and the second alternate juror available. And, if for
4 some reason Mr. Dishon doesn't show, then at that point I guess
5 we could go with the second juror -- second alternate juror.

6 THE COURT: Well, would you -- just for -- for
7 informational purposes, if Mr. Dishon is not available, then
8 would you stipulate to -- to -- in writing to, uh, waive, uh,
9 and allow Ms. -- the number 14, Ms. Stoddard, to serve?

10 MR. BOWERS: Um, but this -- this puts me in a bad spot
11 because I don't know what I'm waiving to or giving up. I
12 know -- I can give the Court an answer to that probably pretty
13 shortly. I'd like to look at the law. But I -- I know I would
14 prefer that over 11 jurors.

15 THE COURT: Mr. Cristalli.

16 MR. BOWERS: I can assure you of that.

17 THE COURT: Okay.

18 MR. CRISTALLI: Your Honor, I don't know why, um, Juror
19 No. 11 would not -- well, Alternate Juror No. 1 -- I
20 apologize -- would not be available. It appears that he's just
21 at his place of employment at this particular time. I don't
22 think that's --

23 THE COURT: We don't know. We're trying to
24 anticipate --

25 MR. CRISTALLI: Right.

1 THE COURT: -- what --

2 MR. CRISTALLI: I mean, you know, certainly I would --
3 I would have to, you know, cross that bridge when I have to.
4 But at this particular time I don't see --

5 THE COURT: Yeah.

6 MR. CRISTALLI: -- that that particular juror as going
7 to be --

8 THE COURT: Well --

9 MR. CRISTALLI: -- unavailable. He appears --

10 THE COURT: Yeah.

11 MR. CRISTALLI: -- to be at work.

12 THE COURT: The problem I have is let's -- let's assume
13 that he is unavailable for one reason or another tomorrow and
14 you're not willing to stipulate. Then I would have been better
15 off just going ahead with -- with what I view as the right of
16 the Court to continue with a jury of 11.

17 MR. CRISTALLI: Well, I mean, obviously, um, it's going
18 to, um, depend on the reason why he's unavailable --
19 unavailable. I'm not -- I'm not an unreasonable person. Just
20 like a little while ago I said that of course I would not
21 require of the Court to, uh, have the juror who is, uh, going
22 into premature labor come back. Obviously, if there's a set of
23 circumstances that would necessity a further continuance as --
24 as a result of the first alternate -- alternate not being
25 available, uh, for very good reasons, I'm not going to be an

1 obstructionist. And of course I'm going to, uh, uh, you know,
2 choose another alternative. There's no question about it. I
3 mean, I certainly will do that.

4 Um, I understand circumstances. But, at this
5 particular time, I don't see the urgency. Uh, although
6 everybody's been here a long time, they have not been in
7 deliberation all that long. Um, and, uh, I would certainly ask
8 the Court to at the very least attempt to get Alternate No. 1
9 here so that we could try to do this in a procedurally correct
10 manner.

11 THE COURT: Thank you.

12 Mr. Schiff, your turn.

13 MR. SCHIFF: Well -- well, I certainly object to a jury
14 of 11, um, you know. Uh, and I -- and I think alternate
15 number -- the first alternate should be available. But to go
16 with eleven -- I mean, the reason that they are not here is not
17 earthshaking. I mean, it's not like you have two people sick.
18 And even a postponement of one day doesn't justify going with
19 eleven jurors.

20 I mean, the Government took over three weeks to put on
21 its case and I -- I had, what, four days, five days? And, um, I
22 mean, it's not like it -- it -- the reason that -- and there's a
23 very good possibility that the second juror, uh -- the first
24 juror can be here tomorrow. I don't think that that warrants
25 proceeding with eleven jurors. But...

1 (Discussion between Mr. Leventhal and
2 Mr. Schiff.)

3 MR. SCHIFF: But I would prefer the first juror follow
4 the proceeding. And then, if we have to go with the second one
5 for some reason, okay. But I certainly have to object to a jury
6 of eleven when, you know, there's no extreme reason. They just
7 can't make it one day, so we'll make it tomorrow. We certainly
8 didn't --

9 MR. BOWERS: Your Honor, very briefly. I'm sorry.

10 MR. SCHIFF: -- take anywhere near the time to put on
11 our defense than the Government did.

12 MR. BOWERS: Your Honor, just very briefly. I -- when
13 I said I wouldn't stipulate to the 12th juror -- or the second
14 alternate, much like Mr. Cristalli, I'm not saying that if
15 tomorrow morning he weren't here and he were sick or we couldn't
16 reach him or something like that that I'd be unwilling to
17 stipulate to the second. I just am requesting that we give him
18 one day to appear. And, if for whatever reason he's not here,
19 then we can cross that bridge.

20 But I -- I just want it to be clear on that point that
21 there wasn't some intention in my mind of, well, if he doesn't
22 show up then that'll delay this further or we could somehow
23 prevent the jury from starting deliberations. That's not our
24 intent. We're just hoping to give him an opportunity to be here
25 tomorrow and start because he was the next in line.

1 MR. CRISTALLI: Your Honor, my other concern is in
2 terms of procedure it -- it appears -- I'm not quite sure -- but
3 I would assume that the court staff instructed both alternates
4 to be available by telephone at any time because of the
5 possibility that they would have to appear.

6 Did -- was there an inquiry made? Was he unable to be
7 reached? Um, do we know what the status of this particular
8 person was? Because here's an individual who appeared every day
9 for almost six weeks. And I don't think it's an individual who
10 wants to be delinquent in his duties.

11 THE COURT: Maybe -- maybe you don't remember. He's a
12 Test Site worker and, uh, he gave us two numbers. We left
13 messages on both numbers. And, uh, as you might or might not be
14 aware, when people go out to the Test Site, they -- they are not
15 available by phone for much of the day unless we can get someone
16 to -- to answer a phone and relay a message. And we attempted
17 both phone numbers, left messages, and no -- no reply.

18 Is that correct, Ms. Clerk?

19 THE CLERK: Yes, your Honor. I actually contacted his
20 home twice and spoke to a person on the second time. They were
21 going to attempt to make contact with him.

22 THE COURT: So that's where we are.

23 Anyone else have anything to add?

24 I -- I -- without -- without adequate assurance that
25 we -- we would run into the same issue tomorrow, I'm inclined

1 to -- to go with just the jury of 11 under -- under Rule 23.

2 MR. SCHIFF: That's impossible. You can't go with a
3 jury of 11.

4 MR. BOWERS: Your Honor, um, could -- could the defense
5 have an opportunity to consult about this --

6 THE COURT: You may.

7 MR. BOWERS: -- together --

8 THE COURT: You may.

9 MR. BOWERS: -- for a few minutes?

10 THE COURT: Yes.

11 MR. BOWERS: It's a --

12 THE COURT: We'll be in recess.

13 MR. BOWERS: -- fairly substantial...

14 (Recess from 10:42 a.m. to 11:06 a.m.)

15 THE CLERK: All rise.

16 THE COURT: Please be seated.

17 Mr. Ignall, anything to add?

18 MR. IGNALL: Uh, briefly, I think our position is after
19 talking with the defendants, uh, we -- we probably concur with
20 them. They object to 11. I'm not sure that there's good cause
21 shown right now for 11 as opposed to waiting until tomorrow. So
22 I think -- I think out of an abundance of caution we should try
23 to go with 12.

24 We'll defer to the Court in terms of which alternate
25 juror to go with. Our preference would be to go with Juror

1 No. 2 if she's here now as opposed to waiting for the
2 speculation that Juror No. 1 may be here. I'm not sure what
3 prejudice there is and why it's not in the discretion of the
4 Court to move things along today if we have an alternate juror
5 available with no way to know for sure whether the other
6 alternate juror would be available tomorrow. I understand he's
7 at the Test Site, which means that it's probably impossible to
8 get ahold of him there. But we'll defer to the discretion of
9 the Court as to which alternative to go with there.

10 THE COURT: Thank you.

11 MR. CRISTALLI: Um, your Honor, um, we would obviously
12 request, um, you know, 12 jurors. We don't think there is,
13 um -- and we got -- it's -- it's ten after 11:00 at this
14 particular time. The jurors, from my understanding, can't even
15 get into the jury deliberation room because it's been
16 inadvertently locked behind them. Uh, we don't know what time
17 they're going to be able to get back into that jury deliberation
18 room. They have to take lunch. They are gonna be excused at
19 4:30. So we're talkin' probably, at the very most, three hours.

20 Um, there is no reason, um, why Alternate No. 1 will
21 not be here tomorrow. As I have indicated to the Court, he was
22 here for five weeks. I'm not quite sure why he is not able to
23 be reached at this particular time knowing that there would have
24 been a possibility that he would have been called upon.

25 However, I don't think there is -- I mean, and

1 certainly the -- the prejudice here, um, that we have to be most
2 concerned about as to the -- as to the defendants and them
3 getting a fair jury to deliberate and that is of 12 individuals.
4 And I'm not quite sure waiting tomorrow, having both alternates
5 available, and/or one of the alternates available, and then
6 certainly the Court can go forward as it sees fit.

7 THE COURT: Thank you.

8 MR. CRISTALLI: And -- and I would be agreeable to, you
9 know -- I would agree to that in writing if the Court so
10 requires.

11 MR. BOWERS: All the -- all the defense counsel would
12 stipulate to the following: that if we were to wait till
13 tomorrow morning and Alternate No. 1 didn't arrive, the Court
14 could proceed with Alternate No. 2 without a problem.

15 MR. SCHIFF: Should I just...

16 (Discussion between Mr. Leventhal and
17 Mr. Schiff.)

18 MR. SCHIFF: I concur --

19 THE COURT: Okay.

20 MR. SCHIFF: -- with the other two.

21 THE COURT: All right.

22 The jury room will be opened in a moment. I'm informed
23 that it's just a minor problem with the latch and -- and it's
24 the outer door. And so that -- that is not a reason to send the
25 jury home today.

1 I am informed that, uh, juror -- the alternate is --
2 has arrived, Alternate No. 14. We've continued to leave
3 messages with Mr. Dishon and he's -- he is not responding, even
4 though we told him when we broke that he would need to be
5 available and to not discuss his testimony, uh, with -- with
6 others until he was formally discharged.

7 What I'm going to do is I'm gonna have, uh, the, uh,
8 jury wait -- and they have discontinued their deliberations --
9 for a little while longer to get back into the jury room, to
10 order lunch. We'll see if we've heard from Mr. Dishon. At that
11 time, we'll call you back and let you know what we're going to
12 do.

13 MR. CRISTALLI: Your Honor, could we have, uh -- is
14 there any way court personnel could go and get him?

15 THE COURT: At the Test Site? It -- it would take an
16 hour and a half each way. So it would be a waste today to try
17 that. There would be no deliberation. Uh, it's more likely
18 that -- that we'll find him tomorrow morning when he gets home
19 and receives these phone messages or checks -- checks the other
20 phone that he left a number for.

21 So we are in recess.

22 MR. IGNALL: Your Honor?

23 THE COURT: We'll let you know. Yes.

24 MR. IGNALL: May I request that we -- the Court canvass
25 jury [sic] number -- Juror No. 14 now as to whether she's had

1 any outside influence just so we know for sure that she's
2 available? Otherwise I think that would make --

3 THE COURT: We could --

4 MR. IGNALL: -- the Court's determination moot.

5 THE COURT: We can -- we can canvass her if you wish.
6 She is -- she is down with the Jury Commissioner right now.

7 Will you call her?

8 MR. CRISTALLI: I have no objection to that.

9 Any objection to that? Mr. Bowers?

10 MR. BOWERS: No, Judge. No, that's fine.

11 THE COURT: Schiff?

12 MR. CRISTALLI: And, your Honor, I would assume if this
13 all takes place that they will be instructed that, uh, jury
14 deliberations would be in the new as a result of --

15 THE COURT: Oh, yes --

16 MR. CRISTALLI: -- a new juror?

17 THE COURT: Yeah, that's -- that's a given.

18 MR. BOWERS: And, also, your Honor, just for the
19 record -- I -- I'm not saying this hasn't happened -- but I
20 understand that -- or it's my understanding that if there's
21 substantive questions of any kind or notes of anything from the
22 jury that we'd be informed, as counsel, of that?

23 THE COURT: Yes. If -- you mean if they send out a
24 question?

25 MR. BOWERS: Yeah. Yes.

1 THE COURT: Yes, we've --

2 MR. BOWERS: But that hasn't --

3 THE COURT: Yeah.

4 MR. BOWERS: -- happened and we'd be called if it did.

5 THE COURT: I -- I've informed you of the only one that
6 has been received and that was the listing of exhibits by number
7 request.

8 MR. BOWERS: That's fine.

9 THE COURT: I informed you of that already.

10 MR. BOWERS: Thank you, your Honor.

11 THE CLERK: Jane's bring her upstairs and she'll bring
12 her in through this door.

13 THE COURT: Through?

14 THE CLERK: This door over here. She's gonna...

15 (Discussion between the Court and the clerk.)

16 (Pause in the proceedings.)

17 THE COURT: Come on in.

18 Go ahead and have a seat over there, Ms. Stoddard.

19 Thank you.

20 Counsel has requested that I canvass you regarding the
21 admonition that I gave to you when we excused you from
22 deliberations.

23 Has anyone communicated with you regarding this case or
24 have you communicated with anyone regarding this case since the
25 jury was given the go-ahead to commence deliberations?

1 ALTERNATE JUROR NO. 2: No, sir.

2 THE COURT: All right.

3 And you followed all of the admonitions that I have
4 given --

5 ALTERNATE JUROR NO. 2: Yes.

6 THE COURT: -- regarding avoidance of publicity and
7 media and other accounts of the trial --

8 ALTERNATE JUROR NO. 2: Yes.

9 THE COURT: -- is that correct?

10 Counsel wish any further inquiry?

11 MR. IGNALL: No, your Honor.

12 MR. CRISTALLI: No, Judge.

13 MR. BOWERS: Nothing, your Honor.

14 MR. SCHIFF: Nothing.

15 THE COURT: All right.

16 We're going to ask you to stand by. We are continuing
17 to try to reach Mr. Dishon to see what his situation is. If you
18 will wait for a few minutes more down with the Jury
19 Commissioner. The admonition continues. Thank you,
20 Ms. Stoddard.

21 (Discussion between the clerk and the Court.)

22 THE COURT: Go ahead. See that she gets down, Jane.

23 Okay. We'll give you a call as soon as we hear
24 anything from Mr. Dishon.

25 MR. BOWERS: Thank you, your Honor.

1 THE COURT: Thank you.

2 And, if -- if we end up sending the jury home, does
3 anyone need to be present for that?

4 MR. IGNALL: No, your Honor.

5 MR. CRISTALLI: No, Judge.

6 MR. BOWERS: No, your Honor.

7 MR. NEIMAN: We'd just like be contacted. Just -- we
8 would just like to be contacted.

9 THE COURT: We'll --

10 MR. NEIMAN: That's it.

11 THE COURT: -- call you. Definitely.

12 He's okay with that, Mr. Leventhal?

13 MR. LEVENTHAL: Yes.

14 MR. IGNALL: Your Honor, do we have any idea on what
15 time we are gonna know something?

16 THE COURT: Probably in the next half hour.

17 MR. IGNALL: Okay.

18 THE COURT: I would expect that given the fact they
19 start so early out at the Test Site that if he was reachable it
20 would be during the lunch hour.

21 MR. IGNALL: Okay.

22 THE COURT: So another half hour --

23 MR. IGNALL: All right.

24 THE COURT: -- 45 minutes.

25 MR. IGNALL: All right. Thank you, your Honor.

1 THE COURT: Thank you.

2 MR. CRISTALLI: Thank you, your Honor.

3 MR. BOWERS: Thank you, Judge.

4 (Recess from 11:20 a.m. to 1:46 p.m.)

5 (Alternate Juror No. 1 has entered the
6 courtroom at 1:46 p.m.)

7 THE CLERK: All rise.

8 THE COURT: Thank you. Please be seated.

9 Mr. Dishon, the reason we are here is one of the
10 regular jurors, uh, had an emergency that will necessity her
11 being excused from the jury. Before we proceed any further with
12 you, I want to ask you a couple of questions about anything that
13 has happened since you were released on -- on Monday.

14 Have you communicated with anyone regarding this case
15 since that time?

16 ALTERNATE JUROR NO. 1: No, sir.

17 THE COURT: Has anyone attempted to communicate with
18 you?

19 ALTERNATE JUROR NO. 1: No.

20 THE COURT: Have you viewed or read any or heard any,
21 uh, media accounts concerning this matter --

22 ALTERNATE JUROR NO. 1: No, sir.

23 THE COURT: -- since then? You have not.

24 Do counsel wish further inquiry?

25 MR. IGNALL: No, your Honor.

1 MR. CRISTALLI: No, your Honor.

2 MR. BOWERS: No, Judge. That's fine.

3 THE COURT: Mr. Schiff?

4 MR. SCHIFF: No, Judge.

5 THE COURT: All right.

6 You are appointed to replace the juror who has been
7 excused.

8 Now, if you'll bring the rest of the jury in,
9 Mr. Fears.

10 LAW CLERK: Okay.

11 THE COURT: It's going to be a minute or two. They are
12 down the hall. Make yourselves comfortable.

13 (Pause in the proceedings.)

14 (Jury enters the courtroom at 1:49 p.m.)

15 THE COURT: Please be seated.

16 Will counsel stipulate to the presence of the jury?

17 MR. IGNALL: Yes, your Honor.

18 MR. CRISTALLI: Yes, your Honor.

19 MR. BOWERS: Yes, Judge.

20 MR. SCHIFF: Yes.

21 THE COURT: Thank you.

22 Ladies and gentlemen of the jury, as you may or may not
23 be aware, it has been necessary to excuse Christina Steinagel,
24 Juror No. 12, from the jury due to medical concerns and the
25 juror -- alternate juror, who was formerly number 13, has been

1 substituted in her place.

2 The Court instructs you to commence your deliberations
3 anew, that means to start over, start your discussions over from
4 the beginning with the -- with the addition of the new juror.

5 Is there any further from counsel?

6 MR. IGNALL: Nothing from the Government, your Honor.

7 MR. CRISTALLI: No, your Honor.

8 MR. BOWERS: Nothing, your Honor.

9 MR. SCHIFF: No, your Honor.

10 THE COURT: Okay. Thank you.

11 You may resume your deliberations -- or commence your
12 deliberations, I should say.

13 (Jury leaves the courtroom at 1:51 p.m.)

14 THE COURT: Anything further?

15 MR. IGNALL: No, your Honor.

16 MR. CRISTALLI: No.

17 MR. NEIMAN: Hopefully not, your Honor.

18 MR. CRISTALLI: Your Honor, I do have, uh, some things
19 at the house that -- I heard your Honor is very good at some
20 handywork and...

21 THE COURT: Not quite good enough. Thank you.

22 MR. CRISTALLI: Thank you, your Honor.

23 MR. IGNALL: Thank you, your Honor.

24 MR. NEIMAN: Thank you.

25 (Pause in the proceedings.)

1 MR. BOWERS: Your Honor, I -- just thinking out loud --
2 there doesn't seem to be an objection, but maybe Mr. Schiff has
3 one -- if there was some way tomorrow afternoon if -- if the
4 jury didn't return with a verdict to communicate to them that
5 they are welcome to stay Friday if they are able just to shorten
6 up this process.

7 THE COURT: Sure.

8 MR. IGNALL: Yeah. So we don't...

9 THE COURT: Yes --

10 MR. IGNALL: We have no problem with that.

11 THE COURT: -- I will do that. Is it okay if I do that
12 with you on the telephone?

13 MR. BOWERS: Yeah.

14 MR. IGNALL: That's fine.

15 MR. BOWERS: And maybe just say --

16 MR. IGNALL: We don't even need --

17 MR. NEIMAN: We don't need to be here.

18 MR. IGNALL: Yeah.

19 MR. NEIMAN: If they want to be there, they can be
20 there.

21 THE COURT: Well, whatever we do we will do on the
22 record.

23 MR. CRISTALLI: Just by telephone.

24 MR. BOWERS: By phone will be fine. Somethin' to the
25 effect of you can stay --

1 MR. IGNALL: Yeah.

2 MR. BOWERS: -- if you want to.

3 THE COURT: We'll get whoever we can and do it on the
4 record.

5 MR. BOWERS: Okay.

6 MR. IGNALL: Okay.

7 MR. NEIMAN: Thank you.

8 MR. CRISTALLI: Thank you, your Honor.

9 MR. IGNALL: Thank you, your Honor.

10 MR. BOWERS: Thank you, Judge.

11 THE COURT: Thank you.

12 (Proceedings adjourned at 1:53 p.m.)

13 --oOo--

14 I hereby certify that pursuant to Section 753, Title 28, United
15 States Code, the foregoing is a true and correct transcript of
16 the stenographically reported proceedings held in the
17 above-entitled matter.

18
19 DATED:

FELICIA FINE ZABIN, RPR, CCR NO. 478



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