

1 Such evidence as the Court admits is properly
2 before you for your consideration. Such evidence as
3 the Court has refused to admit is not a proper subject
4 for your deliberations and should not be given
5 consideration by you.

6 Papers, documents and other objects admitted
7 into evidence by the Court are a part of the evidence
8 properly before you and will be available to you in the
9 jury room for consideration during your deliberations
10 with the exception of the actual display units
11 themselves.

12 It's too difficult for us to try to move them
13 into the jury room, and I think you know that room's a
14 little small to be bringing those in.

15 So if you find a need to come and actually look
16 at them, let Jim know that, and we'll make arrangements
17 to bring you into the courtroom to do that.

18 All of the other paper exhibits that have been
19 admitted in the case, however, you will have in the
20 jury room for your review.

21 The fact that the Court has admitted evidence
22 over objection should not influence you in determining
23 the weight you should give the evidence.

24 Nor should statements made by counsel either for
25 or against the admission of evidence influence your

1 determination of the weight you will give the evidence
2 if admitted. In other words, you should determine the
3 weight you will give such evidence on the basis of your
4 own consideration of it and without regard to the
5 ruling of the Court or the statements of counsel
6 concerning the admissibility of such evidence.

7 Nor should you permit objection by counsel to
8 the admission of evidence or the rulings of the Court
9 thereon to create any bias or prejudice in your minds
10 with respect to counsel or the party he represents.

11 It is the duty of counsel to protect the rights
12 and interests of his client; and in the performance of
13 that duty, he freely may make objection to the
14 admission of proffered evidence and should not in any
15 manner be penalized for doing so.

16 The burden is on the Plaintiff in a civil action
17 such as this to prove every essential element of its
18 claim by a preponderance of the evidence.

19 If the proof should fail to establish any
20 essential element of Plaintiff's claim by a
21 preponderance of the evidence in this case, you should
22 find for the Defendant.

23 To establish by a preponderance of the evidence
24 means to prove that something is more likely so than
25 not so. In other words, a preponderance of the