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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

* * * * *	C.A. NO. 03-575L
DONALD P. TWOHIG, ET AL	
VS.	OCTOBER 24, 2006
CHARLES D. MOREAU, ET AL	10:00 A.M.
* * * * *	PROVIDENCE, RI

BEFORE THE HONORABLE RONALD R. LAGUEUX,  
SENIOR DISTRICT JUDGE

(Jury Trial)

APPEARANCES:

FOR THE PLAINTIFFS:	LEON A. BLAIS, ESQ. Blais & Parent 20 Cabot Boulevard Mansfield, MA 02048
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SARA M. QUINN, ESQ. Quinn & Quinn, LLP 179 Sisson Street Providence, RI 02909
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FOR THE DEFENDANTS:	MARC DeSISTO, ESQ. DeSisto Law 211 Angell Street Providence, RI 02906
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ELIZABETH M. NOONAN, ESQ. Adler Pollock & Sheehan One Citizens Plaza, 8th Floor Providence, RI 02903
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Court Reporter:	Karen M. Wischnowsky, RMR-CRR
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1 24 OCTOBER 2006 -- 10:00 A.M.

2 (The jury is present for the following)

3 THE COURT: Good morning, ladies and gentlemen.

4 The record will indicate the jurors are all present.

5 Madam Clerk, would you pass out interrogatories  
6 to the jury, one to each juror, and when the jury  
7 retires to deliberate, we'll only leave one in the  
8 hands of the foreman to use during deliberations, one  
9 to each counsel table and one for yourself and the  
10 remainder back to me.

11 Ladies and gentlemen of the jury, you can put  
12 those interrogatories aside for the time being, and  
13 I'll refer to those later. Interrogatories to the jury  
14 are simply questions that I'm asking you to answer  
15 during the course of your deliberations. And by  
16 answering these questions, you will be deciding the  
17 case. And I'll go over them with you in a little bit.

18 It is now my function to instruct you on the law  
19 applicable to this case. It is your duty to accept  
20 these instructions of law and apply them to the facts  
21 as you determine the facts to be.

22 It was my duty to preside over the trial and  
23 decide what testimony you should hear that is relevant  
24 for you to consider, but it is for you to determine the  
25 facts from the evidence and the testimony that you

1 heard.

2 As to legal matters, you must take the law as I  
3 alone present it to you. If any lawyer has stated a  
4 legal principle that is different from that which I  
5 state to you in these instructions, of course you are  
6 to follow my instructions and not what the lawyer said  
7 about the law.

8 You should not single out any one instruction as  
9 stating the law, but you should consider my  
10 instructions as a whole when you retire to deliberate  
11 to the jury room.

12 You should not allow yourselves to be concerned  
13 about the wisdom of any rule of law that I state to you  
14 regardless of any opinion that you may have about what  
15 the law should be or what the law is. It would violate  
16 your sworn duty to base a verdict upon any view of the  
17 law other than what I state to you.

18 Now, let's get to the jugular vein of this case.  
19 What's left in this case is a claim by Donald P. Twohig  
20 against Officer Mark Brayall of the Central Falls  
21 Police.

22 This is what is often referred to as a civil  
23 rights case because it is brought under a law enacted  
24 by Congress many years ago which is called a civil  
25 rights law. Specifically the one in question is

1 42 United States Code Section 1983. So sometimes  
2 lawyers talk about this kind of a case as a 1983 case.

3 The law as written by Congress provides as  
4 follows, and I'll quote it for you. "Every person who  
5 under color of any statute, ordinance, regulation,  
6 custom or usage of any state or territory or the  
7 District of Columbia subjects or causes to be subjected  
8 any citizen of the United States or other person within  
9 the jurisdiction thereof to the deprivation of any  
10 rights, privileges or immunities secured by the  
11 Constitution and laws shall be liable to the party  
12 injured in an action at law."

13 This statute very simply means that if a person,  
14 a citizen, has constitutional rights violated by an  
15 agent of the state or a municipality, that person can  
16 recover damages against the perpetrator.

17 In other words, the Federal Government is  
18 intruding itself between officers of the state and  
19 municipalities and the citizens of the United States.  
20 So, in essence, an officer or official of the state or  
21 a municipality who infringes the constitutional rights  
22 of a citizen can be held responsible for that under a  
23 federal law, and that's why this case is in a federal  
24 court.

25 There's no question in this case that the

1 Defendant was acting as a police officer at the time in  
2 question of the City of Central Falls. So if he  
3 violated the constitutional rights of the Plaintiff, he  
4 can be held responsible.

5 One of the constitutional rights and, in fact,  
6 the only constitutional right that's involved in this  
7 particular claim is that there was an illegal search of  
8 Plaintiff's private e-mail account without a warrant  
9 and without his consent.

10 And the claim is that that search was made by  
11 Robert Luke, who was also acting as an agent of the  
12 City of Central Falls, and Defendant knowingly  
13 participated in that search.

14 An illegal search is an unlawful invasion of  
15 one's privacy through a search without that person's  
16 consent. It is illegal or unlawful because the search  
17 was made without a warrant.

18 Now, there's no question in this case that the  
19 search, if there was one, of the Plaintiff's e-mail  
20 account was without a warrant. So in order to recover  
21 in this case, the Plaintiff has to prove to you a  
22 couple of propositions. Number one, that Robert Luke  
23 did conduct a warrantless search into his private  
24 e-mail account; and secondly, that the Defendant  
25 knowingly and intentionally aided and assisted Luke in

1 conducting that search.

2 If he proves those two propositions, then in  
3 order to prevent a recovery against the Defendant, the  
4 Defendant must prove to you that the Plaintiff  
5 voluntarily consented to that search.

6 So those are the three propositions that we'll  
7 be dealing with in this case. Did Robert Luke conduct  
8 a search of that e-mail account? If so, did Defendant  
9 knowingly and intentionally aid and assist in that  
10 search? And, if so, did the Plaintiff voluntarily  
11 consent to the search?

12 Now, there are two burdens of proof in this  
13 case, as I've indicated to you. The Plaintiff has the  
14 burden of proving to you that Luke did conduct a search  
15 of his e-mail account and that Defendant police officer  
16 knowingly and intentionally aided and assisted in that  
17 search.

18 If you find that the Plaintiff has sustained his  
19 burden of proof in that respect, then you get to the  
20 question of whether the Defendant has sustained his  
21 burden of proving that the search was voluntarily  
22 consented to by the Plaintiff.

23 So let's talk about burden of proof. What does  
24 burden of proof mean? The law requires that a person  
25 who has the burden of proof prove by a fair

1 preponderance of the evidence the proposition on which  
2 he has the burden of proof. Where evidence adduced  
3 either for or against a given proposition outweighs  
4 contrary evidence, such evidence is said to  
5 preponderate.

6 Therefore, proof by a fair preponderance of the  
7 evidence means proof by the greater weight of the  
8 evidence, that is to say, by such evidence as when  
9 weighed with evidence offered to oppose it has more  
10 convincing power in the minds of the jury.

11 So when I say to you that a party here had the  
12 burden of proof on any proposition, I mean simply this.  
13 I mean you must be persuaded, considering all the  
14 evidence in the case, that the proposition on which  
15 that party has the burden of proof is more probably  
16 true than not.

17 So reducing this case to its very simplest  
18 terms, the Plaintiff must prove to you that it is more  
19 probable than not that Robert Luke conducted a search  
20 of his e-mail account and that the Defendant knowingly  
21 and intentionally aided and assisted in that search.

22 And if you get to the question of consent, the  
23 Defendant must prove to you that it is more likely than  
24 not, more probable than not, that the Plaintiff  
25 voluntarily consented to that search.

1           So those propositions are stated to you in the  
2           interrogatories to the jury. If you'll pick them up  
3           right now, we'll go over them.

4           You see the first question is, did Robert Luke  
5           conduct a warrantless search of Plaintiff's personal  
6           e-mail account. Your answer to that is yes or no.

7           If your answer is no, that's the end of the  
8           case. Your verdict is for the Defendant. If your  
9           answer is yes, you go on to question two, did the  
10          Defendant knowingly and intentionally aid and assist  
11          Luke in conducting that search.

12          Again, your answer is yes or no. If your answer  
13          is yes, then you proceed to question three. If your  
14          answer is no, then that's the end of the case. Your  
15          verdict is for the Defendant.

16          And if you get to question three, did Plaintiff  
17          voluntarily consent to that search, if your answer is  
18          yes, that's the end of the case and your verdict is for  
19          the Defendant. If your answer is no, then your verdict  
20          is for the Plaintiff.

21          So in this case your verdict will either be for  
22          the Plaintiff or for the Defendant depending on your  
23          answer to these questions.

24          Now, in order to reach a decision in this case,  
25          of course it is necessary for you to first determine



1 the facts. You have to determine from all the evidence  
2 put before you which of the adversary contentions of  
3 the parties are true. It's the function of the jury to  
4 consider the evidence introduced and to determine  
5 therefrom what the facts are in the case.

6 It is the duty of this Court to decide questions  
7 of law and to instruct you on the law, but it is for  
8 you to apply that law to the facts as you determine the  
9 facts to be.

10 Therefore, the factual situation in this case,  
11 what actually happened, took place or transpired  
12 between these parties at the time in question is for  
13 you to determine and you alone.

14 It is your recollection of the testimony and  
15 evidence that controls, not what the Court or counsel  
16 may have said about it.

17 It is understood, however, that in determining  
18 the facts in this case, you can only consider that  
19 evidence properly put before you. The duty of the  
20 Court during the course of trial is to determine the  
21 admissibility of evidence.

22 If I have kept evidence out by sustaining an  
23 objection or granting a motion to strike, that  
24 proffered evidence is not before you for your  
25 consideration.

1           If I have allowed evidence in, even over  
2           objection, that evidence is before you for your  
3           consideration.

4           Any exhibits that were marked as full exhibits  
5           that are relevant to this particular case will be sent  
6           to the jury room with you; but my recollection is, and  
7           I will have to look those exhibits over again, that all  
8           the exhibits that were put in related to Donald D.'s  
9           case and not this Plaintiff's case. So there may be no  
10          exhibits sent into the jury room.

11          Any remarks or statements made by counsel during  
12          your presence or during the course of trial or in  
13          argument are not evidence and should not be considered  
14          as such by you.

15          If in the course of this trial or in giving you  
16          these instructions this Court has said or done anything  
17          that has caused you to believe that the Court was  
18          indicating an opinion as to what the facts in the case  
19          are, I instruct you now that the Court intended to  
20          indicate no such opinion.

21          You should not permit any words or acts, if any,  
22          on my part to influence you in determining what the  
23          facts are. It's the function of the jury exclusively  
24          to determine the facts, and the Court only deals with  
25          questions of law.

1           Now, facts can be proved to you by two types of  
2 evidence. One type of evidence we call direct  
3 evidence, and another type of evidence we call  
4 circumstantial evidence.

5           Direct evidence is any evidence which is  
6 testified to you from the use of any one of the five  
7 senses that a witness has. For example, if a witness  
8 testifies to you that that witness saw something,  
9 smelled something, tasted something, heard something or  
10 touched something, that's all direct evidence.

11           But there's a second type of evidence called  
12 circumstantial evidence. Circumstantial evidence  
13 consists of proof of facts or circumstances that give  
14 rise to a reasonable inference of the truth of the  
15 facts sought to be proved.

16           I use several examples to illustrate  
17 circumstantial evidence, and one that I like very much  
18 is the old saw where there's smoke, there's fire.  
19 That's a rule of circumstantial evidence. Your reason  
20 tells you that if there is smoke in a particular  
21 location, there is probably fire at that location.

22           And so the fact of smoke is circumstantial  
23 evidence of the fact of fire, even if you have no  
24 direct evidence that someone saw or heard or smelled  
25 fire at that location.

1           So all that means is that you can consider not  
2           only the direct evidence in the case but also any  
3           circumstantial evidence in the case in determining what  
4           the true facts are in this case.

5           Now a few words to you about the credibility of  
6           witnesses, the believability of witnesses. You are the  
7           judges of those witnesses, and you're going to decide  
8           who's telling the truth and who isn't or who's mistaken  
9           and who isn't, who's accurate and who isn't.

10           Now, you are judges of the credibility of the  
11           witnesses and the weight you will give to the testimony  
12           of each. It is your right to consider the appearance  
13           of the witnesses on the stand; their manner of  
14           testifying; their apparent candor and fairness; their  
15           interest or lack of interest, if any, in the outcome of  
16           the case; and their apparent intelligence or lack of  
17           intelligence.

18           From these factors, together with all the other  
19           facts and circumstances proved at trial, you may  
20           determine which of the witnesses are the more worthy of  
21           belief.

22           You are not required to believe something to be  
23           a fact simply because a witness has stated it to be a  
24           fact if in the light of all the evidence you believe  
25           such witness is mistaken or has testified falsely to

1 the alleged fact.

2 If you believe any statement of any witness  
3 proposes something that is inherently impossible when  
4 that statement is considered in the light of all the  
5 evidence, you may disregard that statement, even in the  
6 absence of any evidence contradictory of the same.

7 Where the testimony of one witness on a specific  
8 item of evidence is contradicted directly by the  
9 testimony of another and there is no other witness  
10 testifying on that point, you are not required to  
11 therefor consider the evidence evenly balanced or the  
12 item not proved.

13 In such a situation, you may determine which of  
14 the two witnesses you believe on the basis of all the  
15 surrounding facts and circumstances proved at trial;  
16 and you may believe one such witness rather than the  
17 other if you believe that such facts and circumstances  
18 warrant it.

19 Now, a witness may be impeached, that is to say,  
20 his or her credibility may be questioned, by showing  
21 that on some prior occasion that witness made  
22 statements on a material issue in the case which are  
23 contradictory of the testimony he or she gives at  
24 trial.

25 If you believe from all the evidence that a

1 witness did at some prior time make statements  
2 contradicting his or her testimony at trial, you may  
3 take this belief into consideration when determining  
4 the credibility of that witness or the weight that you  
5 will give to that witness's testimony.

6 Now we will turn to the question of damages. In  
7 discussing damages, this Court does not intend to  
8 indicate that it is of the opinion that Defendant is  
9 liable. You are instructed on damages in order that  
10 you may reach a sound and proper determination of the  
11 amount you will award in the event that you find the  
12 Defendant is liable.

13 You need consider the question of damages only  
14 if you find for the Plaintiff, for if you find the  
15 Defendant is not liable, no award of damages can be  
16 made.

17 Now, this is a very simple case on the issue of  
18 damages. The Plaintiff has failed to prove that he  
19 suffered any actual damages, any losses whatsoever,  
20 that anything was deleted from his computer, that he  
21 was put through any expense in rectifying the situation  
22 or anything else. So there's no basis for awarding him  
23 any actual damages.

24 But we have a device in the law called nominal  
25 damages, and nominal damages may be awarded in the sum

1 of one dollar to illustrate to the world that the  
2 Plaintiff has had his constitutional rights violated  
3 but he couldn't prove damages, and so he's entitled to  
4 a damage award of one dollar.

5 So that's the purpose of nominal damages. And  
6 so in this case, in the end, if you find for the  
7 Plaintiff, if the Plaintiff is entitled to recover, all  
8 you can award him is one dollar nominal damages.

9 Now, in order to reach a verdict in this case,  
10 you must have a unanimous decision of all 10 of you who  
11 deliberate this case. You cannot return a verdict  
12 either for the Plaintiff or for the Defendant unless  
13 and until you are in unanimous agreement as to what  
14 your verdict shall be.

15 And as you answer these interrogatory questions,  
16 these three interrogatory questions, whatever number  
17 you end up answering, you have to unanimously agree on  
18 what your answer is to question one. If you get to  
19 question two, you must be unanimous on that answer; and  
20 if you get to question three, you have to be unanimous  
21 on that answer. So all 10 of you have to come to a  
22 unanimous decision in this case.

23 Therefore, in the course of your deliberations  
24 and consideration of the evidence, you should exercise  
25 reasonable and intelligent judgment. It is not

1 required that any of you yield your conviction because  
2 a majority on the panel hold a contrary conviction; but  
3 in pursuing your deliberations, you should keep your  
4 mind reasonably open with respect to the points in  
5 dispute and listen to your fellow jurors as they will  
6 listen to you, all to the end that you will not be  
7 precluded from obtaining unanimity by reason of just  
8 plain stubbornness.

9           If in the course of your deliberations you  
10 should deem it necessary to be further instructed or  
11 assisted by the Court, you should make that fact known  
12 to the officer in charge of the jury, who will then  
13 make arrangements for your return to the courtroom  
14 where you shall make your needs known to me here in  
15 open court.

16           Should such an occasion arise, don't attempt to  
17 send me any message or otherwise attempt to communicate  
18 with me privately. Just tell the marshal in charge of  
19 the jury that you have a question and you want to  
20 return to the courtroom, and we will deal with your  
21 question here in open court.

22           If you should want some testimony read back to  
23 you because you can't agree on what it is and it is  
24 important in your deliberations, you can ask to come  
25 back to the Court and we'll have the court stenographer



1 read that particular testimony to you.

2 If you do ask for that, be very specific about  
3 what you want read back because we have a fairly long  
4 transcript here and we want to get right to what you're  
5 interested in.

6 Now, Mr. Foreman, your duties are to preside  
7 over the deliberations of the jury, maintain order and  
8 decorum, and take votes when you think that would be  
9 productive.

10 We need one person to speak for the jury; and  
11 although you have only one vote like everybody else on  
12 the jury, we need one person to stand up and announce  
13 what the verdict of the jury is.

14 So after you've reached a verdict, you'll be  
15 brought back to the courtroom, and I will ask you these  
16 interrogatory questions, and you will announce the  
17 unanimous decision of the jury on each question.

18 Essentially, the general verdict that you will  
19 return is either a verdict for the Plaintiff for one  
20 dollar or a verdict for the Defendant. That's your  
21 general verdict which you will return, but I will ask  
22 you to answer these questions.

23 All right. We'll now swear in the marshal to  
24 keep the jury together during deliberations.

25 (Court security officer sworn)

1           THE COURT: Now let me tell you, ladies and  
2 gentlemen, what my practice is on jury deliberations.  
3 I have no way of knowing how long you'll deliberate.  
4 I've had some juries deliberate for five minutes, and  
5 I've had juries deliberate for days.

6           If you haven't reached a verdict by lunchtime or  
7 as we approach lunchtime, the marshal will take your  
8 order for lunch, and you'll get a free lunch brought in  
9 to you. There is such a thing as a free lunch.

10           If you've reached a verdict, then report it as  
11 soon as possible.

12           If your deliberations take you to near the end  
13 of the day, my practice is to determine at that time,  
14 somewhere around 4:00, whether the jury's close to a  
15 verdict. And if it's reported they are, I let the jury  
16 finish their deliberations. If it's reported that  
17 they're not close to a verdict, then I send the jury  
18 home overnight under proper instructions, of course,  
19 not to discuss the case with anyone, and you can resume  
20 your deliberations the next day. So that's the  
21 practice we follow.

22           We will go over the exhibits with the attorneys,  
23 and we will determine whether there are any exhibits  
24 there that pertain to this particular case rather than  
25 Donald D.'s case.

1           So, Marshal, you can take the jurors out now to  
2 commence deliberations. If in the next 10 or 15  
3 minutes no exhibits are brought in to you, you'll know  
4 that none are pertinent to this particular case.

5           All right. We're collecting all of the  
6 interrogatory sheets except the foreman's sheet.

7           Marshal, take the jurors.

8           (The jury is not present for the following)

9           THE COURT: Before we get to the exhibits, I'll  
10 hear any objections to the charge of the jury. I'll  
11 hear from the Plaintiff first.

12           MR. BLAIS: For the record, your Honor, the  
13 Plaintiff objects to the lack of a presumed damage  
14 instruction as we indicated yesterday and also the  
15 consequential instruction on nominal damages that are  
16 resulting from the lack of presumed damage instruction.

17           MR. DeSISTO: None for the Defendant.

18           THE COURT: All right. Now I'd like you to  
19 approach the bench, the clerk's table, and go over the  
20 exhibits. We want to make sure that no irrelevant  
21 exhibits go into the jury room.

22           MR. DeSISTO: Your Honor, it's Defendant's  
23 position that no exhibits should be submitted to the  
24 jury, that they all relate to Mr. Twohig, Jr.'s case.  
25 So I would object to any of the exhibits going into the

1 jury room.

2 MR. BLAIS: Your Honor, we agree with counsel on  
3 all exhibits with the exception of 9.

4 THE COURT: All right. May I see it, please.  
5 What's the relevance of this to this Plaintiff's case?

6 MR. BLAIS: Just to the official nature of the  
7 actual search and the inquiry.

8 THE COURT: It might have some relevance, so  
9 I'll allow that to be sent in.

10 MR. DeSISTO: My only objection, your Honor, is  
11 that the incident occurred at 9:00 in the morning and  
12 that e-mail is at 2:13.

13 THE COURT: I noticed that, that it was after  
14 the fact of the search.

15 MR. DeSISTO: So I can't see where it would have  
16 any relevance. You've already instructed them that the  
17 police officer is a police officer and official.

18 MR. BLAIS: Except that, your Honor, it does  
19 refer to information previously obtained. I don't  
20 remember exactly what it says, but something to the  
21 effect that I've learned some information about what  
22 was going on at the library.

23 THE COURT: Some political literature.

24 MR. DeSISTO: But the mayor isn't a party to the  
25 suit.

1           MR. BLAIS: That's correct, but it does indicate  
2           that there was an official visit, this was an activity  
3           that had the imprimatur of an official document.

4           THE COURT: It might have some relevance. I'll  
5           allow it to go in. All right. We'll have the marshal  
6           take that into the jury, and tell them that's the only  
7           exhibit that's relevant, possibly relevant. Use the  
8           words "possibly relevant."

9           All right. We'll take a recess now in this case  
10          until the jury returns with either a question or a  
11          verdict. I'd ask the attorneys to stay nearby right  
12          here in the courthouse so that if we do have a question  
13          or a verdict, it will be dealt with expeditiously.  
14          We'll take a recess.

15          (Recess)

16          (The jury is present for the following)

17          THE COURT: Mr. Foreman, has the jury agreed  
18          upon a verdict in this case?

19          THE FOREMAN: Yes, it has, your Honor.

20          THE COURT: Let's deal with the interrogatories.  
21          Question one, did Robert Luke conduct a warrantless  
22          search of Plaintiff's personal e-mail account. Your  
23          answer?

24          THE FOREMAN: No.

25          THE COURT: The answer is no. All right. You

1 don't have to answer any further questions. Have you  
2 signed the interrogatory and dated it?

3 THE FOREMAN: Yes, your Honor.

4 THE COURT: All right. Madam Clerk, would you  
5 pick it up, please. The clerk will file that  
6 interrogatory; and, therefore, the verdict of the jury  
7 is for the Defendant.

8 Does anyone wish the jury polled? No, no  
9 polling. All right.

10 Mr. Foreman and members of the jury, I want to  
11 thank you very much for sitting on this case and  
12 helping us resolve this matter.

13 This matter has been around for quite a while.  
14 I heard motions in it some time ago. I wrote an  
15 extensive written opinion on the subject, dismissing a  
16 lot of the claims. And there were four Plaintiffs  
17 originally.

18 The police chief, Wilson, was a Plaintiff in the  
19 case originally, and I dismissed his claim and  
20 Shannahan's claim in toto and most of the claims made  
21 by the two Twohigs. And so we got down to this one  
22 that had to be decided by a jury, and now the matter is  
23 resolved.

24 So we thank you very much for your attendance.  
25 I hope that when you talk to your friends and relatives

1 about your jury service you will be able to tell them  
2 that it was a worthwhile experience and that you  
3 learned something while you were here and that you're  
4 proud of being part of the justice system.

5 So thank you very much, and you're now  
6 discharged with the thanks of the Court.

7 All right. You can take the jurors out, and  
8 I'll talk to the attorneys for a few moments.

9 (The jury is not present for the following)

10 THE COURT: The matter is now in order for the  
11 entry of judgment in this case. And the judgment is  
12 going to be fairly complicated because I dismissed  
13 claims, I granted summary judgment for some claims, I  
14 dismissed some claims without prejudice and I granted a  
15 motion for judgment as a matter of law after partial  
16 trial, and now we have a jury verdict.

17 So I'd like somebody from Defendant's side to  
18 work on drafting an appropriate judgment so that all  
19 the claims are resolved and judgments will be entered  
20 for all Defendants on all the claims of the Plaintiff.

21 MR. DeSISTO: We'll do that, your Honor.

22 THE COURT: And present something so that the  
23 clerk can work on that.

24 MR. DeSISTO: Will do.

25 THE COURT: All right. Is there anything else

1 we should discuss?

2 MR. DeSISTO: No, your Honor.

3 MR. BLAIS: No.

4 THE COURT: All right. We'll take a recess.

5 (Adjourned)

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I, Karen M. Wischnowsky, RPR-RMR-CRR, do hereby certify that the foregoing pages are a true and accurate transcription of my stenographic notes in the above-entitled case.

Karen M. Wischnowsky, RPR-RMR-CRR

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Date