

1 Furthermore, the fact that a policyholder
2 remains silent and does not contact his insurance
3 company after having received a written notice of an
4 unauthorized change to his policy does not necessarily
5 mean he has consented to the change. You are free to
6 draw whatever inferences you wish from this evidence or
7 none at all.

8 So now that you know what it is that the parties
9 must each prove to prevail in this case and the
10 standard of proof to be applied, the next question is
11 how do you go about determining whether a party has met
12 that burden.

13 Obviously, you must make your determinations
14 solely from the evidence that is properly before you
15 and from any reasonable and legitimate inferences to be
16 drawn from that evidence.

17 The evidence that is properly before you
18 includes the testimony of witnesses, the exhibits that
19 I have admitted into evidence and any stipulations
20 between the attorneys in which they have agreed to what
21 a particular fact is.

22 Now, from that evidence you may draw whatever
23 conclusions are reasonable under the circumstances.
24 The evidence that is properly before you does not
25 include the following: Comments or statements by

1 attorneys. Remember that attorneys are not witnesses.
2 What they have said in their opening statements and
3 just now in their closing arguments and at other times
4 during the course of the trial is intended to help you
5 interpret the evidence but it is not evidence.

6 So if the facts as you remember them differ from
7 the way the lawyers have stated them, then it is your
8 memory that controls.

9 Second, answers given by witnesses which I
10 ordered stricken or instructed you to disregard is not
11 evidence.

12 Third, any documents, photographs, flip chart
13 drawings, other items that have been referred to or
14 used or drawn but have not been admitted into evidence
15 are not evidence. And there may have been a few of
16 those during the course of this trial. And to the
17 extent that there have been and they haven't been
18 introduced into evidence, then you may not consider
19 them except to the extent for the purposes that they
20 may have been read or shown to you during the course of
21 the trial.

22 Anything that you may have heard or seen outside
23 of this courtroom regarding the events in question or
24 the participants in this case is not evidence. So none
25 of these things may be considered by you as evidence.