

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT

PEOPLE OF THE STATE OF CALIFORNIA, )  
 )  
 PLAINTIFF, )  
 )  
 VS. )  
 )  
 KEVIN PERELMAN, )  
 )  
 )  
 DEFENDANT. )  
 \_\_\_\_\_ )

CASE 7VW04099-01  
7VW05190-01

**COPY**

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE ERIC HARMON, JUDGE PRESIDING

REPORTERS' TRANSCRIPTS ON APPEAL

05-18-18 AND 05-21-18

**CONFORMED COPY**  
**ORIGINAL FILED**  
Superior Court of California  
County of Los Angeles

**SEP 14 2018**

APPEARANCES:

Sherri R. Carter, Executive Officer/Clerk  
By: Silva Duduyan, Deputy

FOR THE PEOPLE: OFFICE OF THE DISTRICT ATTORNEY  
BY: KARINE PHILIPS, DEPUTY  
6262 VAN NUYS BOULEVARD, SUITE 160  
VAN NUYS, CALIFORNIA 91401

FOR THE DEFENDANT: LAW OFFICE OF SEYMOUR I. AMSTER  
BY: SEYMOUR I. AMSTER, ATTORNEY  
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1201- 1254/1500

HILDA GUTIERREZ, CSR 12714, RPR  
OFFICIAL COURT REPORTER

1 CASE NUMBER: 7VW05190-01/7VW04099-01  
2 CASE NAME: PEOPLE VS. KEVIN PERELMAN  
3 VAN NUYS, CALIFORNIA FRIDAY, MAY 18, 2018  
4 DEPARTMENT 113 HON. ERIC HARMON, JUDGE  
5 REPORTER: HILDA GUTIERREZ, CSR 12714, RPR  
6 APPEARANCES: (AS HERETOFORE MENTIONED)  
7 TIME: 8:39 A.M.

8  
9 (THE FOLLOWING PROCEEDINGS WERE  
10 HELD IN OPEN COURT, OUTSIDE THE  
11 PRESENCE OF THE JURY:)

12  
13 THE COURT: ON THE RECORD IN THE KEVIN PERELMAN  
14 MATTER, 7VW05190. HE'S NOT HERE, BUT HIS ATTORNEY  
15 MR. AMSTER IS HERE 977.

16 HE'S WAIVING HIS APPEARANCE FOR THESE  
17 PURPOSES ONLY?

18 MS. PHILIPS: HE IS, YOUR HONOR.

19 THE COURT: MS. PHILIPS REPRESENTS THE PEOPLE.  
20 ONE MOMENT.

21 DID YOU GO THROUGH THE EXHIBITS THAT HAD  
22 ALL OF THE CARDS IN IT? WEREN'T YOU GOING TO SORT  
23 THROUGH THAT?

24 MS. PHILIPS: MR. AMSTER WASN'T IN A STATE OF  
25 MIND TO DO IT.

26 MR. AMSTER: YESTERDAY, I WAS NOT.

27 THE COURT: ALL RIGHT. I WILL TRUST THAT YOU  
28 WILL DO THAT.



1 MR. AMSTER: WE WILL BEFORE IT'S PUBLISHED TO  
2 THE JURY. I THINK WE HAVE TO DO IT BEFORE JURY  
3 DELIBERATIONS BEGIN. MY SUGGESTION IS WE WILL PROBABLY  
4 GO IN THE CONFERENCE ROOM, DUMP OUT THE BAG, AND GO  
5 THROUGH IT, AND PUT IT BACK IN THE BAG.

6 THE COURT: ONE SECOND.

7 ON THE TRIAL MATTER, I AM PRINTING OUT THE  
8 JURY INSTRUCTIONS RIGHT NOW. AND SO AS SOON AS THEY'RE  
9 OUT, I'LL HAVE A COPY FOR YOU, AND THEN WE WILL GO BACK  
10 ON THE RECORD AND GO OVER THEM.

11

12 (UNRELATED CALENDAR MATTERS)

13

14 THE COURT: ON THE RECORD IN THE TRIAL MATTER.

15 AS I MENTIONED BEFORE, MR. AMSTER IS  
16 APPEARING 977. MS. PHILIPS IS HERE.

17 I HAVE 200, 201, 202, 207, 220, 222, 223,  
18 224, 226. I THOUGHT ABOUT 240. BUT THAT IS NOT  
19 REALLY -- THERE IS NO REAL --

20 MR. AMSTER: I WAS GOING TO OBJECT TO 240. I  
21 DON'T SEE IT.

22 THE COURT: I WILL NOT GIVE 240.

23 252. BASICALLY, COUNTS 1, 6 AND 7 AND 8  
24 ARE ALL GENERAL INTENT CRIMES. AND THE CRIMINAL THREATS  
25 IS SPECIFIC INTENT.

26 300, 301, I DON'T -- YEAH. 301, 302.

27 DO YOU WANT 315? IS THAT REALLY AN ISSUE?

28 MR. AMSTER: I DON'T THINK -- NO. I THINK HE'S

1 CONCEDED THAT HE WAS THERE.

2 THE COURT: ALL RIGHT. SO I WILL REMOVE 315.

3 IS THAT OKAY WITH YOU, MS. PHILIPS?

4 MS. PHILIPS: YES, YOUR HONOR.

5 THE COURT: 318, 358, AND 359.

6 MR. AMSTER: I DON'T KNOW IF YOU WANT US TO  
7 OBJECT AT THIS MOMENT IF WE HAVE SOME --

8 THE COURT: SURE. GO AHEAD.

9 MR. AMSTER: NO. I AM OKAY SO FAR.

10 THE COURT: OKAY. 370, 372.

11 MR. AMSTER: I DON'T SEE 372.

12 THE COURT: PEOPLE?

13 MS. PHILIPS: WELL, YOUR HONOR, I BELIEVE THAT WE  
14 DO HAVE SOME EVIDENCE THAT AFTER THE --

15 THE COURT: ALLEGED BATTERY.

16 MS. PHILIPS: -- AFTER THE ALTERCATION WITH  
17 MR. BARNARD, HE DID IN FACT GET IN HIS CAR AND FLEE.

18 THE COURT: THAT'S THE WAY HE DESCRIBED IT.

19 MR. AMSTER: BUT HE TOOK OFF IN HIS CAR AND LEFT  
20 AND WENT TO THE POLICE STATION.

21 THE COURT: I --

22 MS. PHILIPS: IF THEY BELIEVE THAT.

23 MR. AMSTER: WELL, BUT THAT -- OKAY. BUT THERE  
24 IS NO EVIDENCE THAT HE DID -- IN OTHER WORDS, WHAT WE  
25 HAVE IS, WE HAVE HIM -- THE INCIDENT IS OVER. WE HAVE  
26 HIM GOING INTO HIS -- THE GATE INTO HIS RESIDENCE. I  
27 DON'T THINK THAT IS FLEEING. AND THEN WE HAVE HIM GOING  
28 TO THE POLICE STATION. I -- I DON'T THINK THAT IS WHAT

1 THIS -- YOU KNOW, I DON'T THINK THAT'S WHAT THIS  
2 INSTRUCTION IS FOR.

3 THE COURT: THE COURT IS GOING TO GIVE THE  
4 INSTRUCTION WITH THE FOLLOWING REASONING. I THINK  
5 "FLED" HERE IS USED TO MEAN LEFT THE SCENE OF THE  
6 INCIDENT. AND IT'S REALLY UP TO THE JURORS TO DECIDE  
7 WHETHER HE FLED. AND THAT'S WHAT THE INSTRUCTION SAYS.

8 I UNDERSTAND WHAT YOU ARE SAYING, WHICH IS  
9 THIS IS NOT HIM FLEEING. THIS IS HIM GOING TO REPORT.

10 WHEN THERE IS EVIDENCE THAT SOMEBODY HAS  
11 LEFT THE SCENE OF THE CRIME, IT'S IMPORTANT THAT THE  
12 JURORS KNOW THAT JUST THAT FACT ITSELF CANNOT PROVE  
13 GUILT. SO IT IS PROTECTIVE IN A WAY. AND SO, OVER THE  
14 DEFENSE'S OBJECTION, I WILL GIVE IT.

15 THEN THERE IS --

16 MR. AMSTER: FOR THE RECORD, I AM OBJECTING.  
17 372.

18 THE COURT: SO NOTED.

19 COUNTS 1 AND 6 ARE CREATING A PUBLIC  
20 NUISANCE. I PRETTY MUCH TRACK THE LANGUAGE OF CACI.

21 MS. PHILIPS: I'M SORRY, YOUR HONOR. WHAT NUMBER  
22 ARE YOU ON?

23 THE COURT: IT'S NOT NUMBERED. IT'S A PINPOINT  
24 INSTRUCTION BECAUSE 370 DOES NOT HAVE A MODEL  
25 INSTRUCTION. SO I WENT TO THE CIVIL JURY INSTRUCTIONS  
26 AND BASICALLY CUT AND PASTE THE ENTIRE THING AND  
27 CHANGED --

28 MS. PHILIPS: I JUST WANT TO BE ON THE SAME PAGE

1 LITERALLY.

2 THE COURT: PAGE 21.

3 MS. PHILIPS: I DON'T HAVE A 21.

4 THE COURT: IT SAYS 372. AND UNDERNEATH THAT, I  
5 CAN PUT IT --

6 MS. PHILIPS: I SEE IT. I SEE IT. I AM ON THE  
7 SAME PAGE. 21. OKAY.

8 THE COURT: ANY OBJECTION TO THAT INSTRUCTION?

9 MR. AMSTER: YES, YOUR HONOR.

10 THE COURT: OKAY. GO AHEAD.

11 MR. AMSTER: ONE, SO THE ONLY -- AS I SEE IT, THE  
12 ONLY FACTS IN THIS CASE I CAN SEE THAT CONSTITUTE A  
13 PUBLIC NUISANCE IS THE DISTRIBUTION OF THE CARDS. I  
14 THINK THE INTERACTIONS WITH MR. SCROGGIN AND MR. BAILEY  
15 IS REALLY COVERED UNDER THE BATTERY AND CRIMINAL  
16 THREATS, AND I DON'T THINK THAT CAN CONSTITUTE A PUBLIC  
17 NUISANCE.

18 THE COURT: AGREED.

19 MR. AMSTER: SO I DON'T THINK PUBLIC NUISANCE CAN  
20 EVER BE UTILIZED TO RESTRICT FREE SPEECH. AND THAT IS  
21 WHY I'VE ASKED FOR THE SPECIAL INSTRUCTION I ASKED FOR.  
22 IF -- IF -- AND I AM -- I GUESS I AM TROUBLED BY ALL THE  
23 CASES THAT WE HAVE -- THAT'S BEEN CITED ON THE RECORD  
24 THAT WE HAVE READ. ALL OF THEM HAVE BASICALLY SAID THAT  
25 LITTERING STATUTES CANNOT BE UTILIZED FOR THE  
26 RESTRICTION OF FREE SPEECH.

27 PICKING UP LITTER IS SOMETHING THAT THE  
28 GOVERNMENT IS REQUIRED TO DO. I AM NOT GOING TO SAY

1 THAT I AGREE OR DISAGREE WITH THAT LOGIC, BUT THAT IS  
2 THE LOGIC.

3 NOW, IF THAT IS TRUE, HOW CAN WE EVER USE  
4 PUBLIC NUISANCE TO RESTRICT FREE SPEECH? BECAUSE FREE  
5 SPEECH, MANY TIMES, IS A PUBLIC NUISANCE. I DON'T LIKE  
6 PEOPLE KNOCKING ON MY DOOR, BUT THEY'RE EXERCISING FREE  
7 SPEECH. I DON'T LIKE WALKING THROUGH THE AIRPORT AT  
8 TIMES AND MAKING CONTACT. BUT THAT IS THE PROBLEM WITH  
9 LIVING IN A FREE SOCIETY.

10 SO UNLESS THERE IS ANOTHER THEORY HERE  
11 THAT IS NOT FREE SPEECH, I THINK THIS IS A MISUSE OF THE  
12 PUBLIC NUISANCE STATUTE. AND IT REQUIRES SOMETHING  
13 SAYING THAT IF THIS JURY BELIEVES HE'S EXERCISING FREE  
14 SPEECH, THAT IS A COMPLETE DEFENSE TO THE PUBLIC  
15 NUISANCE STATUTE.

16 MS. PHILIPS: YOUR HONOR --

17 THE COURT: THE CONCERN THAT THE COURT HAS ALWAYS  
18 HAD HAS BEEN TIME, PLACE, AND MANNER. IT'S NOT  
19 NECESSARILY --

20 MR. AMSTER: I'M SORRY. I COULDN'T HEAR.

21 THE COURT: -- TIME, PLACE, AND MANNER WHICH IS A  
22 REASONABLE RESTRICTION, DEPENDING ON THE CIRCUMSTANCES,  
23 ON FREE SPEECH.

24 SO THE CASES DO HOLD THAT IN CERTAIN  
25 CIRCUMSTANCES, THE CONCERN FOR LITTERING IS NOT ENOUGH  
26 TO JUSTIFY CURTAILING FIRST AMENDMENT SPEECH. HOWEVER,  
27 THOSE CASES DEAL WITH CIRCUMSTANCES IN WHICH THE PERSON  
28 WHO RECEIVES THE LITERATURE EITHER ON THEIR CAR, AT

1 HOME, OR IN HAND, THEN THEY THEMSELVES DISCARD IT AND  
2 LITTER, AND THE PERSON WHO HAS HANDED IT OUT IS FOUND TO  
3 BE LIABLE FOR THE LITTERING. AND WHAT THE COURTS HAVE  
4 SAID IS NO. JUST BECAUSE OTHER PEOPLE ARE THROWING THIS  
5 ON THE GROUND DOESN'T MEAN THE PERSON IS GOING TO HAND  
6 IT OUT WHICH IS, IN MY VIEW, FAR DIFFERENT THAN WHAT WE  
7 HAVE HERE. BY HIS OWN ADMISSION, HE'S SAYING THAT HE  
8 HIMSELF IS THROWING THIS ON THE GROUND, WHICH IS NOT A  
9 COLLATERAL CONSEQUENCE OF HIS SPEECH. IT IS THE SPEECH  
10 ITSELF.

11 SO IS IT PROTECTED THAT YOU CAN JUST THROW  
12 JUNK ANYWHERE YOU WANT? I MEAN, I POSE TO YOU THE  
13 QUESTION: CAN YOU BLANKET VAN NUYS BOULEVARD AND  
14 BURBANK, THAT INTERSECTION, WITH A DUMP TRUCK THAT SAYS,  
15 "MAKE AMERICA GREAT AGAIN," DUMPING OUT, YOU KNOW,  
16 BUSINESS CARDS THERE OR EVEN ONE BY ONE. MAYBE NOT  
17 OBSTRUCTING TRAFFIC BUT PUTTING IT ON THE GROUND.  
18 "IMPEACH THE PRESIDENT" OR WHATEVER THE -- I DON'T MEAN  
19 TO INTRODUCE CONTENT INTO IT, BUT YOU GET THE POINT  
20 WHICH IS: CAN YOU DUMP INTO THE RIVER A BUNCH OF, YOU  
21 KNOW, RUBBER DUCKIES THAT SAY, YOU KNOW --

22 IT CAN EVEN BE PURELY POLITICAL SPEECH.  
23 CAN I SAY "HARMON FOR JUDGE, 2024"? PROBABLY NOT.

24 MR. AMSTER: CAN I RESPOND?

25 THE COURT: YES.

26 MR. AMSTER: OKAY. WHERE WE ARE IN THE MOMENT IN  
27 THIS TRIAL IS CROSS-EXAMINATION HAS NOT CONCLUDED AND  
28 REDIRECT IS NOT OPEN.



1                   NOW -- AND SO -- AND, CLEARLY, I BELIEVE  
2   THAT WHAT THE INTENT IS WHEN THE ITEMS ARE DROPPED IS  
3   WHAT THE KEY ASPECT IS. THE WAY THAT THE TESTIMONY IS  
4   RIGHT NOW IS WE'VE GOT DROPPING. BUT IF THE DROPPING IS  
5   INTENT FOR DISTRIBUTION, THEN IT IS NOT LITTERING.

6                   SO MY POSITION IS THIS. YOU ARE RIGHT.  
7   TIME, PLACE, AND MANNER -- OKAY. IF SOMEBODY GOES UP TO  
8   A CORNER AND JUST DUMPS EVERYTHING DOWN AND JUST DUMPS  
9   IT DOWN WITH THE INTENT TO DISTRIBUTE, YEAH. BUT THAT  
10  IS A QUESTION OF FACT. IT'S NOT A QUESTION OF LAW.

11                  SO WHAT THE COURT IS DOING IS YOU ARE  
12  NOT -- YOU ARE INVADING UPON THE PROVINCE OF THE JURY  
13  FOR THE JURY TO MAKE THE DETERMINATION IS THIS FREE  
14  SPEECH OR NOT.

15                  I AM NOT ASKING FOR AN INSTRUCTION THAT  
16  SAYS, "IF YOU FIND THAT HE IS DROPPING ON THE GROUND,  
17  THAT'S A COMPLETE DEFENSE TO PUBLIC NUISANCE." I HAVE  
18  NOT ASKED THAT. WHAT I HAVE ASKED IS IF YOU FIND THAT  
19  THIS IS THE EXERCISE OF FREE SPEECH, IT CAN'T BE  
20  UTILIZED FOR PUBLIC NUISANCE. THAT ALLOWS THE PEOPLE TO  
21  ABSOLUTELY ARGUE HE'S DUMPING IT. HE'S GOT NO INTENT TO  
22  DISTRIBUTE IT.

23                  HE IS -- THEREFORE, IT IS PURE LITTERING.  
24  IT IS NOT FOR THE PURPOSE TO DISTRIBUTE. SO WHAT I AM  
25  TRYING TO SAY IS THIS IS A FACTUAL QUESTION, NOT A LEGAL  
26  QUESTION, AND THAT'S WHAT OUR JURIES ARE FOR.

27                  I -- I HAVE TO SAY THIS. I HAVE SPENT, I  
28  REALLY THINK, MORE TIME THINKING ABOUT THIS CASE THAN A

1 LOT OF OTHERS I HAVE HAD. AND SO -- AND THIS IS A CASE  
2 THAT HAS SOME REALLY, REALLY INTERESTING ISSUES IN OUR  
3 SOCIETY. AND I GUESS REALLY WHAT IS REALLY, REALLY  
4 IMPORTANT TO ME IS, IF WE HAVE TO GET SOME PLACE, LET'S  
5 GET SOME PLACE THE RIGHT WAY.

6 AND SO -- SO WHAT WE HAVE IS SOMEBODY WHO  
7 CLEARLY WANTS TO GET HIS MESSAGE OUT IN A MASS WAY. THE  
8 QUESTION IS IS HIS MASS WAY FREE SPEECH OR NOT. IF WE  
9 DON'T ALLOW THIS JURY TO DECIDE FREE SPEECH, WE'VE  
10 ENTERED OURSELVES INTO AN ARENA THAT MAYBE WE DON'T WANT  
11 TO ENTER OURSELVES INTO. BUT I SOMETIMES FEEL THAT IN  
12 OUR SOCIETY WE DON'T TRUST OUR AVERAGE CITIZENS ENOUGH.  
13 SO THROW A FACTUAL QUESTION TO THEM BECAUSE IT'S A  
14 FACTUAL QUESTION. TIME, PLACE, AND MANNER IS A FACTUAL  
15 QUESTION.

16 SO MY POSITION IS: CAN DUMPING OF CARDS  
17 ON THE GROUND BE ABSENCE OF FREE SPEECH. AND I THINK  
18 IT'S A TOUGH QUESTION, BUT I AM WILLING TO CONCEDE IT'S  
19 A FACTUAL ONE. I DON'T THINK IT'S A LEGAL ONE.

20 MS. PHILIPS: I COMPLETELY DISAGREE, YOUR HONOR.  
21 THERE IS ABSOLUTELY NO FIRST AMENDMENT PROTECTION FOR  
22 LITTERING. ZERO. DUMPING CARDS ON THE GROUND FOR  
23 WHATEVER INTENT -- AND THESE ARE GENERAL INTENT  
24 CRIMES -- I DO NOT NEED TO PROVE WHAT HIS INTENT WAS,  
25 WHETHER IT WAS TO SPREAD HIS WORD, WHETHER IT WAS TO  
26 DRIVE PEOPLE TO HIS WEBSITE. INTENT DOESN'T MATTER. IF  
27 HE'S DOING THAT WHICH THE LAW CONSIDERS ILLEGAL, THAT'S  
28 MY BURDEN. AND I HAVE MET IT THROUGH THE TESTIMONY AND

1 MY CASE. HE'S DUMPED THOUSANDS OF BUSINESS CARDS UPON  
2 THOUSANDS FOR AN EXTENDED PERIOD OF TIME.

3 THERE IS NO FIRST AMENDMENT PROTECTION FOR  
4 FREE SPEECH. THERE ISN'T A SINGLE -- WHEN IT PERTAINS  
5 TO LITTERING. YES. PERHAPS WITH OTHER ITEMS, YES. BUT  
6 LITTERING -- EVERY CASE, *SCHNEIDER*, *TAXPAYER*, EVERY CASE  
7 THAT THE PEOPLE HAVE CITED HAVE SPECIFICALLY STATED THAT  
8 THE GOVERNMENT ABSOLUTELY CAN AND SHOULD RESTRICT  
9 LITTERING, NOT THE DISTRIBUTION OF HANDBILLS TO PEOPLE  
10 WILLING TO RECEIVE IT, NOT IN OTHER CIRCUMSTANCES BUT  
11 CERTAINLY WHERE THEY'RE BEING DUMPED ON THE GROUND FOR  
12 WHATEVER PURPOSES.

13 THERE IS NO FIRST AMENDMENT CARTE BLANCHE  
14 PROTECTION. IF THERE WERE, WE WOULD BE IN THE EXACT  
15 SITUATION YOUR HONOR HAS DESCRIBED. THERE WOULDN'T BE  
16 ANY SIDEWALK SPACE LEFT BETWEEN ANYBODY WANTING TO  
17 IMPEACH TRUMP, FIGHT FOR AMERICA, ANTI-ABORTION,  
18 PRO-LIFE, PRO-CHOICE -- WE LITERALLY WOULDN'T BE ABLE TO  
19 WALK THE STREET IF WHAT MR. AMSTER IS SAYING IS TRUE.

20 IT'S UNSUPPORTED BY ANY CASE LAW. IN  
21 FACT, EVERY CASE INCLUDING *SCHNEIDER*, INCLUDING  
22 *LOS ANGELES VERSUS TAXPAYERS FOR VINCENT*, INCLUDING  
23 *CRAIG MOORE VERSUS CITY OF REDDING* -- EVERY SINGLE CASE  
24 ABSOLUTELY RECOMMENDS THAT THE GOVERNMENT CAN AND SHOULD  
25 PROHIBIT LITTERING REGARDLESS AND DOES NOT EXTEND ANY  
26 FIRST AMENDMENT PROTECTION REGARDLESS OF INTENT.

27 MR. AMSTER: IF I MAY RESPOND?

28 THE COURT: SURE. GO AHEAD.

1 MR. AMSTER: THIS IS NOT PERSONAL IN ANY WAY  
2 WHATSOEVER. IT'S DANGEROUS TO INTERJECT THE GOVERNMENT  
3 INTO HOW MUCH DISTRIBUTION IS LITTERING OR NOT.

4 SO 10,000 WE SAY IS LITTERING. IS 500?  
5 IS 200? IS 100? THE MINUTE YOU INTERJECT THE  
6 GOVERNMENT TO MAKE A DECISION HOW MUCH DISTRIBUTION IS  
7 LITTERING OR NOT, YOU HAVE ALLOWED THE GOVERNMENT TO  
8 ENTER INTO ARENA THAT IS VERY DANGEROUS ON THE  
9 CONSTITUTION.

10 MS. PHILIPS: I WILL MAKE IT SIMPLE. ONE IS  
11 LITTERING. ONE IS LITTERING.

12 MR. AMSTER: OKAY.

13 MS. PHILIPS: LITTERING IS LITTERING.

14 MR. AMSTER: IF I CAN JUST STATE THAT I WANTED TO  
15 INTERRUPT AT TIMES, BUT I CONTROLLED MYSELF. I  
16 RESTRAINED MYSELF. SO NOW IT'S MY TIME. AND WHEN THE  
17 PEOPLE WANT TO RESPOND BACK, I WILL RESTRAIN MYSELF  
18 AGAIN.

19 I BELIEVE -- ONE, I AM NOT CONCEDING THE  
20 ISSUE THAT THESE STATUTES CANNOT BE UTILIZED FOR  
21 LITTERING. BUT I BELIEVE THAT I HAVE MADE MY RECORD ON  
22 THAT AND THAT THAT IS BEING REJECTED.

23 SO NOW I AM GOING TO GO TO THE NEXT POINT,  
24 LITTERING. WHO IS TO DETERMINE WHAT IS LITTERING OR  
25 NOT? THE PROSECUTION? THE COURT? OR THE JURY? SO  
26 IT'S NOT, AT THIS MOMENT, ARE WE SAYING THAT THE  
27 GOVERNMENT CANNOT RESTRICT LITTERING. WHAT WE ARE  
28 ASKING IS IS THAT A LEGAL ISSUE OR A FACTUAL ISSUE.

1                   AND I BELIEVE IT'S A FACTUAL ISSUE. 1000?  
2 500? IT IS FOR THE JURY TO DECIDE. THE PEOPLE ARGUE IT  
3 IS LITTERING. WE ARGUE IT IS NOT. THE JURY DECIDES.

4 I DO NOT SEE WHERE THIS IS SOLELY A LEGAL  
5 ISSUE WHEN THE COURT IS SAYING TIME, PLACE, AND MANNER.  
6 TIME, PLACE, AND MANNER THEN NEEDS TO BE DEFINED FOR  
7 THIS JURY AND FOR THIS JURY TO DETERMINE IF IT'S  
8 LITTERING OR NOT IN THIS CASE. THIS IS A FACTUAL CASE  
9 AND A VERY IMPORTANT FACTUAL ISSUE WHEN YOU ARE DEALING  
10 WITH FREEDOM OF SPEECH.

11 THE COURT: I BELIEVE PART OF THE FIRST AMENDMENT  
12 CONCERNS ARE BUILT INTO THE MODEL INSTRUCTION IN THE  
13 CRIMINAL -- IN THE CIVIL INSTRUCTION. IN THAT ELEMENT,  
14 NUMBER 4 SAYS, "THE SERIOUSNESS OF THE HARM OUTWEIGHS  
15 THE SOCIAL UTILITY OF KEVIN PERELMAN'S CONDUCT." THAT  
16 IS BUILT INTO THE JURY INSTRUCTION. SO YOU ARE FREE TO  
17 ARGUE THAT.

18 IN TERMS OF PUTTING TO THE JURY THE  
19 QUESTION AS TO WHETHER THE SPEECH IS PROTECTED BY THE  
20 FIRST AMENDMENT OR NOT -- THAT'S WHY I CITED THE CASE I  
21 DID YESTERDAY THAT TALKS ABOUT HOW APPELLATE COURTS  
22 REVIEW CLAIMS OF FREE SPEECH, SO THEY WOULD THEN BE ABLE  
23 TO LOOK AT THE CONDUCT AND MAKE A DETERMINATION AND NOT  
24 BE BOUND BY THE -- THE TRIER OF FACTS' DETERMINATION.  
25 SO I AM CONFIDENT THAT THEY WILL DO THAT.

26 I AM CONFIDENT THAT THERE IS NOT A FIRST  
27 AMENDMENT DEFENSE IN THIS MATTER, FACTUALLY SPEAKING.

28 I AGREE WITH YOU THAT IT'S FASCINATING,

1 AND I TOO HAVE SPENT A LOT OF TIME THINKING ABOUT THIS.  
2 THESE ISSUES HAVE ALWAYS INTERESTED ME PERSONALLY, AND  
3 ALSO I THINK THIS IS SOMETHING DIFFERENT THAN THE  
4 ORDINARY DUI AND PROSTITUTION CASE THAT WE GET IN HERE  
5 100 TIMES A DAY. SO IT'S FASCINATING. THAT'S WHY, WHEN  
6 I GAVE IT THOUGHT, I WANTED TO MAKE SURE I DID A PROPER  
7 FRAMEWORK, AND I THINK IT DOES COME BACK TO TIME, PLACE,  
8 AND MANNER.

9 I THINK THAT YOUR QUESTION AS TO WHO MAKES  
10 THE DECISION AS TO HOW MUCH IS LITTERING IS -- IS AN  
11 IMPORTANT ONE. HERE THEY'RE JUST GOING TO GO THROUGH  
12 THE -- THE ELEMENTS. YOUR POINT IS ONE MAN'S FREE  
13 SPEECH IS ANOTHER MAN'S LITTERING. ONE PERSON'S FREE  
14 SPEECH IS ANOTHER PERSON'S LITTERING.

15 IT WOULD BE A LITTLE BIT EASIER FOR YOU IF  
16 THE CIRCUMSTANCES AND THE FACTS DIDN'T COME OUT FROM THE  
17 DEFENDANT AS THEY DID. BECAUSE HE'S NOT SAYING "I AM  
18 TRYING TO PASS OUT BUSINESS CARDS AND WHEN PEOPLE DON'T  
19 TAKE THEM, I DROP THEM OUT OF THEIR HAND." HE'S JUST  
20 SAYING, "I DROP THEM ON THE GROUND." MAYBE THAT IS  
21 PERFORMANCE ART. I DON'T KNOW. MAYBE I AM BEHIND THE  
22 TIMES, AND I NEED TO GET WITH HOW PEOPLE ARE EXPRESSING  
23 THEMSELVES. I THINK THIS IS MORE AKIN TO SOMEBODY JUST  
24 RENTING A BIG AMPLIFIER AND AT 12 O'CLOCK GOING UP AND  
25 DOWN THE STREETS, BLOWING OUT POLITICAL SLOGANS OR WHAT  
26 HAVE YOU. THE GOVERNMENT CAN RESTRICT THAT. IT'S  
27 UNREASONABLE FOR SOMEBODY TO EXPRESS THEMSELVES IN THAT  
28 WAY. SO TOO IT MIGHT BE UNREASONABLE FOR PEOPLE TO



1 EXPRESS THEMSELVES BY THROWING ART ON THE GROUND.

2 THIS DISCUSSION THAT WE'RE HAVING WITH  
3 RESPECT TO 1 AND 6 DEALS, IN MY OPINION, AND, THEREFORE,  
4 AS IT RELATES TO THE CASE PRETTY MUCH MY RULING, AS TO  
5 THE THROWING OF THE CARDS THEMSELVES. THE PLACING OF  
6 THE CARDS ON THE CARS IS A MORE DIFFICULT ISSUE. SO NOW  
7 THAT I HAVE HANDLED COUNTS 1 AND 6, WE SHOULD PROBABLY  
8 TALK ABOUT THAT.

9 MS. PHILIPS: FOR THE RECORD, YOUR HONOR, IF I  
10 MAY?

11 THE COURT: SURE.

12 MS. PHILIPS: I RESPECT THE COURT'S RULING. I AM  
13 NOT ARGUING WITH THE COURT'S RULING, IN ANY WAY. BUT  
14 FOR THE RECORD --

15 THE COURT: YOU WON.

16 MS. PHILIPS: -- TO PRESERVE IT, I DO WANT TO AT  
17 LEAST STATE AN OBJECTION TO 372 FOR EVERYTHING THAT IS  
18 AFTER NUMBER 1. I THINK NUMBER 1 --

19 THE COURT: IT'S NOT 372. IT'S JUST THE PINPOINT  
20 INSTRUCTION.

21 MS. PHILIPS: PAGE 21.

22 MR. AMSTER: COULD WE -- COULD WE POSSIBLY GIVE  
23 IT A NUMBER? 372A?

24 THE COURT: WE'LL SAY PINPOINT 1.

25 MR. AMSTER: OKAY.

26 MS. PHILIPS: WITH REGARD TO PINPOINT 1 THAT WE  
27 HAVE BEEN DISCUSSING AS CONTAINED ON PAGE 21, THE  
28 PEOPLE, FOR THE RECORD, WOULD SAY THAT THEIR OBJECTION

1 AS IT PERTAINS -- I'M SORRY -- EVERYTHING BELOW  
2 NUMBER 3, 3 AND INCLUSIVE, THE REASON BEING THAT I THINK  
3 THE WAY IT'S WORDED DOES PLACE MORE BURDEN UPON THE  
4 PEOPLE.

5 FOR INSTANCE, IN THE STATUTE THERE IS  
6 NOTHING THAT TALKS ABOUT THE SERIOUSNESS OF HARM  
7 OUTWEIGHING SOCIAL UTILITY. THAT IS NOT AN ELEMENT.  
8 COMMUNITY NOT CONSENTING TO HIS CONDUCT, ALTHOUGH  
9 IMPLICIT, IS NOT AN ELEMENT. THE SUFFERED HARM WAS  
10 DIFFERENT THAN WHAT HAS BEEN SUFFERED BY THE GENERAL  
11 PUBLIC IS NOT CONTAINED IN THE STATUTE. AND ALTHOUGH  
12 AGAIN 7 IS IMPLIED, IT'S NOT A DIRECT ELEMENT.

13 AND I WILL SUBMIT ON THAT.

14 MR. AMSTER: IF I MAY, JUST FOR THE RECORD, I  
15 MADE MY ARGUMENT. I AM OBJECTING.

16 AND I DID SUBMIT SPECIAL JURY  
17 INSTRUCTIONS. ARE THOSE PARTS OF THE RECORD?

18 THE COURT: I CAN -- I HAVE WRITTEN ON THEM.

19 MR. AMSTER: I HAVE A BLANK COPY.

20 THE COURT: LET'S MARK THAT AS COURT'S EXHIBIT A.

21 MR. AMSTER: OKAY. SO I AM ASKING FOR ALL OF MY  
22 SPECIAL JURY INSTRUCTIONS TO BE GIVEN.

23 THE COURT: COURT'S A IS MARKED.

24

25 (COURT'S EXHIBIT A WAS MARKED FOR IDENTIFICATION.)

26

27 THE COURT: AND THE COURT RESPECTFULLY DECLINES  
28 TO GIVE THOSE.

1                   1300 IS CRIMINAL THREAT. THAT IS JUST A  
2 PATTERN INSTRUCTION.

3           MS. PHILIPS: I'M SORRY. WHAT PAGE, YOUR HONOR?

4           THE COURT: THAT IS 24.

5                   AND THEN LET'S GO TO 22 AND 23 -- I'M  
6 SORRY. LET'S BACK UP A SECOND.

7                   COUNT 7 IS BATTERY. THAT IS THE PATTERN  
8 INSTRUCTION. AND THERE IS ALSO THE SELF-DEFENSE WHICH  
9 IS WHAT THE DEFENSE IS CLAIMING.

10                   ANY OBJECTIONS TO 960, 3470, AND 3472?

11           MS. PHILIPS: MAY I HAVE A BRIEF MOMENT, YOUR  
12 HONOR?

13           THE COURT: SURE.

14           MS. PHILIPS: I HAVE NO OBJECTION, YOUR HONOR,  
15 EXCEPT FOR THE HEADING IN THE MIDDLE OF PAGE 22. IT  
16 SAYS, "DEFENSE AND INSANITY SERIES." I WOULD JUST ASK  
17 THAT "AND INSANITY SERIES" BE STRICKEN.

18           MR. AMSTER: I WOULD HAVE NO OBJECTION TO THAT.

19           THE COURT: ALL RIGHT. I WILL TAKE OUT THE  
20 HEADING.

21                   THEN 1300 IS THE CRIMINAL THREAT.

22           MR. AMSTER: IF I MAY, I HAVE NO OBJECTION TO  
23 1300. BUT, AT THIS POINT, I WOULD LIKE TO RAISE  
24 SOMETHING IN REGARD TO 1300.

25           THE COURT: SURE. GO AHEAD.

26           MR. AMSTER: OKAY. EVERYBODY CALM DOWN.

27                   I WOULD ASK FOR THE RIGHT TO SELF-DEFENSE  
28 FOR CRIMINAL THREATS. I BELIEVE THAT FOR THE FACTUAL

1 PATTERN THAT WE HAVE, SOMEBODY COULD HAVE BEEN IN  
2 REASONABLE -- IN OTHER WORDS, REASONABLE FEAR, ALL OF  
3 THE ELEMENTS THAT WE HAVE FOR SELF-DEFENSE WHEN SOMEBODY  
4 ASSAULTS SOMEBODY. I DON'T THINK THAT SOCIETY OR THE  
5 GOVERNMENT WANTS TO HAVE SOMEBODY FIRST RESORT TO  
6 PHYSICAL DEFENSE WITHOUT USING VERBAL DEFENSE FIRST.  
7 SO, THEREFORE, I BELIEVE THAT THE FACTS IN THIS CASE ARE  
8 SUFFICIENT TO WARRANT A SELF-DEFENSE INSTRUCTION TO  
9 CRIMINAL THREATS. AND I THINK THAT CRIMINAL THREATS --  
10 I THINK THAT IN AN APPROPRIATE CIRCUMSTANCE, A  
11 SELF-DEFENSE INSTRUCTION SHOULD BE ALLOWED TO BE GIVEN  
12 IN CRIMINAL THREATS. SO I AM ASKING FOR THIS.

13 MS. PHILIPS: YOUR HONOR, QUITE HONESTLY, IN ALL  
14 OF MY YEARS I'VE NEVER HAD A REQUEST FOR A SELF-DEFENSE  
15 INSTRUCTION TO A CRIMINAL THREAT. I DON'T KNOW THE  
16 LEGAL STANDARD. I WOULD LIKE A BRIEF OPPORTUNITY,  
17 BETWEEN 10:00 AND 12:00, TO HAVE A LOOK.

18 THE COURT: I AM NOT GOING TO GIVE THAT. THE  
19 NATURE OF THAT -- YEAH. I HAVE NEVER COME ACROSS A CASE  
20 THAT SAYS --

21 ONE SECOND.

22 MR. AMSTER: TO MAKE IT EASY, I DID MY RESEARCH,  
23 AND I COULD NOT FIND A CASE. THAT DOESN'T MEAN THAT I  
24 WASN'T GOING TO RAISE THE ISSUE.

25 THE COURT: YEAH. RIGHT NOW, I WON'T GIVE IT. I  
26 WILL LOOK INTO IT MORE. IF MY RESEARCH REVEALS THAT IT  
27 HAS SOME LEGAL FOUNDATION, I WILL BROACH THE SUBJECT.  
28 AS IT SOUNDS RIGHT NOW, I WON'T GIVE IT.

1 WE HAVE ONE MORE TO DO. BUT JUST GIVE ME  
2 ONE SECOND.

3 WE'RE BACK ON THE RECORD.

4 THE ONE -- THE TWO THAT ARE OUTSTANDING  
5 ARE THE 28.01(A) AND 28.01.1(B). NOW THE PEOPLE  
6 SUBMITTED THEIR PROPOSED INSTRUCTIONS, AND MY  
7 INCLINATION IS TO GIVE THOSE.

8 IS THERE ANY OBJECTION TO THOSE?

9 MR. AMSTER: YES, YOUR HONOR.

10 THE COURT: GO AHEAD.

11 MR. AMSTER: ONE, AGAIN I'VE ASKED FOR MY SPECIAL  
12 INSTRUCTIONS TO BE GIVEN. AND I AM ASSUMING MY SPECIAL  
13 INSTRUCTIONS ON THE ISSUE HAVE ALREADY BEEN DENIED. I  
14 AM OBJECTING, AND I SUBMIT.

15 AGAIN, I THINK THERE NEEDS TO BE A BETTER  
16 DEFINITION HERE THAT WE'RE CLEARLY TALKING ABOUT  
17 BUSINESS OR COMMERCIAL ACTIVITY.

18 THE COURT: I THINK THAT THESE COVER BOTH  
19 COMMERCIAL AND NON-COMMERCIAL SPEECH. A HANDBILL, FOR  
20 EXAMPLE, IS ANY HANDBILL, DODGER, COMMERCIAL ADVERTISING  
21 CIRCULAR, FOLDER, BOOKLET, LETTER, CARD, PAMPHLET. AT  
22 ONE POINT IT SPECIFIES COMMERCIAL, AND THE OTHERS DON'T  
23 SPECIFY COMMERCIAL. TO ME, THAT INDICATES THAT THE  
24 HANDBILL COULD BE OF BOTH KIND. AND, THEREFORE, IF IT'S  
25 DISTRIBUTED OR CAST OR THROWN IN THE SAME FASHION, THAT  
26 IT DOESN'T MATTER WHAT THE CONTENT IS.

27 MR. AMSTER: BUT HERE WE HAVE IT BEING PLACED  
28 UPON A VEHICLE IN THEIR INSTRUCTIONS.

1 THE COURT: AND THEY USE THE SAME DEFINITION  
2 THERE. I THINK -- SO THE REQUEST TO INCLUDE THE SPECIAL  
3 JURY INSTRUCTION NUMBER 2 IS DENIED.

4 THE BIGGEST QUESTION HERE, GIVEN THE CASE  
5 THAT I CITED YESTERDAY, THE *SAN CLEMENTE*, I THINK IT  
6 WAS, THE NINTH CIRCUIT ONE --

7 MS. PHILIPS: YES, YOUR HONOR. THAT IS THE  
8 ONE. YOU GAVE US *KLEIN VERSUS CITY OF SAN CLEMENTE* AND  
9 *IN RE GEORGE T.* FOR THE REVIEW STANDARD.

10 THE COURT: SO *KLEIN* HAD A PART THAT I THINK IS  
11 IN THE DEFENSE'S FAVOR, IF THIS MATTER REACHES APPEAL,  
12 WHICH IS IT MIGHT BE ILLEGAL TO CRIMINALIZE THE PLACING  
13 OF BUSINESS CARDS ON A CAR. THAT'S KIND OF THE WAY THE  
14 COURT, EVEN THOUGH IT DIDN'T SAY THAT, BECAUSE IT WAS  
15 A -- SOUGHT INJUNCTIVE RELIEF. THAT COURT WENT THROUGH  
16 ANALYSIS -- ONE SECOND -- RELATING TO WHETHER A CITY  
17 COULD REGULATE THAT AND WHAT THE CITY'S RATIONALES WERE  
18 AS FAR AS THE REASONING IT EMPLOYED TO SAY YOU COULDN'T  
19 PUT THIS ON A CAR. AND THEY REJECTED THE REASONS.

20 NOW MY OPINION IS THAT -- ONE SECOND --  
21 AND I WILL LET THE PARTIES WEIGH IN ON THIS, AND THIS  
22 WILL BE THE LAST ISSUE THAT WE DEAL WITH AT THIS TIME,  
23 AND THEN I WILL DO THE OTHER PRIVATE COUNSEL MATTERS --  
24 THE COURTS PREVIOUSLY, IN EXAMINING SOLICITING, TALKED  
25 ABOUT WHETHER A PERSON HAD A RIGHT TO GO UP TO THE DOOR  
26 AND PUT LITERATURE ON THE DOOR. AND UNIFORMLY THE  
27 COURTS HAVE DECIDED THAT IS OKAY, EVEN IF YOU DON'T WANT  
28 SOMEBODY AT YOUR DOORSTEP. YOU WOULD HAVE TO POST



1 SOMETHING THAT SAYS, "NO SOLICITING." SO THEY EXTENDED,  
2 KLEIN DID, THAT REASONING TO THE CAR.

3 AND THE CITY'S INTERESTS THEY WERE  
4 EXERTING WAS THERE IS AN INTEREST IN PRESERVING AN  
5 INDIVIDUAL'S RIGHT TO DECIDE HOW AND WHEN THEIR PRIVATE  
6 PROPERTY WOULD BE USED. AND IT SAYS:

7 "IN SUM, JUST AS THE PROTECTION  
8 OF PRIVATE PROPERTY IS NOT A  
9 SUFFICIENTLY SUBSTANTIAL GOVERNMENT  
10 INTEREST TO JUSTIFY AN  
11 ACROSS-THE-BOARD BAN ON DOOR-TO-DOOR  
12 SOLICITATION, SO THAT INTEREST CANNOT  
13 SUFFICE TO JUSTIFY AN ACROSS-THE-BOARD BAN  
14 ON PLACING LEAFLETS ON THE WINDSHIELDS OF  
15 EMPTY VEHICLES PARKED ON PUBLIC STREETS."  
16 ONE SECOND.

17 "THE CALIFORNIA SUPREME COURT HAS YET  
18 TO DECIDE WHETHER ORDINANCES PROHIBITING  
19 THE LEAFLETING OF UNOCCUPIED VEHICLES  
20 PARKED ON PUBLIC STREETS ARE INCOMPATIBLE  
21 WITH THE STATE CONSTITUTION'S LIBERTY OF  
22 SPEECH CLAUSE."

23 AND THEN THEY GO TO THE DOOR-TO-DOOR  
24 DISTRIBUTION. VAN NUYS PUBLISHING COMPANY. THE SUPREME  
25 COURT THERE OF CALIFORNIA "STRUCK DOWN AN ANTI-LITTERING  
26 ORDINANCE THAT PROHIBITED LEAVING LEAFLETS IN OR ON THE  
27 YARD, PORCH, OR DOORSTEP OF PRIVATE RESIDENCES WITHOUT  
28 PRIOR PERMISSION."

1                   THEY WERE TOO BROAD IN THE COURT'S  
2   OPINION.

3                   AND THEY TALK ABOUT CONSENT IN VAN NUYS.  
4                   THEY SAY:

5                   "IN SUM, WE CONCLUDE THAT VAN  
6                   NUYS" --

7                   THAT IS THE COURT CASE.

8                   -- "STRONGLY SUPPORTS OUR CONCLUSION THAT  
9                   UNDER CALIFORNIA LAW A VEHICLE LEAFLETING  
10                  BAN CANNOT BE JUSTIFIED BY AN INTEREST IN  
11                  PROTECTING THE PRIVATE PROPERTY RIGHTS OF  
12                  RECIPIENTS OF LEAFLETS."

13                  THERE THEY SUGGESTED THAT "THE CITY MAY  
14                  ALLOW POTENTIAL RECIPIENTS TO OPT OUT OF RECEIVING  
15                  COMMUNICATIONS ON THEIR PROPERTY AS *KLEIN* RECOGNIZES BY  
16                  PROPOSING THAT THE CITY PERMIT VEHICLE OWNERS TO POST  
17                  THE EQUIVALENT OF A "NO SOLICITING" SIGN ON THEIR  
18                  DASHBOARD TO AVOID UNWANTED LEAFLETS."

19                  WHEN I READ THAT, I LAUGHED OUT LOUD. AND  
20                  I ALSO EMPLOYED A TEST HERE. MAYBE I AM WRONG AND THE  
21                  APPELLATE COURT WILL SAY I AM WRONG AND SAY THE STATUTE  
22                  IS UNCONSTITUTIONAL. I DON'T THINK IT IS BECAUSE I  
23                  DON'T WANT ANYBODY MESSING WITH MY CAR. AND I DON'T  
24                  THINK YOU GUYS DO EITHER. I DON'T WANT ANYBODY MESSING  
25                  WITH MY DAUGHTER'S CAR IN THE PARKING LOT IN THE MIDDLE  
26                  OF THE NIGHT. AND THE TEST THAT I USE IS, YOU KNOW, IF  
27                  YOU CALL YOUR COUSINS IN THE VALLEY OR CENTRAL VALLEY  
28                  AND SAY, "WHAT IS THE STANDARD THAT YOU HAVE IN YOUR

1 COMMUNITY FOR PEOPLE MESSING WITH YOUR CAR?" I THINK  
2 THEY'RE GOING TO SAY, "I DON'T LIKE THAT. I DON'T LIKE  
3 IT. I DON'T WANT PEOPLE TOUCHING MY CAR."

4 SO FIRST AMENDMENT-WISE IT'S NOT THE MOST  
5 SOPHISTICATED LEGAL ANALYSIS, BUT I DON'T THINK THAT THE  
6 CITY HERE IS OVERSTEPPING ITS BOUND BY TELLING PEOPLE  
7 DON'T PUT STUFF ON OTHER PEOPLE'S CARS.

8 MR. AMSTER: IF I MAY RESPOND.

9 THE COURT: SURE.

10 MR. AMSTER: OKAY. SO THIS IS THE LOGIC I HAVE  
11 GONE THROUGH. THE FIRST POINT IS THIS. WHAT I THOUGHT  
12 WAS INTERESTING IN THIS CASE IS THAT I BELIEVE IT WAS  
13 MS. DUFFY WHO TESTIFIED THAT SHE SAW THE DEFENDANT  
14 PLACING THE ITEMS ON THE VEHICLES, BUT HE DID NOT PLACE  
15 IT ON HER VEHICLE WHICH WAS OCCUPIED WHEN HE SAW HER.  
16 SO I THINK THAT IS EVIDENCE THAT HE'S ONLY GOING TO DO  
17 IT ON UNOCCUPIED VEHICLES, NOT OCCUPIED VEHICLES. AND I  
18 FEEL THAT IS AN IMPORTANT ASPECT OF THE EVIDENCE.

19 MY LOGIC IS THIS. THE PUBLIC STREETS ARE  
20 OPEN TO THE PUBLIC. YOU DO NOT HAVE TO PARK YOUR CAR ON  
21 THE PUBLIC STREET. YOU CAN PARK YOUR CAR IN A PRIVATE  
22 PARKING LOT. AND IF -- AND THE RESTRICTIONS OF WHAT CAN  
23 HAPPEN ON PRIVATE PROPERTY AND WHAT CAN HAPPEN ON PUBLIC  
24 PRIVATE ARE TWO DIFFERENT THINGS. THEREFORE, IF YOU  
25 PARK YOUR CAR ON A PRIVATE PARKING LOT AND SOMEBODY  
26 COMES AND PUTS ITEMS ON IT, THE GOVERNMENT CAN STOP  
27 THAT. AND I THINK THE CASES ARE TALKING ABOUT THERE ARE  
28 FAR MORE RESTRICTIONS ON PRIVATE PROPERTY. BUT WHEN YOU

1 CHOOSE TO USE THE PUBLIC STREETS THAT ARE OPEN TO  
2 EVERYBODY AND YOUR CAR IS OPEN ON IT AND YOU PUT IT ON  
3 THE PUBLIC STREET, THEN YOU ARE SUBJECTED TO THE  
4 SOLICITATION.

5 NOW THE GOVERNMENT HAS THE RIGHT TO  
6 RESTRICT FREE SPEECH IF THEY GIVE ANOTHER OPTION. I  
7 THINK THIS IS SOMETHING THAT I HAVE BEEN READING IN THE  
8 CASES.

9 NOW THE GOVERNMENT HAS ANOTHER OPTION  
10 AND I -- YOU KNOW WHAT? I HAVE TO AGREE WITH THE COURT.  
11 WHEN I READ THAT LINE TOO, I DON'T THINK I KEPT A  
12 STRAIGHT FACE ON PUTTING THE PLACARD ON YOUR CAR. I WAS  
13 IMMEDIATELY THINKING TO MYSELF "OH YEAH. PUT THE  
14 PLACARD ON THE CAR, AND NOW YOU MIGHT BE GETTING A  
15 CITATION BECAUSE YOU PUT IT TOO BIG OR ANYTHING ELSE."  
16 I HEAR THAT, BUT THAT DOESN'T MEAN THAT THE GOVERNMENT  
17 CAN'T CREATE A STATUTE THAT YOU ARE ALLOWED TO PUT A  
18 PLACARD ON YOUR CAR THAT IS THREE INCHES BY FIVE INCHES  
19 IN THIS SPOT AND EVERYTHING ELSE TO LET SOMEBODY KNOW  
20 YOU DON'T HAVE SOLICITATION.

21 SO THERE IS A LEAST RESTRICTIVE MEANS THAT  
22 IS AVAILABLE THAT IS NOT BEING UTILIZED. AND WE KNOW  
23 FROM THE CASES THAT THE PUBLIC STREETS ARE OPEN TO  
24 EVERYONE WHERE FREE SPEECH IS GIVEN. AND I DO NOT THINK  
25 THAT THE GOVERNMENT CAN UTILIZE THE STATUTE AS CREATED  
26 AS BEING INTERPRETED TO RESTRICT PURE FREE SPEECH.  
27 COMMERCIAL FREE SPEECH IS A DIFFERENT THING. WE'RE NOT  
28 HERE. AND I AM NOT SAYING IT CAN'T BE RESTRICTED FOR

1 THAT. BUT IN THIS SITUATION, WHERE WE CLEARLY ESTABLISH  
2 THIS IS PURE FREE SPEECH, I BELIEVE HE HAS THE ABSOLUTE  
3 RIGHT TO PUT IT ON THE WINDSHIELDS OR OTHER PLACES ON AN  
4 UNOCCUPIED VEHICLE.

5 SO, THEREFORE, RESPECTFULLY, I AM IN  
6 DISAGREEMENT WITH THE COURT, AND I AM OBJECTING TO THE  
7 INSTRUCTION. AND I AM STILL ASKING FOR MY SPECIAL  
8 INSTRUCTIONS TO BE GIVEN.

9 THE COURT: SO NOTED.

10 MR. AMSTER: OKAY.

11 THE COURT: I HEAR WHAT YOU ARE SAYING ABOUT THE  
12 DISTINCTION BETWEEN PARKING ON THE STREET AND PARKING IN  
13 A LOT. BUT, FRANKLY, I DON'T WANT TO LIVE IN A WORLD  
14 WHERE, YOU KNOW, ELON MUSK CAN PARK HIS TESLA AND NOT  
15 GET SOLICITED, BUT I PARK MY TRUCK AND I GET ALL SORTS  
16 OF THINGS. WE HAVE TO BE EVEN HANDED AND -- JUST  
17 REASONABLE RESTRICTION. I THINK THIS IS ONE OF THEM.  
18 BUT, AS YOU NOTED, THERE IS A DISTINCTION.

19 ALL RIGHT. SO WITH THAT, THAT CONCLUDES  
20 THE ANALYSIS OF THE JURY INSTRUCTIONS.

21 AT 1:30 --

22 MS. PHILIPS: I'M SORRY, YOUR HONOR. I HAD ONE  
23 POINT.

24 THE COURT: SURE. GO AHEAD.

25 MS. PHILIPS: WITH REGARD TO 3500 ON PAGE 25,  
26 THAT ALLEGES THE PUBLIC NUISANCE, THE PEOPLE'S POSITION  
27 WITH REGARD TO THE HANDBILLS ON THE CAR ACTUALLY IS ITS  
28 OWN SEPARATE COUNT. AND I THINK IT'S MUCH LIKE THE 422

1 AND THE 242, ANNOYING TO THE RECIPIENT, BUT OUR PUBLIC  
2 NUISANCE THEORY IS ABOUT THE CASTING AND THE THROWING,  
3 WHICH IMPACTS THE ENTIRE COMMUNITY.

4 THE COURT: I'M SORRY. WHICH ONE IS THIS?

5 MS. PHILIPS: PAGE 25. 3500 --

6 THE COURT: YES.

7 MS. PHILIPS: -- IS THE NUMBER AT THE TOP. "THE  
8 DEFENDANT IS CHARGED WITH PUBLIC NUISANCE, DISTRIBUTION  
9 OF HANDBILLS ON A CAR AND CAST AND THROW" .... PEOPLE  
10 HAVE PRESENTED EVIDENCE.

11 I AM SORRY. I THINK MAYBE I MISREAD THAT.

12 AGAIN, JUST TO BE VERY CLEAR, THE PEOPLE'S  
13 ONLY CONTENTION WITH REGARD TO THE PUBLIC NUISANCE CAN  
14 BE SUPPORTED BY THE DROPPING AND THE LITTERING OF THE  
15 CARDS, NOT THE PLACING ON THE CARS WHICH, ALTHOUGH  
16 ANNOYING, I THINK IS ONLY ANNOYING TO THE PERSON THAT  
17 OWNS THE CAR.

18 THE COURT: I SEE. YES. THAT SHOULD JUST BE  
19 ARGUED TO THE JURY.

20 MS. PHILIPS: OKAY.

21 THE COURT: BUT THEY HAVE TO BE CONVINCED, BEYOND  
22 A REASONABLE DOUBT, THAT THE DEFENDANT COMMITTED AT  
23 LEAST ONE OF THE ACTS.

24 MS. PHILIPS: TRUE.

25 THE COURT: IT CAN'T BE "OH, I THINK IT'S A  
26 NUISANCE THAT HE WAS TALKING LOUDLY." "I THINK IT WAS A  
27 NUISANCE THAT HE WAS PLACING SOME AND DROPPING OTHERS  
28 AND RANTING AND RAVING." IT HAS TO BE "WE BELIEVE THIS



1 PARTICULAR ACT WAS A NUISANCE."

2 MS. PHILIPS: AGREE.

3 AND THEN MY ONLY OTHER QUESTION IS WITH  
4 REGARD TO THE LAMC COUNT. WHAT INSTRUCTION IS THE COURT  
5 INCLINED TO GIVE?

6 THE COURT: THE ONE YOU SUBMITTED.

7 MS. PHILIPS: OKAY. THANK YOU.

8 THE COURT: ALL RIGHT. SEE EVERYBODY AT 1:30 ON  
9 THAT MATTER.

10 (UNRELATED CALENDAR MATTERS WERE HEARD.)

11

12 (THE NOON RECESS WAS TAKEN.)

13

14

15

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1 CASE NUMBER: 7VW05190-01/7VW04099-01  
2 CASE NAME: PEOPLE VS. KEVIN PERELMAN  
3 VAN NUYS, CALIFORNIA FRIDAY, MAY 18, 2018  
4 DEPARTMENT 113 HON. ERIC HARMON, JUDGE  
5 REPORTER: HILDA GUTIERREZ, CSR 12714, RPR  
6 APPEARANCES: (AS HERETOFORE MENTIONED)  
7 TIME: 1:42 P.M.  
8

9 (THE FOLLOWING PROCEEDINGS WERE  
10 HELD IN OPEN COURT:)  
11

12 THE COURT: KEVIN PERELMAN. HE'S COMING FORWARD.  
13 HE'S WITH HIS LAWYER, MR. AMSTER.

14 MR. PERELMAN WAS ON THE STAND.

15 SIR, PLEASE RESUME THE STAND. FOLLOW THE  
16 INSTRUCTIONS OF THE BAILIFF ON HOW TO GET THERE.

17 ALL RIGHT. AND WE CAN BRING IN THE  
18 JURORS.

19  
20 (IN THE PRESENCE OF THE JURY:)  
21

22 THE COURT: ALL RIGHT. WELCOME BACK, LADIES AND  
23 GENTLEMEN. ALL OF THE JURORS ARE HERE. THE ALTERNATE  
24 IS HERE.

25 WE WERE IN CROSS-EXAMINATION OF  
26 MR. PERELMAN. HE'S ON THE STAND.

27 SIR, I WILL REMIND YOU YOU ARE STILL UNDER  
28 OATH.

1 AND YOU MAY INQUIRE.

2 MS. PHILIPS: THANK YOU, YOUR HONOR.

3

4 CROSS-EXAMINATION (RESUMED)

5 BY MS. PHILIPS:

6 Q GOOD AFTERNOON, MR. PERELMAN.

7 A HELLO.

8 Q SIR, YESTERDAY WHEN WE LEFT OFF, WE WERE  
9 TALKING ABOUT AN INCIDENT THAT OCCURRED EXACTLY A YEAR  
10 AGO TODAY, MAY 18, ABOUT 2017. DO YOU RECALL THAT, SIR,  
11 WHAT WE WERE TALKING ABOUT YESTERDAY?

12 A I AM NOT SURE BY DATE. I RECALL THE LAST  
13 THING WE WERE TALKING ABOUT WAS SAYING YOU HAVE TO HAVE  
14 FAITH OF THE ENDLESS PROOF THAT IS ON MY WEBSITE.

15 Q OKAY. SO TO GO BACK TO THAT DATE AND TIME  
16 IN QUESTION, WE WERE TALKING ABOUT YOUR BELIEF THAT --  
17 YOU BELIEVED AT THE TIME THAT MR. BARNARD, IN FACT, KNEW  
18 WHERE YOU LIVED. IS THAT CORRECT? WAS THAT YOUR  
19 TESTIMONY?

20 A NOT -- YES. CORRECT. I BELIEVE THAT HE  
21 PROBABLY KNOWS.

22 Q AND IS THAT BECAUSE YOU BELIEVE HE'S PART  
23 OF THIS WORLDWIDE CONSPIRACY AGAINST YOU?

24 A YEAH. BECAUSE OF THE INFORMATION  
25 DISSEMINATION, LIBEL, LANDER, THE SMEARS THAT ARE  
26 ENDLESS. YES.

27 Q IS THAT YES?

28 A YES.

1 Q THANK YOU.

2 SO BECAUSE YOU BELIEVE HE WAS PART OF THIS  
3 WORLDWIDE CONSPIRACY AGAINST YOU, YOU ALSO FELT LIKE  
4 HALF THE PEOPLE IN THE WORLD, HE TOO ALSO KNEW WHERE YOU  
5 LIVED. IS THAT WHAT I UNDERSTOOD YOU TO MEAN?

6 A EXACTLY WHAT I JUST SAID. RIGHT?

7 Q OKAY. IF I MAY HAVE A MOMENT TO RETRIEVE  
8 THE EXHIBITS FROM YESTERDAY.

9 WHEN YOUR ATTORNEY WAS ASKING YOU  
10 QUESTIONS YESTERDAY, HE SHOWED YOU A SERIES OF  
11 PHOTOGRAPHS. DO YOU RECALL THAT, SIR?

12 A I DO NOT RECALL WHICH SPECIFIC ONES HE  
13 SHOWED ME.

14 Q FAIR ENOUGH.

15 I AM GOING TO SHOW YOU WHAT'S BEEN  
16 PREVIOUSLY BEEN MARKED PEOPLE'S F FOR IDENTIFICATION --  
17 I'M SORRY -- DEFENSE F FOR IDENTIFICATION.

18 DO YOU REMEMBER BEING SHOWN THIS  
19 PHOTOGRAPH, SIR?

20 A YEAH. I TOOK IT.

21 Q OKAY. BUT YOU RECALL BEING SHOWN THAT  
22 PHOTOGRAPH --

23 A YES.

24 Q -- YESTERDAY IN COURT?

25 A YES.

26 Q AND YOU MENTIONED THAT YOU TOOK THIS  
27 PHOTOGRAPH YOURSELF THE DAY OF THE INCIDENT WITH  
28 MR. BARNARD?

1 A CORRECT.

2 Q AND DIRECTING YOUR ATTENTION -- LET ME PUT  
3 THAT BACK.

4 DIRECTING YOUR ATTENTION TO THE LEFT  
5 BOTTOM PORTION, DO YOU SEE THAT PORTION OF THE  
6 PHOTOGRAPH, SIR?

7 A YES. THE CARDS YOU ARE REFERRING TO THAT  
8 FELL OUT OF MY POCKET.

9 Q THOSE ARE YOUR BUSINESS CARDS?

10 A UH-HUH.

11 Q AND APPROXIMATELY HOW MANY DO YOU THINK  
12 ARE THERE?

13 A 25.

14 Q ABOUT 25?

15 A YEAH.

16 Q OKAY. AND WERE THOSE THE SAME AS THE  
17 CARDS THAT MR. BARNARD SAW YOU THROWING DOWN EARLIER?

18 A YEAH. THE SAME AS THE CARDS I ALWAYS AM  
19 FORCED TO PASS OUT. YES.

20 Q OKAY. AND THEN COUNSEL SHOWED YOU SOME  
21 ADDITIONAL PHOTOGRAPHS YESTERDAY. I WOULD LIKE TO GO  
22 THROUGH SOME OF THOSE WITH YOU.

23 A ARE THOSE THE ONES ON THE HARD DRIVE THAT  
24 I GAVE YOU, ABOUT TEN BYTES OF INFORMATION?

25 Q NO. I CAN'T SAY THAT I GOT --

26 MR. AMSTER: YOUR HONOR?

27 THE COURT: YES.

28 MR. AMSTER: I AM GOING TO OBJECT TO THE

1 COLLOQUIAL, AND I AM PROBABLY SAYING THAT WRONG --  
2 BETWEEN COUNSEL AND DEFENDANT.

3 THE DEFENDANT: I APOLOGIZE, YOUR HONOR.

4 THE COURT: I'M SORRY. CAN I HAVE IT READ BACK.

5

6 (READ BACK.)

7

8 THE COURT: AND THE OBJECTION IS?

9 MR. AMSTER: I HAD THE DEFENDANT TALKING. I HAD  
10 THE PROSECUTOR RESPONDING, AND IT WASN'T A  
11 QUESTION-ANSWER-TYPE THING. THEY WERE TALKING ABOUT THE  
12 HARD DRIVE, AND I DON'T THINK --

13 THE COURT: I UNDERSTAND. LET'S JUST ASK ANOTHER  
14 QUESTION.

15 MS. PHILIPS: GLADLY, YOUR HONOR.

16 Q BY MS. PHILIPS: CAN YOU SEE WHAT IS ON  
17 THE SCREEN IN FRONT OF YOU?

18 A NO.

19 Q BY MS. PHILIPS: I AM GOING TO SHOW  
20 YOU WHAT'S PREVIOUSLY BEEN MARKED DEFENSE G FOR  
21 IDENTIFICATION. AND JUST IN ORDER TO SAVE SOME  
22 TIME --

23 A OKAY.

24 Q -- THAT IS G, H, I, AND J.

25 A UH-HUH.

26 Q HAVE YOU HAD A CHANCE TO TAKE A LOOK AT  
27 THOSE?

28 A YEAH. I TOOK THEM.

1 Q THAT WAS MY NEXT QUESTION.

2 WHEN WERE THESE PHOTOGRAPHS TAKEN, SIR?

3 A RIGHT AFTER, WHEN I WENT INSIDE.

4 Q APPROXIMATELY HOW LONG AFTER THE  
5 ALTERCATION?

6 A I WOULD GUESS ABOUT 30 MINUTES.

7 Q SO THIS PHOTOGRAPH WHICH IS H, YOU ARE  
8 SAYING WAS TAKEN ABOUT 30 MINUTES AFTER?

9 A YES. THAT'S CORRECT.

10 Q BY YOURSELF?

11 A YES.

12 Q AS WAS "I"?

13 A I CAN'T SEE IT, BUT I AM SURE BECAUSE THEY  
14 WERE IN FRONT OF ME.

15 Q AS WAS THIS PHOTOGRAPH THAT WAS PREVIOUSLY  
16 BEEN MARKED J?

17 A YES.

18 Q SO ALL OF THOSE PHOTOGRAPHS WERE TAKEN  
19 WITHIN HOW LONG DID YOU SAY?

20 A I AM GUESSING APPROXIMATELY 30 MINUTES.

21 Q 30 MINUTES. OKAY.

22 AND THE NEXT PHOTOS THAT WERE SHOWN TO YOU  
23 BY YOUR ATTORNEY HAD TO DO WITH THE LOCATION WITH SOME  
24 NOTATIONS?

25 A YES. THAT'S CORRECT.

26 Q CAN YOU SEE THAT?

27 A I AM AWARE OF IT. I CREATED IT OR PUT THE  
28 LABELS ON IT.

1           Q           SO YOU ACTUALLY CREATED THIS DOCUMENT ON  
2 YOUR COMPUTER?

3           A           YES.

4           Q           WITH THE GOGGLE EARTH?

5           A           CORRECT.

6           Q           AND ALL THE WRITING IS STUFF THAT YOU DID  
7 YOURSELF?

8           A           YES.

9           Q           THAT IS YOUR BACKGROUND IN COMPUTERS?

10          A           3-D ANIMATOR. VISUAL EFFECTS. STUDIO  
11 PHOTOGRAPHY. IT. DOT NET PROGRAM. SEQUEL DATA  
12 PROGRAM.

13          Q           NOW YOU INDICATED THAT WHEN COUNSEL ASKED  
14 YOU QUESTIONS ABOUT THAT PHOTOGRAPH AND THE PATH THAT  
15 YOU WALKED, YOU SAID SOMETHING ALONG THE LINES THAT  
16 "THEY DON'T LIKE YOU TAKING WALKS AND THEY COUGH AT YOU  
17 WITH CRYPTIC TACTICS AND MESSAGES"?

18          A           CORRECT. GANG STALKING IS BASED ON CRYPTS  
19 MAKING ITS TARGET HYPERSENSITIVE WITH PASSIVE-AGGRESSIVE  
20 TERROR TACTICS THAT MAKE THEM LOOK CRAZY AND TRIES TO  
21 PROVOKE THEM INTO REACTIONS.

22          Q           OKAY. AND YOU -- YOUR TESTIMONY IS THAT  
23 IT WAS YOUR BELIEF THAT MR. BARNARD WAS PART OF THIS --

24          A           I AM --

25          Q           -- GANG STALKING?

26          A           I AM 100 PERCENT SURE. YES.

27          Q           OKAY. NOW TURNING YOUR ATTENTION TO  
28 TERRANCE SCROGGIN -- I'M SORRY. THAT WAS THE INCIDENT



1 THAT OCCURRED ON MAY 18. I MISSPOKE. SO WITH  
2 MR. BARNARD, THAT WAS ACTUALLY IN AUGUST OF 2017. ISN'T  
3 THAT CORRECT? AUGUST 18?

4 A I AM NOT GOOD WITH SPECIFIC DATES.

5 Q OKAY. NO PROBLEM.

6 BUT IT HAPPENED LATER, A FEW MONTHS AFTER.  
7 RIGHT?

8 A FIRST SCROGGIN. AND A MONTH AND A HALF  
9 AFTER THE CASE WAS THROWN OUT, THEN BAILEY.

10 MS. PHILIPS: OBJECTION. NON-RESPONSIVE. MOVE  
11 TO STRIKE.

12 THE COURT: SUSTAINED. STRICKEN.

13 Q BY MS. PHILIPS: NOW FOCUSING YOUR  
14 ATTENTION ON WHAT HAPPENED WITH MR. SCROGGIN, WAS IT  
15 YOUR TESTIMONY YESTERDAY THAT WHEN YOU FIRST HEARD THE  
16 KNOCK ON THE DOOR, YOU WERE BUSY REPAIRING SOME  
17 FIREWALLS THAT YOU THOUGHT WERE BEING HACKED BY  
18 SOMEBODY?

19 A THAT I KNOW WAS BEING HACKED, WHICH IS  
20 DONE OVER AND OVER, AND I BELIEVE I SAID THAT TERRANCE  
21 DID NOT KNOCK. I HEARD A THUD, OPENED MY DOOR, AND MY  
22 ENTIRE PORCH WAS COVERED WITH CARDS WHICH HE WAS TRYING  
23 TO CALL A COMMON AREA.

24 Q OKAY. AND I AM GOING TO SHOW YOU ANOTHER  
25 PHOTO FROM -- THAT'S PREVIOUSLY BEEN MARKED PEOPLE'S 4  
26 FOR IDENTIFICATION.

27 DO YOU RECALL HEARING OFFICER DINSE'S  
28 TESTIFY IN THIS COURTROOM?

1           A           I WASN'T PAYING SUPER LOT ATTENTION. I  
2   REMEMBER HIM APPEARING, AND HE WAS EXTREMELY ANGRY WITH  
3   ME. BUT YES.

4           Q           OKAY. AND WHEN OFFICER DINSE WAS  
5   TESTIFYING, DO YOU RECALL HIM SAYING THAT HE TOOK SOME  
6   PICTURES THE DAY OF -- THAT HE CAME OVER WHEN  
7   MR. SCROGGIN CALLED THE POLICE? DO YOU RECALL THAT,  
8   SIR?

9           A           YES. I BELIEVE I'D SEEN THIS IN  
10   DISCOVERY.

11          Q           AND I PLACED BEFORE YOU A PHOTOGRAPH THAT  
12   HE SAID HE TOOK THAT DAY. DOES THAT LOOK LIKE AN  
13   ACCURATE DEPICTION OF YOUR PATIO ON THAT DAY?

14          A           YES. THAT IS MY PATIO.

15          Q           AND WHAT IS -- DIRECTING YOUR ATTENTION TO  
16   THE TOP OF THE WHITE DOOR, KIND OF, IN THE MIDDLE OF THE  
17   PHOTOGRAPH, WHAT IS THAT?

18          A           THAT IS A SECURITY CAMERA I WAS FORCED TO  
19   PUT UP BECAUSE THEY WOULDN'T STOP HARASSING ME.

20          Q           SO THAT SECURITY CAMERA WAS UP THAT DAY?  
21   RIGHT?

22          A           NO. IRONICALLY, FOR ABOUT A MONTH PRIOR,  
23   IT BROKE. AND HE JUST MAGICALLY HAPPENED, WITH ALL THE  
24   HACKING AND THE OTHER THINGS FROM OTHER NEIGHBORS THAT  
25   WERE SAID TO ME SHOWING THAT THEY HAD VIOLATED MY  
26   PRIVACY, THAT IT -- HE CAME IN THAT TIME PERIOD, AND I  
27   CANNOT TELL YOU IF HE KNEW OR NOT. SPECIFICALLY, THE  
28   CAMERA WASN'T WORKING, BUT THAT WAS THE TIME HE CAME IN,

1 BUT I DO HAVE HIS NEIGHBOR COMING ON, DOING THE SAME  
2 THING.

3 MS. PHILIPS: OBJECTION, YOUR HONOR.  
4 NON-RESPONSIVE AT THIS POINT.

5 THE COURT: SOME OF IT WAS RESPONSIVE. I WILL  
6 LET IT REMAIN.

7 NEXT QUESTION.

8 Q BY MS. PHILIPS: SO BASICALLY YOU  
9 INDICATED THAT WHEN YOU WALKED OUT, YOU SAW CARDS ON  
10 YOUR PATIO. IS THAT CORRECT? "YES" OR "NO."

11 A CORRECT. YES. ALL OVER THE ENTIRE PATIO.

12 Q YES. AT SOME POINT YOU SAID YOU WALKED  
13 OUT AND SAW MR. SCROGGIN TALKING TO A FRIEND, SOMETHING  
14 ALONG THE LINES OF -- THAT THEY "DON'T KNOW WHAT HE  
15 DOES." IS THAT RIGHT?

16 A I THINK -- IT WAS A LONG TIME AGO --  
17 SOMETHING TO THE EXTENT OF "WHAT DOES HE DO ALL DAY"  
18 WITH THEIR OBSESSION.

19 Q AND I'M SORRY. YOU TOOK THAT TO MEAN THAT  
20 THEY WERE QUESTIONING WHAT IT IS THAT YOU DO ALL DAY?

21 A CORRECT.

22 Q I SEE.

23 A BECAUSE THEY KEEP PRYING.

24 Q AND THEN WHEN YOUR ATTORNEY WAS ASKING YOU  
25 QUESTIONS, YOU INDICATED THAT AT SOME POINT YOU SAW SOME  
26 CARDS ON YOUR CAR? IS THAT RIGHT?

27 A YEAH. I BELIEVE WE SUBMITTED INTO  
28 EVIDENCE A PHOTO OF CARDS ALL OVER, JUST LIKE ON MY

1 PORCH, OVER ALL THE ENTIRE -- ENTIRE CAR, ALL OF THE  
2 DOORJAMBS OR THE WEATHER STRIPPINGS.

3 Q I AM GOING TO SHOW YOU WHAT'S BEEN MARKED  
4 DEFENSE E FOR IDENTIFICATION. I WILL DO THIS IN A BUNCH  
5 AGAIN, JUST TO SAVE SOME TIME.

6 SO I AM PLACING BEFORE YOU DEFENSE E.

7 A OKAY.

8 Q WAS THAT TAKEN THAT DAY WHEN YOU WALKED  
9 OUT?

10 A YES.

11 Q AND HOW LONG AFTER YOUR ALTERCATION WITH  
12 MR. SCROGGIN -- DID YOU TAKE THAT PHOTO?

13 A YES, I DID.

14 Q HOW LONG AFTER THE ALTERCATION DID YOU  
15 TAKE THAT PHOTO APPROXIMATELY?

16 A I AM A LITTLE HAZY BECAUSE I TAKE A LOT OF  
17 PHOTOS, AND I TAKE MULTIPLE PHOTOS OVER THE DAY AND  
18 NIGHT. BUT I WOULD GUESS MAYBE AN HOUR BECAUSE IT TOOK  
19 THE POLICE ABOUT AN HOUR AND A HALF TO GET THERE.

20 Q OKAY. AND I AM SHOWING YOU DEFENSE D.  
21 WAS THAT TAKEN AT THE SAME TIME?

22 A I AM -- IT SHOULD BE, BUT IT'S HARD TO  
23 SAY.

24 Q OKAY. AND HOW ABOUT DEFENSE C? WHEN WAS  
25 THAT TAKEN?

26 A THAT'S APPARENTLY AT NIGHT BECAUSE IT'S  
27 DARK OUT.

28 Q SO NOT AT THE SAME TIME?

1 A NO.

2 Q DO YOU HAVE ANY IDEA WHEN THAT PHOTO WAS  
3 TAKEN?

4 A NO, BUT I AM THINK I WAS ARRESTED THAT  
5 DAY. SO IT MIGHT HAVE BEEN WHEN I GOT BACK.

6 Q OKAY. AND FINALLY THERE'S DEFENSE B, AS  
7 IN "BOY." AND THAT APPEARS TO DEPICT A DIFFERENT CAR.  
8 DO YOU ACTUALLY USE TWO VEHICLES, SIR?

9 A YES. THAT IS CORRECT.

10 Q AND THEY'RE BOTH BLACK IN COLOR?

11 A NO. THE -- THE 2008 GMC ENVOY IS DARK OR  
12 MIDNIGHT BLUE OR DARK BLUE.

13 Q SO THE FIRST SET OF PHOTOS THAT I JUST  
14 SHOWED YOU WITH THE SUV, C, D AND E, THAT IS ONE CAR.  
15 IS THAT RIGHT?

16 A THAT'S CORRECT.

17 Q THE ONE THAT YOU ARE SAYING IS DARK BLUE?

18 A YEAH.

19 Q AND IN THIS PHOTOGRAPH THAT IS DEFENSE B,  
20 THAT'S A CONVERTIBLE. IS THAT CORRECT?

21 A YES. THAT IS CORRECT. ECLIPSE,  
22 MITSUBISHI ECLIPSE.

23 Q WHEN WAS THIS PHOTOGRAPH TAKEN, SIR?

24 A THAT SAME DAY.

25 Q SAME DAY AS THE INCIDENT WITH  
26 MR. SCROGGIN?

27 A UH-HUH.

28 Q IS THAT YES?

1           A           YES.  SORRY.

2           Q           THANK YOU.

3                   AND HOW LONG AFTER THE INCIDENT WITH  
4 MR. SCROGGIN WAS THAT PHOTOGRAPH TAKEN?  AND NOW I AM  
5 REFERRING TO THE CONVERTIBLE WHICH IS B, AS IN "BOY."

6           A           I AM GUESSING AT THE SAME TIME BECAUSE I  
7 NORMALLY, WHEN I NOTICE THESE THINGS AND I SEE THEM, I,  
8 SORT OF, TRY TO GO OUT AND DOCUMENT WHAT HAPPENS.  AND  
9 THEN I PUT IT IN A FOLDER AND PUT IT IN NETWORK ATTACH  
10 STORAGE AND ARCHIVE IT BECAUSE NOBODY THINKS IT'S WRONG.

11          Q           AND THEN FINALLY, DEFENSE A, IS ONE OF THE  
12 BUSINESS CARDS?

13          A           YEAH.  MY CARD.

14          Q           AND THERE HAVE BEEN A FEW DIFFERENT  
15 VARIATIONS OF THESE CARDS OVER THE YEAR?

16          A           CORRECT.

17          Q           ISN'T THAT RIGHT, SIR?  IT'S THE LATEST  
18 ONE THAT HAS -- IT'S ALWAYS HAD WWW.KEVIN  
19 PERELMANTARGET.COM, "WORLDWIDE CAMPAIGN TO REMOVE ME  
20 FROM SOCIETY SINCE CHILDHOOD."  THAT'S ALWAYS BEEN  
21 THERE.  RIGHT?

22          A           ON THE CARD, YES.  WELL, IT'S HARD TO SAY  
23 BECAUSE ORIGINALLY I CALLED THE SITE "KEVIN PERELMAN  
24 GANG STALKING."  AND THEN THE HATE GROUP IS SO CRAFTY.  
25 THEY TRY TO TWIST AND CONTORT EVERYTHING, TRYING TO  
26 MAKE IT LOOK LIKE "YOU ARE GOING OUT AND DOING THINGS  
27 TO PEOPLE."  SO I EVENTUALLY CHANGED IT TO  
28 KEVINPERELMANTARGET.COM TO TRY TO MAKE SURE THERE WAS

1 LESS MISCOMMUNICATION.

2 Q AND, SIR, HOW LONG HAVE YOU BEEN ENGAGING  
3 IN HANDING OUT THESE BUSINESS CARDS?

4 A UNFORTUNATELY, I WOULD GUESS MAYBE FIVE OR  
5 SIX YEARS. IT'S HARD TO SAY.

6 Q AND IN THOSE FIVE TO SIX YEARS, HOW MANY  
7 CARDS HAVE YOU HAD PRINTED UP WOULD YOU ESTIMATE?

8 A A HUGE AMOUNT. I WOULD SAY, LET'S SAY,  
9 150,000.

10 Q AND OF THOSE 150,000 CARDS, APPROXIMATELY  
11 HOW MANY OF THOSE WOULD YOU -- MAYBE BY PERCENTAGE, HOW  
12 MANY OF THOSE ENDED UP ON THE GROUND?

13 A I HAVE NO CLUE BECAUSE I WATCH PEOPLE PICK  
14 THEM UP AND TEAR THEM UP AND THROW THEM ON THE GROUND.  
15 I WATCH PEOPLE --

16 Q LET ME FOCUS YOUR ATTENTION TO THE ONES  
17 YOU DROP ON THE GROUND. HOW MANY WOULD YOU ESTIMATE YOU  
18 DROP ON THE GROUND?

19 A I DON'T KNOW. I AM NOT -- NOT A LOT. I  
20 GENERALLY GO OUT, AND I PASS OUT THE CARDS AND I --

21 Q JUST AN ESTIMATION.

22 A LET'S SAY, UNFORTUNATELY, TEN PERCENT WHEN  
23 THEY GET REALLY AGGRAVATED AND START SHOWING UP IN HUGE  
24 GROUPS AND ENORMOUS, HUGE GROUPS OF UNBELIEF.

25 Q OKAY. AND THE PURPOSE OF THESE CARDS HAS  
26 BEEN TO DRIVE PEOPLE TO YOUR WEBSITE. IS THAT CORRECT?

27 A THE REASON FOR THE WEBSITE AND THE  
28 CARDS -- I DID EVERYTHING TO AVOID THE WEBSITE. I HATED

1 PUTTING UP THE WEBSITE.

2 Q BUT YET YOU DO IT. RIGHT? YOU PUT UP THE  
3 WEBSITE AND AND GIVE OUT THE CARDS; RIGHT?

4 MR. AMSTER: OBJECTION. I DON'T THINK WE'RE DONE  
5 WITH THE ANSWER.

6 THE COURT: HANG ON. LET HIM ANSWER.

7 GO AHEAD, SIR.

8 THE DEFENDANT: THANK YOU.

9 WITHOUT UNDERSTANDING THE MASS HORRIFIC 17  
10 YEARS OF SEVERE PAIN WHICH I WILL NEVER BE ABLE TO WORK,  
11 LEAVE MY HOUSE, GO PLACES, WATCHING EVERY SINGLE DAY,  
12 ALL DAY AND NIGHT, 24/7 MASS GROUPS TAKING TURNS -- EVEN  
13 ON MY WAY HERE, IN A PRIUS AND SEEING THE PEOPLE AROUND,  
14 I WOULD GUESS I HAD ABOUT 15 PEOPLE PROVOKE ME. CAN  
15 NEVER TALK TO A PERSON. CAN NEVER SIT AT A RESTAURANT  
16 WITHOUT BEING BRUTALLY MOBBED TO DEATH, WITH THE MOST  
17 HORRIFIC PAIN. IF I COULD SOMEHOW TAKE ONE MONTH OF  
18 THESE 17 YEARS AND PUT IT ON SOMEONE, THEY PROBABLY  
19 WOULD KILL THEMSELVES OR BE IN A CAGE OR MENTAL  
20 INSTITUTION OR WHATEVER WHICH IS THE MOTIVE OF A LOT OF  
21 THESE THINGS. AND SO -- AND STILL IS VERY DISTURBING  
22 AND PAINFUL THAT IT'S SOMETHING I CANNOT EXPLAIN BUT --

23 THE COURT: ALL RIGHT. NEXT QUESTION.

24 Q BY MS. PHILIPS: AND HAVE YOU SOUGHT  
25 TREATMENT FOR THIS, SIR?

26 MR. AMSTER: OBJECTION. RELEVANCE.

27 THE COURT: OVERRULED.

28 GO AHEAD.



1 THE DEFENDANT: YES.

2 Q BY MS. PHILIPS: PSYCHIATRIC TREATMENT?

3 A YES.

4 Q HAS IT HELPED?

5 A NO.

6 Q DESPITE THE PSYCHIATRIC --

7 A DO YOU WANT AN EXPLANATION WHY?

8 Q SURE.

9 A THERE IS NO MEDICATION FOR HARASSMENT.

10 Q SO YOU STILL FULLY BELIEVE,  
11 NOTWITHSTANDING PSYCHIATRIC TREATMENT THAT YOU HAVE  
12 RECEIVED, THAT TENS OF THOUSANDS OF PEOPLE FOLLOW YOU  
13 AROUND ALL THE TIME AND GANG STALK YOU AND MOCK YOU AND  
14 TRY TO REMOVE YOU FROM SOCIETY?

15 A THE 24 PSYCHIATRISTS I WENT TO, EVERY  
16 SINGLE ONE, EXCEPT FOR ONE THAT WAS WORKING WITH  
17 TERRANCE SCROGGIN, WOULD NOT ALLOW ME TO TELL THEM WHAT  
18 WAS GOING ON, SAYING THAT I WAS CRAZY, WHICH IS UNHEARD  
19 OF BECAUSE THAT IS A PSYCHOLOGIST'S JOB, WHETHER YOU ARE  
20 CRAZY OR SANE, TO DEAL WITH SOMEONE WHO JUST NEEDS TO  
21 UNLOAD.

22 Q SO YOU HAVE HAD 23 PSYCHOLOGISTS AND  
23 PSYCHIATRISTS TELL YOU THAT THERE IS SOMETHING WRONG  
24 WITH YOUR MENTAL HEALTH AND THAT YOU SUFFER FROM  
25 SCHIZOPHRENIA OR OTHER DISEASES?

26 A AND OTHER THINGS. AT FIRST, THEY TRIED TO  
27 GIVE ME DISINFORMATION (SIC). SOME WOULD TRY TO TRICK  
28 ME INTO MENTAL INSTITUTIONS BY SAYING "I WANT YOU" --

1 "YOU MIGHT LIKE TO GO TO A GROUP THERAPY. IT'S NOT A  
2 MENTAL INSTITUTION. JUST A FEW PEOPLE GET TOGETHER."  
3 AND THEN YOU LOOK IT UP, AND IT ACTUALLY IS A CHECK-IN  
4 MENTAL INSTITUTION. OTHERS WOULD GIVE ME WEIRD SPEECHES  
5 ABOUT HOW PEOPLE IN CONCENTRATION CAMPS, JUST LEARN TO  
6 DEAL WITH IT -- WHAT WAS GOING ON, AND COULD HAVE A GOOD  
7 LIFE LIKE THAT.

8 AND THEN AFTER A FEW -- AFTER I -- OH.  
9 AND THAT SAME ONE TOLD ME THAT I WASN'T ALLOWED TO TALK  
10 ABOUT MY PROBLEMS -- SHE HAD A CERTAIN THERAPY WHERE WE  
11 COULD TALK ABOUT OTHER THINGS, EVERYTHING BUT WHAT  
12 BOTHERS ME.

13 ALL SORTS OF MIND GAMES LIKE THAT TO, SORT  
14 OF, CURVE -- JUST -- I JUST WANT TO TALK ABOUT WHAT IS  
15 GOING ON. CAN I JUST TALK ABOUT -- AND I WENT FROM ONE  
16 TO THE NEXT. AND AS I WENT FROM ONE TO THE NEXT, THE  
17 OTHERS WERE CONTACTED, SAYING, "DON'T HELP HIM." AND  
18 THE OTHER ONES WOULD SHUT DOWN AND STOP ME IN MY TRACKS  
19 BY DOING ABUSIVE THINGS, LIKE PLAY BACKWARD MIND GAMES.  
20 AND THEY WOULD DO IT IN SEQUENCE.

21 FOR EXAMPLE --

22 THE COURT: SORRY TO INTERRUPT YOU.

23 NEXT QUESTION.

24 MS. PHILIPS: THANK YOU, YOUR HONOR.

25 THE DEFENDANT: UH-HUH.

26 Q BY MS. PHILIPS: SO NOTWITHSTANDING 23  
27 PROFESSIONALS TELLING THAT YOU NEEDED PSYCHIATRIC  
28 TREATMENT, YOU STILL DON'T FEEL THAT THERE IS ANY MERIT

1 TO WHAT THEY'RE SAYING?

2 A I STILL WENT TO, LET'S SAY, SIX  
3 PSYCHIATRISTS, AND I WAS ON MEDICATION FOR FIVE YEARS,  
4 MAYBE.

5 Q AND HOW DID THAT GO FOR YOU?

6 A WORSE.

7 Q OKAY. AND YOU -- IT DOESN'T HELP WITH  
8 THESE THOUGHTS THAT PEOPLE ARE FOLLOWING YOU AND  
9 STALKING YOU?

10 A ABSOLUTELY NOT. NO. WHICH IS ALL PROVEN  
11 BEYOND ANY REASONABLE DOUBT.

12 Q AGAIN, IN YOUR MIND, THE PROOF IS WITH,  
13 YOU KNOW, WHAT IS DETAILED IN GREAT DETAIL. I MEAN,  
14 WOULD IT BE FAIR TO SAY THAT YOUR WEBSITE CONTAINS  
15 THOUSANDS OF PAGES?

16 A NOT PAGES. CAN I EXPLAIN IT?

17 Q JUST IN TERMS OF VOLUME. WOULD IT BE FAIR  
18 TO SAY IT'S EXTREMELY VOLUMINOUS?

19 A THERE IS A MAIN WEBSITE, KEVIN PERELMAN  
20 TARGET, WITH BROAD OVERVIEWS, LIKE THE GENERAL --  
21 GENERAL OVERVIEW. THIS IS WHAT IS GOING ON. THIS IS  
22 WHAT IT'S ABOUT.

23 AND THEN WHEN I WAS FORCED TO EXPLAIN IN  
24 SPECIFIC DETAIL -- FOR EXAMPLE, THIS IS WHAT HAPPENS  
25 WHEN I GO DOWN TO WASHINGTON D.C. WITH  
26 COUNTERSURVEILLANCE GROUPS TO PROVE WHAT HAPPENS.

27 EXPLAINS DETAIL BY DETAIL, ESPECIALLY  
28 WHITE HOUSE SECURITY FOLLOWING ME ALL THROUGH THE CITY

1 AND TRYING TO INTIMIDATE ME.

2 THINGS LIKE THAT ON VERY HOURLY, MINUTELY  
3 EVENTS AS WELL AS, FOR EXAMPLE, THAT 2013 VIDEO OF  
4 AROUND THE SAME TIME OF OFFICER TORO SAYING, "IF I EVER  
5 TAKE" -- IF I EVER TAKE A PICTURE, "I WILL EXERCISE THE  
6 LAW IN MY OWN WAY."

7 WITHIN THAT SIX-MONTH-TO-A-YEAR PERIOD, I  
8 HAVE CONSISTENT VIDEO ACROSS SIX MONTHS OF SURVEILLANCE  
9 VIDEO, A DATABASE I HAD TO BUILD WHERE I HAD TO SIT  
10 THERE, TRYING TO RELAX, WITH PEOPLE SAYING "IT IS WHAT  
11 IT IS. IF YOU SAY ANYTHING, IT'S GOING TO GET A LOT  
12 WORSE OR" -- PARDON MY LANGUAGE -- "NO RELAXING FOR YOU,  
13 NIGGER."

14 THE COURT: ALL RIGHT. THAT IS NON-RESPONSIVE.

15 NEXT QUESTION.

16 Q BY MS. PHILIPS: SIR, WOULD IT BE FAIR TO  
17 SAY YOU HAVE BEEN OFFERED TREATMENT MULTIPLE TIMES,  
18 INCLUDING BY OFFICER DINSE MULTIPLE TIMES, TRYING TO GET  
19 YOU SOME HELP FOR THESE DELUSIONS THAT YOU SUFFER FROM?

20 A I'VE NEVER HAD CONVERSATIONS WITH DINSE.  
21 OTHER THAN ARREST. BUT NO CONVERSATIONS.

22 Q SINCE 2013 YOU DON'T RECALL ANY  
23 CONVERSATIONS WITH OFFICER DINSE WHERE HE REPEATEDLY  
24 OFFERED TO GET YOU HELP?

25 A NO.

26 Q SO INSTEAD YOU HAVE MADE A CHOICE. RIGHT?  
27 YOU MADE A CHOICE TO PRINT UP THESE CARDS. THAT WAS  
28 YOUR CHOICE. RIGHT? WAS IT YOUR CHOICE?

1           A           IF THAT'S WHAT YOU WANT TO CALL IT, A  
2 CHOICE TO SIT THERE AND JUST BE TORTURED OR A CHOICE TO  
3 LET PEOPLE COMPREHEND, ON MULTIPLE LEVELS, WHAT THESE  
4 THINGS ARE ABOUT.

5                       BUT NOT ONLY THAT, THE LIES ABOUT ME SO  
6 THEY CAN TRY TO DEAL WITH THEIR ANGER OR OBSESSION AND  
7 UNDERSTAND WHAT THEY'RE BEING TOLD, WHICH I WILL NOT BE  
8 ALLOWED TO TALK ABOUT HERE, THE SLANDER AND DEFAMATION,  
9 THE THINGS THAT WERE DONE TO ME AT UNIVERSAL STUDIOS,  
10 FRAME JOBS, AND THINGS LIKE THAT THAT THEY CAN  
11 UNDERSTAND THE LIES AND HOW THEY WERE MANIPULATING ME  
12 AND TRYING TO SET ME UP AND PUT ME IN THESE SITUATIONS  
13 TO DESTROY MY NAME BECAUSE WHEN SOMEONE MAKES UP  
14 DISGUSTING LIES ABOUT YOU AND IT'S ONE SIDED, WHICH IS  
15 CALLED PROPAGANDA.

16           THE COURT: I'M SORRY TO INTERRUPT.

17                       ANY FURTHER QUESTIONS OF THE WITNESS?

18           MS. PHILIPS: YES.

19           Q           BY MS. PHILIPS: SO YOU DECIDED -- YES OR  
20 NO -- TO PRINT UP THESE CARDS?

21           A           YES.

22           Q           AND YOU PRINTED UP THESE CARDS WITH THE  
23 WEBSITE ADDRESS; CORRECT?

24           A           CORRECT.

25           Q           AND THE WEBSITE ADDRESS THEN EXPLAINS WHAT  
26 YOU HAVE, KIND OF, BEEN TELLING US ABOUT RIGHT NOW?

27           A           CORRECT. WITH TONS OF PHOTOS AND VIDEOS.  
28 YOU NAME IT.

1 Q AND IT ALSO DIRECTS PEOPLE TO FACEBOOK --  
2 RIGHT? -- BECAUSE YOU HAVE A FACEBOOK ACCOUNT; RIGHT?

3 A RIGHT.

4 Q AND YOU HAVE A TWITTER ACCOUNT. RIGHT?

5 A YES, I DO.

6 Q AND YOU HAVE SOME VIDEOS POSTED ON YOU  
7 TUBE; RIGHT?

8 A THAT'S CORRECT.

9 Q AND ALL OF THIS IS TO, YOU KNOW, BASICALLY  
10 GET PEOPLE TO VISIT THESE SITES; RIGHT?

11 A IT'S ON --

12 Q YES?

13 A IT'S ON MULTIPLE LEVELS.

14 Q OKAY. BUT THAT IS JUST MY ONE LITTLE  
15 QUESTION. JUST ANSWER MY ONE LITTLE QUESTION.

16 A FOR AWARENESS.

17 Q OKAY. TO BE AWARE, THEY NEED TO ACTUALLY  
18 GO TO YOUR SITE?

19 A CORRECT.

20 Q AND YOU HAVE EXPERTISE IN THIS ARENA? YOU  
21 GET HOW COMPUTERS WORK? YOU GET HOW WEBSITES WORK?  
22 RIGHT?

23 A YES. I HAVE DONE COMPUTERS SINCE --

24 Q WHEN THERE IS A LOT OF TRAFFIC TO A  
25 WEBSITE, THAT IS A GOOD THING; RIGHT?

26 A YEAH. YOU WANT PEOPLE TO READ.

27 Q OF COURSE AND MORE --

28 A TO MAKE MONEY OFF OF IT. NOT THIS SITE.

1 Q AGAIN, THE MORE PEOPLE THAT COME, THE  
2 BETTER; RIGHT?

3 A YES. THAT IS THE IDEA.

4 Q IN FACT, THERE ARE A LOT OF PEOPLE THAT  
5 CAN MAKE A TON OF MONEY ON THAT; RIGHT? BECAUSE THERE  
6 ARE BLOGGERS AND YOU TUBERS WHO MAKE A LOT OF MONEY --  
7 RIGHT? -- BASED ON YOUR EXPERTISE?

8 MR. AMSTER: OBJECTION.

9 THE COURT: WHAT IS THE OBJECTION?

10 THE DEFENDANT: THAT IS A CATALYTIC VIEW --

11 THE COURT: HOLD ON. DON'T ANSWER.

12 MR. AMSTER: I DON'T REALLY WANT TO DO A SPEAKING  
13 OBJECTION, BUT I WILL. DOESN'T MAKE A DIFFERENCE WHAT  
14 OTHERS ARE DOING.

15 THE COURT: JUST TELL ME WHAT IS THE LEGAL  
16 OBJECTION.

17 MR. AMSTER: IT'S NOT RELEVANT, AND I WOULD LIKE  
18 TO HAVE A SIDE BAR.

19 THE COURT: OVERRULED.

20 THE QUESTION IS CAN YOU MAKE MONEY OFF OF  
21 THE WEBSITE, AND THE ANSWER IS WHAT?

22 THE DEFENDANT: A WEBSITE GENERALLY YES.

23 THE COURT: NEXT QUESTION.

24 Q BY MS. PHILIPS: AND THAT WAS MY QUESTION.  
25 SO THERE ARE A LOT OF SUCCESSFUL BLOGGERS AND YOU  
26 TUBERS. WHEN YOU HAVE A LOT OF TRAFFIC TO A SITE, THERE  
27 IS POTENTIAL TO MAKE A LOT OF MONEY; RIGHT?

28 A IT'S ACTUALLY VERY DIFFICULT, BUT YES.

1 Q THANK YOU.

2 IT WOULD BE FAIR TO SAY THAT YOU WERE  
3 TRYING TO GET AS MANY PEOPLE AS POSSIBLE TO GO TO THE  
4 WEBSITE AND FACEBOOK AND TWITTER; RIGHT?

5 A BEING THAT I DEAL WITH ANGER AND RAGE  
6 DIRECTED AT ME, EVEN WHEN TRYING TO HIRE PROGRAMMERS IN  
7 RUSSIA, JAPAN, INDIA, PHILIPPINES, YEAH. I CAN'T MAKE  
8 ANY MONEY. I CAN'T HAVE FRIENDS. I CAN'T GO PLACES.  
9 AND IT'S NOT BECAUSE OF THAT SITE. IT'S WAY BEFORE THE  
10 SITE EVER EXISTED.

11 Q SO WOULD THAT BE A YES, SIR?

12 A YES.

13 Q THANK YOU.

14 AND, SIR, ISN'T PART OF THE TACTIC WHEN  
15 YOU GET PEOPLE TO GO TO THE SITE TO INTENTIONALLY  
16 INFLAME YOUR COMMUNITY? AREN'T YOU TRYING TO STIR THE  
17 POT?

18 A ABSOLUTELY NOT. THEY WERE INFLAMED AT 29  
19 YEARS OLD. THE SITE, AS YOU ASK, I THINK WAS OF A WHILE  
20 AGO, SIX YEARS OLD.

21 Q SIR, WHAT PURPOSE WOULD THERE BE OF YOU  
22 POSTING A PHOTOGRAPH OF YOURSELF POINTING A GUN DIRECTLY  
23 AT PEOPLE ON YOUR WEBSITE IF NOT TO INFLAME AND NOT TO  
24 ANGER AND NOT TO SCARE YOUR COMMUNITY?

25 A I DON'T BELIEVE I HAVE A PHOTO OF ME  
26 POINTING A GUN AT ANYONE ON KEVIN PERELMAN TARGET OR ANY  
27 OTHER SITE UNLESS -- NO. I ACTUALLY HAVE -- OH, NO. I  
28 HAVE A -- A PERSONAL ACCOUNT, PERSONAL, NON-KEVIN



1 PERELMAN TARGET, WHICH ARE COMPLETELY SEPARATE, AND A  
2 JOKING PHOTO BASED ON ALL OF THE THINGS PEOPLE DO ON  
3 THEIR FUN, SOCIAL NETWORKS.

4 BUT ON MY KEVIN PERELMAN TARGET, IT IS  
5 VERY PROFESSIONAL. THE WORDING, SPELLING, YOU NAME IT.  
6 MINUS THE FACT THAT I AM FORCED TO WRITE A MILLION MILES  
7 PER HOURS, AND I CAN'T SPEND THE TIME ON PERFECT  
8 GRAMMAR.

9 THEY ARE COMPLETELY DIFFERENT ANIMALS  
10 BASED ON THE CONTEXT OF THE SITUATION. AND THAT IS --

11 YEAH. EXACTLY. THAT IS THE PHOTO. MY  
12 FATHER WAS SO MAD ABOUT THAT; THINKS THE END ALL/BE ALL  
13 OF CRIME AND FOR SOMEONE LIKE ME, A STUDIO PHOTOGRAPHER,  
14 WITH MODEL HOLDING GUNS AND GREEN SCREEN BACKGROUNDS OF  
15 HAILING HAIL FROM THE CLOUDS AND DEVILS AND THIS AND  
16 THAT.

17 THAT WAS VERY CREATIVE, ESPECIALLY WHEN  
18 THE PEOPLE WERE JOKING ABOUT ME, AND I PLAYED BACK ON  
19 THE JOKE TO THEM.

20 MS. PHILIPS: I WOULD --

21 THE DEFENDANT: I DON'T THINK THAT INFLAMES  
22 PEOPLE.

23 MS. PHILIPS: I WOULD ASK THAT THIS BE MARKED  
24 PEOPLE'S NEXT IN ORDER, YOUR HONOR.

25 THE COURT: 14.

26  
27 (PEOPLE'S EXHIBIT 14 WAS MARKED FOR IDENTIFICATION.)  
28

1 Q BY MS. PHILIPS: THIS IS WHAT IS STILL ON  
2 YOUR FACEBOOK; RIGHT?

3 A NO. THEY --

4  
5 (MULTIPLE SPEAKERS.)

6  
7 A IT CHANGES ALL THE TIME.

8 Q IF I WERE --

9  
10 (MULTIPLE SPEAKERS.)

11  
12 THE COURT: STOP. LET ME STOP BOTH PARTIES HERE.

13 YOU CANNOT TALK OVER ONE ANOTHER. YOU  
14 HAVE TO WAIT UNTIL SHE'S DONE ASKING THE QUESTION. AND  
15 YOU HAVE TO WAIT UNTIL HE'S DONE ANSWERING THE QUESTION.  
16 IT HAS TO BE --

17 I KNOW IT'S NOT NATURAL. STOP. START.  
18 STOP. START.

19 GO AHEAD.

20 Q BY MS. PHILIPS: ISN'T IT TRUE IF I WERE  
21 TO PULL UP FACEBOOK RIGHT NOW, THE SAME ACCOUNT THAT YOU  
22 JUST REFERENCED, THIS IS WHAT WOULD BE ON THERE WITH THE  
23 KEVINPERELMANTARGET.COM RIGHT ON TOP?

24 A I WOULD SAY I HAVE CREATED SEVERAL  
25 ACCOUNTS.

26 Q "YES" OR "NO," SIR.

27 A NO. THE MAIN ACCOUNTS, NO. BUT IF YOU  
28 ARE PULLING UP SOME OLD ACCOUNT, THEN YOU MIGHT FIND

1 IT -- I CAN'T TELL YOU IF THERE IS AN ACCOUNT OUT THERE  
2 THAT I AM NO LONGER USING.

3 BUT ON MY MAIN ACCOUNT THAT I LOG INTO  
4 EVERY DAY, NO.

5 Q AND YOU ARE SAYING THIS WASN'T FOR THE  
6 PURPOSE OF INFLAMING YOUR COMMUNITY?

7 A ABSOLUTELY NOT.

8 Q IF I MAY --

9 A I AM A 3-D ANIMATOR FROM HOLLYWOOD.

10 Q THIS WASN'T PUT UP TO INTENTIONALLY  
11 INFLAME PEOPLE --

12 A NO.

13 Q -- AND HAVE THEM COME AFTER YOU --

14 A NO.

15 Q -- AND --

16 A ABSOLUTELY NOT.

17 Q TO SUPPORT THIS WHOLE CONSPIRACY BY MAKING  
18 PEOPLE UNCOMFORTABLE ENOUGH AND SCARED ENOUGH THAT --

19 A NO.

20 Q -- THAT THEY DO APPROACH YOU ON THE  
21 STREET?

22 A I PUT UP "ONE LAST BOY SCOUT" WHERE I  
23 CHANGE MY FACE. IS GOING TO THE MOVIE "ONE LAST BOY  
24 SCOUT" SCARY? NO.

25 Q BUT YOU CAN'T UNDERSTAND HOW A GUN POINTED  
26 AT PEOPLE WOULD SCARE PEOPLE?

27 A MAYBE THE ANAL RETENTIVE SQUARE, BUT THESE  
28 AREN'T THE VIEWERS.

1 Q ONCE AGAIN, THE WEB --

2 A I TAKE --

3 Q I'M SORRY. THERE IS NO QUESTION.

4 A I TAKE PHOTOS OF --

5 Q STILL NO QUESTION.

6 MY FINAL QUESTION.

7 A UH-HUH.

8 Q YOU PASS OUT THESE CARDS WANTING PEOPLE TO  
9 SEE THIS?

10 A NO. THAT IS COMPLETELY SEPARATE.

11 MS. PHILIPS: NOTHING FURTHER.

12 THE COURT: FURTHER REDIRECT?

13 MR. AMSTER: YES, YOUR HONOR.

14 OKAY. WHAT IS THE PEOPLE'S NEXT IN ORDER?

15 THE COURT: PEOPLE OR DEFENSE?

16 MR. AMSTER: PEOPLE.

17 THE COURT: THAT WAS MARKED AS 14.

18

19 REDIRECT EXAMINATION

20 BY MR. AMSTER:

21 Q I AM PLACING IN FRONT OF YOU PEOPLE'S 14.

22 ALL RIGHT. NOW PEOPLE'S 14, THAT IS NOT, TO THE BEST OF  
23 YOUR RECOLLECTION, A PICTURE FROM YOUR WEBSITE.

24 CORRECT?

25 A NO. THAT IS A PICTURE I HAVE, IN THE  
26 PAST, PUT UP ON MY -- OR NOT MY WEBSITE. MY FACEBOOK  
27 AND TWITTER.

28 Q OKAY. THAT'S WHAT MY QUESTION WAS.

1           A           UH-HUH.

2           Q           LET'S START AGAIN.  PEOPLE'S EXHIBIT 14 IS  
3 NOT A PICTURE FROM YOUR WEBSITE.  CORRECT?

4           A           KEVIN PERELMAN TARGET HAS NO RELATIONSHIP  
5 TO THIS.  MAYBE KEVIN PERELMAN PHOTOGRAPHY.

6           Q           I AM GOING TO ASK THE QUESTION AGAIN.  
7 EXHIBIT 14, THAT PICTURE, IS THAT A PICTURE FROM YOUR  
8 FACEBOOK ACCOUNT?

9           A           CORRECT.

10          Q           FROM MAYBE YOUR TWITTER?

11          A           CORRECT.  BUT NOT KEVIN PERELMAN TARGET  
12 TWITTER.

13          Q           AND NOT THE WEB PAGE THAT IS ON -- THAT  
14 IS -- THAT IS STATED ON YOUR CARD.  CORRECT?

15          A           CORRECT.

16          Q           OKAY.  HOLDING UP EXHIBIT A, THIS CARD AND  
17 VARIATIONS OF IT --

18          A           UH-HUH.

19          Q           -- YOU SEE IT AND YOU KNOW ABOUT IT.  
20 RIGHT?

21          A           YEAH.  IT'S UNFORTUNATELY BURNED IN MY  
22 HEAD.

23          Q           YOU CAUSED THESE CARDS TO BE DISTRIBUTED  
24 IN YOUR RESPONSE TO THE WORLDWIDE CONSPIRACY AGAINST  
25 YOU.  CORRECT?

26          A           CAN YOU REPEAT THAT.  I DIDN'T QUITE ...

27          Q           YOU CAUSED THESE CARDS TO BE DISTRIBUTED  
28 AS YOUR RESPONSE TO THE WORLDWIDE CONSPIRACY AGAINST

1 YOU. CORRECT?

2 A YES.

3 Q THIS IS HOW YOU ARE DEALING WITH IT.  
4 CORRECT?

5 A CORRECT.

6 Q OKAY. NOW YOU DISTRIBUTE THESE CARDS IN  
7 VARIOUS WAYS. CORRECT? YOU HAND THEM TO PEOPLE?

8 A CORRECT. YEAH.

9 Q OKAY. YOU CAUSE THEM TO BE PUT ON THE  
10 GROUND. CORRECT?

11 A NO.

12 Q YOU DON'T DROP THEM?

13 A I MEAN, IF THINGS WOULD THEN GET  
14 COMPLETELY OUT OF CONTROL, YES. IT HAPPENS. YES.

15 Q OKAY. NOW THERE WAS TESTIMONY IN THIS  
16 CASE, I DON'T REMEMBER FROM WHICH, BUT THEY SAID THEY  
17 SAW YOU DROPPING THE CARDS ON THE GROUND.

18 A IT'S POSSIBLE.

19 Q HAVE YOU DROPPED THE CARDS ON THE GROUND?

20 A I HAVE IN THE PAST.

21 Q OKAY. ARE YOU DOING THAT TO LITTER OR TO  
22 DISTRIBUTE THE CARDS?

23 MS. PHILIPS: OBJECTION. RELEVANCE.

24 THE COURT: OVERRULED.

25 GO AHEAD.

26 THE DEFENDANT: I AM DOING IT USUALLY WHEN  
27 SOMEONE GETS REALLY AGGRESSIVE, IN A THREATENING MANNER,  
28 SAYING "YOU BETTER NOT DO THIS" OR SOMETHING LIKE THAT.

1 Q BY MR. AMSTER: IS THE PURPOSE THAT YOU  
2 ARE DISTRIBUTING THE CARDS ON THE GROUND TO GET PEOPLE  
3 TO KNOW WHAT IS GOING ON?

4 A YEAH.

5 Q OKAY. AND DO YOU JUST WANT PEOPLE HERE  
6 TODAY THAT EXIST TO KNOW WHAT IS GOING ON, OR DO YOU  
7 ALSO WANT THESE CARDS TO LAST SO PEOPLE IN THE FUTURE  
8 MIGHT ALSO KNOW WHAT HAS HAPPENED TO YOU?

9 A AT THIS POINT, BECAUSE I WAS IN TEARS FOR  
10 A GOOD TEN YEARS, AT THIS POINT, IT'S -- IT WOULD BE  
11 EQUIVALENT TO ASKING A JEW THAT HAD GOT OUT OF  
12 CONCENTRATION CAMP -- IF YOU TOLD HIM HE SHOULD NEVER  
13 TALK ABOUT IT AND MOVE ON. HE WOULD SAY, "NO WAY IN  
14 HELL. THIS IS SOMETHING THAT IS SO IMPORTANT THAT NEEDS  
15 TO BE IN THE HISTORY BOOKS, NO MATTER WHETHER YOU  
16 BELIEVE IT OR NOT."

17 PEOPLE NEED TO KNOW ABOUT THESE VERY FEW  
18 TARGETS THAT ACTUALLY ARE TARGETED AND OTHER SIMILAR  
19 THINGS LIKE NSA OPERATIONS THAT EDWARD SNOWDEN CAME  
20 FORWARD ABOUT TO STRENGTHEN OUR NATION.

21 Q OKAY. IS IT -- ARE YOU TRYING TO STATE  
22 THAT IT IS SO IMPORTANT TO YOU TO LET THE WORLD KNOW  
23 ABOUT THE WORLDWIDE CONSPIRACY THAT YOU ARE DOING THAT  
24 BY DISTRIBUTING THE CARDS?

25 A IT'S ON MULTIPLE LEVELS.

26 Q IT'S A SIMPLE QUESTION. "YES" OR "NO"?

27 A YES.

28 MR. AMSTER: THANK YOU.

1 I HAVE NOTHING FURTHER.

2 THE COURT: ANY FURTHER RECROSS?

3 MS. PHILIPS: NO, YOUR HONOR.

4 THE COURT: SIR, YOU MAY STEP DOWN.

5 IF YOU WILL FOLLOW THE INSTRUCTIONS OF THE  
6 BAILIFF TO GET BACK TO YOUR SEAT.

7 ANY FURTHER DEFENSE WITNESSES?

8 MR. AMSTER: YOU KNOW WHAT, YOUR HONOR? I DID  
9 HAVE ONE AREA.

10 THE COURT: SIR, I'M SORRY.

11 MR. AMSTER: MR. PERELMAN

12 THE COURT: MR. PERELMAN, IF YOU WILL RETAKE THE  
13 STAND.

14 MR. AMSTER: I'M SORRY.

15 THE COURT: REDIRECT.

16 Q BY MR. AMSTER: LET'S TALK ABOUT THIS  
17 WEBSITE. HOW LONG HAVE YOU HAD IT UP?

18 A I AM GUESSING ABOUT FIVE OR SIX YEARS.

19 Q OKAY. AT ANY TIME HAVE YOU MADE A SINGLE  
20 PENNY OFF THAT WEBSITE?

21 A ABSOLUTELY NOT. NOTHING.

22 Q HAVE YOU CAUSED ANY ADVERTISEMENT ON THAT  
23 WEBSITE?

24 A NO.

25 Q HAVE YOU CONTACTED ANYONE TO GIVE YOU  
26 MONEY BECAUSE OF THE TRAFFIC TO THAT WEBSITE?

27 A NO.

28 Q HAVE YOU DONE ANYTHING FOR COMMERCIAL OR



1 BUSINESS PURPOSE FOR THAT WEBSITE?

2 A I HAVE PAID ABOUT \$25,000 TO TRY TO GET  
3 PEOPLE, MONEY I REALLY DON'T HAVE.

4 Q OKAY. HAVE YOU DONE ANYTHING ON A  
5 BUSINESS OR COMMERCIAL BASIS IN CONNECTION WITH THAT  
6 WEBSITE?

7 A NO. NOT TO MAKE MONEY. ABSOLUTELY  
8 NOTHING.

9 MR. AMSTER: NOTHING FURTHER.

10 THE COURT: ANY FURTHER RECROSS?

11 MS. PHILIPS: NO, YOUR HONOR.

12 THE COURT: SIR, YOU MAY STEP DOWN.

13 FOLLOW THE INSTRUCTIONS OF THE BAILIFF ON  
14 HOW TO GET BACK TO YOUR SEAT.

15 MR. AMSTER: ONE SECOND.

16 THE COURT: AND THE PEOPLE ARE ASKING PEOPLE'S 14  
17 BE MOVED INTO EVIDENCE?

18 MS. PHILIPS: SO MOVED, YOUR HONOR.

19 THE COURT: OBJECTION.

20 MR. AMSTER: NO.

21 THE COURT: THERE IS NO OBJECTION. SO THAT IS  
22 ADMITTED INTO EVIDENCE.

23

24 (PEOPLE'S EXHIBIT 14 WAS ADMITTED INTO EVIDENCE.)

25

26 THE COURT: ANY FURTHER DEFENSE WITNESS?

27 MR. AMSTER: NO, YOUR HONOR.

28 THE COURT: WITH THE RECEIPT OF DEFENSE A THROUGH

1 L, DOES THE DEFENSE REST?

2 MR. AMSTER: I BELIEVE THAT IS ALL OF MY  
3 EXHIBITS. I HAVE LOST COUNT.

4 THE COURT: WE WILL SORT THOSE LATER. BUT  
5 SUBJECT TO THE ADMISSIBILITY OF THOSE, DO -- DOES THE  
6 DEFENSE REST?

7 MR. AMSTER: YES, YOUR HONOR.

8 THE COURT: ANY REBUTTAL AT THIS TIME?

9 MS. PHILIPS: NO, YOUR HONOR.

10 THE COURT: BOTH SIDES HAVE RESTED, LADIES AND  
11 GENTLEMEN. WE'RE GOING TO TAKE A BREAK. WHEN YOU COME  
12 BACK, I AM GOING TO READ TO YOU THE INSTRUCTIONS. THAT  
13 WILL TAKE ABOUT 20 TO 30 MINUTES. I THINK YOU WILL  
14 BEGIN YOUR DELIBERATIONS SOMETIME TODAY. YOU ARE GOING  
15 TO HEAR THE ATTORNEYS ARGUE AFTER I READ THE  
16 INSTRUCTIONS. SO THAT MIGHT TAKE US -- I DON'T KNOW.  
17 WE WILL HAVE TO SEE WHAT HAPPENS, BUT DEFINITELY WE WILL  
18 START READING THE INSTRUCTIONS IN 20 MINUTES.

19 QUARTER TO 3:00. QUARTER TO 3:00. IF YOU  
20 WILL WAIT OUTSIDE THE HALL. WE WILL CALL YOU AT THAT  
21 TIME.

22 REMEMBER THE ADMONISHMENT. YOU STILL  
23 CAN'T TALK ABOUT THE CASE OR FORM OR EXPRESS ANY OPINION  
24 OR DO RESEARCH OR GO TO ANY WEBSITE.

25 ENJOY YOUR BREAK. 2:45.

26 THANK YOU.

27

28 (OUTSIDE THE PRESENCE OF THE JURY:)

1  
2  
3  
4  
5  
6  
7  
8  
9  
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11  
12  
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22  
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25  
26  
27  
28

THE COURT: THE RECORD SHOULD REFLECT ALL OF THE JURORS HAVE LEFT. THE ALTERNATE HAS LEFT.

I HAVE A THROUGH L FOR THE DEFENSE. PREVIOUSLY IN THE PEOPLE'S CASE, SOME OF THEM LACKED FOUNDATION. NOW I BELIEVE THERE IS SUFFICIENT FOUNDATION. SO I WILL ADMIT THEM INTO EVIDENCE, A THROUGH L.

ANY OBJECTION?

MS. PHILIPS: NO, YOUR HONOR.

(DEFENSE EXHIBITS A THROUGH L WERE ADMITTED INTO EVIDENCE.)

THE COURT: ONE THROUGH 14, ANY OBJECTION? DEFENSE?

MR. AMSTER: NO.

THE COURT: ALL OF THOSE COME IN.

(PEOPLE'S EXHIBITS 1 THROUGH 14 WERE ADMITTED INTO EVIDENCE.)

AND THEN I AM GOING TO PRINT THESE OUT AND HANDLE ANOTHER CASE. AT 2:45 WE WILL START.

THE VERDICT FORMS ARE UP HERE.

(CONVERSATION BETWEEN THE COURT AND THE CLERK.)

1 THE COURT: G THROUGH L TODAY. A THROUGH F  
2 PREVIOUSLY ADMITTED.

3 ALL RIGHT. SEE YOU AT 2:45, SIR.

4  
5 (AN UNRELATED CALENDAR MATTER WAS HEARD.)

6  
7 (OUTSIDE THE PRESENCE OF THE JURY:)

8  
9 THE COURT: ON THE RECORD IN THE PERELMAN RECORD.  
10 HE'S HERE. HE'S COMING FORWARD. HE'S WITH HIS LAWYER.  
11 THE PEOPLE ARE REPRESENTED.

12 THE JURORS ARE IN THE HALLWAY, AND THE  
13 ALTERNATE IS IN THE HALLWAY.

14 ANY OBJECTIONS? REQUEST FOR LESSERS?  
15 ANYTHING WE HAVEN'T DISCUSSED ON THE JURY INSTRUCTIONS?  
16 PEOPLE?

17 MS. PHILIPS: NO, YOUR HONOR.

18 THE COURT: DEFENSE?

19 MR. AMSTER: I CAN'T THINK OF ANYTHING LESS OR  
20 ANYTHING MORE.

21 THE COURT: THAT'S A GOOD ANSWER.

22 ALL RIGHT. WE WILL BRING IN THE JURORS AT  
23 THIS TIME. I WILL READ THEM THE INSTRUCTIONS. AND YOU  
24 CAN REVIEW THE VERDICT FORM.

25 MS. PHILIPS: WE HAVE ALREADY.

26 MR. AMSTER: WE HAVE ALREADY.

27 THE COURT: SO NOTED.

28

1 (IN THE PRESENCE OF THE JURY:)

2  
3 THE COURT: ALL RIGHT. WELCOME BACK, LADIES AND  
4 GENTLEMEN. ALL OF THE JURORS ARE PRESENT. THE  
5 ALTERNATE IS PRESENT. I WILL LET YOU GET SITUATED.

6 ONE SECOND.

7 MEMBERS OF THE JURY, I WILL NOW INSTRUCT  
8 YOU ON THE LAW THAT APPLIES TO THIS CASE. I WILL GIVE  
9 YOU A COPY OF THESE INSTRUCTIONS TO USE IN THE JURY  
10 ROOM. THE INSTRUCTIONS THAT YOU RECEIVE MAY BE PRINTED,  
11 TYPED, OR WRITTEN BY HAND. CERTAIN SECTIONS MAY HAVE  
12 BEEN CROSSED OUT OR ADDED. DISREGARD ANY DELETED  
13 SECTIONS, AND DO NOT TRY TO GUESS WHAT THEY MIGHT HAVE  
14 BEEN. ONLY CONSIDER THE FINAL VERSION OF THE  
15 INSTRUCTIONS IN YOUR DELIBERATIONS.

16 YOU MUST DECIDE WHAT THE FACTS ARE. IT IS  
17 UP TO ALL OF YOU AND YOU ALONE TO DECIDE WHAT HAPPENED  
18 BASED ONLY ON THE EVIDENCE THAT HAS BEEN PRESENTED TO  
19 YOU IN THIS TRIAL.

20 DO NOT LET BIAS, SYMPATHY, PREJUDICE, OR  
21 PUBLIC OPINION INFLUENCE YOUR DECISION.

22 BIAS INCLUDES BUT IS NOT LIMITED TO BIAS  
23 FOR OR AGAINST THE WITNESSES, ATTORNEYS, DEFENDANT, OR  
24 ALLEGED VICTIM BASED ON DISABILITY, GENDER, NATIONALITY,  
25 NATIONAL ORIGIN, RACE OR ETHNICITY, RELIGION, GENDER  
26 IDENTITY, SEXUAL ORIENTATION, AGE, OR SOCIO-ECONOMIC  
27 STATUS.

28 YOU MUST FOLLOW THE LAW AS I EXPLAIN IT TO

1 YOU, EVEN IF YOU DISAGREE WITH IT.

2 IF YOU BELIEVE THAT THE ATTORNEYS'  
3 COMMENTS ON THE LAW CONFLICT WITH MY INSTRUCTIONS, YOU  
4 MUST FOLLOW MY INSTRUCTIONS.

5 PAY CAREFUL ATTENTION TO ALL OF THESE  
6 INSTRUCTIONS AND CONSIDER THEM TOGETHER. IF I REPEAT  
7 ANY INSTRUCTION OR IDEA, DO NOT CONCLUDE IT'S MORE  
8 IMPORTANT THAN ANY OTHER INSTRUCTION OR IDEA JUST  
9 BECAUSE I REPEATED IT.

10 SOME WORDS OR PHRASES USED DURING THIS  
11 TRIAL HAVE LEGAL MEANINGS THAT ARE DIFFERENT FROM THEIR  
12 ORDINARY, EVERYDAY MEANING. THE WORDS AND PHRASES WILL  
13 BE SPECIFICALLY DEFINED IN THESE INSTRUCTIONS. PLEASE  
14 BE SURE TO LISTEN CAREFULLY AND FOLLOW THE DEFINITIONS  
15 THAT I GIVE YOU. WORDS AND PHRASES NOT SPECIFICALLY  
16 DEFINED IN THESE INSTRUCTIONS ARE TO BE APPLIED USING  
17 THEIR ORDINARY, EVERYDAY MEANING.

18 SOME OF THESE INSTRUCTIONS MAY NOT APPLY,  
19 DEPENDING ON YOUR FINDINGS ABOUT THE FACTS OF THE CASE.  
20 AFTER YOU HAVE DECIDED WHAT THE FACTS ARE, FOLLOW THE  
21 INSTRUCTIONS THAT DO APPLY TO THE FACTS AS YOU FIND  
22 THEM.

23 DO NOT USE THE INTERNET IN ANY WAY IN  
24 CONNECTION WITH THIS CASE, EITHER ON YOUR OWN OR AS A  
25 GROUP.

26 DO NOT INVESTIGATE THE FACTS OR THE LAW OR  
27 DO ANY RESEARCH REGARDING THIS CASE, EITHER ON YOUR OWN  
28 OR AS A GROUP.

1 DO NOT CONDUCT ANY TESTS OR EXPERIMENTS OR  
2 VISIT THE SCENE OF ANY EVENT INVOLVED IN THIS CASE. IF  
3 YOU HAPPEN TO PASS BY THE SCENE, DO NOT STOP AND  
4 INVESTIGATE.

5 YOU HAVE BEEN GIVEN NOTEBOOKS AND MAY HAVE  
6 TAKEN NOTES DURING THE TRIAL. YOU MAY USE YOUR NOTES  
7 DURING DELIBERATIONS. YOUR NOTES ARE FOR YOUR OWN  
8 INDIVIDUAL USE TO HELP YOU REMEMBER WHAT HAPPENED DURING  
9 THE TRIAL. PLEASE KEEP IN MIND THAT YOUR NOTES MAY BE  
10 INACCURATE OR INCOMPLETE.

11 IF THERE IS A DISAGREEMENT ABOUT THE  
12 TESTIMONY AT TRIAL, YOU MAY ASK THAT THE COURT  
13 REPORTER'S RECORD BE READ TO YOU. IT IS THE COURT  
14 REPORTER -- IT IS THE RECORD THAT MUST GUIDE YOUR  
15 DELIBERATIONS, NOT YOUR NOTES.

16 YOU MUST ACCEPT THE COURT REPORTER'S  
17 RECORD AS ACCURATE.

18 PLEASE DO NOT REMOVE YOUR NOTES FROM THE  
19 JURY ROOM. AT THE END OF THE TRIAL, YOUR NOTES WILL BE  
20 COLLECTED AND DESTROYED.

21 IT IS ALLEGED THAT THE CRIME OCCURRED ON  
22 OR ABOUT CERTAIN DATES. PEOPLE ARE NOT REQUIRED TO  
23 PROVE THAT THE CRIME TOOK PLACE EXACTLY ON THAT DATE,  
24 BUT ONLY THAT IT HAPPENED REASONABLY CLOSE TO THAT DATE.

25 THE FACT THAT A CRIMINAL CHARGE HAS BEEN  
26 FILED AGAINST THE DEFENDANT IS NOT EVIDENCE THAT THE  
27 CHARGE IS TRUE.

28 YOU MUST NOT BE BIASED AGAINST THE

1 DEFENDANT JUST BECAUSE HE'S BEEN ARRESTED, CHARGED WITH  
2 A CRIME, OR BROUGHT TO TRIAL.

3 A DEFENDANT IN A CRIMINAL CASE IS PRESUMED  
4 TO BE INNOCENT. THIS PRESUMPTION REQUIRES THAT THE  
5 PEOPLE PROVE A DEFENDANT GUILTY BEYOND A REASONABLE  
6 DOUBT.

7 WHENEVER I TELL YOU THE PEOPLE MOVE PROVE  
8 SOMETHING, I MEAN THEY MUST PROVE IT BEYOND A REASONABLE  
9 DOUBT. PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT  
10 LEAVES YOU WITH AN ABIDING CONVICTION THAT THE CHARGE IS  
11 TRUE.

12 THE EVIDENCE NEED NOT ELIMINATE ALL  
13 POSSIBLE DOUBT BECAUSE EVERYTHING IN LIFE IS OPEN TO  
14 SOME IMAGINARY OR POSSIBLE DOUBT.

15 IN DECIDING WHETHER THE PEOPLE HAVE PROVED  
16 THE CASE BEYOND A REASONABLE DOUBT, YOU MUST IMPARTIALLY  
17 COMPARE AND CONSIDER ALL OF THE EVIDENCE THAT WAS  
18 RECEIVED THROUGHOUT THE ENTIRE TRIAL. UNLESS THE  
19 EVIDENCE PROVES THE DEFENDANT GUILTY BEYOND A REASONABLE  
20 DOUBT, HE'S ENTITLED TO AN ACQUITTAL, AND YOU MUST FIND  
21 HIM NOT GUILTY.

22 EVIDENCE IS THE SWORN TESTIMONY OF  
23 WITNESSES, THE EXHIBITS ADMITTED INTO EVIDENCE, AND  
24 ANYTHING ELSE I TOLD YOU TO CONSIDER AS EVIDENCE.

25 NOTHING THAT THE ATTORNEYS SAY IS  
26 EVIDENCE. IN THEIR OPEN STATEMENTS AND CLOSING  
27 ARGUMENTS, THE ATTORNEYS DISCUSS THE CASE, BUT THEIR  
28 REMARKS ARE NOT EVIDENCE. THEIR QUESTIONS ARE NOT



1 EVIDENCE. ONLY THE WITNESS' ANSWERS ARE EVIDENCE.

2 THE ATTORNEYS' QUESTIONS ARE SIGNIFICANT  
3 ONLY IF THEY HELP YOU UNDERSTAND THE WITNESS' ANSWERS.  
4 DO NOT ASSUME THAT SOMETHING IS TRUE JUST BECAUSE ONE OF  
5 THE ATTORNEYS ASKS A QUESTION THAT SUGGESTED IT WAS  
6 TRUE.

7 DURING THE TRIAL, THE ATTORNEYS MAY HAVE  
8 OBJECTED TO QUESTIONS OR MOVED TO STRIKE ANSWERS GIVEN  
9 BY THE WITNESSES. I RULED ON THE OBJECTIONS ACCORDING  
10 TO THE LAW. IF I SUSTAINED AN OBJECTION, YOU MUST  
11 IGNORE THE QUESTION. IF THE WITNESS WAS NOT PERMITTED  
12 TO ANSWER, DO NOT GUESS WHAT THEIR ANSWER MIGHT HAVE  
13 BEEN OR WHY I RULED AS I DID. IF I ORDERED TESTIMONY  
14 STRICKEN FROM THE RECORD, YOU MUST DISREGARD IT AND MUST  
15 NOT CONSIDER THAT TESTIMONY FOR ANY PURPOSE.

16 YOU MUST DISREGARD ANYTHING YOU SAW OR  
17 HEARD WHEN THE COURT WAS NOT IN SESSION, EVEN IF IT WAS  
18 SAID OR DONE BY ONE OF THE PARTIES OR WITNESSES.

19 THE COURT REPORTER HAS MADE A RECORD OF  
20 ANYTHING THAT WAS SAID DURING THE TRIAL. IF YOU DECIDE  
21 THAT THE COURT -- I'M SORRY. IF YOU DECIDE THAT IT'S  
22 NECESSARY, YOU MAY ASK THAT THE COURT REPORTER'S RECORD  
23 BE READ BACK TO YOU. YOU MUST ACCEPT THE COURT  
24 REPORTER'S RECORD AS ACCURATE.

25 FACTS MAY BE PROVED BY DIRECT OR  
26 CIRCUMSTANTIAL EVIDENCE OR BY A COMBINATION OF BOTH.

27 DIRECT EVIDENCE CAN PROVE A FACT BY  
28 ITSELF. FOR EXAMPLE, IF A WITNESS TESTIFIES THAT HE SAW

1 IT RAINING OUTSIDE BEFORE HE CAME INTO THE COURTHOUSE,  
2 THAT TESTIMONY IS DIRECT EVIDENCE THAT IT WAS RAINING.

3 CIRCUMSTANTIAL EVIDENCE ALSO MAY BE CALLED  
4 INDIRECT EVIDENCE. CIRCUMSTANTIAL EVIDENCE DOES NOT  
5 DIRECTLY PROVE THE FACT TO BE DECIDED BUT IS EVIDENCE OF  
6 ANOTHER FACT OR A GROUP OF FACTS FROM WHICH YOU MAY  
7 LOGICALLY AND REASONABLY CONCLUDE THE TRUTH OF THE FACT  
8 IN QUESTION.

9 FOR EXAMPLE, IF A WITNESS TESTIFIES THAT  
10 HE SAW SOMEONE COME INSIDE WEARING A RAINCOAT COVERED  
11 WITH DROPS OF WATER, THAT TESTIMONY IS CIRCUMSTANTIAL  
12 EVIDENCE BECAUSE IT MAY SUPPORT A CONCLUSION THAT IT WAS  
13 RAINING OUTSIDE.

14 BOTH DIRECT AND CIRCUMSTANTIAL EVIDENCE  
15 ARE ACCEPTABLE TYPES OF PROOF TO PROVE OR DISPROVE THE  
16 ELEMENTS OF A CHARGE, INCLUDING INTENT AND MENTAL STATE  
17 AND ACTS NECESSARY TO A CONVICTION. AND NEITHER IS  
18 NECESSARILY MORE RELIABLE THAN THE OTHER. AND NEITHER  
19 IS ENTITLED TO ANY GREATER WEIGHT THAN THE OTHER.

20 YOU MUST DECIDE WHETHER A FACT OR ISSUE  
21 HAS BEEN PROVED BASED ON ALL OF THE EVIDENCE.

22 BEFORE YOU MAY RELY ON CIRCUMSTANTIAL  
23 EVIDENCE, TO CONCLUDE THAT A FACT NECESSARY TO FIND THE  
24 DEFENDANT GUILTY HAS BEEN PROVED, YOU MUST BE CONVINCED  
25 THAT THE PEOPLE HAVE PROVED EACH FACT ESSENTIAL TO THAT  
26 CONVICTION BEYOND A REASONABLE DOUBT.

27 ALSO BEFORE YOU MAY RELY ON CIRCUMSTANTIAL  
28 EVIDENCE TO FIND THE DEFENDANT GUILTY, YOU MUST BE

1 CONVINCED THAT THE ONLY REASONABLE CONCLUSION SUPPORTED  
2 BY THE CIRCUMSTANTIAL EVIDENCE IS THAT THE DEFENDANT IS  
3 GUILTY.

4 IF YOU CAN DRAW TWO OR MORE REASONABLE  
5 CONCLUSIONS FROM THE EVIDENCE AND ONE OF THOSE  
6 CONCLUSIONS POINTS TO GUILT AND ANOTHER TO INNOCENCE,  
7 YOU MUST ACCEPT THE ONE THAT -- I'M SORRY. IF YOU CAN  
8 DRAW TWO OR MORE REASONABLE CONCLUSIONS FROM  
9 CIRCUMSTANTIAL EVIDENCE AND ONE OF THOSE REASONABLE  
10 CONCLUSIONS POINTS TO INNOCENCE AND ANOTHER TO GUILT,  
11 YOU MUST ACCEPT THE ONE THAT POINTS TO INNOCENCE.  
12 HOWEVER, WHEN CONSIDERING CIRCUMSTANTIAL EVIDENCE, YOU  
13 MUST ACCEPT ONLY REASONABLE CONCLUSIONS AND REJECT ANY  
14 THAT ARE UNREASONABLE.

15 YOU ALONE MUST JUDGE THE CREDIBILITY OR  
16 BELIEVABILITY OF THE WITNESSES. IN DECIDING WHETHER THE  
17 TESTIMONY IS TRUE AND ACCURATE, USE YOUR COMMON SENSE  
18 AND EXPERIENCE. YOU MUST JUDGE THE TESTIMONY OF EACH  
19 WITNESS BY THE SAME STANDARD, SETTING ASIDE ANY BIAS OR  
20 PREJUDICE YOU MAY HAVE. YOU MAY BELIEVE ALL, PART, OR  
21 NONE OF ANY WITNESS' TESTIMONY. CONSIDER THE TESTIMONY  
22 OF EACH WITNESS AND DECIDE HOW MUCH OF IT YOU BELIEVE.

23 IN EVALUATING A WITNESS' TESTIMONY, YOU  
24 MAY CONSIDER ANYTHING THAT REASONABLY TENDS TO PROVE OR  
25 DISPROVE THE TRUTH OR ACCURACY OF THAT TESTIMONY. AMONG  
26 THE FACTORS THAT YOU MAY CONSIDER ARE:

27 HOW WELL COULD THE WITNESS SEE, HEAR, OR  
28 OTHERWISE PERCEIVE THE THINGS ABOUT WHICH THE WITNESS

1 TESTIFIED?

2 HOW WELL WAS THE WITNESS ABLE TO REMEMBER  
3 AND DESCRIBE WHAT HAPPENED?

4 WHAT WAS THE WITNESS' BEHAVIOR WHILE  
5 TESTIFYING?

6 DID THE WITNESS UNDERSTAND THE QUESTIONS  
7 AND ANSWER THEM DIRECTLY?

8 WAS THE WITNESS' TESTIMONY INFLUENCED BY A  
9 FACTOR SUCH AS BIAS OR PREJUDICE, A PERSONAL  
10 RELATIONSHIP WITH SOMEONE INVOLVED IN THE CASE, OR A  
11 PERSONAL INTEREST IN HOW THE CASE IS DECIDED?

12 WHAT WAS THE WITNESS' ATTITUDE ABOUT THE  
13 CASE OR ABOUT TESTIFYING?

14 DID THE WITNESS MAKE A STATEMENT IN THE  
15 PAST THAT IS CONSISTENT OR INCONSISTENT WITH HIS OR HER  
16 TESTIMONY ON THAT SUBJECT?

17 HOW REASONABLE IS THE TESTIMONY WHEN YOU  
18 CONSIDER ALL OF THE OTHER EVIDENCE IN THE CASE?

19 DID OTHER EVIDENCE PROVE OR DISPROVE ANY  
20 FACT ABOUT WHICH THE WITNESS TESTIFIED?

21 DID THE WITNESS ADMIT TO BEING UNTRUTHFUL?

22 WHAT IS THE WITNESS' CHARACTER FOR  
23 TRUTHFULNESS?

24 HAS THE WITNESS BEEN CONVICTED OF A  
25 FELONY?

26 HAS THE WITNESS ENGAGED IN OTHER CONDUCT  
27 THAT REFLECTS ON HIS OR HER BELIEVABILITY?

28 WAS THE WITNESS PROMISED IMMUNITY OR

1 LENIENCY IN CHANGE FOR HIS OR HER TESTIMONY?

2 DO NOT AUTOMATICALLY REJECT TESTIMONY JUST  
3 BECAUSE OF INCONSISTENCIES OR CONFLICTS. CONSIDER  
4 WHETHER THE DIFFERENCES ARE IMPORTANT OR NOT. PEOPLE  
5 SOMETIMES HONESTLY FORGET THINGS OR MAKE MISTAKES ABOUT  
6 WHAT THEY REMEMBER.

7 ALSO TWO PEOPLE MAY WITNESS THE SAME  
8 EVENTS YET SEE OR HEAR IT DIFFERENTLY.

9 IF THE EVIDENCE ESTABLISHES THAT A  
10 WITNESS' CHARACTER OR TRUTHFULNESS HAS BEEN NOT  
11 DISCUSSED AMONG THE PEOPLE WHO KNOW HIM OR HER, YOU MAY  
12 CONCLUDE FROM THE LACK OF DISCUSSION THAT THE WITNESS'  
13 CHARACTER FOR TRUTHFULNESS IS GOOD. IF YOU DO NOT  
14 BELIEVE A WITNESS' TESTIMONY THAT HE OR SHE NO LONGER  
15 REMEMBERS SOMETHING, THAT TESTIMONY IS INCONSISTENT WITH  
16 HIS OR HER EARLY STATEMENT ON THAT SUBJECT.

17 IF YOU DECIDE THAT A WITNESS DELIBERATELY  
18 LIED ABOUT SOMETHING SIGNIFICANT IN THIS CASE, YOU  
19 SHOULD CONSIDER NOT BELIEVING ANYTHING THAT WITNESS  
20 SAYS. OR IF YOU THINK THE WITNESS TOLD THE TRUTH ABOUT  
21 SOME THINGS BUT LIED ABOUT OTHERS, YOU MAY SIMPLY ACCEPT  
22 THE PART THAT YOU THINK IS TRUE AND IGNORE THE REST.

23 THE CRIMES CHARGED IN COUNTS 1, 6, 7, 8,  
24 AND 9 REQUIRES THE PROOF OF THE UNION, OR JOINT  
25 OPERATION, OF ACT AND WRONGFUL INTENT. THE FOLLOWING  
26 CRIMES REQUIRE A GENERAL CRIMINAL INTENT: PUBLIC  
27 NUISANCE AS CHARGED IN COUNTS 1 AND 6; BATTERY AS  
28 CHARGED IN COUNT 7; DISTRIBUTION OF HANDBILLS ON A CAR

1 AS CHARGED IN COUNT 8; AND CAST, THROW, OR DEPOSIT CARDS  
2 ON A STREET OR SIDEWALK AS CHARGED IN COUNT 9.

3 FOR YOU TO FIND A PERSON GUILTY OF THESE  
4 CRIMES, THAT PERSON MUST NOT ONLY COMMIT THE PROHIBITED  
5 ACT, BUT MUST DO SO WITH WRONGFUL INTENT.

6 A PERSON ACTS WITH WRONGFUL INTENT WHEN HE  
7 OR SHE INTENTIONALLY DOES A PROHIBITED ACT. HOWEVER, IT  
8 IS NOT REQUIRED THAT HE OR SHE INTEND TO BREAK THE LAW.  
9 THE ACT REQUIRED IS EXPLAINED IN THE INSTRUCTIONS FOR  
10 THAT CRIME.

11 THE FOLLOWING CRIME REQUIRES A SPECIFIC  
12 INTENT OR MENTAL STATE: CRIMINAL THREAT AS CHARGED IN  
13 COUNT 2. FOR YOU TO FIND A PERSON GUILTY OF THIS CRIME,  
14 THE PERSON MUST NOT ONLY INTENTIONALLY COMMIT THE  
15 PROHIBITED ACTED, BUT MUST DO SO WITH A SPECIFIC INTENT  
16 AND MENTAL STATE. THE ACT AND THE SPECIFIC INTENT AND  
17 MENTAL STATE REQUIRED ARE EXPLAINED IN THE INSTRUCTIONS  
18 FOR THAT CRIME.

19 SO LET ME SUM UP HERE WHAT THE ALLEGATIONS  
20 ARE.

21 COUNT 1 IS PUBLIC NUISANCE. COUNT 2 IS  
22 CRIMINAL THREATS. THERE IS NO COUNT 3. THERE IS NO  
23 COUNT 4. THERE IS NO COUNT 5. COUNT 6 IS PUBLIC  
24 NUISANCE. COUNT 7 IS BATTERY. COUNT 8 IS DISTRIBUTION  
25 OF HANDBILLS ON A CAR. AND COUNT 9 IS CASTING,  
26 THROWING, OR DEPOSITING CARDS ON THE STREET OR SIDEWALK.

27 AND THE PARTIES WILL TALK MORE ABOUT WHAT  
28 THIS MEANS DURING THEIR CLOSING ARGUMENTS.

1 MR. AMSTER: YOUR HONOR, CAN WE APPROACH FOR A  
2 SECOND.

3 THE COURT: SURE. ON OR OFF THE RECORD.

4 THE COURT: OFF THE RECORD.

5

6 (OFF-THE-RECORD DISCUSSION.)

7

8 THE COURT: ALL RIGHT. BACK ON THE RECORD.

9 NEITHER SIDE IS REQUIRED TO CALL ALL  
10 WITNESSES WHO MAY HAVE INFORMATION ABOUT THE CASE OR TO  
11 PRODUCE ALL PHYSICAL EVIDENCE THAT MIGHT BE RELEVANT.

12 THE TESTIMONY OF ONLY ONE WITNESS CAN  
13 PROVE ANY FACT. BEFORE YOU CONCLUDE THAT THE TESTIMONY  
14 OF ONE WITNESS PROVES A FACT, YOU SHOULD CAREFULLY  
15 REVIEW ALL OF THE EVIDENCE.

16 IF YOU DETERMINE THAT THERE IS A CONFLICT  
17 IN THE EVIDENCE, YOU MUST DECIDE WHAT EVIDENCE, IF ANY,  
18 TO BELIEVE. DO NOT SIMPLY COUNT THE NUMBER OF WITNESSES  
19 WHO AGREE OR DISAGREE ON A POINT AND ACCEPT THE  
20 TESTIMONY OF THE GREATER NUMBER OF WITNESSES.

21 ON THE OTHER HAND, DO NOT DISREGARD THE  
22 TESTIMONY OF ANY WITNESS WITHOUT A REASON OR BECAUSE OF  
23 PREJUDICE OR DESIRE TO FAVOR ONE SIDE OR THE OTHER.  
24 WHAT IS IMPORTANT IS WHETHER THE TESTIMONY OR ANY OTHER  
25 EVIDENCE CONVINCES YOU, NOT JUST THE NUMBER OF WITNESSES  
26 WHO TESTIFY ABOUT A CERTAIN POINT.

27 YOU HAVE HEARD EVIDENCE OF STATEMENTS THAT  
28 A WITNESS MADE BEFORE TRIAL. IF YOU DECIDE THAT THE

1 WITNESSES MADE THOSE STATEMENTS, YOU CAN CONSIDER THOSE  
2 STATEMENTS IN TWO WAYS: TO EVALUATE WHETHER THE  
3 WITNESS' TESTIMONY IN COURT IS BELIEVABLE AND AS  
4 EVIDENCE THAT THE INFORMATION IN THE EARLIER STATEMENTS  
5 IS TRUE.

6 YOU HAVE HEARD EVIDENCE THAT THE DEFENDANT  
7 MADE ORAL OR WRITTEN STATEMENTS BEFORE THE TRIAL. YOU  
8 MUST DECIDE WHETHER THE DEFENDANT MADE ANY OF THOSE  
9 STATEMENTS IN A WHOLE OR IN PART. IF YOU DECIDE THAT  
10 THE DEFENDANT MADE SUCH STATEMENTS, CONSIDER THE  
11 STATEMENTS ALONG WITH ALL OF THE OTHER EVIDENCE IN  
12 REACHING YOUR VERDICT. IT'S UP TO YOU TO DECIDE HOW  
13 MUCH IMPORTANCE TO GIVE TO THE STATEMENTS.

14 CONSIDER WITH CAUTION ANY STATEMENT MADE  
15 BY THE DEFENDANT TENDING TO SHOW HIS GUILT UNLESS THE  
16 STATEMENT WAS WRITTEN OR OTHERWISE RECORDED.

17 THE DEFENDANT MAY NOT BE CONVICTED OF ANY  
18 CRIME BASED ON HIS OUT-OF-COURT STATEMENTS ALONE. YOU  
19 MAY RELY ON THE DEFENDANT'S OUT-OF-COURT STATEMENTS TO  
20 CONVICT HIM ONLY IF YOU FIRST CONCLUDE THAT OTHER  
21 EVIDENCE SHOWS THAT THE CHARGED CRIME WAS COMMITTED.

22 THE OTHER EVIDENCE -- THAT OTHER EVIDENCE  
23 MIGHT BE SLIGHT AND NEED ONLY BE ENOUGH TO SUPPORT A  
24 REASONABLE INFERENCE THAT A CRIME WAS COMMITTED.

25 THIS REQUIREMENT OF OTHER EVIDENCE DOES  
26 NOT APPLY TO PROVING THE IDENTITY OF THE PERSON WHO  
27 COMMITTED THE CRIME. IF OTHER EVIDENCE SHOWS THAT THE  
28 CHARGED CRIME WAS COMMITTED, THE IDENTITY OF THE PERSON



1 WHO COMMITTED IT MAY BE PROVED BY THE DEFENDANT'S  
2 STATEMENTS ALONE.

3 YOU MAY NOT CONVICT THE DEFENDANT UNLESS  
4 THE PEOPLE HAVE PROVED HIS GUILT BEYOND A REASONABLE  
5 DOUBT.

6 THE PEOPLE ARE NOT REQUIRED TO PROVE THAT  
7 THE DEFENDANT HAD A MOTIVE TO COMMIT ANY OF THE CRIMES  
8 CHARGED. IN REACHING YOUR VERDICT, YOU MAY, HOWEVER,  
9 CONSIDER WHETHER THE DEFENDANT HAD A MOTIVE.

10 HAVING A MOTIVE MAY BE A FACTOR TENDING TO  
11 SHOW THAT THE DEFENDANT IS GUILTY. NOT HAVING A MOTIVE  
12 MAY BE A FACTOR TENDING TO SHOW THE DEFENDANT IS NOT  
13 GUILTY.

14 IF THE DEFENDANT FLED IMMEDIATELY AFTER  
15 THE CRIME WAS COMMITTED, THAT CONDUCT MAY SHOW THAT HE  
16 WAS AWARE OF HIS GUILT. IF YOU CONCLUDE THAT THE  
17 DEFENDANT FLED, IT'S UP TO YOU TO DECIDE THE MEANING AND  
18 IMPORTANCE OF THAT CONDUCT. HOWEVER, EVIDENCE THAT THE  
19 DEFENDANT FLED CANNOT PROVE GUILT BY ITSELF.

20 IN COUNTS 1 AND 6, THE DEFENDANT IS  
21 ALLEGED TO HAVE COMMITTED THE CRIME OF CREATING A PUBLIC  
22 NUISANCE. TO PROVE THE DEFENDANT IS GUILTY OF THIS  
23 CRIME, THE PEOPLE MUST PROVE ALL OF THE FOLLOWING:

24 ONE, THAT KEVIN PERELMAN, BY ACTING OR  
25 FAILING TO ACT, CREATED A CONDITION THAT WAS HARMFUL TO  
26 HEALTH OR WAS INDECENT OR OFFENSIVE TO THE SENSES OR WAS  
27 AN OBSTRUCTION TO THE FREE USE OF PROPERTY SO AS TO  
28 INTERFERE WITH THE COMFORTABLE ENJOYMENT OF LIFE OR

1 PROPERTY OR UNLAWFULLY OBSTRUCTING THE FREE PASSAGE OR  
2 USE IN A CUSTOMARY MANNER OF ANY NAVIGABLE LAKE OR  
3 RIVER, BAY, STREAM, CANAL, OR BASIN, OR ANY PUBLIC PARK,  
4 SQUARE, STREET, OR HIGHWAY, OR WAS A FIRE HAZARD TO A  
5 PERSON'S PROPERTY.

6 NUMBER 2, THE CONDITION AFFECTED A  
7 SUBSTANTIAL NUMBER OF PEOPLE AT THE SAME TIME.

8 NUMBER 3, THAT AN ORDINARY PERSON WOULD BE  
9 REASONABLY ANNOYED OR DISTURBED BY THE CONDITION.

10 FOUR, THAT THE SERIOUSNESS OF THE HARM  
11 OUTWEIGHS THE SOCIAL UTILITY OF KEVIN PERELMAN'S  
12 CONDUCT.

13 FIVE, THAT THE COMMUNITY DID NOT CONSENT  
14 TO KEVIN PERELMAN'S CONDUCT.

15 SIX, THAT SUFFERED HARM WAS DIFFERENT FROM  
16 THE TYPE OF HARM SUFFERED BY THE GENERAL PUBLIC.

17 ONE MOMENT.

18 THAT LAST ONE DOESN'T BELONG.

19 THE LAST ELEMENT IS THAT KEVIN PERELMAN'S  
20 CONDUCT WAS THE SUBSTANTIAL FACTOR IN CAUSING HARM TO  
21 THE COMMUNITY.

22 MR. AMSTER: IF I UNDERSTAND THE COURT, YOU ARE  
23 TAKING OUT NUMBER 6?

24 THE COURT: YES.

25 THE DEFENDANT IS CHARGED IN COUNT 7 WITH  
26 BATTERY. TO PROVE THAT THE DEFENDANT IS GUILTY OF THIS  
27 CRIME, THE PEOPLE MUST PROVE THAT THE DEFENDANT  
28 WILLFULLY TOUCHED BAILEY BARNARD IN A HARMFUL OR

1 OFFENSIVE MANNER, AND, TWO, THE DEFENDANT DID NOT ACT IN  
2 SELF-DEFENSE.

3 SOMEONE COMMITS AN ACT WILLFULLY WHEN HE  
4 OR SHE DOES IT WILLINGLY OR ON PURPOSE. IT'S NOT  
5 REQUIRED THAT HE OR SHE INTEND TO BREAK THE LAW, HURT  
6 SOMEONE ELSE, OR GAIN AN ADVANTAGE.

7 THE SLIGHTEST TOUCHING CAN BE ENOUGH TO  
8 COMMIT A BATTERY IF IT IS DONE IN A RUDE OR ANGRY WAY.  
9 MAKING CONTACT WITH ANOTHER PERSON, INCLUDING THROUGH  
10 HIS OR HER CLOTHING, IS ENOUGH. THE TOUCHING DOES NOT  
11 HAVE TO CAUSE PAIN OR INJURY OF ANY KIND.

12 SELF-DEFENSE IS THE DEFENSE TO BATTERY.  
13 THE DEFENDANT IS NOT GUILTY OF THAT CRIME IF HE USED  
14 FORCE AGAINST THE OTHER PERSON IN A LAWFUL SELF-DEFENSE.  
15 THE DEFENDANT ACTED IN SELF-DEFENSE IF THE DEFENDANT  
16 REASONABLY BELIEVED THAT HE WAS IN IMMINENT DANGER OF  
17 SUFFERING BODILY INJURY OR WAS IN IMMINENT DANGER OF  
18 BEING TOUCHED UNLAWFULLY.

19 TWO, THE DEFENDANT REASONABLY BELIEVED  
20 THAT THE IMMEDIATE USE OF FORCE WAS NECESSARY TO DEFEND  
21 AGAINST THAT DANGER.

22 AND, THREE, THE DEFENDANT USED NO MORE  
23 FORCE THAN WAS REASONABLY NECESSARY TO DEFEND AGAINST  
24 THAT DANGER.

25 BELIEF IN FUTURE HARM IS NOT SUFFICIENT NO  
26 MATTER HOW GREAT OR HOW LIKELY THE HARM IS BELIEVED TO  
27 BE.

28 THE DEFENDANT MUST HAVE BELIEVED THAT

1 THERE WAS IMMINENT DANGER OF BODILY INJURY TO HIMSELF OR  
2 AN IMMINENT DANGER THAT HE WOULD BE TOUCH UNLAWFULLY.  
3 DEFENDANT'S BELIEF MUST HAVE BEEN REASONABLE, AND HE  
4 MUST HAVE ACTED BECAUSE OF THAT BELIEF.

5 THE DEFENDANT IS ONLY ENTITLED TO USE THAT  
6 AMOUNT OF FORCE THAT A REASONABLE PERSON WOULD BELIEVE  
7 IS NECESSARY IN THE SAME SITUATION.

8 THE DEFENDANT USED MORE FORCE THAN -- IF  
9 THE DEFENDANT USED MORE FORCE THAN WAS REASONABLE, THE  
10 DEFENDANT DID NOT ACT IN LAWFUL SELF-DEFENSE.

11 WHEN DECIDING WHETHER THE DEFENDANT'S  
12 BELIEFS WERE REASONABLE, CONSIDER ALL OF THE  
13 CIRCUMSTANCES THAT WERE KNOWN TO AND APPEARED TO THE  
14 DEFENDANT AND CONSIDER WHAT A REASONABLE PERSON IN A  
15 SIMILAR SITUATION, WITH SIMILAR KNOWLEDGE, WOULD HAVE  
16 BELIEVED.

17 IF THE DEFENDANT'S BELIEFS WERE  
18 REASONABLE, THE DANGER DOES NOT NEED TO HAVE ACTUALLY  
19 EXISTED.

20 THE SLIGHTEST TOUCHING CAN BE UNLAWFUL IF  
21 IT IS DONE IN A RUDE OR ANGRY WAY. MAKING CONTACT WITH  
22 ANOTHER PERSON, INCLUDING THROUGH HIS OR HER CLOTHING,  
23 IS ENOUGH. THE TOUCHING DOES NOT HAVE TO CAUSE PAIN OR  
24 INJURY OF ANY KIND.

25 THE DEFENDANT -- DEFENDANT'S BELIEF THAT  
26 HE WAS THREATENED MAY BE REASONABLE, EVEN IF HE RELIED  
27 ON INFORMATION THAT WAS NOT TRUE. HOWEVER, THE  
28 DEFENDANT MUST ACTUALLY AND REASONABLY HAVE BELIEVED

1 THAT THE INFORMATION WAS TRUE.

2 SOMEONE WHO HAS BEEN THREATENED OR HARMED  
3 BY A PERSON IN THE PAST IS JUSTIFIED IN ACTING MORE  
4 QUICKLY OR TAKING GREATER SELF-DEFENSE MEASURES AGAINST  
5 THAT PERSON.

6 THE PEOPLE HAVE THE BURDEN OF PROVING  
7 BEYOND A REASONABLE DOUBT THAT THE DEFENDANT DID NOT ACT  
8 IN LAWFUL SELF-DEFENSE. IF THE PEOPLE HAVE NOT MET THIS  
9 BURDEN, YOU MUST FIND THE DEFENDANT NOT GUILTY OF  
10 BATTERY.

11 A PERSON DOES NOT HAVE THE RIGHT TO  
12 SELF-DEFENSE IF HE OR SHE PROVOKES A FIGHT OR A QUARREL  
13 WITH THE INTENT TO CREATE AN EXCUSE TO USE FORCE.

14 THE DEFENDANT IS CHARGED IN COUNT 2 WITH  
15 HAVING MADE A CRIMINAL THREAT. TO PROVE THAT THE  
16 DEFENDANT IS GUILTY OF THIS CRIME, THE PEOPLE MUST PROVE  
17 THAT, ONE, THE DEFENDANT WILLFULLY THREATENED TO  
18 UNLAWFULLY KILL OR UNLAWFULLY CAUSE GREAT BODILY INJURY  
19 TO TERRANCE SCROGGIN; NUMBER 2, THE DEFENDANT MADE THE  
20 THREAT ORALLY; NUMBER 3, THE DEFENDANT INTENDED THAT HIS  
21 STATEMENT BE UNDERSTOOD AS A THREAT; FOUR, THE THREAT  
22 WAS SO CLEAR, IMMEDIATE, UNCONDITIONAL, AND SPECIFIC  
23 THAT IT WAS -- THAT IT COMMUNICATED TO TERRANCE SCROGGIN  
24 A SERIOUS INTENTION AND THE IMMEDIATE PROSPECT THAT THE  
25 THREAT WOULD BE CARRIED OUT; FIVE, THAT THE THREAT  
26 ACTUALLY CAUSED TERRANCE SCROGGIN TO BE IN SUSTAINED  
27 FEAR FOR HIS OWN SAFETY; AND, SIX, TERRANCE SCROGGIN'S  
28 FEAR WAS REASONABLY -- WAS REASONABLE UNDER THE

1 CIRCUMSTANCES.

2 SOMEONE COMMITS AN ACT WILLFULLY WHEN HE  
3 OR SHE DOES IT WILLINGLY OR ON PURPOSE. IN DECIDING  
4 WHETHER A THREAT WAS SUFFICIENTLY CLEAR, IMMEDIATE,  
5 UNCONDITIONAL, AND SPECIFIC, CONSIDER THE WORD  
6 THEMSELVES AS WELL AS THE SURROUNDING CIRCUMSTANCES.

7 SOMEONE WHO INTENDS THAT A STATEMENT BE  
8 UNDERSTOOD AS A THREAT DOES NOT HAVE TO ACTUALLY INTEND  
9 TO CARRY OUT THE THREAT AND ACT.

10 GREAT BODILY INJURY MEANS SIGNIFICANT OR A  
11 SUBSTANTIAL PHYSICAL INJURY. IT IS AN INJURY THAT IS  
12 GREATER THAN MINOR OR MODERATE HARM.

13 SUSTAINED FEAR MEANS FEAR FOR A PERIOD OF  
14 TIME THAT IS MORE THAN MOMENTARY, FLEETING OR  
15 TRANSITORY.

16 AN IMMEDIATE ABILITY TO CARRY OUT THE  
17 THREAT IS NOT REQUIRED.

18 THE DEFENDANT IS CHARGED WITH PUBLIC --  
19 I'M SORRY. ONE MOMENT.

20 -- IS CHARGED IN COUNT 8 WITH A  
21 DISTRIBUTION OF A HANDBILL, IN VIOLATION OF LOS ANGELES  
22 COUNTY MUNICIPAL CODE SECTION 28.01, SUBDIVISION A.

23 TO PROVE THAT THE DEFENDANT IS GUILTY OF  
24 THIS CRIME, THE PEOPLE MUST PROVE THAT THE DEFENDANT  
25 DISTRIBUTED OR CAUSED OR DIRECTED THE DISTRIBUTION OF  
26 ANY HANDBILL TO PASSENGERS ON A STREET CAR, PLACED OR  
27 ATTACHED ANY HANDBILL TO OR UPON ANY VEHICLE.

28 A HANDBILL IS DEFINED AS ANY HANDBILL,

1 DODGER -- I DON'T KNOW WHAT A "DODGER" IS. WE'RE GOING  
2 TO SAY IT'S A HANDBILL -- COMMERCIAL ADVERTISING  
3 CIRCULAR, FOLDER, BOOKLET, LETTER, CARD, PAMPHLET,  
4 SHEET, POSTER, STICKER, BANNER, NOTICE, OR OTHER  
5 WRITTEN, PRINTED, OR PAINTED MATTER CALCULATED TO  
6 ATTRACT ATTENTION OF THE PUBLIC.

7 FOR THE PURPOSES OF THIS SECTION, THERE  
8 SHALL BE A PRESUMPTION THAT THE BUSINESS, COMMERCIAL  
9 ACTIVITY, OR PERSON WHOSE NAME APPEARS ON ANY HANDBILL  
10 SO THROWN, PLACED, OR ATTACHED, THREW, PLACED, OR  
11 ATTACHED SUCH HANDBILL OR CAUSED OR DIRECTED THAT SUCH  
12 HANDBILL BE THROWN, PLACED, OR ATTACHED TO OR UPON ANY  
13 VEHICLE. SAID BUSINESS, COMMERCIAL ACTIVITY, OR PERSON  
14 MAY REBUT THE FOREGOING PRESUMPTION BY THE PRESENTATION  
15 OF COMPETENT EVIDENCE THAT IT, HIM, OR HER DID NOT CAUSE  
16 OR DIRECT THAT ANY HANDBILL BE THROWN, PLACED, OR  
17 ATTACHED TO OR UPON ANY VEHICLE.

18 IN LIEU OF THE USE OF THIS PRESUMPTION,  
19 CRIMINAL LIABILITY MAY BE ESTABLISHED BY DIRECT EVIDENCE  
20 THAT THE BUSINESS, COMMERCIAL ACTIVITY, OR PERSON WHOSE  
21 NAME APPEARS ON THE HANDBILL CAUSED OR DIRECTED THAT  
22 SUCH HANDBILL BE THROWN, PLACED, OR ATTACHED TO OR UPON  
23 ANY VEHICLE.

24 COUNT 3 -- I'M SORRY.

25 COUNT 9, THE DEFENDANT IS CHARGED WITH  
26 DISTRIBUTION OF A HANDBILL, IN VIOLATION OF LOS ANGELES  
27 MUNICIPAL CODE SECTION 28.01.1(B). TO PROVE THAT THE  
28 DEFENDANT IS GUILTY OF THIS CRIME, THE PEOPLE MUST PROVE

1 THAT, ONE, THE DEFENDANT CAST, THREW, OR DEPOSITED ANY  
2 HANDBILL ONTO ANY STREET, SIDEWALK, OR PARK.

3 A HANDBILL IS DEFINED AS I JUST DEFINED IT  
4 IN THE LAST INSTRUCTION.

5 WE'RE ABOUT HALFWAY THROUGH.

6 I AM KIDDING. WE HAVE ONE LEFT.

7 THE DEFENDANT IS CHARGED WITH PUBLIC  
8 NUISANCE DISTRIBUTION OF HANDBILLS ON A CAR AND CAST,  
9 THROW, OR DEPOSIT CARDS ON THE STREET OR SIDEWALK IN  
10 COUNTS 1, 6, 8, AND 9, RESPECTIVELY.

11 THE PEOPLE HAVE PRESENTED EVIDENCE OF MORE  
12 THAN ONE ACT TO PROVE THAT THE DEFENDANT COMMITTED THIS  
13 OFFENSE. YOU MUST NOT FIND THE DEFENDANT GUILTY UNLESS  
14 YOU ALL AGREE THAT THE PEOPLE HAVE PROVED THAT THE  
15 DEFENDANT COMMITTED AT LEAST ONE OF THESE ACTS AND YOU  
16 ALL AGREE ON WHICH ACT HE COMMITTED.

17 ALL RIGHT. WITH THAT, WE WILL -- WE WILL  
18 HEAR FROM THE LAWYERS NOW. AND WE WILL START WITH THE  
19 PEOPLE.

20 MS. PHILIPS, GO AHEAD.

21 MS. PHILIPS: THANK YOU, YOUR HONOR.

22 GOOD AFTERNOON, LADIES AND GENTLEMEN.  
23 THANK YOU SO MUCH FOR YOUR ATTENTION TO THIS MATTER. I  
24 KNOW IT'S, KIND OF, WARM IN HERE, AND I KNOW IT'S  
25 FRIDAY. SO I AM GOING TO TRY TO MAKE THIS QUICK AND GET  
26 THIS OVER TO YOU, BUT I HAVE TO DO THIS. OTHERWISE, I  
27 WILL NOT HAVE DONE MY JOB.

28 SINCE I HAVE THE BURDEN OF PROOF, I GET TO



1 GO FIRST. WHAT DO I HAVE TO PROVE? DO I HAVE TO PROVE  
2 EVERYTHING UNDER THE SUN TO YOU? NO. BUT WHAT I DO  
3 HAVE TO PROVE, BEYOND A REASONABLE DOUBT, IS EACH AND  
4 EVERY ELEMENT OF THE OFFENSE WITH WHICH THE DEFENDANT IS  
5 CHARGED. LET'S START WITH COUNT NUMBER 1.

6 WITH REGARD TO COUNT 1, THIS IS THE SAME  
7 INSTRUCTION THAT THE JUDGE READ TO YOU ALREADY. AND YOU  
8 WILL HAVE THESE -- CORRECT, YOUR HONOR? -- TO REFER TO?

9 THE COURT: YES.

10 MS. PHILIPS: SO WITH REGARD TO COUNT 1,  
11 MR. PERELMAN IS CHARGED WITH HAVING COMMITTED THE ACT OF  
12 CREATING A PUBLIC NUISANCE. WHAT ARE THE FACTS THAT  
13 SUPPORT THIS COUNT?

14 WELL, YOU HEARD LOTS OF TESTIMONY  
15 BEGINNING WITH LINDA CANNON WHO TESTIFIED ABOUT THE  
16 INORDINATE AMOUNT OF CARDS THAT WERE DEPOSITED  
17 THROUGHOUT THE NEIGHBORHOOD. THOSE CARDS WERE FOUND ON  
18 THE STREETS. THEY WERE FOUND ON THE SIDEWALKS. THEY  
19 WERE FOUND WITHIN THE PARK. THEY WERE FOUND BASICALLY  
20 EVERYWHERE. AND THEY WERE FOUND FOR A PERIOD THAT  
21 EXTENDED FROM APPROXIMATELY MARCH OF 2017 THROUGH  
22 APPROXIMATELY AUGUST OF 2017. AND THEN COUNT 6 PICKS UP  
23 WHERE COUNT 1 DROPS OFF AND TACKS ON AN ADDITIONAL TIME  
24 FRAME OF ANOTHER MONTH OR SO.

25 OVERALL, BETWEEN THE TESTIMONY OF  
26 MS. CANNON WHO WAS THERE FOR THE ENTIRETY OF THE TIME,  
27 MS. DUFFY WHO LIVED THERE FROM DECEMBER 2016 TO ABOUT  
28 JULY 2017, SO HERS CUTS OFF IN JULY -- SHE TOO TESTIFIED

1 THAT SHE PERSONALLY WITNESSED THOUSANDS UPON THOUSANDS  
2 OF CARDS THAT WERE FOUND STREWN THROUGHOUT THE STREETS,  
3 ON THE SIDEWALKS, THROUGH THE PARK. AND THAT IS THE  
4 BASIS OF THE PUBLIC NUISANCE THAT THE PEOPLE ARE  
5 ALLEGING.

6 WAS IT ANNOYING TO HAVE, FOR INSTANCE, THE  
7 CARDS PLACED ON THE CARS? SURE. BUT WAS THAT TO THE  
8 ENTIRETY OF THE COMMUNITY? IN ALL FAIRNESS, PROBABLY  
9 NOT. IT WAS ANNOYING TO THE PERSON WHOSE CAR IT WAS. I  
10 AM SURE. IT WOULD BE TO ME. BUT, AGAIN, THE PUBLIC  
11 NUISANCE ASPECT OF IT AND I KNOW IT'S A TECHNICAL, LEGAL  
12 THING BUT IT'S IMPORTANT, THE DISTINCTION.

13 THE PUBLIC NUISANCE IS BASED UPON THE  
14 CARDS BEING STREWN ON THE GROUND THROUGHOUT THE  
15 NEIGHBORHOOD FOR AN EXTENSIVE PERIOD OF TIME, AN  
16 INORDINATE AMOUNT AS TESTIFIED TO BY MS. CANNON FIRST  
17 AND THEN MS. DUFFY. MR. SCROGGIN TESTIFIED ABOUT IT,  
18 THAT IT HAD BEEN GOING ON FOR A REALLY LONG TIME, THAT  
19 HE HAD PERSONALLY SEEN IT. MR. BARNARD ALSO TESTIFIED  
20 TO THAT, AS DID THE OFFICERS, BOTH SEAN DINSE AND  
21 OFFICER RYGH WHO BOTH TESTIFIED TO THEIR INVOLVEMENT AS  
22 SENIOR LEAD OFFICERS, THE INNUMERABLE AMOUNT OF  
23 COMPLAINTS THAT THEY RECEIVED REGARDING THESE CARDS  
24 BEING STREWN ABOUT THE NEIGHBORHOOD, THE FLAG DOWNS, THE  
25 FACEBOOK POSTS.

26 BASICALLY, BASED UPON ALL OF THAT  
27 TESTIMONY, ALL THIS CREDIBLE TESTIMONY THAT COMPLETELY  
28 CORROBORATED EACH OTHER, THERE WAS AN IMMENSE AMOUNT OF

1 CONCERN AND JUST DISDAIN ABOUT THIS CONDITION THAT WAS  
2 BEING CREATED BY MR. PERELMAN IN A NEIGHBORHOOD WHERE  
3 PEOPLE PAID GOOD MONEY TO LIVE PEACEFULLY AND WITHOUT  
4 BEING SURROUNDED BY THOUSANDS OF BUSINESS CARDS ON A  
5 DAILY BASIS FOR MONTHS AND YEARS ON END.

6 HERE COMES THE LEGALESE. DID KEVIN  
7 PERELMAN ACT OR FAIL TO ACT TO CREATE A CONDITION THAT  
8 WAS -- AGAIN, THESE ARE ALL "ORS." OKAY. SO IF YOU  
9 FIND ANY OF THESE TO BE TRUE, THIS ELEMENT HAS BEEN  
10 PROVEN BEYOND A REASONABLE DOUBT.

11 WERE THESE OFFENSIVE TO THE SENSES? WELL,  
12 AGAIN, BASED UPON THE TESTIMONY OF ALL OF THE PEOPLE  
13 THAT I JUST MENTIONED, THEY TOLD YOU THEY WERE OFFENSIVE  
14 TO THEIR SENSES. THEY HATED SEEING THIS CONSTANTLY. IT  
15 BOTHERED THEM. IT BOTHERED THEM ENOUGH THAT THEY TOOK  
16 IT UPON THEMSELVES TO GATHER THESE CARDS, TO THROW THEM  
17 IN A SINK, TO THROW THEM IN A DRAWER, TO THROW THEM IN A  
18 BAG. THEY TOOK IT UPON THEMSELVES TO TAKE TIME OUT OF  
19 THEIR SCHEDULE TO DO THIS BECAUSE THAT'S HOW MUCH IT  
20 BOTHERED THEM AND THAT'S HOW MUCH A CLEAN COMMUNITY  
21 MEANT TO THEM.

22 AND THIS WAS JUST A SAMPLING.

23 JUST SO WE ARE CLEAR -- THE JUDGE READ TO  
24 YOU -- I DON'T HAVE TO BRING IN EVERY SINGLE MEMBER OF  
25 THE COMMUNITY TO TELL YOU THAT IT BOTHERED THEM. IT'S  
26 SUFFICIENT TO HEAR FROM A SAMPLING WHO, BETWEEN LINDA  
27 CANNON, BRITTANY DUFFY, MR. SCROGGIN, MR. BARNARD, AND  
28 THE TESTIMONY OF OFFICERS DINSE AND RYGH, ESTABLISH THAT

1 THERE WERE A LOT OF PEOPLE WHO FOUND THIS TO BE VERY  
2 OFFENSIVE TO THEIR SENSES, THAT IT OBSTRUCTED THE FREE  
3 USE OF THEIR PROPERTY. BASICALLY, IF EITHER OF THOSE IS  
4 TRUE, THAT IS SUFFICIENT TO MEET ELEMENT 1.

5 THE SECOND ELEMENT IS THAT THE CONDITION  
6 AFFECTED A SUBSTANTIAL NUMBER OF PEOPLE AT THE SAME  
7 TIME. SO, AGAIN, HERE THE SUBSTANTIAL AMOUNT IS NOT IN  
8 QUESTION. WE HAVE ALREADY DISCUSSED THAT. THERE WERE A  
9 SUBSTANTIAL AMOUNT OF PEOPLE BASED UPON THE TESTIMONY OF  
10 THE OFFICERS AND THE WITNESSES. AND IT OCCURRED AT THE  
11 SAME TIME. WE ALREADY DISCUSSED THE TIME FRAMES AS  
12 WELL.

13 WOULD AN ORDINARY PERSON REASONABLY BE  
14 ANNOYED OR DISTURBED BY THE CONDITION? AND THAT IS  
15 SOMETHING THAT YOU ARE GOING TO HAVE TO ASK YOURSELVES,  
16 LADIES AND GENTLEMEN. YOU WILL HAVE TO APPLY THE  
17 REASONABLE PERSON'S STANDARD AND -- AND KIND OF JUST  
18 DECIDE. ARE THEY COMPLETELY OUT IN LEFT FIELD? OR  
19 WOULD A REASONABLE PERSON WHO SAW THOUSANDS AND  
20 THOUSANDS AND THOUSANDS OF BUSINESS CARDS DAY AFTER DAY  
21 AFTER DAY BE ANNOYED AS THEY WERE? AND THAT I CAN'T  
22 ANSWER. THAT IS YOUR PROVINCE, AND THAT IS SOMETHING  
23 THAT YOU WILL HAVE TO DECIDE FOR YOURSELF. BUT I SUBMIT  
24 TO YOU THAT ANY REASONABLE PERSON IN THEIR SITUATION  
25 WOULD HAVE FELT EXACTLY THE WAY THEY DID, EXACTLY THE  
26 WAY THEY SAT HERE AND TOLD YOU THEY DID.

27 DID THE SERIOUSNESS OF THE HARM OUTWEIGH  
28 THE SOCIAL UTILITY OF MR. PERELMAN'S CONDUCT? AGAIN,

1 YOU WILL HAVE TO DECIDE THE SOCIAL UTILITY OF HIS  
2 CONDUCT. WAS THERE HARM? I THINK, NOT TO BELABOR THE  
3 POINT, BUT THE HARM HAS BEEN ESTABLISHED. YOU HAVE TO  
4 DECIDE WHAT IS THE SOCIAL UTILITY. WHAT IS THE SOCIAL  
5 UTILITY OF DRIVING PEOPLE TO A WEBSITE TO READ ABOUT  
6 CONSPIRACY THEORY BY THE FBI AND THE NSA AND STARBUCKS  
7 AND EVERY OTHER ORGANIZATION THAT HE CLAIMS IS TARGETING  
8 HIM AND GANG STALKING HIM AND TRYING TO REMOVE HIM FROM  
9 SOCIETY SINCE CHILDHOOD? WHAT IS THE SOCIAL UTILITY OF  
10 THAT?

11 ASK YOURSELF: WHAT DOES HE REALLY WANT  
12 PEOPLE TO DO? DOES HE REALLY WANT THEM TO DO ANYTHING?  
13 IS HE TRYING TO GET MORE FOLLOWERS? IS HE TRYING TO  
14 BECOME A SUCCESSFUL BLOGGER? YOU TUBER? I DON'T KNOW.  
15 YOU HEARD THE EVIDENCE. I WOULD INVITE YOU TO CONSIDER  
16 IF YOU CAN FIND ANY SOCIAL UTILITY, ANY SOCIAL UTILITY  
17 WHATSOEVER, NOT TO KEVIN PERELMAN, BUT TO SOCIETY AS A  
18 WHOLE. HOW IS SOCIETY SERVED BY THIS?

19 ELEMENT NUMBER 5 IS THAT THE COMMUNITY DID  
20 NOT CONSENT TO HIS CONDUCT. I AM NOT GOING TO BELABOR  
21 THAT POINT. CLEARLY, THERE WAS NO CONSENT. CLEARLY,  
22 NOBODY SAID "PLEASE DUMP THOUSANDS OF CARDS EVERY DAY."

23 AND THE LAST FACTOR IS THAT KEVIN  
24 PERELMAN'S CONDUCT WAS A SUBSTANTIAL FACTOR IN CAUSING  
25 HARM.

26 AGAIN, THIS IS AN INSTRUCTION THAT IS  
27 GENERAL. SO IF THERE WERE MULTIPLE PEOPLE DOING THIS,  
28 THEN YOU WOULD HAVE TO DECIDE WHETHER KEVIN PERELMAN WAS

1 A SUBSTANTIAL FACTOR. HERE HE IS THE ONLY FACTOR. SO  
2 THAT IS -- THAT IS COUNT NUMBER 1.

3 AND BASICALLY EVERYTHING THAT I HAVE SAID  
4 WITH REGARD TO COUNT NUMBER 1 ALSO APPLIES TO COUNT  
5 NUMBER 6. IT'S JUST A SLIGHTLY DIFFERENT TIME FRAME.  
6 SO WE KNOCKED OUT TWO.

7 THE NEXT ELEMENT -- I'M SORRY. THE NEXT  
8 COUNT IS COUNT NUMBER 2 WHERE THE DEFENDANT IS ALLEGED  
9 TO HAVE COMMITTED A CRIMINAL THREAT AGAINST TERRANCE  
10 SCROGGIN.

11 AGAIN, TO PROVE THE DEFENDANT GUILTY OF  
12 THIS OFFENSE, THIS IS MY BURDEN. MY BURDEN IS TO PROVE  
13 TO YOU, BEYOND A REASONABLE DOUBT, THAT MR. PERELMAN  
14 WILLFULLY THREATENED TO UNLAWFULLY KILL OR UNLAWFULLY  
15 CAUSE GREAT BODILY INJURY TO MR. SCROGGIN.

16 IF YOU RECALL, MR. SCROGGIN CAME IN DAY 1.  
17 HE SAT ON THE WITNESS STAND AND TOLD YOU WHAT HAPPENED  
18 THAT DAY. HE TOLD YOU THAT ON MAY 18 OF 2017, ODDLY  
19 EXACTLY A YEAR AGO TODAY, HE COLLECTED A BUNCH OF  
20 MR. PERELMAN'S BUSINESS CARDS FOR THE UMPTEENTH TIME,  
21 AND HE RETURNED THEM TO HIS PATIO. UPON RETURNING THOSE  
22 TO HIS PATIO, A VERY SHORT TIME LATER MR. PERELMAN CAME  
23 OUT OF HIS APARTMENT, WALKED OUT ONTO THE STREET WHERE  
24 MR. PERELMAN -- MR. SCROGGIN WAS NEARBY TALKING TO A  
25 NEIGHBOR, AND STARTED DUMPING CARDS YET AGAIN ONTO THE  
26 STREET, RIGHT IN FRONT OF HIM.

27 AND AT THAT POINT MR. SCROGGIN, WHO I HAVE  
28 TO SAY WAS ONE OF THE MORE BRUTALLY HONEST WITNESSES I

1 HAVE EVER COME ACROSS TOLD --

2 MR. AMSTER: OBJECTION. VOUCHING FOR A WITNESS.

3 THE COURT: OVERRULED.

4 GO AHEAD.

5 LET ME ADD THIS. LADIES AND GENTLEMEN,  
6 THE PROSECUTOR'S OPINION AS TO THE VERACITY OF THE  
7 WITNESS DOES NOT MATTER OR HER OPINION AS TO HOW THIS  
8 WITNESS COMPARES TO ANYBODY ELSE IN ANY OTHER CASE  
9 DOESN'T MATTER. DISREGARD IT.

10 GO AHEAD.

11 MS. PHILIPS: MY APOLOGIES.

12 MY POINT WAS THAT THIS IS A MAN WHO SAT  
13 THERE AND TOLD YOU THE GOOD, THE BAD, AND THE UGLY,  
14 VOLUNTEERED THINGS ABOUT HIS OWN PERSONAL LIFE, HIS  
15 SERVICE TO OUR NATION, HIS PTSD THAT WASN'T BROUGHT UP,  
16 THE FACT THAT HE WAS GOING TO ANGER MANAGEMENT, WHICH  
17 AGAIN NOBODY ASKED HIM ABOUT. THIS MAN WAS JUST  
18 BRUTALLY HONEST. AND HE TOLD YOU ABOUT THE GOOD, THE  
19 BAD, AND THE UGLY. HE PUT IT ALL OUT THERE FOR YOU TO  
20 HEAR THE TRUTH ABOUT WHAT OCCURRED. AND THIS MAN TOLD  
21 YOU THAT UPON SEEING THIS LITTERING RIGHT IN FRONT OF  
22 HIS EYES, HE FELT COMPELLED TO GO AND ASK AND PLEAD WITH  
23 THE DEFENDANT NOT TO DO THIS, NOT TO CONTINUE DUMPING  
24 THE CARDS ON THE STREET. THAT'S WHAT HE TOLD YOU.

25 AND THE RESPONSE TO THAT WAS THAT THE  
26 DEFENDANT LOOKED HIM SQUARE IN THE EYE, GOT RIGHT IN HIS  
27 FACE, AND TOLD HIM HE WAS GOING TO CUT HIM OPEN. AND  
28 MR. SCROGGIN BELIEVED HIM. HE TOOK HIM SERIOUSLY. HE

1 WAS AFRAID. AND AT THAT POINT, YEAH, HE CALLED THE  
2 POLICE BECAUSE HE NEEDED HELP, AND HE BELIEVED THAT THE  
3 DEFENDANT WAS WILLING AND ABLE AND CAPABLE OF CARRYING  
4 OUT THAT THREAT.

5 SO WHEN WE'RE TALKING ABOUT WHETHER THE  
6 THREAT WAS MADE ORALLY -- I'M SORRY. LET ME BACK UP.

7 WITH REGARD TO COUNT NUMBER 1, HE NEVER  
8 THREATENED TO KILL HIM. BUT CUTTING SOMEBODY OPEN IS  
9 CERTAINLY A THREAT OF GREAT BODILY INJURY. AND, AGAIN,  
10 THAT IS IN THE DISJUNCTIVE. IT HAS TO BE -- IT'S  
11 EITHER/OR. EITHER THREATENED TO KILL OR UNLAWFULLY  
12 CAUSE GREAT BODILY INJURY. SO HERE WE HAVE THE ELEMENT  
13 SATISFIED BY HIS THREAT TO CAUSE GREAT BODILY INJURY BY  
14 WAY OF CUTTING HIM OPEN.

15 THE THREATEN WAS MADE ORALLY BECAUSE IT  
16 WAS SPOKEN TO MR. SCROGGIN. AND, CERTAINLY, GIVEN THE  
17 DESCRIPTION OF THE DEFENDANT'S DEMEANOR WHEN THE  
18 STATEMENT WAS MADE, GIVEN HIS PROXIMITY TO MR. SCROGGIN  
19 WHEN HE MADE THE STATEMENT, GIVEN THE TONE OF HIS VOICE,  
20 GIVEN HIS PRIOR CONDUCT, CERTAINLY IT SEEMED THAT THE  
21 DEFENDANT INTENDED THAT THE STATEMENT BE UNDERSTOOD AS A  
22 THREAT. IN FACT, HE TESTIFIED AS MUCH.

23 IF YOU DON'T RECALL, PLEASE, BY ALL MEANS,  
24 AS THE JUDGE INSTRUCTED, THERE IS A RECORD. IF YOU NEED  
25 YOUR RECOLLECTION REFRESHED AS TO WHAT THE DEFENDANT  
26 SAID OR AS TO ANY OTHER PORTION OF THE TESTIMONY, THAT  
27 IS AVAILABLE TO YOU.

28 THE THREAT HAS TO BE SO CLEAR, IMMEDIATE,



1 UNCONDITIONAL, AND SPECIFIC THAT IT HAS TO COMMUNICATE  
2 TO MR. SCROGGIN A SERIOUS INTENTION AND THE IMMEDIATE  
3 PROSPECT TO CARRY IT OUT.

4           AGAIN, IN THIS INSTANCE THERE WAS NOTHING  
5 UNEQUIVOCAL. CUTTING SOMEBODY OPEN IS PRETTY DARN  
6 SPECIFIC. AGAIN, THE SERIOUS INTENTION BEHIND THAT  
7 PROSPECT IS EXACTLY WHY MR. SCROGGIN IMMEDIATELY WENT  
8 INSIDE AND CALLED THE POLICE. DID IT CAUSE --

9           ELEMENT NUMBER 5 TALKS ABOUT HIS SUSTAINED  
10 FEAR. AND IT'S ONE OF THOSE THINGS WHERE -- IT'S NOT  
11 WHERE SOMEBODY SAYS SOMETHING TO YOU, LIKE, YOU KNOW,  
12 YOUR KID MAKES YOU REALLY ANGRY AND YOU SAY, "MY GOD. I  
13 COULD KILL YOU." THAT IS NOT A CRIMINAL THREAT. AND I  
14 AM SURE -- MY KIDS ANYWAY, THEY LAUGH AT ME WHEN I TRY  
15 TO BE ANGRY AT THEM. EVEN IF THEY WERE AFRAID, IT WOULD  
16 BE SOMETHING MOMENTARY. IT WOULDN'T BE A SUSTAINED  
17 FEAR. BECAUSE, AGAIN, THERE IS NO GRAVITY BEHIND IT.  
18 THERE IS NO INTENT BEHIND IT. IT'S NOT A TRUE CRIMINAL  
19 THREAT.

20           A TRUE CRIMINAL THREAT SCARES YOU ENOUGH  
21 THAT YOU ARE SCARED FOR YOUR SAFETY. AND MR. SCROGGIN  
22 HAD TIME TO CONSIDER THAT. THIS IS A MAN WHO IS 75  
23 YEARS OLD, WHO HAS LIFE EXPERIENCE, WHO HAS SEEN COMBAT,  
24 AND HE HAD ENOUGH WHEREWITHAL TO GET BACK TO HIS  
25 APARTMENT, CALL THE POLICE, WAIT FOR THE POLICE, TALK TO  
26 THE POLICE. THAT SHOWS THAT THIS WASN'T JUST A  
27 MOMENTARY FEAR. THIS WAS A FEAR THAT HE SUSTAINED FOR  
28 AN EXTENDED PERIOD OF TIME.

1                   WAS HIS FEAR -- AND THE LAST ELEMENT IS  
2 WAS THE FEAR REASONABLE UNDER THE CIRCUMSTANCES.

3                   AGAIN, BASED ON THE THREAT ITSELF OF  
4 CUTTING ONE OPEN AND GIVEN HIS PRIOR CONTACT WITH  
5 MR. PERELMAN AND GIVEN HIS WEBSITE AND THE ERRATIC  
6 BEHAVIOR AND EVERYTHING ELSE, BASED UPON THE TOTALITY OF  
7 THE CIRCUMSTANCES, I WOULD SUBMIT TO YOU, LADIES AND  
8 GENTLEMEN, THAT HIS FEAR WAS ABSOLUTELY REASONABLE UNDER  
9 THOSE CIRCUMSTANCES. BUT, AGAIN, THAT IS FOR YOU TO  
10 DECIDE.

11                   COUNT NUMBER 7, DEALS WITH WHAT HAPPENED  
12 ON AUGUST 18, 2017, WITH MR. BAILEY BARNARD.  
13 MR. BARNARD, AS YOU HEARD HIM TESTIFY, WAS COMING HOME  
14 FROM WORK, AND HE FINALLY CAME UPON MR. PERELMAN. NEVER  
15 SEEN HIM BEFORE. HIS WIFE HAD NEVER SEEN HIM BEFORE.  
16 AND LOW AND BEHOLD, THERE HE WAS DUMPING CARDS, ALL OF  
17 THESE CARDS THEY HAD SEEN OVER AND OVER. THEY FINALLY  
18 HAD A FACE TO PUT WITH WHO THIS WAS AND WHAT THEY WERE  
19 DOING.

20                   SO WHAT DID MR. BARNARD DO? HE TOLD YOU.  
21 HE TRIED TO REASON WITH HIM. HE WANTED TO ASK HIM TO  
22 PLEASE, PLEASE, PLEASE STOP LITTERING THEIR  
23 NEIGHBORHOOD. AND WHAT HAPPENED? WHAT HAPPENED WAS  
24 THAT THE DEFENDANT BECAME ENRAGED, THREATENED TO F-ING  
25 BLOW HIS HEAD OFF OR SOMETHING TO THAT EFFECT, AND  
26 PROCEEDED TO PUNCH HIM. AND MR. BARNARD -- HE DIDN'T  
27 SIT THERE AND EXAGGERATE OR TRY TO MAKE IT WORSE THAN IT  
28 WAS. HE SAID IT DIDN'T LAND SQUARELY HIS FACE, BUT IT

1 WAS ENOUGH FOR THEM TO FALL DOWN AND FOR MR. -- FOR THE  
2 DEFENDANT TO GET ON TOP OF HIM.

3 WHEN THEY WERE ON THE GROUND, MR. BARNARD  
4 TOLD YOU THE DEFENDANT CONTINUED TO TRY TO SWING AT HIM  
5 AND PUNCH HIM.

6 AT THIS POINT THEY'RE ON THE GROUND.  
7 MR. BARNARD IS ON HIS BACK. AND THE DEFENDANT IS STILL  
8 TRYING TO PUNCH HIM. AND ALL MR. BARNARD DOES IS TRY TO  
9 RESTRAIN HIM. THAT'S WHAT HE TOLD YOU. HE TRIES TO GET  
10 HIM IN A HEADLOCK TO TRY TO GET HIM TO STOP. THEY STAND  
11 UP. AT THIS POINT MR. BARNARD FEELS COMPLETELY DISABLED  
12 BY HAVING LOST HIS GLASSES. WHAT HAPPENS AT THIS POINT?  
13 THE DEFENDANT SWINGS A CAMERA AT HIM, A BIG DSLR CAMERA  
14 AND HITS HIM IN THE ARM.

15 SO DOES THAT MEET THE ELEMENTS OF A  
16 BATTERY? DID THE DEFENDANT WILLFULLY TOUCH BAILEY  
17 BARNARD IN A HARMFUL AND OFFENSIVE MANNER? I THINK  
18 BASED UPON WHAT I JUST DESCRIBED IN SUMMARY OF HIS  
19 TESTIMONY, CERTAINLY THAT WAS HARMFUL AND OFFENSIVE.

20 THE OTHER QUESTION IS DID THE DEFENDANT  
21 ACT IN SELF-DEFENSE. CLEARLY, ON MR. BARNARD'S  
22 TESTIMONY, THERE WAS NO SELF-DEFENSE TRIGGERED. HE MADE  
23 NO AGGRESSIVE MOVES TOWARD HIM. HE MADE NO THREAT  
24 AGAINST THE DEFENDANT. HE DIDN'T GIVE THE DEFENDANT ANY  
25 REASON TO BELIEVE THAT HE WAS IN ANY KIND OF DANGER OF  
26 IMMINENT HARM OR ATTACK OR ANYTHING ELSE. ALL HE WAS  
27 DOING WAS WALKING ALONGSIDE HIM, ASKING HIM TO PLEASE  
28 STOP LITTERING. NONE OF THAT GAVE RISE TO A

1 SELF-DEFENSE CLAIM.

2 EVEN IF YOU TAKE THE DEFENDANT'S  
3 TESTIMONY, HIS VERSION IS THAT THE DEFENDANT BLOCKED  
4 ACCESS TO HIS HOME. AGAIN, I DIDN'T HEAR A WORD ABOUT,  
5 FIRST OF ALL, THAT HE KNEW THAT WAS HIS HOME.  
6 FURTHERMORE, THAT EVEN BLOCKING SOMEONE'S HOME WHICH IS  
7 SOMETHING LIKE THIS THAT HE DEMONSTRATED, THAT DOESN'T  
8 TELL YOU YOU ARE GOING TO GET HIT. THAT DOESN'T SUGGEST  
9 YOU ARE IN IMMINENT HARM. THAT DOESN'T TRIGGER  
10 SELF-DEFENSE. IT DOESN'T TRIGGER ANYTHING.

11 AND EVEN ON HIS TESTIMONY, HE TELLS YOU  
12 THAT WHEN MR. BARNARD IS DOING THIS, HE THEN SWINGS AT  
13 HIM AND TAKES THE PUNCH. WHERE IS THE SELF-DEFENSE?  
14 IT'S NOT THERE.

15 BELIEF IN FUTURE HARM ISN'T SUFFICIENT.  
16 SO, AGAIN, IF YOU THINK MAYBE NEXT WEEK, NEXT MONTH,  
17 NEXT YEAR SOMETHING MIGHT HAPPEN, DOES THAT TRIGGER  
18 SELF-DEFENSE? NO. IT HAS TO BE REASONABLE.

19 SO FOR ALL OF THOSE REASONS, YOU HAVE NO  
20 CREDIBLE EVIDENCE BEFORE YOU TO SUGGEST THAT ANY OF THAT  
21 EXISTED AND THAT SELF-DEFENSE WAS TRIGGERED. AND IT  
22 CERTAINLY CAN'T BE CONTRIVED. YOU CERTAINLY CAN'T DO  
23 THINGS AND PROVOKE PEOPLE AND THEN CLAIM THAT THE FIGHT  
24 AND QUARREL THAT YOU STARTED THROUGH YOUR WORDS OR  
25 ACTIONS THEN JUSTIFIES AN EXCUSE TO USE FORCE.

26 AND THAT MAKES SENSE, DOESN'T IT? THAT IS  
27 ONLY FAIR. ISN'T IT?

28 BRINGS ME TO COUNT 8.

1                   COUNT 8 TALKS ABOUT DISTRIBUTION OF  
2                   HANDBILLS ON A VEHICLE. WHAT ARE THE ELEMENTS OF THIS  
3                   OFFENSE? THAT THE DEFENDANT DISTRIBUTED OR CAUSED OR  
4                   DIRECTED THE DISTRIBUTION OF ANY HANDBILL -- AND, AGAIN,  
5                   THESE ARE ALL "ORS" -- TO PASSENGERS ON A STREET CAR --  
6                   OKAY. THAT DOESN'T APPLY -- OR TO ATTACH ANY HANDBILL  
7                   TO OR UPON ANY VEHICLE. AND THAT IS THE MEAT OF OUR  
8                   OFFENSE.

9                   DID THE DEFENDANT PLACE HANDBILLS ON ANY  
10                  VEHICLE? AGAIN, EVERY WITNESS THAT TESTIFIED TOLD YOU  
11                  THAT THIS HAPPENED. HE TOOK -- THE DEFENDANT TOLD YOU  
12                  THAT THIS HAPPENED. SO IT'S REALLY AT THIS POINT  
13                  DEFINITIONAL, ISN'T IT? WHAT IS A HANDBILL? A BUNCH OF  
14                  THINGS. SOME OF WHICH WE DON'T KNOW WHAT THEY ARE. BUT  
15                  HERE IS WHAT WE KNOW.

16                  WE KNOW THAT A HANDBILL INCLUDES A CARD.  
17                  AND YOU HAVE CARDS UPON CARDS UPON CARDS. AND THAT IS  
18                  ALL WE NEED. THOSE CARDS PLACED ON THE VEHICLES ARE  
19                  SUFFICIENT TO PROVE THAT THIS CODE SECTION WAS VIOLATED.

20                  AND I AM SURE YOU ARE GOING TO HAVE A LOT  
21                  OF ARGUMENT FROM MR. AMSTER WHEN IT'S HIS TURN ABOUT THE  
22                  FIRST AMENDMENT AND HOW, YOU KNOW, FREE SPEECH IS GOING  
23                  TO BE ENOUGH TO OVERCOME THIS. I AM GOING TO GET ONE  
24                  MORE CHANCE TO TALK TO YOU, AND I WILL ADDRESS THAT  
25                  THEN. BUT I JUST WANTED TO FLAG THAT FOR YOU.

26                  AGAIN, THE REST OF THIS STUFF DOESN'T  
27                  MATTER TOO MUCH IN THIS OUR CASE BECAUSE THIS TALKS  
28                  ABOUT PRESUMPTIONS WHERE WE'RE NOT SURE WHO PUT THE

1 CARDS THERE. BUT HERE YOU HAVE DIRECT EVIDENCE OF WHO  
2 PUT THE CARDS THERE. YOU HAVE IT FROM EVERY WITNESS,  
3 AND YOU HAVE IT FROM THE DEFENDANT HIMSELF. THERE IS NO  
4 ISSUE THAT SOMEBODY ELSE PUT THE CARDS ON THESE CARS.

5 FINALLY, COUNT 9. COUNT 9 TALKS ABOUT THE  
6 BURDEN OF THE PEOPLE TO PROVE THAT IF THE DEFENDANT IS  
7 GUILTY OF THIS CRIME, THAT HE CAST, THREW, OR DEPOSITED  
8 ANY HANDBILL ONTO ANY STREET, SIDEWALK, OR PARK.

9 AGAIN, HANDBILL IS DEFINED THE EXACT SAME  
10 WAY. THERE IS OUR CARD.

11 AND YOU'VE HAD MORE THAN AMPLE EVIDENCE TO  
12 SHOW THAT THE DEFENDANT DID, IN FACT, DO THIS BASED UPON  
13 THE TESTIMONY OF EVERY WITNESS AND THE TESTIMONY OF THE  
14 DEFENDANT HIMSELF.

15 AGAIN, I AM NO MATH GENIUS. BUT IF I  
16 UNDERSTOOD THE TESTIMONY CORRECTLY, OUT OF 150,000  
17 CARDS, EVEN ACCORDING TO HIS TESTIMONY, TEN PERCENT OR  
18 15,000 ENDED UP ON THE GROUND.

19 I WILL LEAVE YOU WITH THAT FOR NOW.

20 THE COURT: THANK YOU.

21 LADIES AND GENTLEMEN, WE'RE GOING TO TAKE  
22 A FIVE-MINUTE BREAK. FIVE-MINUTE BREAK.

23 SO IF YOU WANT TO STRETCH YOUR LEGS, GO  
24 OUTSIDE, WE WILL GET YOU AT TEN TO 4:00, AND THEN WE  
25 WILL RESUME.

26 REMEMBER THE ADMONISHMENT. DON'T FORM OR  
27 EXPRESS ANY OPINION.

28 THANK YOU.

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(OUTSIDE THE PRESENCE OF THE JURY:)

THE COURT: THE RECORD SHOULD REFLECT THAT ALL  
JURORS LEFT. THE ALTERNATE HAS LEFT.

WE WILL START THE DEFENSE ARGUMENT IN FIVE  
MINUTES.

I DID SOME RESEARCH ON WHETHER  
SELF-DEFENSE CAN BE A DEFENSE TO A CRIMINAL THREAT. AND  
I THINK THE ANSWER IS YES. ALTHOUGH THERE IS NO  
PUBLISHED CASE, I FOUND ONE -- ONE UNPUBLISHED CASE THAT  
SAYS "WE MAY ASSUME WITHOUT DECIDING THE SELF" -- "THE  
SELF-DEFENSE CAN BE DEFENSE TO A CHARGE OF MAKING A  
CRIMINAL THREAT," AND IT MAKES CITATION. AND I FOUND A  
FEW OTHER CASES ON THAT SAME ISSUE. THE ONLY THING I  
WOULD DO IS SAY, ON PAGE 24, SELF-DEFENSE IS A DEFENSE  
TO BATTERY AND CRIMINAL THREATS. AND THE PARTIES CAN  
CONTINUE TO ARGUE.

ANY OBJECTION TO THAT?

MR. AMSTER: NO. COULD THE COURT DO THAT PRIOR  
TO MY --

THE COURT: YES.

MR. AMSTER: -- OPENING ARGUMENT? IF THE PEOPLE  
WANT TO REOPEN TO ADDRESS THAT, I WILL NOT HAVE AN  
OPPOSITION TO THAT.

MS. PHILIPS: FOR THE RECORD, WE WILL OBJECT, BUT  
I AM SURE IT WON'T HAVE ANY CONSEQUENCE.

THE COURT: ALL RIGHT.

1 MR. AMSTER: ONE MORE THING, IF I MAY, YOUR  
2 HONOR.

3 THE COURT: YES.

4 MR. AMSTER: I JUST WANT TO --

5 THE COURT: NUISANCE.

6 MR. AMSTER: I AM OBJECTING TO NUMBER 6 BEING  
7 TAKEN OUT ON THE ONE JURY INSTRUCTION. AND I ASK FOR A  
8 SPECIAL INSTRUCTION FOR "HANDBILL." THAT REQUEST WAS  
9 ALSO FOR COUNT 9 AS WELL.

10 THE COURT: SO NOTED.

11 THE REASON I TOOK OUT SIX IS BECAUSE I  
12 TRACKED THE LANGUAGE FROM THE CACI -- CIVIL INSTRUCTION  
13 RATHER, AND THAT HAS A DISTINCTION IN IT BETWEEN A  
14 PUBLIC AND A PRIVATE NUISANCE, AND THAT DOESN'T APPLY  
15 HERE. SO I TOOK IT OUT.

16 ALL RIGHT. SEE EVERYBODY IN FIVE MINUTES.

17 MR. AMSTER: THANK YOU.

18

19 (A BRIEF RECESS WAS TAKEN.)

20

21 THE COURT: BACK IN THE RECORD IN PERELMAN  
22 MATTER. HE'S HERE. HIS LAWYER IS HERE. AND THE PEOPLE  
23 ARE HERE. THE JURORS ARE IN THE HALLWAY. WE WILL BRING  
24 THEM IN.

25 MR. AMSTER: CAN YOU HOLD ON BEFORE YOU BRING  
26 THEM?

27 THE COURT: I'M SORRY. GO AHEAD.

28 MR. AMSTER: I SHOWED THIS TO THE PEOPLE. I AM



1 GOING TO -- I AM GOING TO START MY CLOSING ARGUMENT BY  
2 PUTTING IT UP THERE. I AM GOING TO PRESENT THAT TO THE  
3 JURY FIRST BECAUSE I HAVE TO PUT IT WITH MY COMPUTER  
4 SCREEN BECAUSE I DIDN'T PRINT IT OUT, BUT I AM GOING TO  
5 USE THAT AS FAR AS THE SOCIETAL PURPOSE ARGUMENT IN  
6 THERE. SO THE PEOPLE JUST DON'T KNOW OR THEY WILL MAKE  
7 THEIR OBJECTION.

8 THE COURT: THIS IS NOT PERMISSIBLE. THIS IS  
9 BASICALLY READING FROM IT. IT'S *LOVELL VERSUS CITY OF*  
10 *GRIFFIN*. 303 US 444. IT'S A 1938 CASE. IT'S A  
11 CITATION FROM -- FROM THAT COURT CASE. AND THAT IS NOT  
12 RELEVANT TO THESE -- THIS JURY'S DETERMINATION.

13 YOU ARE FREE TO MAKE PITCH, GENERALLY,  
14 ABOUT THE IMPORTANCE OF FREE SPEECH AND AS IT GOES TO  
15 THAT ELEMENT, BUT THIS IS NOT PERMISSIBLE.

16 MR. AMSTER: OKAY. SO IF I MAY, YOUR HONOR?

17 THE COURT: SURE.

18 MR. AMSTER: OF COURSE, I AM GOING TO ADHERE TO  
19 THE COURT'S RULING ON IT. AT A GIVEN POINT -- SO I AM  
20 NOT IN AGREEMENT WITH THE COURT, WITH ALL DUE RESPECT.  
21 AND I AM REQUESTING TO DO IT. I WOULD LIKE TO BE ABLE  
22 TO -- BY, ON MONDAY, HAVE THIS PRINTED OUT AND MARK IT  
23 AS THE COURT'S EXHIBIT, FOR THE RECORD.

24 THE COURT: SO NOTED.

25 ANYTHING ELSE?

26 MR. AMSTER: I DON'T THINK SO.

27 THE COURT: OKAY. WE CAN BRING THEM IN. THANK  
28 YOU.

1 (IN THE PRESENCE OF THE JURY:)

2

3 THE COURT: ALL RIGHT. ALL OF THE JURORS ARE  
4 BACK. THE ALTERNATE IS HERE.

5 WHEN I SAY A FIVE-MINUTE BREAK, IT ALWAYS  
6 TURNS INTO A TEN-MINUTE BREAK. BUT THAT IS NOT A BAD  
7 THING.

8 WE'RE READY TO START CLOSING ARGUMENT BY  
9 THE DEFENSE.

10 MR. AMSTER, WOULD YOU LIKE TO MAKE A  
11 CLOSING ARGUMENT?

12 MR. AMSTER: YES, YOUR HONOR.

13 THANK YOU, LADIES AND GENTLEMEN, FOR  
14 LISTENING TO THIS CASE.

15 I DON'T THINK IT'S ANY SURPRISE TO YOU IF  
16 I MAKE A STATEMENT TO YOU THAT WE HAVE A MENTAL HEALTH  
17 CRISIS IN OUR SOCIETY. AND THE QUESTION WE HAVE: WHAT  
18 DO WE DO ABOUT IT? I AM NOT SO SURE WE REALLY HAD A  
19 MENTAL HEALTH CRISIS IN OUR SOCIETY IN THE 1970S, BEFORE  
20 RONALD REAGAN DECIDED TO CLOSE DOWN THE STATE HOSPITALS  
21 AND ALLOWED ALL THE MENTAL PEOPLE BACK INTO OUR  
22 COMMUNITY. WE DIDN'T HAVE TO DEAL WITH THEM. THEY WERE  
23 LOCKED UP. THEY HAD THEIR PARANOIA THEY WERE ABLE TO  
24 DEAL WITH ON THEIR OWN. AND THEY WERE NICE AWAY FROM  
25 US, AND WE DIDN'T HAVE TO BOTHER ABOUT THEM.

26 NOW WE HAVE THEM IN OUR SOCIETY. WE DON'T  
27 HAVE THEM LOCKED UP IN HOSPITALS. THEY ARE AMONG US.  
28 BUT DO WE HAVE THE MATURITY AND THE ABILITY TO DEAL WITH

1 THEM? OR DO WE JUST WANT TO FIND A WAY TO LOCK THEM UP?  
2 MAYBE THE UTILIZATION OF CRIMINAL STATUTES? MAYBE TO  
3 FIND A WAY IN THE LAW TO DO IT? IS IT ANY SURPRISE WE  
4 HAVE THIS PROSECUTION HERE, RIGHT NOW, AT THIS TIME WITH  
5 THE HUGE HOMELESS CRISIS AND THE MENTAL HEALTH? MAYBE  
6 THIS IS THE BEGINNING, LADIES AND GENTLEMEN. BUT YOU  
7 HAVE TO DECIDE.

8                   YOU KNOW, I ASK MYSELF THE QUESTION, TIME  
9 AND TIME AGAIN: ARE WE DESERVING OF OUR FREEDOMS? ARE  
10 WE WILLING TO SACRIFICE OUR PERSONAL CONTENTMENT AND NOT  
11 BEING DISTURBED TO HAVE OUR FREEDOMS? BECAUSE  
12 GOVERNMENT ON THE EVE OF THIS COUNTRY, NOT OUR  
13 GOVERNMENT, BUT OUR PREDECESSOR GOVERNMENT TRIED TO  
14 SUPPRESS FREE SPEECH. AND WHO IS TO DECIDE WHAT IS FREE  
15 SPEECH OR NOT? JOHN PETER ZENGER. I WONDER HOW MANY OF  
16 YOU KNOW THE NAME JOHN PETER ZENGER.

17                   JOHN PETER ZENGER WAS A QUAKER. AND HE  
18 WAS IN PENNSYLVANIA DURING THE COLONIES. AND JOHN PETER  
19 ZENGER, HE PRINTED PAMPHLETS ABOUT THE RELIGION. AND  
20 THE BRITISH GOVERNMENT THREW HIM IN JAIL AND PROSECUTED  
21 HIM UNDERNEATH A STATUTE THEY HAD THAT YOU COULD NOT  
22 PRESENT PAMPHLETS THAT WERE IN DISAGREEMENT WITH THE  
23 ANGLICAN RELIGION. AND THE INSTRUCTIONS WERE VERY  
24 SPECIFIC TO THAT JURY. AND THAT JURY REFUSED TO FIND  
25 JOHN PETER ZENGER GUILTY BECAUSE THEY KNEW THAT THE  
26 GOVERNMENT SHOULD NEVER SUPPRESS FREE SPEECH.

27                   WHERE DOES IT START? WHERE DOES IT END?  
28 WHO IS TO DECIDE WHICH IS FREE SPEECH OR NOT?

1                   YOU, LADIES AND GENTLEMEN, ON A SIMPLE  
2 MISDEMEANOR HAVE A LOT OF VERY INTERESTING THOUGHTS TO  
3 HAVE ON THIS CASE. IT'S NOT THAT SIMPLE. AND I WILL  
4 GET TO THE POINT. LET'S GET TO IT.

5                   THE PEOPLE, BY SHOWING THAT PHOTOGRAPH OF  
6 MR. PERELMAN WITH THE GUN -- COME ON. LET'S BE  
7 TRUTHFUL. LET'S BE TRANSPARENT. THEY'RE TRYING TO SHOW  
8 YOU HE IS DANGEROUS. OKAY. I AM NOT GOING TO PLAY  
9 GAMES WITH YOU. LET'S BE HONEST. BUT LET ME ASK YOU  
10 THIS QUESTION. WHAT IS MR. PERELMAN'S DEAL? HOW DOES  
11 HE DEAL WITH WHAT HE THINKS IS A WORLDWIDE CONSPIRACY?  
12 HOW IS HE DEALING WITH? DOES HE GO OUT AND PROVOKE  
13 PEOPLE? NO.

14                   THIS CASE IS AS SIMPLE AS CAN BE. THE TWO  
15 INTERACTIONS THAT WE HAVE, MR. SCROGGIN AND MR. BAILEY,  
16 WERE NOT INITIATED BY MR. PERELMAN. THEY WERE INITIATED  
17 BY OTHERS WHO LOOKED TO PROVOKE HIM, TO MAKE INQUIRY,  
18 AND WOULD NOT DISENGAGE.

19                   YOU KNOW, THE OLDER I GET, THE MORE AND  
20 MORE I KEEP COMING UP AND REMINDED OF A TERM. THE MOST  
21 DIFFICULT EXERCISE OF POWER IS RESTRAINT, THE ABILITY TO  
22 DO SOMETHING BUT DON'T.

23                   SO I ASK YOU THIS. IN THAT JURY  
24 INSTRUCTION, THERE IS THE SOCIETAL PURPOSE. THERE IS  
25 THE COMPARISON RIGHT HERE, THAT THE SERIOUSNESS OF THE  
26 HARM OUTWEIGHS THE SOCIAL UTILITY OF KEVIN PERELMAN'S  
27 CONDUCT. AND THE PEOPLE ASKED YOU WHAT POSSIBLE SOCIAL  
28 PURPOSE CAN THERE BE. WELL, I ASK YOU THIS. WHEN YOU

1 HAVE SOMEBODY WHO BELIEVES THAT THERE IS A WORLDWIDE  
2 CONSPIRACY AGAINST HIM AND HIS WAY OF DEALING WITH IT IS  
3 JUST HANDING OUT CARDS, WHAT HAPPENS WHEN YOU STOP HIM  
4 FROM HANDING OUT CARDS? WHAT DOES HE DO? WHAT DOES THE  
5 MENTALLY ILL DO WHEN YOU STOP THEM FROM DOING SOMETHING  
6 PASSIVELY IN RESPONSE? DO THEY GO TO OTHER EXTREMES?  
7 DO THEY START GOING TOWARD VIOLENCE BECAUSE YOU HAVE  
8 ELIMINATED THEIR ONE PASSIVE WAY? DO THEY EVENTUALLY,  
9 AS YOU CLOSE DOWN THEIR AVENUES, PICK UP A GUN AND GET  
10 VIOLENT?

11 LOCK THEM UP IF YOU WANT. GO AHEAD.

12 MS. PHILIPS: OBJECTION, YOUR HONOR. IMPROPER  
13 ARGUMENT.

14 THE COURT: LADIES AND GENTLEMEN, YOU ARE NOT  
15 TO CONSIDER ANY PENALTY OR PUNISHMENT IN YOUR  
16 DELIBERATIONS. INSTEAD, THAT IS, IF WE GET TO THAT  
17 POINT, SOMETHING THAT THE COURT CONSIDERS ONLY. YOU ARE  
18 TO CONSIDER WHETHER THE PEOPLE HAVE PROVEN THE CASE  
19 BEYOND A REASONABLE DOUBT. NOTHING ABOUT PUNISHMENT OR  
20 PENALTY CAN BE CONSIDERED. OKAY.

21 GO AHEAD.

22 MR. AMSTER: OKAY. I AM NOT REFERRING TO JAIL.  
23 WHAT DO YOU DO WITH THE MENTALLY ILL? WE KNOW WE HAD  
24 STATE HOSPITALS. HOW DO WE DEAL WITH THEM IN OUR  
25 SOCIETY? IF WE CHOOSE TO NO LONGER HAVE THEM HAVE A  
26 PASSIVE RESPONSE, WHAT IS GOING TO BE THEIR NEXT  
27 RESPONSE? COULD IT LEAD TO A VIOLENT RESPONSE WHEN YOU  
28 ELIMINATE THE PASSIVENESS? IF YOU THINK IT CAN, I WANT

1 EACH OF YOU TO THINK ABOUT THE MOTHERS IN PARKLAND AND  
2 THE MOTHERS AT COLUMBINE. IF SOMEBODY THERE HAD A  
3 PASSIVE RESPONSE AND THEN TURNED VIOLENT AND YOU -- AND  
4 THEY SAY "YOU MEAN YOU COULD HAVE STOPPED THIS BY JUST  
5 ALLOWING HIM TO LITTER AND THAT THAT WAS NOT A SOCIAL  
6 UTILITY?" WHEN YOU PREVENT THE MENTALLY ILL TO DEAL  
7 WITH THEIR ILLNESS IN A PASSIVE WAY, YOU PUT YOURSELF AT  
8 RISK.

9 NOW MAYBE THE PROPER THING IS TO ELIMINATE  
10 THE PASSIVE WAY. THAT IS FOR YOU TO DECIDE. MAYBE THE  
11 PROPER THING IS TO GO BACK TO THE 70'S. OKAY. BUT  
12 UNTIL WE'RE THERE, THINK ABOUT IT. THINK ABOUT IT HARD  
13 BECAUSE THAT'S WHAT THIS CASE, IN SO MANY WAYS, IS  
14 ABOUT. HOW DO WE DEAL WITH THE MENTALLY ILL IN OUR  
15 SOCIETY.

16 DO WE HAVE THE ABILITY TO RESTRAIN  
17 OURSELVES? LISTEN TO WHAT MR. SCROGGIN SAID ON THAT  
18 STAND. "THIS WAS MY AREA." "HE WAS LITTERING MY AREA."  
19 HE -- MR. SCROGGIN EVEN PUT OUT FOR A MOMENT "HE WAS  
20 REDUCING OUR PROPERTY VALUE." YEAH. I COULD SEE WHERE  
21 INDIVIDUALS LIKE MR. SCROGGIN CLEARLY DON'T LIKE THIS.  
22 AND DOES IT REDUCE PROPERTY VALUE? I COULD SEE PEOPLE  
23 WALKING IN TO TRY TO BUY SOMETHING AT THE MET, SEEING  
24 CARDS ALL OVER THE PLACE SAYING, "ARE YOU KIDDING? I AM  
25 NOT PUTTING UP WITH THIS. I AM NOT GOING TO BUY HERE."

26 I AM NOT GOING TO SIT HERE AND SAY TO YOU  
27 THAT MR. SCROGGIN IS ENTIRELY WRONG IN FEELING THAT HIS  
28 MONETARY NEEDS IN SOCIETY, PROBABLY ON RETIREMENT,

1 PROBABLY A MORTGAGE, AND THERE IS NOTHING WRONG OF THAT,  
2 A VETERAN, WHICH IS TO BE RESPECTED, BUT HE DID SEE HIS  
3 PERSONAL ASSETS WERE AT RISK BY MR. PERELMAN'S ACTION.  
4 AND HE DID NOT WANT HIS PERSONAL ASSETS AT RISK.  
5 MR. SCROGGIN -- MR. PERELMAN WAS AFFECTING HIM THAT WAY.  
6 HE DOESN'T REACH OUT TO THE POLICE. AND THAT IS THE ONE  
7 THING THAT I AM SO CONFUSED BY THIS CASE.

8 WE EVEN HAD SOMEBODY ON THIS WITNESS STAND  
9 WHO DESCRIBED THEMSELVES AS A VIGILANTE. CAN YOU  
10 IMAGINE THAT? IN THIS DAY AND AGE? SEEMED LIKE A VERY  
11 NICE WOMAN TO ME, YOUNG WOMAN, I BELIEVE. A VIGILANTE.  
12 WE ALL KNOW WHAT A VIGILANTE IS. SOMEONE WHO TAKES THE  
13 LAW INTO THEIR OWN HANDS. WHO ARE WE? WHAT HAVE WE  
14 BECOME THAT WE ARE SO OFFENDED BY PEOPLE THAT WE WILL  
15 TAKE THE LAW IN OUR OWN HANDS? WE WILL NOT REACH AND  
16 CALL OUT TO THE POLICE, GO TO THE NEIGHBORHOOD COUNCILS,  
17 GO TO SOMETHING, GO FIND A WAY TO TALK. NO. WE'RE NOT  
18 READY FOR OUR FREEDOMS. WE HAVE FORGOTTEN WHAT IT'S  
19 LIKE NOT TO HAVE THEM.

20 AT ALL TIMES IN A MOMENT IN OUR SOCIETY,  
21 AT ALL TIMES WE ARE NOT WILLING TO SUPPORT SOMEBODY'S  
22 RIGHT TO FREE EXPRESSION. WE WILL FIND ANY WAY WE CAN  
23 TO USE THE LAW AGAINST THEM. AND WE WILL THINK MORE  
24 ABOUT OUR PERSONAL GAIN AND OUR FINANCES AND OUR MONEY  
25 THAN WE WILL OF MAYBE JUST DEALING WITH THE ISSUE, JUST  
26 HAVING A COMMUNITY CLEAN-UP. JUST -- JUST OKAY. HE'S  
27 MENTALLY ILL. LET'S FIGURE OUT A WAY. NO. WE HAVE NO  
28 TOLERANCE. GET THEM AWAY FROM US. GET THEM AWAY. NOT

1 IN MY NEIGHBORHOOD. NOT IN MY NEIGHBORHOOD.

2 JUST THINK OF ALL OF THESE TERMS WE HAVE  
3 THESE DAYS. MY GOODNESS.

4 SO I SAY TO YOU THE EXERCISE OF FREE  
5 SPEECH, IN ANY WAY WHATSOEVER, SHOULD NEVER EVER BE  
6 CONSIDERED A PUBLIC NUISANCE. THERE IS NO WAY YOU  
7 SHOULD FIND ANYONE GUILTY FOR A PUBLIC NUISANCE.

8 WHAT DO WE HAVE? WE HAVE THE DISTRIBUTION  
9 OF CARDS. THERE IS NO COMMERCIAL PURPOSE. NONE  
10 WHATSOEVER. THIS IS PURELY THE EXERCISE OF GOING TO  
11 KEVIN'S WEBSITE TO LEARN ABOUT THE WORLDWIDE CONSPIRACY  
12 AGAINST HIM.

13 I WALK THROUGH THE AIRPORT. I DON'T LIKE  
14 PEOPLE TRYING TO HAND ME THINGS. I WILL TELL YOU THAT  
15 RIGHT NOW. I AM NOT HAPPY ABOUT IT. I DON'T LIKE MY  
16 DOOR BEING KNOCKED ON DURING THE WEEKEND. I DON'T LIKE  
17 IT. IN FACT, I DON'T -- THERE ARE TIMES IT'S HAPPENED  
18 THAT I AM AFRAID WHO IS ON THE OTHER SIDE OF THAT DOOR.  
19 I DON'T LIKE IT. BUT I AM NOT GOING TO CALL THE POLICE.  
20 I AM NOT GOING TO GO BONKERS OVER IT. I AM GOING TO PUT  
21 UP WITH IT. I AM GOING TO ACCEPT IT. I AM EVEN GOING  
22 TO ACCEPT ALL OF THIS STUFF THAT IS PUT ON MY DOOR DAY  
23 IN AND DAY OUT BY REAL ESTATE BROKERS BECAUSE I WILL  
24 JUST TAKE IT, THROW IT IN THE TRASH, AND MAYBE I WILL  
25 KEEP A SCRATCH PAD HERE AND THERE, BUT I WILL PUT UP  
26 WITH IT BECAUSE I DON'T WANT THE REVERSE. I DON'T WANT  
27 THE SUPPRESSION TO CALL THAT A PUBLIC NUISANCE BECAUSE I  
28 DON'T KNOW WHAT I MIGHT NEED TO EXPRESS SOMETHING ABOUT



1 MY GOVERNMENT THAT I AM NOT HAPPY ABOUT AND TO SPREAD  
2 OUT THE LITERATURE, AND MAYBE IT ENDS UP ON THE GROUND.  
3 AND THEN I AM PROSECUTED BECAUSE I AM VOICING AN OPINION  
4 DIFFERENT THAN WHAT THE MAJORITY WANTS OR WHAT MY  
5 GOVERNMENT WANTS.

6 SO YOU ARE BEING ASKED THE DISTRIBUTION OF  
7 SOMEBODY'S SPEECH TO BE A PUBLIC NUISANCE, AND IT SERVES  
8 NO GREATER SOCIETAL PURPOSE. THAT'S WHAT YOU ARE BEING  
9 ASKED. YOU MAKE THAT DECISION.

10 JUST BE CAREFUL OF THE AREA YOU ARE  
11 WALKING INTO.

12 ALL RIGHT. SO LET'S TALK ABOUT BATTERY.  
13 FREEDOM OF SPEECH? NO. LITTERING? NO. STRAIGHT UP  
14 CRIMINAL CHARGE. THAT IS REALLY WHAT THIS CASE SHOULD  
15 BE ABOUT, BATTERY AND CRIMINAL THREATS AND NOTHING ELSE.

16 BUT WHEN YOU ARE NOT SO SURE YOU ARE GOING  
17 TO GET A CONVICTION ON WHAT IT SHOULD BE, LET'S BRING IN  
18 THE GARBAGE TRUCK.

19 OKAY. NOW BATTERY DEALS WITH MR. BAILEY.  
20 DO YOU REALLY THINK MR. BAILEY WAS CALM, COOL, AND  
21 COLLECTED WHEN HE CHOSE TO STOP HIS CAR ON THE WAY HOME  
22 AT THE END OF THE DAY? MIND YOU -- AND YOU DON'T HAVE  
23 TO ACCEPT IT. I AM NOT SO SURE ANY PERSON WOULD BE CALM  
24 AND COOL AFTER DRIVING ON THE 405 FREEWAY AT FIVE  
25 O'CLOCK. BUT REGARDLESS OF THAT POINT, ON HIS WAY HOME  
26 HE GETS A TEXT FROM HIS WIFE. YOU KNOW, THERE IS  
27 NOTHING WRONG TO AT LEAST BE KNOWING THAT THE PERSON YOU  
28 CARE FOR VERY DEEPLY IS UPSET. SHE SURE AS HECK DIDN'T

1 TEXT IT BECAUSE SHE WAS HAPPY. SHE'S ANNOYED. AND YOU  
2 KNOW WHAT? I AM NOT EVEN SAYING THERE IS ANY REASON WHY  
3 THEY SHOULDN'T BE ANNOYED. OKAY. THEY HAVE A RIGHT TO  
4 BE ANNOYED. I AM NOT STANDING HERE SAYING I WOULDN'T BE  
5 ANNOY, JUST THAT I WOULD EXERCISE RESTRAIN AND I WOULD  
6 THINK ABOUT THE GOALS. AND I PICK A FEW THINGS UP, NOT  
7 COMPLAIN ABOUT IT.

8 SO HE GETS OUT OF THAT CAR AND DECIDES  
9 HE'S NOT GOING TO GO HOME AT THE END OF THE DAY TO  
10 RELAX. THIS IS SO IMPORTANT TO HIM THAT HE'S NOT GOING  
11 TO GET HIMSELF HOME TO RELAX. HE'S GOING TO STOP AND  
12 CONFRONT MR. PERELMAN. OKAY. HE -- IN HIS WAY OF  
13 SAYING HOW THE ALTERCATION -- HOW THE SITUATION OCCURS,  
14 HE'S WALKING BACKWARDS. WHO IN THEIR RIGHT MIND WALKS  
15 BACKWARDS IF YOU ARE NOT UPSET? WHY DO YOU WALK  
16 BACKWARDS? WHY ARE YOU KEEPING YOURSELF STARING AT  
17 SOMEBODY INSTEAD OF BEING ON THE SIDE, AS KEVIN SAID?  
18 YOU CLEARLY WOULD WALK BACKWARD IF YOU HAVE YOUR CELL  
19 PHONE UP AND YOU ARE RECORDING THE INCIDENT. IT MAKES  
20 PERFECT SENSE.

21 AND THAT IS WHERE MR. BAILEY WAS LYING.  
22 YOU KNOW WHY? BECAUSE IF HE WAS RECORDING IT, WHERE IS  
23 THE RECORDING? AND WE HAD TO DESTROY THE EVIDENCE. AND  
24 WHY DO WE HAVE TO DESTROY THE EVIDENCE? BECAUSE WE  
25 DIDN'T WANT TO CALL THE POLICE. WE ONLY CALL THE POLICE  
26 IN RESPONSE TO MR. PERELMAN CALLING THE POLICE. BECAUSE  
27 THE MINUTE MR. PERELMAN CALLS THE POLICE, WE HIT DELETE,  
28 AND IT'S GONE. AND WE HAD OUR CELL PHONE. AND WE COULD

1 HAVE CALLED THE POLICE, BUT WE REALLY KNOW WHAT HAPPENED  
2 WAS WE'RE BUMPING HIM. WE'RE BUMPING HIM. WE'RE -- AND  
3 THEN WE GET TO HIS GATE, AND WE'RE NOT LETTING HIM HAVE  
4 ACCESS INTO HIS PLACE. WE'RE STANDING IN FRONT OF HIM.  
5 WE'RE BEING THE THREAT.

6 WE DIDN'T ASK YOU TO LOSE YOUR COMMON  
7 SENSE. HE CLEARLY -- MR. BAILEY WAS CLEARLY PROVOKED,  
8 CLEARLY UPSET, CLEARLY INTIMIDATING. HE WANTED THIS TO  
9 STOP AND WAS GOING TO USE ANY MEANS POSSIBLE TO PROVOKE  
10 MR. PERELMAN, TO RECORD MR. PERELMAN. AND SO  
11 MR. BAILEY, ON THE STAND, IS A LIAR.

12 I AM ASKING YOU TO NOT BELIEVE HE'S  
13 TRUTHFUL, SO I AM GOING TO TELL YOU HE'S A LIAR. I AM  
14 NOT GOING TO TELL YOU HE'S A BAD MAN. I AM NOT GOING TO  
15 TELL YOU HE'S A BAD PERSON. I DON'T THINK ANYBODY  
16 SHOULD LIE IN COURT. I HAVE A GUT FEELING HE'S A GOOD  
17 FAMILY MAN AND A GOOD CARING HUSBAND TOO.  
18 UNFORTUNATELY, THAT IS PART OF HIS MOTIVES. HE DOESN'T  
19 WANT THE LITTERING IN THE NEIGHBORHOOD. IT'S AFFECTING  
20 HIS PROPERTY VALUE TOO. IT'S A BOTHERSOME. IT'S  
21 ANNOYANCE. I DON'T THINK HE'S THINKING OF THE BIGGER  
22 PICTURE. IF HE WERE THINKING ABOUT THE BIGGER PICTURE,  
23 HE NEVER WOULD HAVE GOTTEN OUT OF THAT CAR, AND HE NEVER  
24 WOULD HAVE CONFRONTED MR. PERELMAN KNOWING WHAT WAS ON  
25 THE WEBSITE, AND HE SURE AS HECK WOULD HAVE DISENGAGED  
26 BY THE WAY HE TELLS THE STORY.

27 THAT WAS ABSOLUTE SELF-DEFENSE. NO  
28 QUESTION ABOUT IT.

1                   AND YOU HAVE THE JURY INSTRUCTION FOR  
2 SELF-DEFENSE. BUT YOU KNOW WHAT? IT'S 4:15. I CAN  
3 BELABOR THE POINT. AS I HAVE TOLD MANY PEOPLE, I CAN  
4 TURN A MONOLOGUE INTO HOURS, BUT WE'RE GOING TO TRY TO  
5 WRAP THIS UP IN 15 MINUTES.

6                   YOU WILL HAVE THE INSTRUCTIONS BACK THERE.  
7 YOU CAN READ IT, BUT WE ALL KNOW WHAT SELF-DEFENSE IS.  
8 DON'T WANT YOU TO USE YOUR OWN MEANING. USE THE MEANING  
9 IN THE JURY INSTRUCTION, BUT WE KNOW WHAT SELF-DEFENSE  
10 IS. BASICALLY, IT'S WHEN YOU PERCEIVE A THREAT, A  
11 PHYSICAL FORCE TOWARD YOU, AND YOU RESPOND, AND IT'S  
12 REASONABLE.

13                  I THINK THE MERE FACT OF HIM WALKING UP  
14 AND YELLING AND SCREAMING, AND I BELIEVE THAT THAT IS  
15 HOW MR. BAILEY CONFRONTED HIM, WOULD BE SUFFICIENT FOR  
16 SELF-DEFENSE. "GET AWAY FROM ME." AND THE FACT THAT IT  
17 ENDS UP RIGHT AT MR. PERELMAN'S GATE, WHAT DOES THAT  
18 SHOW YOU? MR. PERELMAN WAS TRYING TO RETREAT.  
19 MR. PERELMAN WAS TRYING TO GET TO HIS RESIDENCE. THIS  
20 IS NOT THE ACTS OF SOMEBODY AGGRESSIVE. THIS IS NOT  
21 SOMEBODY WHO WANTS TO KEEP THIS ENGAGED. IT'S  
22 MR. PERELMAN WHO IS WALKING TOWARD THIS GATE. IT'S  
23 MR. BAILEY WALKING BACK, LOCKING SO THEY CAN RECORD.

24                  MY GOODNESS. WHERE HAVE WE COME TO TRY TO  
25 ENGAGE AND PROVOKE SOMEBODY THAT WE BELIEVE IS CRAZY  
26 BECAUSE THAT'S WHAT MR. BAILEY SAID? HE AND HIS WIFE  
27 FIGURED MR. PERELMAN WAS CRAZY. WOW. IS THAT -- ARE WE  
28 PROUD OF THAT AS A SOCIETY? THAT WE ARE GOING TO

1 PROVOKE THE MENTALLY ILL AND THEN THINK WE CAN  
2 RATIONALLY TALK TO THE MENTALLY ILL? AND THEN WE'RE NOT  
3 GOING TO GO TO THE POLICE FIRST? WE'RE GOING TO MAKE  
4 ONE TELEPHONE CALL AND NOT FOLLOW-UP WITH A COMPLAINT OR  
5 GO TO THE NEIGHBORHOOD COUNCIL OR TRY TO DO EVERY OTHER  
6 REMEDY FIRST BEFORE WE ENGAGE?

7 CONDUCT LIKE THIS CANNOT BE SUPPORTED.  
8 CANNOT. JUST CANNOT BE. AND, AGAIN, "NOT IN MY  
9 NEIGHBORHOOD."

10 CRIMINAL THREATS. ALL RIGHT. YOU KNOW  
11 WHAT? I REALLY HAVE TO SAY IT. GIVE ME A BREAK.  
12 MR. SCROGGIN WASN'T SCARED FOR ONE SECOND, NOT FOR A  
13 SECOND. THE REALITY IS MR. SCROGGIN WANTED THE THREAT.  
14 HE WAS DOING EVERYTHING HE COULD TO GET THE THREAT. THE  
15 THREAT WAS HIS DREAM BECAUSE WITH THE THREAT, HE HAD THE  
16 ABILITY OF GETTING THE INTERVENTION HE NEEDED TO STOP  
17 THE CARDS BEING THROWN. AND SO, THEREFORE, ONCE YOU GET  
18 THE THREAT THAT YOU WANT BECAUSE YOU HAVE LAW  
19 ENFORCEMENT ACTIVITY AND YOU GET HIM ARRESTED, YOU ARE  
20 NOT IN FEAR. HE WAS NEVER IN FEAR. SO LET'S GO THROUGH  
21 IT.

22 THE DEFENDANT WILLFULLY THREATENED TO  
23 UNLAWFULLY KILL? NO. UNLAWFULLY CAUSE GREAT BODILY  
24 INJURY TO TERRANCE SCROGGIN? THE BEST WE HAVE IS A CUT.  
25 WHAT THE HECK DOES A CUT MEAN, IF IT'S UTILIZED IN THE  
26 WAY THAT MR. SCROGGIN SAYS? REPLACE THE WORD "CUT" WITH  
27 "PUSH." "LET ME TAKE MY WALK OR I AM GOING TO PUSH YOU  
28 DOWN." REALLY, THAT'S WHAT WAS HAPPENING HERE.

1 MR. SCROGGIN HAS ANGER MANAGEMENT ISSUES,  
2 AND I AM SORRY HE HAS PTSD. AND YOU KNOW WHAT? IN ANY  
3 SITUATION, PTSD ON A VETERAN SHOULD NOT BE USED TO THEIR  
4 DETRIMENT BECAUSE I BELIEVE THAT ANYONE WHO HAS BEEN IN  
5 THE MILITARY FORCES IS A HERO. SO I AM NOT GOING TO SIT  
6 HERE AND SAY HE'S NOT A HERO. YEAH. I MADE AN  
7 OBJECTION WHEN HE WAS WAVING HIS CAP. THERE ARE THINGS  
8 I HAVE TO DO. BUT HE TAKES PRIDE FOR BEING IN THE  
9 MILITARY. NOTHING WRONG WITH THAT.

10 BUT WE KNOW WHAT PTSD IS. OKAY. AND THE  
11 PTSD WAS SUCH TO A POINT WHERE HE IS NOW ON DISABILITY  
12 AND HE HAS ANGER MANAGEMENT. SO WHEN WE HAVE ANGER  
13 MANAGEMENT, THAT MEANS WE CANNOT CONTROL OUR ANGER OR  
14 TEMPER WHEN WE ARE FACED WITH A SITUATION WE ARE NOT  
15 HAPPY WITH, AND WE HAVE AN EMOTIONAL RESPONSE. AND,  
16 CLEARLY, WE HAVE HEARD FROM MR. SCROGGIN HE WAS NOT  
17 HAPPY ABOUT THE CARDS ALL OVER THE PLACE, LITTERING  
18 BECAUSE IT WAS AFFECTING HIS PLACE WHERE HE LIVED,  
19 LOWERING HIS PROPERTY VALUE, HE'S A BOARD MEMBER, SO  
20 HE'S PART OF THE LEADERSHIP AND EVERYTHING ELSE.  
21 THEREFORE, TO THINK HE DOESN'T HAVE AN EMOTIONAL  
22 RESPONSE TO THE SITUATION WHEN HE'S FINALLY CONFRONTING  
23 MR. PERELMAN IS JUST NOT LOGICAL OR RATIONAL. HE  
24 CLEARLY WAS BLOCKING MR. PERELMAN'S PATH TO TAKE HIS  
25 WALK.

26 AGAIN, WHAT DOES MR. PERELMAN WANT TO DO?  
27 HE WANTS TO BE PASSIVE. HE WANTS TO TAKE HIS WALK. BUT  
28 HE'S BEING PROVOKED.

1                   AND, THEREFORE, ONE, YOU DON'T HAVE GREAT  
2 BODILY INJURY. YOU HAVE A PRECEDING REMARK. SO THE  
3 THREAT WAS NOT IMMEDIATE, UNCONDITIONAL, AND SPECIFIC.  
4 IT WAS "IF YOU DON'T LET ME TAKE MY WALK." THAT IS THE  
5 CONDITION. "IF YOU DON'T LET ME TAKE MY WALK." "SO  
6 THEREFORE" -- THAT IS WHERE IT'S NOT UNCONDITIONAL. IT  
7 MEANS THAT SOMETHING HAD TO HAPPEN FIRST. AS SUCH,  
8 THAT'S WHERE THAT DEFINITION SHOWS THAT IT WAS NOT A  
9 CRIMINAL THREAT BECAUSE YOU HAVE THE CONDITION FIRST OF  
10 "LET ME TAKE MY WALK."

11                   AND IT WAS NOT THE IMMEDIATE PROSPECT THAT  
12 THE THREAT WOULD BE CARRIED OUT. "JUST LET ME TAKE MY  
13 WALK, AND I WON'T DO THE THREAT. I WON'T CUT." AND I  
14 AM SAYING HE'S REALLY SAYING "PUSH YOU DOWN." "I AM NOT  
15 GOING TO PUSH YOU DOWN."

16                   AND MR. SCROGGIN, I SUGGEST TO YOU, WAS  
17 NOT IN FEAR FOR HIS SAFETY FOR ANY PERIOD OF TIME. AND  
18 NOR WAS IT REASONABLE FOR HIM TO BE.

19                   AND, FINALLY, I BELIEVE HIS HONOR WILL, IF  
20 HE HAS NOT ALREADY, TELL YOU THAT SELF-DEFENSE CAN BE  
21 UTILIZED FOR CRIMINAL THREATS BECAUSE REALLY, IN OUR  
22 SOCIETY, WE WOULD RATHER HAVE SOMEBODY RESORT TO WORDS  
23 THAN PHYSICAL RESPONSE FIRST.

24                   SO, THEREFORE, MR. SCROGGIN, HOT, MAD,  
25 HEATED, BLOCKING THE PATH, WAS CLEARLY A PHYSICAL THREAT  
26 THAT A REASONABLE PERSON COULD PERCEIVE. "GET AWAY FROM  
27 ME." "I AM GOING TO PUSH YOU DOWN." "LET ME TAKE MY  
28 WALK." AND AS SUCH, UNDER THE LAW, MR. PERELMAN'S

1 ACTIVITIES WERE REASONABLE.

2 THE COURT: PERHAPS THIS IS A GOOD PLACE TO  
3 PAUSE.

4 MR. AMSTER: I COULD WRAP IT UP IN TEN MINUTES.

5 THE COURT: I AM GOING TO READ PARTS OF THE  
6 INSTRUCTIONS YOU JUST ALLUDED TO. AND THEN WHEN WE COME  
7 BACK ON MONDAY --

8 MR. AMSTER: I WAS TRYING TO WRAP IT UP IN TEN  
9 MINUTES.

10 THE COURT: WE ONLY HAVE SIX OR SEVEN MINUTES,  
11 AND THEN ALSO MS. PHILIPS HAS A REBUTTAL IN THE MATTER.  
12 SO WE CAN'T STAY PAST 4:30 REGRETTABLY.

13 SO I AM GOING TO READ TO YOU PORTIONS OF  
14 THIS.

15 MR. AMSTER IS CORRECT. SELF-DEFENSE IS A  
16 DEFENSE TO BATTERY AND CRIMINAL THREATS. THE DEFENDANT  
17 IS NOT GUILTY OF THOSE CRIMES IF HE USED FORCE AGAINST  
18 THE OTHER PERSON IN LAWFUL SELF-DEFENSE. AND THEN  
19 THE -- THE INSTRUCTION WILL BE -- IS THE EXACT SAME AS I  
20 READ IT TO YOU BEFORE. SO YOU JUST HAVE TO DETERMINE  
21 WHETHER THAT APPLIES OR NOT.

22 AND I WILL GIVE A COPY OF THAT TO YOU IN  
23 WRITING. SO YOU ARE THE FINAL JUDGES OF WHETHER THAT  
24 IS, IN FACT, TRUE.

25 MR. AMSTER: BEFORE YOU LET THEM GO, CAN WE TALK  
26 VERY BRIEFLY OFF THE RECORD.

27 THE COURT: SURE.  
28



1 (OFF-THE-RECORD DISCUSSION.)

2  
3 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN. I  
4 AM GOING TO ORDER YOU TO RETURN 11:00 A.M. ON MONDAY.  
5 AND THE ATTORNEYS ANTICIPATE THAT THE ARGUMENT PORTION  
6 WILL BE WRAPPED UP BY NOON, AND THEN THE MATTER WILL BE  
7 SUBMITTED TO YOU, AND YOU CAN BEGIN YOUR DELIBERATIONS.

8 ENJOY YOUR WEEKEND.

9 REMEMBER. DON'T FORM OR EXPRESS ANY  
10 OPINION ABOUT THE CASE. DO NOT GO ON THE INTERNET AND  
11 DO RESEARCH ABOUT THE CASE. DON'T TALK ABOUT THE CASE.

12 ENJOY YOUR WEEKEND.

13 11:00 A.M., IF YOU WOULD, ON MONDAY.

14 THANK YOU.

15  
16 (OUTSIDE THE PRESENCE OF THE JURY:)

17  
18 THE COURT: THE RECORD SHOULD REFLECT THAT ALL OF  
19 THE JURORS HAVE LEFT.

20 11:00 A.M. SIR, YOU ARE ORDERED TO  
21 RETURN.

22 SEE EVERYBODY BACK THEN.

23 THANK YOU. HAVE A GOOD WEEKEND.

24 MS. PHILIPS: THANK YOU, YOUR HONOR.

25 MR. AMSTER: THANK YOU, YOUR HONOR.

26 (COURT WAS ADJOURNED AT 4:24 P.M.)  
27  
28

(THE MATTER WAS CONTINUED TO  
MONDAY, 05-21-18, AT 11:00 A.M.)

1 CASE NUMBER: 7VW04099-01  
2 CASE NAME: PEOPLE VS. PERELMAN  
3 DEPARTMENT 113 HON. ERIC HARMON, JUDGE  
4 VAN NUYS, CA MONDAY, MAY 21, 2018  
5 REPORTER: ELSIE DIWA CERVANTES, CSR #11416  
6 APPEARANCES: SEE TITLE PAGE  
7 TIME: A.M. SESSION  
8  
9

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10  
11 THE COURT: WELCOME BACK. ALL OF THE JURORS ARE  
12 PRESENT. THE ALTERNATE IS HERE. MR. PERELMAN, HIS  
13 LAWYER, AND THE PEOPLE ARE REPRESENTED.

14 WE WERE IN CLOSING ARGUMENTS BY THE DEFENSE.  
15 SIR, WOULD YOU LIKE TO RESUME THOSE  
16 ARGUMENTS?

17 MR. AMSTER: YES, SIR, YOUR HONOR.

18 THE COURT: THANK YOU.

19 MR. AMSTER: GOOD MORNING, LADIES AND GENTLEMEN.  
20 I'M GOING TO, OBVIOUSLY, WRAP THIS UP THIS MORNING AND  
21 BRIEFLY GO OVER SOME OF THE THINGS I DID ON FRIDAY, BUT  
22 NOT BELABOR THE POINTS.

23 AGAIN, AS WE TALKED ABOUT PUBLIC NUISANCE, I  
24 HIGHLIGHTED TO YOU THE ASPECT OF NO. 4: THAT THE  
25 SERIOUSNESS OF THE HARM OUTWEIGHS THE SOCIAL UTILITY OF  
26 KEVIN PERELMAN'S CONDUCT. FIRST I TALKED TO YOU ABOUT  
27 HOW SOMETIMES WE, AS A FREE SOCIETY, SUCH AS WE ARE, YOU  
28 JUST HAVE TO BE TOLERANT OF CERTAIN BEHAVIOR THAT'S

1 ANNOYING TO US.

2 AND I SUBMIT TO YOU, THE ONLY BEHAVIOR THAT  
3 COULD BE CONSIDERED ANNOYING IN THIS CASE IN THE PUBLIC  
4 NUISANCE IS THE DISTRIBUTION OF KEVIN'S CARDS THAT HE'S  
5 DOING FOR FREE SPEECH PURPOSES. AND THAT'S PART OF OUR  
6 SOCIETY TO ACCEPT IT.

7 I ALSO BROUGHT UP THE FACT IS THAT, WHEN WE  
8 HAVE SOMEBODY WHO BELIEVES IN A WORLDWIDE CONSPIRACY AND  
9 THAT THEY HAVE A PASSIVE MANNER OF DEALING WITH IT, WHEN  
10 WE ELIMINATE THE PASSIVE MEANS, WE DO NOT KNOW WHAT  
11 WOULD HAPPEN. AND, CLEARLY, IF THERE'S GOING TO BE  
12 ANOTHER MEANS, THE SOCIAL UTILITY IS OF EXTREME VALUE.  
13 JUST IN THIS CASE, I DON'T BELIEVE THAT A PUBLIC  
14 NUISANCE STATUTE WAS EVER DESIGNED TO RESTRICT FREE  
15 SPEECH IN ANY WAY WHATSOEVER. AND, AS I MENTIONED, IT'S  
16 A VERY DANGEROUS THING TO DO, TO HAVE OUR GOVERNMENT  
17 INVOLVED IN RESTRICTING FREE SPEECH AT A TIME WHEN WE  
18 CERTAINLY MIGHT NEED FREE SPEECH MORE THAN ANYTHING  
19 ELSE. THIS IS NOT WHAT OUR COUNTRY WAS DESIGNED FOR, TO  
20 HAVE PUBLIC NUISANCE FOR THIS.

21 NOW, WE TALKED ABOUT THE BATTERY AND THE  
22 CRIMINAL THREAT. AND WE TALKED ABOUT THE FACT THAT, FOR  
23 BOTH OF THOSE CHARGES, SELF-DEFENSE IS CLEARLY AVAILABLE  
24 FOR IT. NOW, IN ALL OF YOUR WEIGHING OF THE EVIDENCE,  
25 YOU WILL BE GOVERNED BY REASONABLE DOUBT STANDARDS. AND  
26 THERE ARE TWO REASONABLE DOUBT STANDARDS THAT WE HAVE,  
27 ONE FOR DIRECT EVIDENCE, THINGS THAT THE WITNESS SAW,  
28 AND OTHERS BY CIRCUMSTANTIAL EVIDENCE OF THINGS THAT ARE

1 HAPPENING AND THEN WE HAVE TO CONCLUDE SOMETHING ELSE.

2           YOU KNOW, THE SIMPLE ONES THAT ARE TALKED  
3 ABOUT IS: IS IT RAINING OUTSIDE? IF A WITNESS COMES IN  
4 AND SAYS, "HEY, I WAS OUTSIDE, I SAW IT RAINING," WE  
5 CONCLUDE THAT IT'S RAINING. THAT'S DIRECT EVIDENCE. IF  
6 THE WITNESS COMES IN AND SAYS, "WELL, I SAW SOMEBODY  
7 WEARING A RAINCOAT, AND I SAW THAT THEY WERE ALL WET,"  
8 THAT'S CIRCUMSTANTIAL EVIDENCE, BECAUSE THEY DIDN'T  
9 ACTUALLY SEE THE RAIN, BUT THEY SAW THE RAINCOAT AND SAW  
10 THEY WERE ALL WET, SO YOU CAN REACH TO THE CONCLUSION  
11 THAT IT'S RAINING. THAT'S THE DIFFERENCE.

12           IN THIS CASE, THE CIRCUMSTANTIAL EVIDENCE IS  
13 KEVIN'S STATE OF MIND WHEN HE DOES THE CRIMINAL THREAT  
14 THINGS HE'S ACCUSED OF, OR WHEN HE'S ACCUSED OF DOING A  
15 BATTERY. NOW, WE DON'T BELIEVE THE STATEMENT HE MADE TO  
16 MR. SCROGGIN QUALIFIES AS CRIMINAL THREAT. BUT THE  
17 POINT IS, CLEARLY, THE EVIDENCE IS OVERWHELMING IN THIS  
18 CASE THAT BOTH MR. SCROGGIN AND MR. BAILEY WERE -- THEY  
19 PROVOKED THE INCIDENT. THEY WERE THE ONES WHO SOUGHT  
20 OUT KEVIN AND SOUGHT OUT TO PROVOKE HIM, TO ENGAGE WITH  
21 HIM, NOT TO DISENGAGE, NOT TO BE THE LOGICAL RATIONAL  
22 INDIVIDUAL.

23           THEREFORE, CLEARLY, WHEN THEY INTERACT WITH  
24 KEVIN, THEY ARE OF HIGH EMOTION, AND THEY ARE NOT IN  
25 CONTROL OF THEMSELVES. AS I MENTIONED, MR. BAILEY'S GOT  
26 PTSD, ANGER MANAGEMENT PROBLEMS. HE GOES TO ANGER  
27 MANAGEMENT CLASSES. CLEARLY, HE FELT HIS COMMUNITY, HIS  
28 PROPERTY, THE VALUE OF IT, WAS BEING INTERFERED WITH.

1 SO HE WAS HOT, EMOTIONAL, ON TO KEVIN. AND, THEREFORE,  
2 KEVIN COULD REASONABLY BELIEVE THAT HE NEEDED TO UTILIZE  
3 SELF-DEFENSE AND MAKE THE STATEMENT THAT HE DID UNDER  
4 SELF-DEFENSE.

5 AND REALLY, AS A SOCIETY, WHAT WOULD WE  
6 PREFER? THAT, ONE, WHEN THEY PERCEIVE THAT THEY NEED  
7 SELF-DEFENSE, IMMEDIATELY GO TO A PHYSICAL ACT, OR WOULD  
8 WE RATHER HAVE THEM MAKE A STATEMENT FIRST? KEVIN WAS  
9 ABLE TO MAKE THE STATEMENT, THE INTERACTION STOPPED. NO  
10 VIOLENCE WAS NECESSARY. HE WENT ON HIS WAY. THE  
11 CRIMINAL THREAT, IF WE'RE EVEN GOING TO CALL IT THAT,  
12 WHICH I DON'T BELIEVE IT IS, DID ITS PURPOSE. IT  
13 STOPPED THE CONFRONTATION. AND THAT IS PROBABLY WHAT'S  
14 MOST IMPORTANT IN OUR SOCIETY, STOP THE CONFRONTATION.  
15 UTILIZE IT TO STOP THE CONFRONTATION.

16 AGAIN, THERE WAS A CONDITION PRECEDENT, IF  
17 YOU DON'T LET ME WALK, THAT'S THE KEY PART. IF YOU  
18 DON'T LET ME WALK. SO, THEREFORE, THE THREAT WAS NEVER  
19 ONE THAT MEANT IT'S GOING TO HAPPEN NOW. IT WAS THE  
20 CONDITION PRECEDENT: IF YOU DON'T LET ME TAKE MY WALK.  
21 WHEN YOU HAVE A CONDITION PRECEDENT, YOU DON'T HAVE A  
22 CRIMINAL THREAT. SO, THEREFORE, IN THIS CASE, THE  
23 PEOPLE HAVE NOT SUSTAINED THEIR BURDEN BEYOND A  
24 REASONABLE DOUBT THAT A CRIMINAL THREAT OCCURRED.

25 AND IF THERE'S ANY REASONABLE DOUBT, IF YOU  
26 WEIGH IN AND YOU'RE NOT QUITE SURE, THEY HAVE TO PROVE  
27 IT BEYOND A REASONABLE DOUBT, SO A QUESTION OR A  
28 WEIGHING THAT'S NOT COMPLETELY WITHIN TO OVERCOME THE

1 REASONABLE DOUBT STANDARD THAT THE PEOPLE HAVE, THEY  
2 MUST FIND THE DEFENDANT NOT GUILTY. THAT'S OUR SYSTEM  
3 OF LAW.

4 ON THE BATTERY, THE BATTERY IS CLEAR THAT,  
5 AGAIN, KEVIN WAS ENTITLED TO RESORT TO SELF-DEFENSE. MY  
6 GOODNESS. AS MENTIONED, MR. BAILEY HAD THE RIGHT TO GO  
7 HOME, SHOULD HAVE GONE HOME. SOMETHING HAD TO CAUSE HIM  
8 TO BE SO EMOTIONAL, TO NOT WANT TO GO HOME, TO STOP, TO  
9 CONFRONT KEVIN. AFTER A LONG RIDE ON THE 405 FREEWAY ON  
10 A DAY AT WORK TO THINK THAT HE WASN'T EMOTIONAL, TO  
11 THINK THAT HE WASN'T UPSET, TO THINK THAT HE DIDN'T  
12 RAISE HIS VOICE, ESPECIALLY WHEN HE ASKED KEVIN TO STOP  
13 LITTERING. AND THEN KEVIN TRIED TO EXPLAIN IT TO HIM,  
14 WE'RE GONNA DO IT. OF COURSE, HE DID.

15 AND WHO WALKS BACKWARDS TO MAINTAIN CONTACT  
16 WITH SOMEBODY? WHO DOES THAT? IT'S SOMEBODY WHO  
17 DOESN'T WANT SOMEBODY TO GET OUT OF THEIR WAY. IF I'M  
18 WALKING FORWARD AND SOMEBODY IS IN MY PATH AND I WANT TO  
19 DISENGAGE THE INTERACTION, I HAVE THE RIGHT TO GET THEM  
20 OUT OF THE WAY. BECAUSE IF I'VE GOT SOMEBODY WALKING  
21 BACK, ESPECIALLY IF THEY'RE HOLDING UP A CELL PHONE,  
22 THIS IS A THREAT. AND I DON'T KNOW WHAT THIS PERSON IS  
23 GOING TO DO.

24 AND WHAT IS OVERWHELMING IN KEVIN'S FAVOR  
25 IS: WHERE WAS KEVIN GOING? HE WAS GOING TO HIS  
26 RESIDENCE. HE WAS GOING TO GET AWAY. HE EVEN WANTED TO  
27 GET INTO THE GATE THAT WAS BEING BLOCKED AT ONE POINT BY  
28 MR. BAILEY. YOU SEE, LOOK AT ALL OF THE EVIDENCE AS A

1 WHOLE. KEVIN'S RESPONSE: DISENGAGE, PASSIVE, DON'T  
2 HAVE AN INTERACTION WITH THESE INDIVIDUALS HE'S  
3 PERCEIVED AS PART OF A WORLDWIDE CONSPIRACY. HE DOESN'T  
4 WANT TO DO SOMETHING VIOLENT. HE WANTED TO DISENGAGE.  
5 BUT THOSE WHO ASSERT THEMSELVES IN A POSITION, THEY'RE  
6 THE ONES WHO WANT TO ENGAGE. THEY'RE THE AGGRESSORS.  
7 AND AS A SOCIETY, IS THIS WHAT WE WANT?

8 REMEMBER, ONE OF THE WOMEN CALLED HERSELF A  
9 VIGILANTE. OH, SCROGGIN, BAILEY, THEY WERE BEING  
10 VIGILANTES. IS THIS WHAT WE WANT FROM OUR SOCIETY, THAT  
11 CITIZENS WHO FEEL THAT SOMEBODY IS A THREAT TO THEM TO  
12 RESORT TO THEIR OWN MEANS AND NOT GET LAW ENFORCEMENT  
13 INVOLVED? THIS LEADS TO ANARCHY. THIS LEADS TO  
14 PROBLEMS. THEREFORE, THE FACT THAT AN INDIVIDUAL WOULD  
15 RESORT TO SELF-HELP, INSTEAD OF THE LAWFUL MEANS THAT WE  
16 HAVE, SHOWS YOU WHAT THEIR STATE OF MIND WAS.

17 IT WAS ONE TO PROVOKE. IT WAS ONE TO  
18 ATTACK. AND IT WAS NOT ONE TO CAUSE A PASSIVE  
19 INTERACTION. THEREFORE, IT'S OVERWHELMING THAT BOTH THE  
20 BATTERY AND A CRIMINAL THREAT CASE JUST DOES NOT HOLD  
21 WATER HERE, AND "NOT GUILTY" SHOULD CLEARLY BE GIVEN TO  
22 IT.

23 NOW, YOU'VE BEEN INSTRUCTED BY HIS  
24 YOUR HONOR THAT THE TESTIMONY OF ONE WITNESS CAN BE  
25 SUFFICIENT. IT CAN BE. DOESN'T MEAN IT HAS TO BE.  
26 DOESN'T MEAN IT ALWAYS IS. AND WE ALSO HAVE A LOT OF  
27 THAT DISCUSSION DURING JURY VOIR DIRE TOO. HERE'S THE  
28 PROBLEM IN THIS CASE.



1           YOUR ONE WITNESS TO PROVE THE APPROPRIATE  
2   STATE OF MIND FOR MR. PERELMAN TO CONSTITUTE A BATTERY  
3   OR CRIMINAL THREAT IS A WITNESS WHO GOT ON THE STAND AND  
4   TOLD A LIE.   SO HOW DO YOU BELIEVE SOMEBODY WHO'S TOLD A  
5   LIE?  MR. SCROGGIN JUST DID NOT WANT TO ADMIT THAT HE  
6   THREW THOSE CARDS ON THE PATIO.

7           THE EVIDENCE IS SO OVERWHELMING THAT HE DID,  
8   THAT BECAUSE HE WAS FRUSTRATED, UPSET, AND EVERYTHING  
9   ELSE OF IT BEING DISTRIBUTED IN HIS NEIGHBORHOOD, THAT  
10  HE WAS GOING TO RETURN THE FAVOR TO KEVIN.  HE WAS GOING  
11  TO INVADE HIS PATIO.  MR. SCROGGIN EVEN WENT SO FAR TO  
12  CALL THAT COMMON AREA.  THE PATIO IS NOT YOUR COMMON  
13  AREA.  MR. SCROGGIN DID EVERYTHING HE COULD DO TO  
14  JUSTIFY HIS CONDUCT.  HE EVEN SAID HE DIDN'T WALK ONTO  
15  THE PATIO, HE REACHED OVER.

16           BUT WE KNOW FROM OFFICER DENISE THAT  
17  MR. SCROGGIN SHOWED WHERE THE CARDS WERE PUT ON THE  
18  PATIO, THAT HE TOOK THEM THERE.  SO HE KNEW.  SO  
19  MR. SCROGGIN GOT ON THIS STAND, AND HE LIED TO YOU.  HE  
20  LIED TO YOU WHEN HE SAID, "I DON'T KNOW WHERE I PUT THEM  
21  ON THE PATIO; I DIDN'T STEP ON THE PATIO."  DO YOU WANT  
22  TO BELIEVE ONE WITNESS WHO'S A LIAR BEYOND A REASONABLE  
23  DOUBT?  IT'S UP TO YOU.

24           MR. BAILEY.  MR. BAILEY WOULD NOT ADMIT THAT  
25  HE WAS RECORDING KEVIN, BUT ALL THE EVIDENCE IS CLEAR.  
26  WHY ARE YOU WALKING BACKWARDS?  UNLESS YOU'RE HOLDING UP  
27  YOUR CELL PHONE TO RECORD, TO INTIMIDATE, TO TRY AND  
28  PROVOKE, BECAUSE YOU WANT THE EVIDENCE SO YOU COULD TAKE

1 IT TO THE POLICE. CLEARLY, HE DOESN'T WANT TO ADMIT ALL  
2 OF HIS CONDUCT. WHY DOESN'T HE WANT TO ADMIT ALL OF HIS  
3 CONDUCT? BECAUSE HE KNEW THAT HE WAS THE ONE WHO  
4 PROVOKED THE INCIDENT. AND THAT'S WHY HE ONLY CALLED  
5 THE POLICE IN RESPONSE TO KEVIN CALLING THE POLICE.

6 AND ISN'T THAT HUGE? WHO CALLS THE POLICE  
7 IF YOUR CONDUCT IS WRONG? KEVIN WOULD HAVE EVERY REASON  
8 IN THE WORLD NOT TO WANT TO GET THE POLICE INVOLVED.  
9 BUT THE EVIDENCE IS OVERWHELMING, UNDISPUTED THAT IT WAS  
10 KEVIN WHO CONTACTED THE POLICE, BECAUSE ALL KEVIN WANTED  
11 TO DO WAS GET TO HIS RESIDENCE AND GET AWAY FROM  
12 MR. BAILEY. AND MR. BAILEY WOULD NOT DO IT, BECAUSE HE  
13 WAS SO HOT, SO MAD, SO EMOTIONAL, BLOCKING HIS PATH,  
14 THAT HE WAS A THREAT TO KEVIN'S PEACEFUL EXISTENCE OF  
15 GETTING HOME.

16 THEREFORE, KEVIN WAS ABSOLUTELY WITHIN THE  
17 RIGHT FOR SELF-DEFENSE, AND THE PEOPLE HAVE NOT PROVEN  
18 THEIR CASE WITH THEIR ONE WITNESS ON EACH COUNT.

19 YOU WILL HAVE IN THE JURY ROOM WHAT IS  
20 CALLED JURY INSTRUCTION 226, WHICH TALKS ABOUT WHAT YOU  
21 WILL UTILIZE TO EVALUATE THE WITNESSES' TESTIMONY. I  
22 WOULD SUGGEST TO YOU THAT YOU LOOK AT IT, ASK THOSE  
23 QUESTIONS, AND YOU WILL SEE THAT IT JUSTIFIES NOT  
24 BELIEVING MR. SCROGGIN OR MR. BAILEY IN THIS MATTER.

25 THE DEFENDANT IS CHARGED IN THIS CASE WITH A  
26 VIOLATION OF 28.01, THAT BASICALLY MAKES IT ILLEGAL FOR  
27 SOMEBODY TO CAST, THROW, OR DEPOSIT ANY HANDBILL ON ANY  
28 STREET, SIDEWALK, OR BUILDING. NOW, IN THIS IT SAYS

1 THAT A HANDBILL IS DEFINED, AND IT TALKS ABOUT  
2 COMMERCIAL ADVERTISING, AND CLEARLY, THIS LANGUAGE LOOKS  
3 LIKE THIS APPLIES TO BUSINESS ACTIVITY AND NOT TO FREE  
4 SPEECH.

5 NOW, IT IS UP TO THE JUDICIAL OFFICER TO  
6 DEFINE THE LAW TO YOU. I SUBMIT TO YOU THAT, IF YOU  
7 FEEL THAT THIS IS SOLELY TOWARDS COMMERCIAL AND THAT  
8 IT'S NOT TO PREVENT FREE SPEECH, SUCH AS HANDING OUT  
9 INFORMATION ABOUT WHO YOU SHOULD VOTE FOR, THINGS LIKE  
10 THAT -- BECAUSE THIS COVERS ALL OF THAT -- YOU HAVE THE  
11 RIGHT TO GIVE A QUESTION TO YOUR HONOR DURING  
12 DELIBERATIONS. YOU HAVE A RIGHT TO ASK THE JUDGE  
13 SPECIFICALLY: DOES THIS APPLY ONLY TO COMMERCIAL OR  
14 BUSINESS ADVERTISING, OR DOES THIS APPLY TO EVERY TYPE  
15 OF FREE SPEECH OR ANYTHING ELSE OUT THERE?

16 I THINK YOU NEED TO BE GUIDED. AND THEN  
17 ONCE YOU GET THAT INFORMATION, YOU NEED TO FOLLOW THE  
18 LAW. I WILL NOT ASK YOU NOT TO FOLLOW THE LAW, BUT I  
19 THINK YOU NEED MORE GUIDANCE THAN WHAT'S HAPPENED HERE.

20 MS. PHILIPS: OBJECTION. AT THIS POINT, IT'S  
21 LEADING.

22 THE COURT: LADIES AND GENTLEMEN, THIS APPLIES TO  
23 EVERYTHING, SO IT COULD BE COMMERCIAL, EVEN MCDONALD'S,  
24 IT COULD BE POLITICAL, ANY TYPE OF HANDBILL.

25 GO AHEAD.

26 MR. AMSTER: OKAY. SO HIS HONOR IS SAYING, AND HE  
27 CAN CONTRADICT ME IF I'M WRONG AT THIS POINT, THAT THIS  
28 APPLIES TO PURE FREE SPEECH. THEREFORE, UNLESS HIS

1 HONOR CONTRADICTS ME, YOU HAVE GOT TO UTILIZE THIS, THAT  
2 THIS IS ABOUT EVERY TYPE OF SPEECH POSSIBLE, EVERY TYPE  
3 OF DISTRIBUTION WHATSOEVER. THAT'S THE LAW IN THIS CASE  
4 FOR THOSE TWO COUNTS. AND THAT'S WHAT IT IS. AND I'M  
5 NOT GOING TO TRY TO ARGUE ANYTHING DIFFERENTLY, BECAUSE  
6 I CAN'T.

7 AT THE END OF THE DAY, THE FOUNDATION OF OUR  
8 SYSTEM IS THAT A DEFENDANT IN A CRIMINAL CASE IS  
9 PRESUMED TO BE INNOCENT. KEVIN SITS AT THIS MOMENT AS  
10 BEING PRESUMED INNOCENT. IT IS FOR YOU TO WEIGH THE  
11 EVIDENCE AND DETERMINE IF THE PEOPLE HAVE PROVED BEYOND  
12 A REASONABLE DOUBT -- I'M GOING TO REPHRASE THAT.

13 PROOF BEYOND A REASONABLE DOUBT IS PROOF  
14 THAT LEAVES YOU WITH AN ABIDING CONVICTION THAT THE  
15 CHARGE IS TRUE. THE EVIDENCE NEED NOT ELIMINATE ALL  
16 POSSIBLE DOUBT, BECAUSE EVERYTHING IN LIFE IS OPEN TO  
17 SOME POSSIBLE OR IMAGINARY DOUBT. IN DECIDING WHETHER  
18 THE PEOPLE HAVE PROVED THEIR CASE BEYOND A REASONABLE  
19 DOUBT, YOU MUST IMPARTIALLY COMPARE AND CONSIDER ALL THE  
20 EVIDENCE THAT WAS RECEIVED THROUGHOUT THE ENTIRE TRIAL.  
21 UNLESS THE EVIDENCE PROVES THE DEFENDANT GUILTY BEYOND A  
22 REASONABLE DOUBT, HE IS ENTITLED TO AN ACQUITTAL, AND  
23 YOU MUST FIND HIM NOT GUILTY.

24 AS MUCH AS THAT IS OBJECTIVE, IT IS ALSO  
25 SUBJECTIVE. YOU'VE ALREADY DETERMINED WHAT PROOF LEAVES  
26 YOU WITH AN ABIDING CONVICTION. YOU CAN CHOOSE TO  
27 DISREGARD EVERY WITNESS, BECAUSE IT WAS ONLY ONE  
28 WITNESS, AND YOU WANTED MORE PROOF, BECAUSE YOU QUESTION

1 EACH AND EVERY ONE OF THEIR MOTIVES, BECAUSE THEY DIDN'T  
2 LIKE LITTERING. SO YOU CAN REJECT ALL THE EVIDENCE IF  
3 YOU WANT LEGALLY, UNDER THAT STANDARD, BECAUSE YOU  
4 CHOOSE NOT TO BELIEVE THEM, BECAUSE THE PEOPLE DIDN'T  
5 BRING OTHER SUBSTANTIATING EVIDENCE.

6 YOU CAN CHOOSE HOW FAR YOU TAKE THIS  
7 REASONABLE DOUBT STANDARD AND FIND HIM NOT GUILTY ON  
8 EVERYTHING ELSE, BECAUSE YOU MIGHT FEEL THAT WITHIN THE  
9 BOUNDARIES, WHEN IT COMES TO FREE SPEECH, THEY BETTER  
10 PROVE EVERYTHING TO A LETTER OF THE LAW AND THEY SHOULD  
11 HAVE BROUGHT IN MORE WITNESSES FOR IT, OR YOU CAN CHOOSE  
12 NOT TO.

13 THAT, AT THE END OF THE DAY, IS WHERE OUR  
14 SYSTEM ALLOWS YOU TO BE THE GOVERNMENT. HOLD THEM TO A  
15 STRICT STANDARD, HOLD THEM NOT TO A STRICT STANDARD.  
16 THAT IS YOUR ABILITY, BECAUSE AT THE END OF THE DAY, OUR  
17 JURIES DEFINE WHO WE ARE AND WHAT WE ARE.

18 ARE WE THE APPROPRIATE INHERITORS OF OUR  
19 FREEDOMS? ARE WE WILLING TO JUSTIFIABLY FIGHT WITHIN  
20 THE TOOLS AND THE LAWS FOR US, FOR OUR RIGHT TO BE WHO  
21 WE ARE? SOMETIMES I HATE THE REMARK THAT I AM A SON  
22 OF -- A MEMBER OF OUR LATEST GENERATION, BUT I'M NOT SO  
23 SURE, BECAUSE I'D RATHER BE PART OF THE GREATEST  
24 GENERATION. I BELIEVE EACH GENERATION OF AMERICANS HAS  
25 THEIR CHALLENGES.

26 DO WE LIVE UP TO IT, OR DO WE NOT? HOW DO  
27 WE DEAL WITH THE MENTAL -- HOW DO WE DEAL WITH THE  
28 INDIVIDUALS WITH THE MENTAL HEALTH ISSUES IN OUR

1 SOCIETY? DO WE TOLERATE THEM? ARE WE INTOLERANT?  
2 THESE ARE THE QUESTIONS FOR OUR GENERATION, AND I THINK  
3 WE WILL BE JUDGED IF WE WERE GREAT OR NOT ON HOW WE  
4 HANDLE THIS. NOT IN MY NEIGHBORHOOD, OR I'VE GOT  
5 COMPASSION. I WILL BE TOLERANT, I WILL ALLOW, BECAUSE I  
6 DON'T WANT TO RISK HOW THOSE SAME LAWS CAN BE UTILIZED  
7 TO IMPRISON ME. THANK YOU.

8 THE COURT: THANK YOU. MS. PHILIPS, WOULD YOU  
9 LIKE TO OFFER REBUTTAL AT THIS TIME?

10 MS. PHILIPS: I WOULD, YOUR HONOR.

11 GOOD MORNING, LADIES AND GENTLEMEN. I'M  
12 GOING TO GET STARTED. I'M SURE YOU'RE EAGER TO START  
13 DELIBERATING, BUT I WOULDN'T BE DOING MY JOB IF I DIDN'T  
14 GO THROUGH AND ADDRESS SOME OF THE THINGS THAT MR.  
15 AMSTER BROUGHT UP IN HIS ARGUMENT. THAT'S KIND OF JUST  
16 PART OF OUR SYSTEM.

17 SO LET ME START OUT WITH WHAT THIS TRIAL IS  
18 ABOUT. IT'S SIMPLY ABOUT WHETHER MR. PERELMAN COMMITTED  
19 THE CRIMES THAT HE'S ACCUSED OF. DID HE CREATE A PUBLIC  
20 NUISANCE? DID HE BATTER MR. BAILEY? DID HE THREATEN  
21 MR. SCROGGIN? DID HE DEPOSIT BUSINESS CARDS ONTO CARS?  
22 AND DID HE THROW THEM ALL OVER THE STREETS?

23 WE MAY WANT TO TALK ABOUT THE MENTALLY ILL,  
24 HOW OUR SOCIETY TREATS THEM, WHO WE ARE AS HUMANS, WHAT  
25 WE SHOULD AND SHOULDN'T DO. BUT, QUITE FRANKLY, WE CAN  
26 GO GRAB A DRINK AND DO THAT ANYTIME, BUT THAT'S NOT WHAT  
27 THIS TRIAL IS ABOUT. THIS TRIAL IS ABOUT, DID I MEET MY  
28 BURDEN? DID I PROVE TO YOU BEYOND A REASONABLE DOUBT

1 THE TRUTH OF THE CHARGES? SO THIS ISN'T THE TIME. AS  
2 THE JUDGE MENTIONED FROM THE VERY BEGINNING, WE HAVE A  
3 VERY SPECIFIC JOB TO DO HERE. WE ALL HAVE A JOB.

4 YOU, AS JURORS, HAVE TO DECIDE THE FACTS.  
5 WHAT HAPPENED, WHAT DO YOU BELIEVE, WHAT DID THE  
6 EVIDENCE PROVE? AND THEN YOU HAVE TO APPLY THE LAW.  
7 THAT IS WHAT WE'RE HERE FOR. YES, WE'RE A FREE SOCIETY.  
8 WE CAN DEBATE WHETHER WE LIKE THE LAW, DON'T LIKE THE  
9 LAW, OUTSIDE OF THIS COURTROOM AS MUCH AS WE WANT. BUT  
10 WHEN WE'RE IN HERE, YOUR JOB IS TO TAKE THE LAW AS  
11 YOUR HONOR GIVES IT TO YOU AND APPLY IT TO THE FACTS AS  
12 YOU FIND THEM.

13 WHY DID YOU HEAR ABOUT THE QUAKERS? WHY WAS  
14 MR. AMSTER TALKING ABOUT THE QUAKERS? THAT'S A THEORY  
15 CALLED JURY NULLIFICATION. AND THAT BASICALLY KIND OF  
16 INVITED YOU TO SAY: YES, YOU KNOW, THERE'S THIS LAW,  
17 BUT I DON'T REALLY LIKE IT, AND I'M GOING TO BE LIKE THE  
18 QUAKERS, WHOEVER THAT GUY WAS THAT WROTE WHATEVER THAT  
19 PAMPHLET WAS, JUST DIDN'T AGREE WITH IT, AND THEY WERE  
20 QUAKERS, AND THEY SAID NO.

21 WELL, GUESS WHAT? I DON'T EVEN KNOW IF THEY  
22 HAD JURY INSTRUCTIONS. MY KIDS WILL TELL YOU I'M THAT  
23 OLD, BUT I'M NOT THAT OLD, AND I DON'T KNOW WHETHER THEY  
24 WERE TOLD, LIKE YOU WERE, THAT YOU HAVE TO FOLLOW THE  
25 LAW. BUT THAT INVITATION NEEDS TO BE REJECTED, THAT  
26 INVITATION TO BE A QUAKER OR ANYBODY ELSE WHO'S NOT LAW  
27 ABIDING AND WHO DOESN'T TAKE THEIR OATH AND RETURN A  
28 VERDICT BASED UPON THE FACTS AND THE LAW WITHIN THIS

1 COURTROOM, SIMPLY IS UNACCEPTABLE. THAT WOULD VIOLATE  
2 YOUR OATH. SO, SO MUCH ABOUT THE QUAKERS.

3 SO NOW -- AND, AGAIN, WHAT WE DO AS A  
4 SOCIETY WITH MENTAL HEALTH AND OTHERWISE, REALLY, REALLY  
5 HAS NO ROOM FOR DISCUSSION IN YOUR DELIBERATIONS AT THIS  
6 POINT, BECAUSE, REALLY, IT DOESN'T EITHER PROVE OR  
7 DISPROVE THE FACTS. IT DOESN'T. IT HAS NOTHING TO DO  
8 WITH WHAT HAPPENED ON THESE GIVEN DAYS. SO WHAT DO WE  
9 KNOW?

10 WHAT WE DO KNOW IS WE GOT TWO VERSIONS OF  
11 EVENTS OF WHAT HAPPENED. LET'S START ON MAY 18. ON  
12 MAY 18 OF 2017, MR. SCROGGIN GOT UP ON THE STAND AND  
13 TOLD YOU TRUTHFULLY WHAT HAPPENED THAT DAY.

14 MR. AMSTER: OBJECTION. COACHING.

15 THE COURT: OVERRULED. GO AHEAD.

16 MS. PHILIPS: HE TOLD YOU THAT ON THAT DAY, HE  
17 PICKED UP A BUNCH OF MR. PERELMAN'S BUSINESS CARDS, AND  
18 HE SAID HE PLACED THEM SOMEWHERE ON THE PATIO. NOW,  
19 THIS IS A YEAR AGO. I DON'T REMEMBER WHAT I DID LAST  
20 WEEK. AND HE TOLD YOU: YEAH, I DID IT, I PICKED UP  
21 THOSE CARDS, I PUT THEM ON THE PATIO. HE DIDN'T  
22 REMEMBER EXACTLY WHERE AND EXACTLY HOW, AT 75, GOD BLESS  
23 HIM, NO, HE DIDN'T, AND HE TOLD YOU THAT.

24 HE COULD HAVE MADE IT UP. WE NEVER WOULD  
25 HAVE KNOWN THE DIFFERENCE. HE COULD'VE LOOKED AT THE  
26 PHOTOS AND SAID: YEP, THAT'S THE TABLE, EXACTLY WHERE I  
27 PUT THEM. BUT THAT MAN IS A -- SHOT STRAIGHT. HE TOLD  
28 YOU WHAT HE DID; HE TOLD YOU WHAT HE KNEW; AND HE TOLD



1 YOU WHAT HE DIDN'T KNOW.

2 AND WHAT HE DIDN'T KNOW IS THE EXACT  
3 PLACEMENT OF THE BUSINESS CARDS. BUT HE NEVER DENIED HE  
4 DID IT. HE TOLD YOU OVER AND OVER AGAIN: YEAH, I  
5 PICKED THEM UP, I WAS SICK OF THEM. IT'S NOT OKAY.

6 AND HE RETURNED THEM. HE RETURNED THEM BACK  
7 TO HIM, SAID: HERE, TAKE THEM. WERE THEY ON THE GROUND  
8 OR ON THE TABLE? I DON'T KNOW, AND I DON'T CARE,  
9 BECAUSE IT DOESN'T MATTER. IT'S ONE OF THOSE THINGS,  
10 DON'T PAY ATTENTION TO THE FACTS. WELL, IT DOESN'T  
11 MATTER. HE DIDN'T LIE TO YOU. HE TOLD YOU HE PICKED UP  
12 THOSE CARDS, AND PUT THEM ON THE PATIO. WHERE ON THE  
13 PATIO IS WHOLLY IRRELEVANT.

14 THEN WHAT? HE DID THAT, HE WALKED AWAY. HE  
15 WENT TO THE FRONT OF THE COMPLEX TO TALK TO A FRIEND.  
16 AND THEN WHAT HAPPENED? MR. PERELMAN COMES OUT TO THE  
17 MIDDLE OF THE STREET, AND WHAT DOES HE START DOING?  
18 ONCE AGAIN, HE'S THROWING THE BUSINESS CARDS ONTO THE  
19 STREET IN THE MIDDLE OF BURBANK BOULEVARD. AND WHAT  
20 DOES MR. SCROGGIN DO? HE WALKS OUT TO THE MIDDLE OF THE  
21 STREET, LIKE I THINK ANY REASONABLE PERSON WOULD DO, AND  
22 HE'S LIKE: COME ON. I MEAN, I JUST PICKED THESE UP. I  
23 JUST PUT THESE BACK ON YOUR DAMN PATIO. COME ON. AND  
24 NOW YOU'RE THROWING THEM ON THE STREET AGAIN? COME ON.

25 AND GUESS WHAT? WE HEAR ALL OF THIS FIRST  
26 AMENDMENT STUFF FROM THE DEFENSE. WELL, GUESS WHAT? HE  
27 HAS A RIGHT TO FREEDOM OF SPEECH TOO. MR. SCROGGIN HAS  
28 THE RIGHT, UNDER THE FIRST AMENDMENT JUST LIKE

1 MR. PERELMAN DOES, TO GO UP THERE AND SAY: KNOCK IT  
2 OFF, PLEASE, KNOCK IT OFF.

3 WHAT DOES MR. PERELMAN DO IN RESPONSE? HE  
4 GETS UPSET, AND HE THREATENS TO CUT HIM OPEN. OVER  
5 WHAT? A REQUEST TO PICK UP YOUR CARDS AND TO STOP  
6 LITTERING THIS ENTIRE NEIGHBORHOOD? THAT'S NOT OKAY.  
7 AND MR. SCROGGIN SERVED OUR COUNTRY. HE'S BEEN TO  
8 VIETNAM. I WOULD SUBMIT TO YOU, THIS MAN KNOWS A THREAT  
9 WHEN HE HEARS ONE. AND HIS ACTIONS REFLECT THAT HE WAS  
10 AFRAID. HE HADN'T HAD CALL THE POLICE BEFORE, BUT GUESS  
11 WHAT? HE HADN'T BEEN THREATENED TO BE CUT OPEN BEFORE.  
12 SO NOW HE DID EXACTLY WHAT A REASONABLE PERSON WOULD DO,  
13 AND HE CALLED THE POLICE AND ASKED FOR HELP. THIS IS  
14 EXACTLY WHAT HE TOLD YOU FROM THE WITNESS STAND.

15 WHAT'S VERSION NO. 2? THAT WOULD BE WHAT  
16 MR. PERELMAN ALLEGES HAPPENED. HE SAYS HE HEARD A NOISE  
17 ON THE PORCH AND SAW BUSINESS CARDS ALL OVER THE GROUND.  
18 HE SAYS HE SAW MR. SCROGGIN TALKING TO A NEIGHBOR, AND  
19 IN RESPONSE TOOK OUT A KNIFE. THAT WAS HIS TESTIMONY.  
20 HE TOOK OUT A KNIFE. WHERE IS THE PROVOCATION? NO  
21 PROVOCATION. HE DIDN'T TALK ABOUT ANY PROVOCATION. HE  
22 TALKED ABOUT TAKING OUT A KNIFE. NO SELF-DEFENSE THERE.

23 AND 15 MINUTES LATER, MR. PERELMAN TESTIFIES  
24 THAT HE JUST LIKES TO GO FOR A WALK. HE DECIDED TO GO  
25 FOR A WALK, AND ACCORDING TO HIM, HE GOES OUT FOR SOME  
26 REASON TO THE MIDDLE OF THE STREET TO GO FOR THIS WALK,  
27 AND THAT MR. SCROGGIN, 75-YEAR-OLD MR. SCROGGIN, RUNS UP  
28 TO HIM AND YELLS AT HIM, "GET BACK IN YOUR HOUSE." I

1 MEAN, PLAY THAT OUT IN YOUR MIND, DOES THAT MAKE ANY  
2 LOGICAL SENSE WHATSOEVER?

3 IT'S COMPLETELY UNREASONABLE, FIRST, THAT HE  
4 WOULD RUN. SECONDLY, THAT HE WOULD BE SO OUTRAGED THAT  
5 HIS NEIGHBOR IS GOING FOR A WALK. HOW CAN HE BE SO  
6 UPSET ABOUT KEVIN, IF YOU BELIEVE HIM, GOING FOR A WALK?  
7 WHEN WE ALL THE LIVE IN THE REAL WORLD, THIS CONCOCTED  
8 STORY MAKES ZERO SENSE.

9 THE COURT: PERHAPS THIS WOULD BE A GOOD PLACE TO  
10 PAUSE. WE'RE GOING TO RESUME. IT'S ALMOST NOON.  
11 SOMEBODY HERE HAS AN ISSUE AT 1:30, SO THE JURY IS GOING  
12 TO HAVE TO COME BACK AT 2:00 P.M..

13 IS THAT AGREEABLE WITH EVERYBODY? OKAY. NO  
14 OBJECTION. WE'LL SEE EVERYBODY BACK AT 2:00 P.M.  
15 PLEASE REMEMBER THAT ADMONITION, AND SEE EVERYBODY BACK.  
16 THANK YOU.

17  
18 (AT 11:55 A.M. THE PROCEEDINGS  
19 WERE ADJOURNED FOR LUNCHEON  
20 RECESS, TO BE RESUMED AT  
21 2:00 P.M.)  
22  
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24 ---000---

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26

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1 CASE NUMBER: 7VW04099-01  
2 CASE NAME: PEOPLE VS. PERELMAN  
3 DEPARTMENT 113 HON. ERIC HARMON, JUDGE  
4 VAN NUYS, CA MONDAY, MAY 21, 2018  
5 REPORTER: ELSIE DIWA CERVANTES, CSR #11416  
6 APPEARANCES: SEE TITLE PAGE  
7 TIME: P.M. SESSION  
8  
9

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10

11 THE COURT: PEOPLE VS. PERELMAN. I UNDERSTAND THE  
12 JURORS ARE IN THE HALLWAY. WE'LL BRING THEM IN AT THIS  
13 TIME.

14 MS. PHILIPS: THANK YOU, YOUR HONOR.

15 THE COURT: WE WERE IN REBUTTAL BY THE PEOPLE.

16 MS. PHILIPS, GO AHEAD.

17 MS. PHILIPS: THANK YOU, YOUR HONOR.

18 GOOD AFTERNOON, LADIES AND GENTLEMEN.

19 BEFORE THE LUNCH BREAK WE WERE TALKING ABOUT THE  
20 CRIMINAL THREAT AGAINST MR. SCROGGIN. NOW, MR. AMSTER  
21 HAD TALKED TO YOU A BIT ABOUT SELF-DEFENSE AND ABOUT HOW  
22 SELF-DEFENSE COMES INTO PLAY WHEN AN INDIVIDUAL IS  
23 PROVOKED. HOWEVER, THE LEGAL STANDARD IS A LOT HIGHER  
24 THAN JUST BEING PROVOKED. IT'S NOT JUST SPOKEN WORDS.

25 IN FACT, THERE'S A JURY INSTRUCTION THAT  
26 TELLS YOU THAT IN ORDER FOR THE DEFENDANT TO HAVE ACTED  
27 IN SELF-DEFENSE, THE DEFENDANT HAD TO HAVE REASONABLY  
28 BELIEVED THAT HE WAS IN IMMINENT DANGER OF SUFFERING

1 BODILY INJURY OR WAS IN IMMINENT DANGER OF BEING TOUCHED  
2 UNLAWFULLY.

3 WHAT DOES IMMINENT DANGER MEAN? THAT MEANS  
4 IT'S GOING TO HAPPEN NOW. HE HAD TO REASONABLY BELIEVE  
5 THAT MR. SCROGGIN WAS GOING TO PHYSICALLY CAUSE BODILY  
6 INJURY TO HIM OR TOUCH HIM. EVEN ON THE DEFENDANT'S  
7 TESTIMONY, HE NEVER SAID THAT. HE NEVER SAID THAT. ALL  
8 HE SAID WAS MR. SCROGGIN WAS REALLY, REALLY UPSET ABOUT  
9 HIM GOING FOR A WALK.

10 THERE WAS ABSOLUTELY NO TESTIMONY BEFORE  
11 YOU, NO EVIDENCE BEFORE YOU, THAT THE DEFENDANT EVER WAS  
12 IN IMMINENT DANGER OR REASONABLY BELIEVED THAT HE WAS IN  
13 IMMINENT DANGER OF EITHER OF THOSE TWO THINGS. AND EVEN  
14 IF HE WERE, THE DEFENDANT HAD TO REASONABLY BELIEVE THAT  
15 THE IMMEDIATE USE OF FORCE WAS NECESSARY TO DEFEND  
16 AGAINST THAT DANGER.

17 AGAIN, YOU DON'T EVEN GET TO NO. 2, BECAUSE  
18 IF THERE'S NO IMMINENT DANGER, THEN YOU DON'T EVEN GET  
19 THERE. THEN THERE'S A FURTHER ELEMENT THAT, EVEN IF YOU  
20 HAVE 1 AND 2, THEN THE ONLY USE THAT'S PERMISSIBLE IS  
21 WHAT IS REASONABLY NECESSARY TO DEFEND AGAINST THE  
22 DANGER.

23 SO, AGAIN, IF THE FEAR IS SOMEBODY IS GOING  
24 TO HIT YOU, YOU DON'T GET TO TAKE OUT A GUN AND SHOOT  
25 THEM. IT HAS TO BE REASONABLE. AND HERE, AS IT  
26 PERTAINS TO MR. SCROGGIN, NONE OF THAT WAS PRESENT. SO  
27 THERE COULD BE NO SELF-DEFENSE FOR THAT COUNT.

28 LET'S MOVE ON TO WHAT OCCURRED ON AUGUST 18

1 WITH MR. BARNARD. AGAIN, TWO VERSIONS OF EVENTS. ON  
2 MAY 18, I SUBMIT TO YOU THERE'S ONLY ONE CREDIBLE  
3 VERSION, ONLY ONE SUPPORTED BY LOGIC AND THE EVIDENCE.  
4 LIKEWISE, WITH AUGUST THE 18TH.

5 ON AUGUST THE 18TH, MR. BARNARD TOOK THE  
6 STAND AND TESTIFIED, THAT AS HE WAS DRIVING HOME, HIS  
7 WIFE INFORMED HIM THAT SHE HAD FINALLY SEEN THIS  
8 MYSTERIOUS MAN WHO HAD BEEN PLACING THE BUSINESS CARDS  
9 ALL OVER THEIR NEIGHBORHOOD. SO WHAT DID HE DO? AS  
10 MR. BARNARD DROVE DOWN BURBANK BOULEVARD, HE ACTUALLY  
11 SAW HIM. SORT OF LIKE A BIGFOOT SIGHTING; YOU'VE SEEN  
12 THE FOOTPRINTS, YOU'VE HEARD THE LEGEND, THEN FINALLY,  
13 THERE HE IS.

14 SO WHAT DOES MR. BARNARD DO? HE SEES HIM  
15 THROWING THE BUSINESS CARDS. HE SEES MR. PERELMAN  
16 PLACING THE BUSINESS CARDS ON CARS, AND HE MAKES THE  
17 DECISION TO TRY AND REASON WITH HIM. WAS THAT HIS BEST  
18 DECISION? PROBABLY NOT. DID HE KNOW THAT AT THE TIME?  
19 NO. HE TOLD YOU. HE THOUGHT: LISTEN, I'M JUST GOING  
20 TO TALK TO THE GUY, JUST GOING TO TRY TO REASON WITH  
21 HIM.

22 HE HAD NO IDEA WHAT HE WAS GETTING HIMSELF  
23 INTO. GUESS WHAT? AGAIN, HE GETS TO DO THAT. HE HAS  
24 THE FIRST AMENDMENT RIGHT TOO, TO TALK TO SOMEBODY, AND  
25 THAT'S ALL HE DID, AND THAT'S WHAT HE TOLD YOU. HE GOT  
26 OUT TO TRY TO REASON WITH HIM AND TO GET HIM TO STOP  
27 LITTERING.

28 AND HOW DID MR. PERELMAN REACT? HE BECAME

1 ENGAGED; RIGHT? AGAIN, HOW THREATENING WAS HE WALKING  
2 BACKWARDS? THIS IS LIKE A REALLY NON-AGGRESSIVE WAY.  
3 THIS (INDICATING) IS AGGRESSIVE. THIS (INDICATING), I  
4 MEAN -- YOU'RE NOT EVEN FULLY BALANCED. THIS IS A VERY  
5 VULNERABLE WAY TO WALK. SO, IF ANYTHING, HE'S MADE  
6 HIMSELF MORE VULNERABLE.

7 WHAT HAPPENS IS HE'S ASKED HIM TO STOP IT.  
8 MR. PERELMAN YELLS AT HIM THAT HE'S GOING TO EFFING BLOW  
9 HIS HEAD OFF, AND IMMEDIATELY PUNCHES HIM. THEN THEY  
10 THE FALL TO THE GROUND. AND, AGAIN, MR. BARNARD IS IN  
11 THE VULNERABLE POSITION OF BEING ON HIS BACK, AND  
12 MR. PERELMAN IS ON TOP OF HIM, STILL TRYING TO PUNCH HIM  
13 AS MR. BARNARD IS SIMPLY TRYING TO RESTRAIN HIM.

14 IF THAT WEREN'T ENOUGH, AFTER THEY GOT UP,  
15 AFTER HIS GLASSES HAD BEEN KNOCKED OFF, AFTER  
16 MR. BARNARD IS FEELING EVEN MORE VULNERABLE, NOT BEING  
17 ABLE TO SEE, HE GETS SWUNG AT AND HIT WITH A CAMERA.  
18 AND YOU HAVE PHOTOGRAPHS. YOU HAVE PHOTOGRAPHS THAT  
19 CORROBORATE EXACTLY WHAT HE SAID HAPPENED. AND YOU'VE  
20 GOT INJURIES THAT ARE CONSISTENT WITH WHAT HE SAID  
21 HAPPENED.

22 HE'S GOT A FRESH SCRAPE TO HIS ELBOW. HE  
23 TOLD YOU HIS WIFE TOOK THESE PHOTOS ABOUT A HALF HOUR  
24 AFTER. AND YOU CAN TELL, THIS IS A FRESH INJURY. HE'S  
25 GOT SCRAPES TO HIS BACK WHICH CORROBORATE THAT HE WAS ON  
26 THE GROUND. THOSE ARE FRESH INJURIES. THEY'RE RED.  
27 YOU GUYS KNOW, YOU DON'T HAVE TO BE A MEDICAL DOCTOR.  
28 WE'VE ALL HAD EXPERIENCE WITH INJURIES. YOU CAN TELL

1 THAT THESE JUST OCCURRED. AND YOU'LL HAVE THEM BACK IN  
2 THE JURY ROOM TO LOOK AT MORE CLOSELY. BUT WHAT THEY  
3 ALL HAVE IN COMMON IS THEY'RE RED, AND THEY'RE FRESH.  
4 AND THAT'S THE CREDIBLE VERSION OF WHAT HAPPENED.

5 LET'S LOOK AT THE OTHER VERSION. AGAIN,  
6 MR. PERELMAN ADMITS IN HIS TESTIMONY THAT HE'S WALKING  
7 DOWN BURBANK BOULEVARD, THROWING CARDS, THROWING THEM ON  
8 THE GROUND. I THINK HE SAID 15 TO 20, PLACING THEM ON  
9 CARS. AND HE TESTIFIES THAT MR. BARNARD WALKED UP TO  
10 HIM AND ASKS: WHY? WHY ARE DOING THIS? WHY ARE YOU  
11 THROWING THESE CARDS?

12 AND THEN MR. PERELMAN LAUNCHED INTO THE  
13 CONSPIRACY THEORY AND SAYS THAT THEY CONTINUED TO WALK.  
14 I WANT YOU TO PAY ATTENTION TO THIS PART OF THE  
15 TESTIMONY. ACCORDING TO MR. PERELMAN, THEY'RE ABOUT  
16 10 YARDS AWAY FROM HIS HOUSE, AND THAT MR. BARNARD RUNS  
17 TO HIS GATE AND BLOCKS IT. MR. BARNARD TOLD YOU, BEFORE  
18 THIS DAY, HE HAD NO IDEA WHERE THE DEFENDANT LIVED, NONE  
19 WHATSOEVER.

20 YET, ACCORDING TO MR. PERELMAN'S TESTIMONY,  
21 MR. BARNARD IS PART OF THE CONSPIRACY. HALF THE WORLD  
22 KNOWS WHERE HE LIVES, AND GET GUESS WHAT, MR. BARNARD,  
23 ACCORDING TO HIM, IS PART OF THAT HALF OF THE WORLD. HE  
24 KNOWS WHERE HE LIVES, AND FROM 10 YARDS AWAY, RUNS TO  
25 THE GATE THAT HE KNOWS TO BE HIS, AND BLOCKS IT.

26 AGAIN, EVEN IF YOU BELIEVE THAT, EVEN IF YOU  
27 BELIEVE THAT HE BLOCKED THE GATE WHICH, AGAIN, I SUBMIT  
28 TO YOU THERE'S NO CREDIBLE EVIDENCE THAT THAT



1 OCCURRED -- ONLY MR. PERELMAN'S VERSION OF WHAT HE SAYS  
2 HAPPENED THAT DAY. BUT WHAT MR. BARNARD -- HIS ACCOUNT  
3 MAKES PERFECT LOGICAL SENSE, WHEREAS THIS JUST DOESN'T  
4 MAKE ANY SENSE WHATSOEVER. MR. PERELMAN ALLEGES THAT  
5 MR. BARNARD HID HIS KEYS, AND THAT AT THIS POINT --  
6 THAT'S WHEN HE SAYS HE THREW THE PUNCHES. AND THERE,  
7 THEIR STORIES CONVERGE WHERE THEY BOTH END UP ON THE  
8 GROUND, BUT THEN MR. PERELMAN CLAIMS THAT MR. BARNARD,  
9 FOR NO REASON WHATSOEVER, KICKS HIS CAMERA. NO  
10 TESTIMONY THAT HE HAD THE CAMERA OUT. NOTHING DO WITH  
11 THE CAMERA, BUT ALL OF A SUDDEN, THIS MAN ALLEGEDLY  
12 KICKS THE CAMERA FOR NO REASON WHATSOEVER. AGAIN, LOGIC  
13 AND REASONABILITY ARE WHAT GOVERN HERE.

14 MR. BARNARD'S ACCOUNT OF WHAT HAPPENED MAKES  
15 PERFECT SENSE. MR. PERELMAN'S ACCOUNT OF WHAT HAPPENED,  
16 MAKES NO SENSE. AGAIN, PEOPLE CAN LIE, BUT INJURIES  
17 DON'T.

18 SO MR. PERELMAN SUBMITTED SOME PHOTOS AS  
19 WELL. YOU'LL HAVE THOSE BACK IN THE INJURY ROOM. AND I  
20 ASKED HIM, I SAID, WHEN DID THESE INJURIES OCCUR? WHEN  
21 WERE THESE PHOTOS TAKEN? AND HE SAYS 30 MINUTES AFTER.  
22 THIRTY MINUTES AFTER. THIS SCAB, I SUBMIT TO YOU,  
23 LADIES AND GENTLEMEN, BASED ON WHAT YOU KNOW ABOUT THE  
24 INJURIES --

25 MR. AMSTER: OBJECTION. IT'S ASKING TO CONSIDER  
26 FACTS NOT IN EVIDENCE.

27 THE COURT: OVERRULED. GO AHEAD.

28 MR. AMSTER: YOUR HONOR, I MAKE A MOTION FOR A

1 MISTRIAL ON THAT.

2 THE COURT: SO NOTED. GO AHEAD.

3 MS. PHILIPS: SO YOU CAN LOOK AT THESE INJURIES  
4 AND YOU'LL DECIDE WHETHER THAT LOOKS CONSISTENT WITH AN  
5 INJURY THAT WAS SUSTAINED 30 MINUTES BEFORE THIS WAS  
6 ALLEGED TO HAVE OCCURRED.

7 THIS ONE SAYS WAS AN INJURY ON THE FOOT.  
8 AGAIN, WHEN I ASKED WHEN WAS THIS TAKEN, 30 MINUTES  
9 AFTER. AGAIN, I WILL SUBMIT TO YOU THAT THAT'S NOT  
10 TRUTHFUL, BASED ON THE WAY THAT SCAB LOOKS.

11 MR. AMSTER: AGAIN, YOUR HONOR, ASKING TO CONSIDER  
12 FACTS NOT IN EVIDENCE THAT ARE NOT HELPFUL.

13 THE COURT: OVERRULED. GO AHEAD.

14 MS. PHILIPS: AGAIN, IN SUM AND TOTAL, LADIES AND  
15 GENTLEMEN, TWO VERSIONS OF WHAT OCCURRED, ONE SUPPORTED  
16 BY THE EVIDENCE AND CREDIBLE, AND THE OTHER COMPLETELY  
17 INCREDIBLE AND UNSUPPORTED.

18 DEFENSE MADE A GREAT DEAL ABOUT OH, THESE  
19 PEOPLE CAME IN AND DID THIS, DID THAT. I SUBMIT TO YOU,  
20 LADIES AND GENTLEMEN, ALL THESE WITNESSES WHO CAME HERE  
21 BECAUSE THEY GOT A SUBPOENA FROM OUR PROSECUTOR'S  
22 OFFICE, THEY WERE ABOUT AS EXCITED TO GET THAT SUBPOENA  
23 AS THEY WOULD HAVE BEEN TO GET A SUMMONS FOR JURY DUTY.

24 BECAUSE, AGAIN, WHAT DO THEY HAVE TO DO?  
25 THEY HAVE TO TAKE TIME OFF WORK. THEY HAVE TO FIGHT  
26 TRAFFIC TO GET HERE. THEY HAVE TO PARK. THEY HAVE TO  
27 WALK, WAIT FOR THE SLOWEST ELEVATORS KNOWN TO MAN, AND  
28 THEN COME HERE --

1 MR. AMSTER: AGAIN, OBJECTION.

2 THE COURT: OVERRULED. GO AHEAD.

3 MS. PHILIPS: COME HERE AND TESTIFY ABOUT THINGS  
4 THAT AREN'T REALLY PLEASANT, AND THEN BE SUBJECTED TO  
5 BRUTAL CROSS-EXAMINATION.

6 MR. BARNARD, HE HAD HIS MANHOOD CHALLENGED.  
7 HE HAD WHAT KIND OF HUSBAND HE WAS CHALLENGED. HE HAD  
8 HIS INTELLECT CHALLENGED. HOW DUMB ARE YOU TO DO THIS?  
9 WHAT KIND OF HUSBAND ARE YOU? AND THEN -- I MEAN THE  
10 PATIENCE OF A SAINT, THIS MAN DIDN'T EVEN RAISE HIS  
11 VOICE. AND THAT'S THE GUY THAT THEY WANT YOU TO BELIEVE  
12 WAS OUTRAGED AND YELLING AND SCREAMING AND CARRYING ON?  
13 YOU SAW WHAT KIND OF MAN HE WAS. YOU SAW WHAT HE  
14 WITHSTOOD, WHAT KIND OF BADGERING HE WITHSTOOD, WITHOUT  
15 EVEN RAISING HIS VOICE.

16 SAME THING, MS. CANNON AND MS. DUFFY. I  
17 SUBMIT, THEY PROBABLY HAD A MILLION THINGS BETTER TO DO  
18 WITH THEIR TIME THAN COME HERE, BUT THEY CAME IN. THEY  
19 CAME IN, AND THEY TOLD YOU ABOUT THE THOUSANDS AND THE  
20 THOUSANDS AND THE THOUSANDS OF BUSINESS CARDS THAT HAVE  
21 BEEN DUMPED IN THEIR NEIGHBORHOOD, MONTH AFTER MONTH  
22 AFTER MONTH. AND THEY COLLECTED THEM. THOSE ARE THE  
23 ONES MR. BARNARD COLLECTED WITH HIS WIFE.

24 MS. CANNON HAS A SINKFUL. MS. DUFFY HAD A  
25 DRAWERFUL. ON THE STAND, WHEN I ASKED HIM: HOW MANY  
26 CARDS? 150,000 WAS THE ANSWER. AND YOU KNOW THAT'S  
27 PROBABLY WAY LOWBALL; RIGHT? THAT'S JUST WHAT HE'LL COP  
28 TO. AND I ASKED: WHAT PERCENT OF THOSE DID YOU THROW

1 ON THE GROUND?

2 AGAIN, NO MATH MAJOR HERE. 10 PERCENT, I'M  
3 PRETTY SURE THAT'S 15,000. AGAIN, A BIG DEAL ABOUT THE  
4 CHOICE OF WORDS. MS. DUFFY'S BIG SIN IS THAT SHE CALLED  
5 HERSELF A VIGILANTE. SHE'S GOT ZERO STREET CREDIT AS A  
6 INDIVIDUAL, BECAUSE HER VIGILANTE-NESS [SP.] COMPRISED  
7 OF PICKING THESE UP, DOING A PUBLIC SERVICE TO HER  
8 NEIGHBORS, AND TAKING THESE AND DISPOSING OF THEM IN THE  
9 TRASH. THAT'S PRETTY LOW-LEVEL VIGILANTE, IF YOU ASK  
10 ME. I DON'T EVEN KNOW IF YOU COULD OWN THAT. BUT,  
11 AGAIN, BLAME THE VICTIM, BLAME THE VICTIM.

12 LET'S GO BACK TO SELF-DEFENSE FOR A MOMENT  
13 FOR THIS BATTERY HAVING TO DO WITH MR. BARNARD. EVEN ON  
14 THE DEFENDANT'S TESTIMONY, EVEN IF YOU BELIEVE FOR A  
15 MOMENT THAT MR. BARNARD KNEW WHERE HE LIVED, FIRST OF  
16 ALL; SECOND OF ALL, RAN TO BLOCK HIM BECAUSE HE KNOWS --  
17 HE SOMEHOW MIRACULOUSLY, FROM TEN YARDS AWAY, KNEW THAT  
18 THAT'S WHERE HE WAS GOING TO GO. EVEN IF YOU BELIEVE  
19 MR. PERELMAN'S STORY, ALL THAT HE TESTIFIED TO -- AND HE  
20 SHOWED US -- WAS WITH HIS HANDS, HOLDING THE DOOR.

21 WHERE IS THE IMMINENT DANGER OF PHYSICAL  
22 HARM? NO EVIDENCE. EVEN IF YOU BELIEVE THAT CONCOCTED  
23 STORY, NO EVIDENCE TO SUPPORT SELF-DEFENSE. SO THAT'S  
24 ONE AVAILABLE DEFENSE, RIGHT, IS SELF-DEFENSE.

25 THE OTHER HAVING TO DO WITH THE CARDS, HAS  
26 TO DO WITH THE FIRST AMENDMENT: THE FIRST AMENDMENT, I  
27 SUBMIT TO YOU SAYS, YES, YOU HAVE THE RIGHT TO FREE  
28 SPEECH, BUT IT IS NOT ABSOLUTE. CAN YOU YELL "FIRE" IN

1 A CROWDED THEATER?

2 NO. IT'S FREE SPEECH, BUT IT'S NOT  
3 PROTECTED BY THE FIRST AMENDMENT, BECAUSE GUESS WHAT?  
4 IT'S NOT OKAY, BECAUSE YOU'RE TRAMPLING ON OTHER  
5 PEOPLE'S RIGHTS NOW. YOU'RE CREATING A DANGER BY  
6 YELLING "FIRE" IN A CROWDED THEATER, AND THERE'S GOING  
7 TO BE A STAMPEDE. IT'S NOT ABSOLUTE.

8 AGAIN, CAN YOU HAND OUT BUSINESS CARDS? HI,  
9 SIR, MY NAME IS SO-AND-SO. HI, MA'AM, MY NAME IS  
10 SO-AND-SO. WOULD YOU LIKE A CARD TO HEAR ABOUT MY  
11 FAVORITE POLITICAL CANDIDATE, OR NOT TO POLLUTE THE  
12 RIVERS OR ANYTHING ELSE?

13 MR. AMSTER: OBJECTION. MISSTATES THE LAW AS  
14 STATED BY THE COURT.

15 THE COURT: LADIES AND GENTLEMEN, WHAT THE  
16 ATTORNEYS SAY IS NOT EVIDENCE, AND THE LAW THAT I GIVE  
17 TO YOU IS CLEARLY EXPLAINED IN THE INSTRUCTIONS. IF  
18 YOU'RE HAVING DIFFICULTY IN UNDERSTANDING THAT, YOU CAN  
19 ASK ME A QUESTION IN WRITING THROUGH THE FOREPERSON.

20 THE IMPORTANT THING IS IN THE PUBLIC  
21 NUISANCE INSTRUCTION, YOU'LL SEE HOW YOU CAN WEIGH ANY  
22 FREE SPEECH INTEREST THAT YOU'D LIKE TO.

23 GO AHEAD.

24 MS. PHILIPS: THANK YOU, YOUR HONOR.

25 THERE ARE ACTIVITIES CLEARLY OKAY, LIKE  
26 THAT. DO YOU WANT A CARD? NO, I DON'T. DO YOU WANT A  
27 CARD? YES, I DO, THANK YOU.

28 WHAT'S NOT OKAY IS, REGARDLESS OF WHETHER

1 IT'S YOUR FAVORITE POLITICAL CANDIDATE OR WHATEVER IT  
2 MIGHT BE -- CAN YOU IMAGINE A NOVEMBER ELECTION IF THAT  
3 WERE THE LAW. CAN YOU IMAGINE IF THE FIRST AMENDMENT  
4 COVERED THAT. THERE WOULDN'T BE A FREE SIDEWALK TO WALK  
5 ON.

6 AND I DON'T CARE HOW GREAT THE MESSAGE IS,  
7 THERE ARE JUST CERTAIN BOUNDS THAT -- WE HAVE A SOCIAL  
8 CONTRACT. YES, FREE SPEECH, BUT NOT WHEN IT LITTERS OUR  
9 STREETS, NOT WHEN IT CAUSES PANIC IN A THEATER. AND  
10 THAT'S WHAT I SUBMIT TO YOU, THAT'S THE LINE THAT'S BEEN  
11 CROSSED IN THIS, IN THAT THERE'S NO FIRST AMENDMENT  
12 DEFENSE TO LITTERING.

13 THE BUSINESS CARDS ON THE CARS, AGAIN,  
14 THAT'S NOT PART OF THE PUBLIC NUISANCE. I WOULD SUBMIT  
15 THAT'S PROBABLY REALLY ANNOYING TO THE PEOPLE WHO  
16 RECEIVE THE CARDS CONSTANTLY, BUT, AGAIN, IS IT ANNOYING  
17 TO THE ENTIRETY OF THE PUBLIC? AGAIN, IF I'M BEING  
18 PERFECTLY HONEST, THAT'S NOT THE BASIS. IF THAT WERE  
19 IT, THAT CHARGE WOULDN'T HAVE BEEN BROUGHT.

20 IT'S THIS ALL OVER THE STREETS, CONSTANTLY  
21 DAY IN, DAY OUT, MONTHS, MONTHS, THOUSANDS UPON  
22 THOUSANDS OF THESE CARDS. THAT, AS YOU HEARD, WAS A  
23 PUBLIC NUISANCE. AND TO ARGUE THAT THE SOCIAL UTILITY  
24 IS THAT, BY LETTING SOMEBODY WHO MAY HAVE MENTAL  
25 ILLNESS, JUST GIVING THEM CARTE BLANCHE TO LITTER THE  
26 STREET SO THAT THEY DON'T KILL US ALL?

27 THAT CANNOT BE THE STANDARD. I'M SORRY, AS  
28 A MOTHER, AS A HUMAN, AS ALL OF US, I DON'T THINK

1 PARKLAND AND COLUMBINE WOULD HAVE BEEN PREVENTED BY  
2 ALLOWING THOSE MASS SHOOTERS TO LITTER THE STREETS OF  
3 THEIR TOWNS. BUT ADDRESSING THEIR MENTAL HEALTH ISSUES,  
4 THAT'S WHAT COULD PREVENT IT. THAT'S WHAT COULD WORK.  
5 NOT GIVING THEM CARTE BLANCHE TO COMMIT OTHER CRIMES AND  
6 JUST SAYING, OH, WELL, WE'RE SO SCARED, BECAUSE OF YOUR  
7 MENTAL ILLNESS, THAT WE'RE NOT GOING TO APPLY THE LAW  
8 EQUALLY TO YOU. YOU GET A PASS. THAT'S NOT HOW THE LAW  
9 WORKS.

10 AND BY THE WAY, WHILE WE'RE ON THAT TOPIC,  
11 THERE IS NO INSANITY DEFENSE HERE. LET'S BE VERY CLEAR.  
12 THE JUDGE READ TO YOU 30 PLUS MINUTES OF JURY  
13 INSTRUCTIONS. WE ALL WATCH TV, SO WE'VE ALL HEARD THIS,  
14 THIS WHOLE INSANITY DEFENSE. IT DOESN'T EXIST IN THIS  
15 CASE. BECAUSE IF IT DID, YOU WOULD HAVE GOTTEN AN  
16 INSTRUCTION, AND THERE ISN'T. THERE IS NO INSANITY  
17 DEFENSE HERE. THE ONLY DEFENSES THAT ARE AVAILABLE IN  
18 THIS CASE HAVE BEEN GIVEN TO YOU IN THE JURY  
19 INSTRUCTIONS.

20 AND, AGAIN, COULD WE SIT AROUND AFTER THE  
21 CASE IS OVER, OVER A COFFEE OR A DRINK, DISCUSS WHETHER  
22 THERE SHOULD OR SHOULDN'T BE? SURE. BUT RIGHT NOW, AS  
23 JURORS, THAT'S NOT A FACT FOR YOU TO CONSIDER, WHETHER  
24 INSANITY SHOULD OR SHOULDN'T BE A DEFENSE. WHAT YOU DO  
25 NEED TO KNOW IS THAT IT'S NOT IN THIS CASE.

26 THERE WAS A LOT ABOUT THIS CASE THAT I FOUND  
27 TROUBLING AND KEPT ME UP AT NIGHT. THIS PHOTO THAT  
28 MR. PERELMAN AT FIRST DENIED EVEN EXISTED UNTIL I

1 CONTINUED TO ASK ABOUT IT, AND THEN HE SAID IT HAD  
2 NOTHING TO DO WITH KEVINPERELMAN.COM, NOTWITHSTANDING  
3 THE FACT THAT, CLEARLY, IT'S GOT KEVINPERELMANTARGET.COM  
4 WRITTEN RIGHT ON IT. THIS IS WHAT CAUSES ME CONCERN.

5 I MEAN, IF THERE WAS A CHECKLIST,  
6 GOVERNMENT-LED CONSPIRACY AGAINST SUSPECT, CHECK.  
7 LENGTHY MANIFESTO EXPLAINING CONSPIRACY, CHECK.  
8 PARANOID DELUSIONS REGARDING MASS GROUPS, PARTY TO THE  
9 CONSPIRACY, CHECK. IRRATIONAL BELIEFS ABOUT BEING  
10 TARGETED BY THESE MASS GROUPS, CHECK. UNTREATED MENTAL  
11 ILLNESS, CHECK. ESCALATING VIOLENCE, CHECK.

12 YOU KNOW WHAT I HAD A NIGHTMARE ABOUT, WAS  
13 THAT PHOTO, AND SOME VERY CONCERNED REPORTER REPORTING  
14 SOME TIME FROM NOW. HI, I'M SUZY NEWS. I'M STANDING ON  
15 THE CORNER OF BURBANK BOULEVARD AND JULIANA PLACE. I'VE  
16 SPOKEN TO THE NEIGHBORS CANNON AND DUFFY, WHO SHARED  
17 WITH ME THAT PRIOR TO TONIGHT, MR. PERELMAN EXHIBITED A  
18 LENGTHY PATTERN OF VIOLATIONS.

19 MR. AMSTER: OBJECTION. SPECULATION.

20 THE COURT: WHAT EXACTLY IS IT THAT YOU'RE -- IS  
21 IT ABOUT SOME POTENTIAL HARM THAT MIGHT ARISE IN THE  
22 FUTURE?

23 MS. PHILIPS: IN SOME WAYS, YES, YOUR HONOR.

24 THE COURT: IF SO, THAT'S NOT PERMISSIBLE. GO  
25 AHEAD.

26 LADIES AND GENTLEMEN, YOU'RE SUPPOSED TO  
27 DECIDE THIS CASE JUST BASED ON WHAT HAS ALLEGED TO HAVE  
28 HAPPENED HERE, THE FACTS AND THE EVIDENCE, NOT WITH ANY



1 CONTEMPLATION OF WHAT MIGHT HAPPEN IN THE FUTURE EITHER  
2 TO THE COMMUNITY, TO THE SAFE STREETS, TO THE DEFENDANT,  
3 TO HIS MENTAL HEALTH. IT'S NOTHING FORWARD LOOKING,  
4 ONLY BACKWARD LOOKING. THANK YOU.

5 GO AHEAD.

6 MS. PHILIPS: LET'S TALK ABOUT WHAT'S ALREADY  
7 HAPPENED. WHAT'S ALREADY HAPPENED IS THAT THERE'S  
8 ALREADY BEEN A CRIMINAL THREAT. THERE'S ALREADY BEEN A  
9 BATTERY. THERE'S ALREADY BEEN A PUBLIC NUISANCE.  
10 THERE'S ALREADY BEEN CARDS THAT HAVE BEEN ILLEGALLY  
11 DISTRIBUTED. ALL OF THAT HAS ALREADY HAPPENED.

12 MR. AMSTER: YOUR HONOR, I REQUEST THE PICTURE BE  
13 TAKEN DOWN.

14 THE COURT: OVERRULED. THAT CAN REMAIN.

15 GO AHEAD.

16 MS. PHILIPS: ALL OF THAT HAS ALREADY HAPPENED.  
17 AT THIS POINT, ALL I WOULD ASK IS THAT YOU REVIEW THE  
18 FACTS, YOU DELIBERATE, YOU CONSIDER THE EVIDENCE AND  
19 FOLLOW THE LAW, AND RETURN A VERDICT OF GUILTY ON ALL  
20 COUNTS. THANK YOU.

21 THE COURT: THANK YOU.

22 LADIES AND GENTLEMEN, THE FIRST THING YOU DO  
23 WHEN YOU GO INTO THE JURY ROOM IS CHOOSE A FOREPERSON.  
24 THE FOREPERSON SHOULD SEE TO IT THAT YOUR DISCUSSIONS  
25 ARE ORGANIZED IN A WAY THAT EVERYONE WILL HAVE A FAIR  
26 CHANCE TO BE HEARD. IT'S YOUR DUTY TO TALK WITH ONE  
27 ANOTHER AND DELIBERATE IN THE JURY ROOM.

28 YOU SHOULD TRY TO AGREE ON A VERDICT IF YOU

1 CAN. EACH OF YOU MUST DECIDE THE CASE FOR YOURSELF, BUT  
2 ONLY AFTER YOU'VE DISCUSSED THE EVIDENCE WITH THE OTHER  
3 JURORS. DO NOT HESITATE TO CHANGE YOUR MIND IF YOU  
4 BECOME CONVINCED THAT YOU WERE WRONG; HOWEVER, DO NOT  
5 CHANGE YOUR MIND JUST BECAUSE OTHER JURORS DISAGREE WITH  
6 YOU.

7 KEEP AN OPEN MIND AND OPENLY EXCHANGE YOUR  
8 THOUGHTS AND IDEAS ABOUT THIS CASE. STATING YOUR  
9 OPINIONS TOO STRONGLY AT THE BEGINNING OR IMMEDIATELY  
10 ANNOUNCING HOW YOU PLAN TO VOTE MAY INTERFERE WITH AN  
11 OPEN DISCUSSION. PLEASE TREAT EACH OTHER COURTEOUSLY.  
12 YOUR ROLE IS TO BE AN IMPARTIAL JUDGE OF THE FACTS, NOT  
13 TO ACT AS AN ADVOCATE FOR ONE SIDE OR THE OTHER.

14 AS I TOLD YOU AT THE BEGINNING OF THE TRIAL,  
15 DO NOT TALK ABOUT THE CASE OR ABOUT ANY OF THE PEOPLE OR  
16 ANY SUBJECT INVOLVED IN IT WITH ANYONE, INCLUDING, BUT  
17 NOT LIMITED TO, YOUR SPOUSE OR OTHER FAMILY OR FRIENDS,  
18 OR SPIRITUAL ADVISERS, LEADERS OR THERAPISTS.

19 YOU MUST DISCUSS THE CASE ONLY IN THE JURY  
20 ROOM AND ONLY WHEN ALL OF THE JURORS ARE PRESENT. DO  
21 NOT DISCUSS YOUR DELIBERATIONS WITH ANYONE. DO NOT  
22 COMMUNICATE USING SOCIAL MEDIA DURING YOUR  
23 DELIBERATIONS. IT'S VERY IMPORTANT THAT YOU NOT USE THE  
24 INTERNET IN ANY WAY IN CONNECTION WITH THIS CASE DURING  
25 YOUR DELIBERATIONS.

26 DURING THE TRIAL, SEVERAL ITEMS WERE  
27 RECEIVED INTO EVIDENCE AS EXHIBITS. YOU MAY EXAMINE  
28 WHATEVER EXHIBITS YOU THINK WILL HELP YOU IN YOUR

1 DELIBERATIONS.

2 IF YOU NEED TO COMMUNICATE WITH ME WHILE YOU  
3 ARE DELIBERATING, SEND A NOTE THROUGH THE BAILIFF,  
4 SIGNED BY THE FOREPERSON OR BY ONE OR MORE MEMBERS OF  
5 THE JURY. TO HAVE A COMPLETE RECORD OF THIS TRIAL, IT'S  
6 IMPORTANT THAT YOU NOT COMMUNICATE WITH ME EXCEPT BY A  
7 WRITTEN NOTE.

8 IF YOU HAVE QUESTIONS, I WILL TALK TO THE  
9 ATTORNEYS BEFORE I ANSWER, SO IT MAY TAKE SOME TIME.  
10 YOU SHOULD CONTINUE YOUR DELIBERATIONS WHILE YOU WAIT  
11 FOR MY ANSWER. I WILL ANSWER ANY QUESTIONS IN WRITING  
12 OR ORALLY HERE IN OPEN COURT.

13 DO NOT REVEAL TO ME OR ANYONE ELSE HOW THE  
14 VOTE STANDS ON THE QUESTION OF GUILT UNLESS I ASK YOU TO  
15 DO SO. YOUR VERDICT MUST BE UNANIMOUS. THIS MEANS  
16 THAT, TO RETURN A VERDICT, ALL OF YOU MUST AGREE TO IT.

17 DO NOT REACH A DECISION BY THE FLIP OF A  
18 COIN OR ANY OTHER SIMILAR ACT. IT'S NOT MY ROLE TO TELL  
19 YOU WHAT YOUR VERDICT SHOULD BE. DO NOT TAKE ANYTHING I  
20 SAID OR DID DURING THE TRIAL AS AN INDICATION OF WHAT I  
21 THINK ABOUT THE FACTS, THE WITNESSES, OR WHAT YOUR  
22 VERDICT SHOULD BE. YOU MUST REACH YOUR VERDICT WITHOUT  
23 ANY CONSIDERATION OF PUNISHMENT.

24 YOU WILL BE GIVEN VERDICT FORMS. AS SOON AS  
25 ALL THE JURORS HAVE AGREED ON A VERDICT, THE FOREPERSON  
26 MUST DATE AND SIGN THE APPROPRIATE VERDICT FORMS AND  
27 NOTIFY THE BAILIFF.

28 IF YOU ARE ABLE TO REACH A UNANIMOUS

1 DECISION ON ONLY ONE OR SOME OF THE CHARGES, FILL IN  
2 THOSE VERDICT FORMS ONLY AND NOTIFY THE BAILIFF. RETURN  
3 ANY UNSIGNED FORMS.

4 TO THE ALTERNATE JUROR, SIR, THE JURY WILL  
5 SOON BEGIN DELIBERATING, BUT YOU ARE STILL AN ALTERNATE  
6 JUROR, AND YOU ARE BOUND BY MY ADMONITION AND  
7 INSTRUCTIONS ABOUT YOUR CONDUCT. DO NOT TALK ABOUT THE  
8 CASE OR ABOUT ANY OF THE PEOPLE OR ANY SUBJECT INVOLVED  
9 IN IT WITH ANYONE, NOT EVEN YOUR FAMILY OR FRIENDS, NOT  
10 EVEN WITH EACH OTHER. DO NOT HAVE ANY CONTACT WITH THE  
11 DELIBERATING JURORS.

12 DO NOT DECIDE HOW YOU WOULD VOTE IF YOU WERE  
13 DELIBERATING. DO NOT FORM OR EXPRESS AN OPINION ABOUT  
14 THE ISSUES IN THIS CASE UNLESS YOU ARE SUBSTITUTED FOR  
15 ONE OF THE DELIBERATING JURORS.

16 WITH THAT, MADAME CLERK, WILL YOU PLEASE  
17 SWEAR THE BAILIFF.

18 THE CLERK: DO YOU SOLEMNLY SWEAR THAT YOU WILL  
19 TAKE CHARGE OF THE JURY AND KEEP THEM TOGETHER, THAT YOU  
20 WILL NOT COMMUNICATE WITH THEM YOURSELF, NOR ALLOW  
21 ANYONE ELSE TO COMMUNICATE WITH THEM UPON MATTERS  
22 CONNECTED WITH THE CASE, EXCEPT ON ORDER OF THE COURT;  
23 AND WHEN THEY HAVE AGREED UPON A VERDICT, YOU WILL  
24 RETURN THEM INTO THE COURT; SO HELP YOU GOD?

25 THE BAILIFF: YES.

26 THE COURT: LADIES AND GENTLEMEN, IF YOU WILL  
27 FOLLOW THE INSTRUCTIONS OF THE BAILIFF.

28

1 (THE JURORS AND ALTERNATE JUROR  
2 EXIT THE PROCEEDINGS TO BEGIN  
3 DELIBERATIONS.)  
4

5 THE COURT: THE RECORD SHOULD REFLECT THAT ALL THE  
6 JURORS AND ALTERNATE JUROR HAS LEFT. I WASN'T FOLLOWING  
7 YOUR OBJECTION TO THE PROSECUTOR'S ARGUMENT. WHAT WAS  
8 IT, THE ONE WHERE YOU ASKED FOR A MISTRIAL WHICH, BY THE  
9 WAY, YOU SHOULD DO OUTSIDE THE PRESENCE OF THE JURY.  
10 WHAT WAS IT IN PARTICULAR? SHE WAS SHOWING SOME  
11 PHOTOGRAPHS.

12 MR. AMSTER: I DON'T KNOW WHAT IT WAS IN  
13 PARTICULAR AT THAT MOMENT, BUT I'LL JUST MAKE A MOTION  
14 FOR A MISTRIAL ON THE REPEATED VOUCH IN THE FUTURE,  
15 DANGEROUSNESS.

16 MS. PHILIPS: YOUR HONOR, IF I MAY, I DID NOT  
17 RAISE THAT AT ALL IN MY A ARGUMENT, BUT COUNSEL OPENED  
18 THE DOOR TO THAT LINE OF ARGUMENT WHEN HE BASICALLY  
19 INVITED THEM TO CONSIDER THAT, IN THE FUTURE, THEY COULD  
20 ALL NOT BE KILLED IF ONLY THEY WOULD ALLOW HIM TO GET  
21 AWAY WITH THE CURRENT CRIMES.

22 MR. AMSTER: AND I DID THAT IN REGARDS TO PUBLIC  
23 NUISANCE, BECAUSE YOU HAVE THAT BALANCING TEST. THE  
24 PROSECUTOR WAS NOT DOING IT, AND THAT WAS THE  
25 DIFFERENCE. SHE JUST WENT OUTSIDE OF IT AND JUST SAID  
26 FUTURE DANGEROUSNESS. IF SHE HAD BROUGHT AN ARGUMENT IN  
27 TO THE BALANCING TEST THAT THE COURT DID ON THE JURY  
28 INSTRUCTION, IT WOULD HAVE BEEN A DIFFERENT SITUATION,

1 BUT SHE DIDN'T DO IT ON THE BALANCING.

2 THE COURT: EITHER ABSENCE OF FUTURE DANGEROUSNESS  
3 OR FUTURE DANGEROUSNESS IS NOT RELEVANT IN A PROCEEDING  
4 OF THIS NATURE. HARDLY EVER IN A CRIMINAL CASE, WITH  
5 THE EXCEPTION OF A CAPITAL CASE, CAN FUTURE  
6 DANGEROUSNESS BE DISCUSSED.

7 SO TO ARGUMENTS SUCH AS YOU SHOULD LET HIM  
8 EXPRESS HIS VIEWS BY THE FIRST AMENDMENT -- TO THE  
9 ARGUMENT THAT YOU SHOULD LET HIM EXPRESS HIS FIRST  
10 AMENDMENT RIGHTS AND PEOPLE IN THIS SAME SITUATION LET  
11 THEM TALK SO THAT THEY DON'T TURN TO VIOLENCE, IF THAT  
12 HAD BEEN OBJECTED TO, I WOULD HAVE SUSTAINED THE  
13 OBJECTION, BECAUSE THIS ISN'T OVERLOOKING. AND I DON'T  
14 THINK THAT -- YOUR POINT IS THAT IT'S IN ONE OF THE  
15 ELEMENTS, IT'S THE BALANCING OF THE UTILITY OF THE  
16 STATEMENT VERSUS THE DETRIMENT TO SOCIETY. BUT I DON'T  
17 THINK THAT THAT'S AN APPROPRIATE ARGUMENT.

18 BUT AT THE END OF THE DAY, THE JURY HAS BEEN  
19 INSTRUCTED, ANY SORT OF ARGUMENT THAT WAS IMPROPER HAS  
20 BEEN CURED. OF COURSE, IT WOULD BE MY INSTRUCTION  
21 TELLING THEM TO DISREGARD IT. I'M CONFIDENT THEY'RE  
22 GOING TO RESOLVE THIS CASE BASED ONLY ON WHAT'S HAPPENED  
23 IN THE PAST, ALLEGEDLY, AND RETURN A VERDICT WHATEVER  
24 WAY THAT MIGHT BE IN CONFORMITY WITH THEIR VIEW OF THE  
25 EVIDENCE AND THE LAW.

26 MR. AMSTER: A COUPLE OF THINGS, IF I MAY. IF THE  
27 COURT REMEMBERS, ON FRIDAY, I WANTED TO PUBLISH  
28 SOMETHING TO THE JURY. IT WAS OBJECTED TO. THE JUDGE

1 SUSTAINED THE OBJECTION. I STATED I WAS GOING TO BRING  
2 IT OUT.

3 THE COURT: IS THAT -- WE'LL MAKE THAT COURT'S B.

4 MR. AMSTER: THANK YOU, YOUR HONOR.

5 THE SECOND THING IS I'D LIKE TO GO TO THE  
6 BURBANK COURT TO FILE SOMETHING AND COME BACK, SO I  
7 DON'T KNOW -- AND I WILL SUPPLY MYSELF A NUMBER TO THE  
8 CLERK. I THINK I COULD BE WITHIN A HALF AN HOUR, AS  
9 LONG AS THE LEEWAY FOR TODAY. IF THE COURT SAYS NO,  
10 THEN THE COURT SAYS NO.

11 THE COURT: COULD YOU JUST STICK BY. I DON'T WANT  
12 TO INCONVENIENCE THE FOLKS. NOT THROUGH YOUR FAULT, BUT  
13 THROUGH OUR FAULT, THIS MORNING WE GOT STARTED LATE.  
14 AND IF THEY DO RETURN A VERDICT OR HAVE A QUESTION, I  
15 WANT TO BE ABLE TO ADDRESS THAT.

16 MR. AMSTER: I APPRECIATE THE FAVOR. I THINK IT'S  
17 MY OBLIGATION. THE OTHER THING IS TOMORROW. I'M GOING  
18 TO GO DOWNSTAIRS, IF IT'S OKAY, AND I THINK I CAN  
19 ARRANGE AN ATTORNEY TO BE HERE TOMORROW TO TAKE THE  
20 VERDICT IF I'M NOT HERE. I HAVE A PRELIMINARY HEARING  
21 ON THE NINTH FLOOR.

22 THE COURT: THAT'S NOT A PROBLEM. IF THERE'S A  
23 QUESTION, WILL THIS ATTORNEY --

24 MR. AMSTER: I'LL LET YOU KNOW WHERE I AM AND IF  
25 IT CAN BE DONE ON THE PHONE.

26 CAN WE APPROACH BRIEFLY?

27 THE COURT: YES.

28

1 (RECESS TAKEN.)

2  
3 THE COURT: BACK ON PERELMAN, CASE NO. 7VW04099.  
4 HE'S HERE, COMING FORWARD. HE'S WITH HIS LAWYER,  
5 MR. AMSTER; MS. PHILIPS REPRESENTS THE PEOPLE. THE  
6 JURORS, I BELIEVE, HAVE INDICATED THAT THEY DO HAVE  
7 VERDICTS ON THE MATTER. WE'LL BRING IN THE JURORS AT  
8 THIS TIME, AND THE ALTERNATE, PLEASE.

9  
10 (THE JURORS AND ALTERNATE JUROR  
11 ENTER THE COURTROOM.)

12  
13 THE COURT: WELCOME BACK, LADIES AND GENTLEMEN.  
14 WHO IS THE FOREPERSON? JUROR NO. 8. MA'AM, HAS THE  
15 JURY REACHED AN UNANIMOUS VERDICT AS TO ALL COUNTS?

16 JUROR NO. 8: YES.

17 THE COURT: CAN YOU PLEASE HAND THE BAILIFF ALL  
18 THE VERDICT FORMS, AND I'LL EXAMINE THEM TO MAKE SURE  
19 THEY'RE IN PROPER FORM. ONE MOMENT.

20 I'VE EXAMINED THEM. THE CLERK WILL PLEASE  
21 READ THE VERDICTS AT THIS TIME.

22 THE CLERK: IN THE SUPERIOR COURT OF THE STATE OF  
23 CALIFORNIA, COUNTY OF LOS ANGELES, DEPARTMENT 113,  
24 PEOPLE OF THE STATE OF CALIFORNIA VS. KEVIN PERELMAN, IN  
25 CASE NO. 7VW04099. WE, THE JURY IN THE ABOVE-ENTITLED  
26 CAUSE, FIND THE DEFENDANT, KEVIN PERELMAN, GUILTY OF THE  
27 CRIME OF COMMITTING A PUBLIC NUISANCE ON OR ABOUT  
28 MARCH 21, 2017, THROUGH AUGUST 2, 2017, A VIOLATION OF



1 PENAL CODE SECTION 370, A MISDEMEANOR, AS CHARGED IN  
2 COUNT ONE OF THE COMPLAINT, THIS 21ST DAY OF MAY, 2018,  
3 SIGNED, JUROR FOREPERSON, SEAT NO. 8.

4 IN THE SAME CASE, TITLE, AND CAUSE, WE, THE  
5 JURY IN THE ABOVE-ENTITLED CAUSE, FIND THE DEFENDANT,  
6 KEVIN PERELMAN, GUILTY OF THE CRIME OF CRIMINAL THREATS,  
7 A VIOLATION OF PENAL CODE SECTION 422(A), A MISDEMEANOR,  
8 AS CHARGED IN COUNT TWO OF THE COMPLAINT, THIS 21ST DATE  
9 OF MAY, 2018. SIGNED, JUROR FOREPERSON, SEAT NO. 8.

10 IN THE SAME CASE, TITLE, AND CAUSE, WE, THE  
11 JURY IN THE ABOVE-ENTITLED CAUSE, FIND THE DEFENDANT,  
12 KEVIN PERELMAN, GUILTY OF THE CRIME OF COMMITTING A  
13 PUBLIC NUISANCE ON OR ABOUT AUGUST 3, 2017, THROUGH  
14 SEPTEMBER 20, 2017, A VIOLATION OF PENAL CODE  
15 SECTION 370, A MISDEMEANOR, AS CHARGED IN COUNT SIX OF  
16 THE COMPLAINT, THIS 21ST DAY OF MAY, 2018. SIGNED,  
17 JUROR FOREPERSON, SEAT NO. 8.

18 IN THE SAME CASE, TITLE, AND CAUSE, WE, THE  
19 JURY IN THE ABOVE-ENTITLED CAUSE, FIND THE DEFENDANT,  
20 KEVIN PERELMAN, GUILTY OF THE CRIME OF USING FORCE AND  
21 VIOLENCE UPON THE PERSON OF BAILEY BARNARD, A VIOLATION  
22 OF PENAL CODE SECTION 242, A MISDEMEANOR, AS CHARGED IN  
23 COUNT SEVEN OF THE COMPLAINT, THIS 21ST DAY OF MAY,  
24 2018. SIGNED, JUROR FOREPERSON, SEAT NO. 8.

25 IN THE SAME CASE, TITLE, AND CAUSE, WE, THE  
26 JURY IN THE ABOVE-ENTITLED CAUSE, FIND THE DEFENDANT,  
27 KEVIN PERELMAN, GUILTY OF THE CRIME OF DISTRIBUTING AND  
28 CAUSE AND DIRECT THE DISTRIBUTION OF ANY HANDBILL TO

1 PASSENGERS ON ANY STREET CAR AND THROW, PLACE, AND  
2 ATTACH A HANDBILL TO AND UPON A VEHICLE ON OR ABOUT  
3 SEPTEMBER 20, 2017, A VIOLATION OF LOS ANGELES MUNICIPAL  
4 CODE SECTION 28.01(A), A MISDEMEANOR, AS CHARGED IN  
5 COUNT EIGHT OF THE COMPLAINT, THIS 21ST DATE OF MAY,  
6 2018. SIGNED, JUROR FOREPERSON, SEAT NO. 8.

7 IN THE SAME CASE, TITLE, AND CAUSE, WE, THE  
8 JURY IN THE ABOVE-ENTITLED CAUSE, FIND THE DEFENDANT,  
9 KEVIN PERELMAN, GUILTY OF THE CRIME OF UNLAWFULLY CAST,  
10 THROW, AND DEPOSIT ANY HANDBILL ONTO ANY STREET,  
11 SIDEWALK, AND PARK ON OR ABOUT MARCH 21, 2017, THROUGH  
12 MARCH 6, 2018, A VIOLATION OF LOS ANGELES MUNICIPAL CODE  
13 SECTION 28.01.01(B), A MISDEMEANOR, AS CHARGED IN COUNT  
14 NINE OF THE COMPLAINT, THIS 21ST DATE OF MAY, 2018.  
15 SIGNED, JUROR FOREPERSON, SEAT NO. 8.

16 LADIES AND GENTLEMEN OF THE JURY, IS THIS  
17 YOUR VERDICT, SO SAY YOU ONE, SO SAY YOU ALL?

18 THE WITNESS: YES.

19 THE COURT: DOES EITHER SIDE WISH TO POLL THE  
20 JURY? PEOPLE?

21 MS. PHILIPS: NO, YOUR HONOR.

22 THE COURT: DEFENSE?

23 MR. AMSTER: YES.

24 THE COURT: LADIES AND GENTLEMEN, I'M GOING TO ASK  
25 YOU INDIVIDUALLY IF THIS WAS, IN FACT, YOUR VOTE OF  
26 "GUILTY" AS TO EACH OF THOSE COUNTS.

27 START WITH JUROR NO. 1, WERE THESE YOUR  
28 VOTES?

1 JUROR NO. 1: YES.

2 THE COURT: JUROR NO. 2?

3 JUROR NO. 2: YES.

4 THE COURT: JUROR NO. 3?

5 JUROR NO. 3: YES.

6 THE COURT: JUROR NO. 4?

7 JUROR NO. 4: YES.

8 THE COURT: JUROR NO. 5?

9 JUROR NO. 5: YES.

10 THE COURT: JUROR NO. 6?

11 JUROR NO. 6: YES.

12 THE COURT: JUROR NO. 7?

13 JUROR NO. 7: YES.

14 THE COURT: JUROR NO. 8?

15 JUROR NO. 8: YES.

16 THE COURT: JUROR NO. 9?

17 JUROR NO. 9: YES.

18 THE COURT: JUROR NO. 10?

19 JUROR NO. 10: YES.

20 THE COURT: JUROR NO. 11?

21 JUROR NO. 11: YES.

22 THE COURT: JUROR NO. 12?

23 JUROR NO. 12: YES.

24 THE COURT: THE CLERK WILL PLEASE RECORD THE  
25 VERDICTS. DO COUNSEL WAIVE READING OF THE VERDICTS AS  
26 RECORDED? PEOPLE?

27 MS. PHILIPS: YES.

28 THE COURT: DEFENSE?

1 MR. AMSTER: YES.

2 THE COURT: THE CLERK WILL RECORD THE VERDICTS OF  
3 GUILTY.

4 COUNSEL, IS THERE ANY GROUNDS WHY I CANNOT  
5 NOW DISCHARGE THIS JURY? PEOPLE?

6 MS. PHILIPS: NO, YOUR HONOR.

7 THE COURT: DEFENSE?

8 MR. AMSTER: NO, YOUR HONOR.

9 THE COURT: LADIES AND GENTLEMEN, ONE LAST  
10 INSTRUCTION. YOU HAVE NOW COMPLETED YOUR JURY SERVICE  
11 IN THIS CASE. AND ON BEHALF OF ALL THE JUDGES OF THE  
12 SUPERIOR COURT, PLEASE ACCEPT MY THANKS FOR YOUR TIME  
13 AND EFFORT.

14 NOW THAT THE CASE IS OVER, YOU MAY CHOOSE  
15 WHETHER OR NOT TO DISCUSS THE CASE AND YOUR  
16 DELIBERATIONS WITH ANYONE. I REMIND YOU THAT, UNDER  
17 CALIFORNIA LAW, YOU MUST WAIT AT LEAST 90 DAYS BEFORE  
18 NEGOTIATING OR AGREEING TO ACCEPT ANY PAYMENT FOR  
19 INFORMATION ABOUT THE CASE.

20 LET ME TELL YOU ABOUT SOME OF THE RULES THE  
21 LAW PUTS IN PLACE FOR YOUR CONVENIENCE OR PROTECTION.  
22 THE LAWYERS IN THIS CASE, THE DEFENDANT, OR THEIR  
23 REPRESENTATIVES MAY NOW TALK TO YOU ABOUT THE CASE,  
24 INCLUDING YOUR DELIBERATIONS OR VERDICT. THESE  
25 DISCUSSIONS MUST OCCUR AT A REASONABLE TIME AND PLACE  
26 AND WITH YOUR CONSENT.

27 PLEASE TELL ME IMMEDIATELY IF ANYONE  
28 UNREASONABLY CONTACTS YOU WITHOUT YOUR CONSENT. ANYONE

1 WHO VIOLATES THESE RULES IS VIOLATING A COURT ORDER AND  
2 MAY BE FINED.

3 I ORDER THAT THE COURT'S RECORD OF PERSONAL  
4 JUROR IDENTIFICATION INCLUDING NAMES, ADDRESSES, AND  
5 TELEPHONE NUMBERS BE SEALED UNTIL FURTHER ORDER OF THIS  
6 COURT. IF IN THE FUTURE THE COURT IS ASKED TO DECIDE  
7 WHETHER THIS INFORMATION WILL BE RELEASED, NOTICE WILL  
8 BE SENT TO ANY JUROR WHOSE INFORMATION IS INVOLVED. YOU  
9 MAY OPPOSE THE RELEASE OF THIS INFORMATION AND ASK THAT  
10 ANY HEARING ON THE RELEASE BE CLOSED TO THE PUBLIC.

11 THE COURT WILL DECIDE WHETHER AND UNDER WHAT  
12 CONDITIONS ANY INFORMATION MAY BE DISCLOSED. AGAIN,  
13 THANK YOU FOR YOUR SERVICE. PLEASE RETURN TO THE JURY  
14 ASSEMBLY ROOM. THANK YOU.

15  
16 (THE JURORS AND ALTERNATE JUROR  
17 EXIT THE PROCEEDINGS.)  
18

19 THE COURT: THE RECORD SHOULD REFLECT THAT ALL THE  
20 JURORS HAVE LEFT. PENAL CODE SECTION 1166 SAYS THAT  
21 WHEN THE DEFENDANT HAS BEEN CONVICTED, HE MUST BE  
22 REMANDED UNLESS THE COURT CONSIDERS THE FIVE FACTORS.

23 SO I'LL HEAR FROM BOTH SIDES NOW AS TO WHAT  
24 THE COURT SHOULD DO IN THAT RESPECT. DOES EITHER SIDE  
25 WISH TO BE HEARD? MY INDICATION WOULD BE THAT I'M NOT SO  
26 MUCH CONCERNED ABOUT THE NUISANCE AND THE MUNICIPAL CODE  
27 VIOLATIONS, BUT I DON'T THINK, WITH ANY CONFIDENCE, I  
28 CAN SAY THAT HE'S NOT A THREAT TO PUBLIC SAFETY, GIVEN

1 THAT HE'S -- ACCORDING TO THE TESTIMONY THAT CAME OUT,  
2 HE'S BATTERED A PERSON AND ALSO THREATENED TO CUT OPEN,  
3 BY BRANDISHING A KNIFE, AN ELDERLY PERSON.

4 SO TO PROTECT THE PUBLIC, I WOULD REMAND HIM  
5 AT THIS POINT. HE WILL BE REMANDED. THE BOND  
6 PREVIOUSLY SET, UNLESS I HEAR ANYTHING ELSE, WILL BE  
7 EXONERATED, AND IT WILL BE A NEW AMOUNT OF BAIL THAT HE  
8 MUST MAKE. AND WE CAN SET A P&S DATE, OR I CAN SENTENCE  
9 HIM RIGHT NOW. HE DOES HAVE THE RIGHT TO HAVE THE COURT  
10 WAIT, IF HE SO CHOOSES. WE COULD DO IT TOMORROW, IF HE  
11 LIKES, AS IS HIS RIGHT, OR I CAN WAIT AS MUCH AS FIVE  
12 COURT DAYS. EITHER SIDE WISH TO BE HEARD?

13 MS. PHILIPS: PEOPLE SUBMIT, YOUR HONOR.

14 THE COURT: DEFENSE?

15 MR. AMSTER: ON REMANDING, YOUR HONOR, I THINK  
16 THAT IT'S BEEN SHOWN THAT, AFTER THIS CASE HAS BEEN  
17 FILED, HE'S HAD NO CONTACT WITH EITHER VICTIM  
18 WHATSOEVER, NO VIOLENCE AFTER THE FILING. AND SO,  
19 THEREFORE, I THINK HE'S ABLE TO CONFORM HIS CONDUCT THAT  
20 WAY. SO ANY REMANDING, IF THAT'S WHAT THE COURT IS  
21 CONSIDERING, IS ONLY A TEMPORARY EFFECT, BECAUSE YOU  
22 CANNOT REMAND HIM FOR THE REST OF HIS LIFE. AND HE'S  
23 ALREADY SHOWN THAT HE'S ABLE TO OBEY THE LAWS AS A  
24 CONDITION OF BAIL AND NOT HURT ANYONE.

25 THE COURT: I UNDERSTAND. I STILL THINK -- THE  
26 PROSPECT OF SERVING AS MUCH AS TIME AS HE MIGHT SERVE  
27 WOULD GIVE HIM AN INCENTIVE TO NOT APPEAR AGAIN. AGAIN,  
28 I'M SENSITIVE TO HIS MENTAL HEALTH NEEDS, BUT IT ALSO

1 GIVES ME GREAT PAUSE, BECAUSE I AM, AS I'M SURE THE  
2 LAWYERS ARE, AWARE OF THE, FRANKLY, ERRATIC BEHAVIOR.

3 I WANT TO MAKE SURE THAT HE IS SEEN AND  
4 TREATED BY A PHYSICIAN, WHATEVER THE DISPOSITION IN THIS  
5 CASE IS. IF HE REJECTS PROBATION THEN, OF COURSE, I  
6 HAVE NO POWER TO FORCE HIM TO DO THAT. IF HE ACCEPTS  
7 IT, IT WILL BE, WITHOUT QUESTION, ACCOMPANIED BY  
8 PSYCHIATRIC TREATMENT. THAT WOULD BE MY ORDER.

9 SO HE WILL BE REMANDED AT THIS TIME. BAIL  
10 SET IN THE AMOUNT OF \$100,000.

11 WHAT DO YOU WANT TO DO WITH RESPECT TO  
12 SENTENCING?

13 MR. AMSTER: THE DEFENDANT WOULD LIKE TO BE  
14 SENTENCED NOW.

15 THE COURT: DOES HE WAIVE ARRAIGNMENT FOR JUDGMENT  
16 AND TIME FOR SENTENCING?

17 MR. AMSTER: YES, YOUR HONOR.

18 THE COURT: ANY LEGAL CAUSE?

19 MR. AMSTER: NO LEGAL CAUSE.

20 THE COURT: I'LL HEAR FROM BOTH SIDES. PEOPLE?

21 MS. PHILIPS: YOUR HONOR, I THINK THE COURT HAS  
22 ALREADY ARTICULATED THE POSITION THAT I HAVE WITH REGARD  
23 TO PUBLIC SAFETY AND WITH THE NECESSITY OF PSYCHIATRIC  
24 COUNSELING IN THIS MATTER. I DO BELIEVE THAT A  
25 PROBATIONARY TERM OF 36 MONTHS WOULD BE APPROPRIATE AT  
26 THIS POINT. ALTHOUGH IT DIDN'T COME IN FOR THE TRIAL, I  
27 THINK THE COURT CAN AND SHOULD CONSIDER THAT THIS IS, IN  
28 FACT, A SECOND OFFENSE.

1 THE DEFENDANT WAS ABLE TO EARN A DISMISSAL  
2 OF THE PRIOR CHARGES IN THE 2013 CASE, WHICH STEMMED  
3 FROM SIMILAR CONDUCT. ALTHOUGH AT THAT TIME THERE WAS  
4 NO VIOLENCE OR THREAT OF VIOLENCE. SO IT WAS SIMPLY TO  
5 DO WITH THE CARDS. BUT I DO WANT THE COURT TO BE AWARE  
6 THAT THIS ISN'T A FIRST OFFENSE IN THAT REGARD, AND THE  
7 PEOPLE WOULD RESPECTFULLY SUBMIT. OBVIOUSLY, WE WOULD  
8 WANT FORCE AND VIOLENCE WEAPONS CONDITIONS. THE CURRENT  
9 PROTECTIVE ORDER ONLY ADDRESSES MR. SCROGGIN AND  
10 MR. BAILEY. THE PEOPLE WOULD LIKE AT THIS POINT TO ALSO  
11 ADD MS. CANNON AND MS. DUFFY. AND WE WOULD SUBMIT.

12 THE COURT: I'LL SIGN THE PROTECTIVE ORDER TO --  
13 IS HE INTERESTED IN A GRANT OF PROBATION, OR IS HE GOING  
14 TO REJECT THE PROBATION?

15 MR. AMSTER: NO, YOUR HONOR. I THINK HE IS  
16 INTERESTED IN A GRANT OF PROBATION. WHAT I'D LIKE THE  
17 COURT TO CONSIDER IS THIS: THERE'S BEEN DISCUSSIONS ALL  
18 IN ANTICIPATION OF THIS. I FEEL THAT IN THIS SITUATION,  
19 AN IMMEDIATE JAIL SENTENCE WOULD BE NOTHING MORE THAN  
20 PUNISHMENT, AND ESPECIALLY PUNISHING THE MENTALLY ILL.

21 I THINK THAT IF THE COURT UTILIZES A  
22 SUSPENDED JAIL SENTENCE OVER THE DEFENDANT'S HEAD, WE  
23 MIGHT BE ABLE TO NAVIGATE HIM TO BE ABLE TO COMPLY WITH  
24 THE LAWS AND TO COMPLY WITH WHATEVER ISSUES HE MAY HAVE.  
25 I THINK THAT WHAT WE'VE BEEN TALKING ABOUT IS ONLY HAVE  
26 HIM POST ON HIS WEBSITE, WHICH I DON'T SEE WHERE THERE'S  
27 ANYTHING ILLEGAL ABOUT THAT, AND ELIMINATE THE  
28 DISTRIBUTION OF CARDS. AND LET'S SEE IF WE CAN NAVIGATE



1 HIM THROUGH THAT WAY.

2 IF THE COURT WANTS PSYCHIATRIC HELP, THAT IS  
3 FINE. I WOULD LIKE IT TO BE BROUGHT IN TO NOT HAVE TO  
4 JUST BE A PSYCHIATRIST, BUT LET IT BE POTENTIALLY A  
5 MENTAL HEALTH INDIVIDUAL, AND LET US COME UP WITH SOME  
6 RECOMMENDATIONS AND WITH SOME PLANS, AND THEN SEE IF  
7 THAT'S ACCEPTABLE TO THE COURT AND TO THE PEOPLE. BUT I  
8 THINK THAT THE MOST IMPORTANT THING HERE IS, IS THERE A  
9 WAY WE CAN FIND A WAY TO HAVE KEVIN CO-EXIST IN SOCIETY,  
10 DEALING WITH HIS MENTAL HEALTH ISSUES, AND NOT HAVE THIS  
11 INCARCERATING THE MENTALLY ILL AND USE IT AS AN  
12 INCENTIVE TO HAVE HIM LIVE HIS LIFE-LONG.

13 THE COURT: LIKE I SAID, I'M SYMPATHETIC TO THE  
14 MENTAL HEALTH ISSUES, AND I AM INTERESTED IN HIM, AS YOU  
15 PUT IT, CO-EXISTING AND INTEGRATING BACK INTO SOCIETY,  
16 BUT AT A CERTAIN POINT, THAT'S NOT MY PROBLEM. PART OF  
17 MY JOB IS TO PUNISH. WE'VE COME TO THIS POINT NOW; DUE  
18 TO HIS ACTION, HE DESERVES TO BE PUNISHED.

19 HIS MENTAL HEALTH DIDN'T DEPRIVE HIM OF THE  
20 ABILITY TO DISTINGUISH BETWEEN WHAT'S RIGHT AND WHAT'S  
21 WRONG. HE KNOWS THAT THAT'S WRONG. HE WASN'T PUNCHING  
22 A PARK BENCH; HE WAS BEATING UP A NEIGHBOR. HE WASN'T  
23 THREATENING THE ATM MACHINE; HE WAS THREATENING A PERSON  
24 WHO WAS DEFINED AS, BY COUNSEL, AN UPSTANDING CITIZEN.  
25 AND MENTIONED EARLIER, AN ELDERLY GUY WHO SUFFERS FROM  
26 PTSD.

27 I DO CARE ABOUT MR. PERELMAN'S PROSPECTS TO  
28 LIVE PEACEFULLY IN THE COMMUNITY, BUT IF HE CAN'T DO

1     THAT, HE MUST GO TO JAIL.   SO --

2             THE DEFENDANT:   THERE'S NOTHING I'VE DONE.

3             THE COURT:   I WOULDN'T SAY ANYTHING OUT LOUD.   I'D  
4     JUST TALK TO YOUR ATTORNEY FIRST.   THE JURY HAS RETURNED  
5     THE VERDICT.   THEY DISAGREE.   THEY REJECTED YOUR  
6     TESTIMONY.   I DO WANT TO GET YOU SOME HELP.   I DON'T  
7     KNOW IF YOU'RE AMENABLE TO IT.   SO WHAT I'LL DO IS I'LL  
8     PROPOSE IT, AND IF IT'S REJECTED, THEN IT WILL JUST BE  
9     JAIL.   IF IT'S ACCEPTED, THEN WE'LL GO FROM THERE.

10            I'M GOING TO TREAT MR. PERELMAN, AS I WOULD  
11    ANYONE WHO'S DONE AN ACT OF VIOLENCE, BECAUSE THAT'S  
12    WHERE I DRAW THE LINE.   THERE ARE SO MANY CASES IN HERE  
13    THAT ARE OF A FOOLISH NATURE THAT, YOU KNOW, YOU'VE  
14    PROBABLY SEEN, AS YOU'VE SAT HERE IN THIS COURT OVER AND  
15    OVER.

16            WHERE I HAVE TO DRAW THE LINE IS WHEN  
17    SOMEBODY LAYS HANDS ON ANOTHER HUMAN BEING AND THERE'S  
18    NO JUSTIFICATION FOR IT, THEN, IN MY VIEW, YOU HAVE TO  
19    BE PUNISHED FOR IT.   THAT'S WHAT'S HAPPENED HERE.   THESE  
20    PEOPLE DIDN'T DESERVE WHAT YOU GAVE TO THEM.   WHATEVER  
21    ELSE YOU BELIEVE, REASONABLY OR UNREASONABLY, THAT'S  
22    GOING ON IN THE WORLD DOESN'T JUSTIFY DOING WHAT YOU DID  
23    TO THESE PEOPLE.   SO YOU'RE GOING TO BE ORDERED TO STAY  
24    AWAY FROM THEM.   THAT'S NOT A DIFFICULT TASK.   THE OTHER  
25    THING WILL BE AS FOLLOWS.

26            BECAUSE THE MOST SERIOUS, IN MY VIEW, COUNT  
27    IS COUNT SEVEN.   THAT'S GOING TO BE THE COUNT THAT -- I  
28    DON'T CONSIDER YOUR PRIOR ARREST OR WHATEVER IT WAS ON

1 THAT OTHER CASE, IN IMPOSING THIS. I DON'T HAVE ANY  
2 EVIDENCE OF THIS. SO I'M GOING TO TREAT THIS AS I WOULD  
3 SOMEBODY WHO COMMITTED FIRST-TIME BATTERY. THAT, TO ME,  
4 IS 90 DAYS IN THE COUNTY JAIL. IMPOSITION OF SENTENCE  
5 SUSPENDED. 90 DAYS IN THE COUNTY JAIL.

6 ANY CREDIT AGAINST THAT?

7 MR. AMSTER: ONE DAY, I THINK.

8 THE COURT: LOOKS LIKE HE SPENT TWO DAYS, TWO  
9 ACTUAL DAYS. SO THAT'S CREDIT TWO DAYS ACTUAL, PLUS TWO  
10 DAYS GOOD TIME/WORK TIME, FOR A TOTAL OF FOUR DAYS.

11 MAKE RESTITUTION TO THE VICTIMS IN THIS  
12 MATTER, IN AN AMOUNT TO BE DETERMINED AT A HEARING.  
13 YOU'LL HAVE TO COME BACK FOR THAT.

14 DO NOT OWN, USE, OR POSSESS ANY DANGEROUS OR  
15 DEADLY WEAPONS, INCLUDING FIREARMS OR OTHER CONCEALABLE  
16 WEAPONS. THE WEAPON INVOLVED IN THIS CASE, I DON'T  
17 THINK WAS CONFISCATED BY THE ARRESTING AGENT. IT WAS  
18 JUST SOMETHING THAT CAME UP DURING HIS TESTIMONY. IT  
19 WAS A KNIFE. WE DON'T HAVE THAT KNIFE. IF WE DID, I'D  
20 ORDER IT DESTROYED.

21 HE'S PROHIBITED FROM OWNING, PURCHASING,  
22 RECEIVING, POSSESSING, OR HAVING UNDER YOUR CONTROL ANY  
23 FIREARMS, AMMUNITION, AMMUNITION FEEDING DEVICES  
24 INCLUDING, BUT NOT LIMITED TO, MAGAZINES. DEFENDANT IS  
25 ORDERED TO RELINQUISH ALL FIREARMS IN THE MANNER  
26 PROVIDED IN PENAL CODE SECTION 29810. HE'LL BE PROVIDED  
27 WITH A PROHIBITED PERSONS RELINQUISHMENT FORM. THIS IS  
28 UNDER PROPOSITION 63.

1 I'M ASSIGNING THIS TO THE PROBATION  
2 DEPARTMENT TO INVESTIGATE WHETHER THE AUTOMATED FIREARM  
3 SYSTEM OR OTHER CREDIBLE INFORMATION, SUCH AS POLICE  
4 REPORTS, REVEALS THAT YOU OWN, POSSESS, OR HAVE UNDER  
5 YOUR CUSTODY OR CONTROL ANY FIREARMS PURSUANT TO  
6 29810(C).

7 THE PROBATION DEPARTMENT IS ORDERED TO  
8 PREPARE A REPORT, PROHIBITED PERSONS RELINQUISHMENT  
9 REPORT.

10 YOU'LL BE ORDERED TO RETURN BACK TO THIS  
11 COURT IN TWO WEEKS. THAT'S JUNE 5, 2018. ENROLL IN,  
12 WITHIN THE NEXT 30 DAYS AND SUCCESSFULLY COMPLETE,  
13 52 WEEKS OF MENTAL HEALTH TREATMENT THROUGH THE  
14 LOS ANGELES COUNTY DEPARTMENT OF MENTAL HEALTH.

15 FOLLOW THEIR RECOMMENDATIONS. TAKE ALL  
16 MEDICATIONS IN CONFORMITY WITH THEIR INSTRUCTIONS. IF  
17 YOU LEAVE THEIR PROGRAM OR ARE DISCHARGED FOR ANY  
18 REASON, YOU MUST APPEAR HERE BACK IN COURT THE NEXT  
19 BUSINESS DAY.

20 MR. AMSTER: CAN THAT BE 30 DAYS AFTER RELEASE  
21 FROM CUSTODY?

22 THE COURT: YES.

23 STAY WAY FROM, HAVE NO CONTACT WITH TERRANCE  
24 SCROGGIN, BAILEY BARNARD, LINDA CANNON, AND BRITTANY  
25 DUFFY. I'M SIGNING THIS PROTECTIVE ORDER.

26 PAY ALL OF THE FOLLOWING: RESTITUTION FINE,  
27 \$150; PROBATION ARBITRATION RESTITUTION FINE IN THE SAME  
28 AMOUNT. THAT'S STAYED. THERE'S A CRIMINAL CONVICTION

1 FACILITIES ASSESSMENT FEE OF \$40, AND THE COURT SECURITY  
2 FEE OF \$30. OBEY ALL LAWS AND ORDERS OF THE COURT.

3 MANDATORY FEES ARE GOING TO BE DUE  
4 5/20/2019. THAT WILL BE IN THE CLERK'S OFFICE.

5 PROGRESS REPORT ON MENTAL HEALTH, JUNE 22,  
6 2018. ONE MOMENT.

7

8 (DISCUSSION HELD OFF THE RECORD.)

9

10 THE COURT: ACTUALLY, WE'RE GOING TO HAVE TO SET  
11 THAT OUT A LITTLE BIT. JULY 18TH HERE IN THIS  
12 DEPARTMENT, YOU ARE ORDERED TO RETURN, AT 8:30 A.M.  
13 THAT IS THE ORDER ON THAT MATTER. THAT'S COUNT SEVEN.

14 MS. PHILIPS: WHAT WAS THE TERM OF PROBATION?

15 THE COURT: THIRTY-SIX MONTHS.

16 MS. PHILIPS: THANK YOU.

17 THE COURT: AS TO COUNT ONE, 36 MONTHS' SUMMARY  
18 PROBATION; STAY AWAY FROM THE SAME PEOPLE I JUST  
19 MENTIONED; PAY THE FINES AND FEES, EXCEPT THERE ARE NO  
20 DUPLICATES. AND THE SAME MENTAL HEALTH REQUIREMENT.

21 AS I MENTIONED, SAME FINES AND FEES, EXCEPT  
22 THERE ARE NO DUPLICATES. SO PER COUNT, IT'S GOING TO BE  
23 THE 40 AND 30.

24 ON COUNT TWO, IMPOSITION OF SENTENCE IS  
25 SUSPENDED FOR A PERIOD OF 36 MONTHS ON THE FOLLOWING  
26 TERMS AND CONDITIONS. THIRTY DAYS IN THE COUNTY JAIL.  
27 THAT'S CONSECUTIVE TO COUNT SEVEN. SO THE GRAND TOTAL  
28 IS GOING TO BE 120, WITH CREDIT FOR TWO PLUS TWO, EQUALS

1 FOUR. SAME STAY-AWAY. THE SAME PROPOSITION 63  
2 COMPLIANCE. SAME MENTAL HEALTH AS IN COUNT SEVEN. THE  
3 FEES ARE THE SAME, EXCEPT NO DUPLICATES.

4 COUNT SIX, VIOLATION OF 370 OF THE PENAL  
5 CODE. IMPOSITION OF SENTENCE IS SUSPENDED FOR A PERIOD  
6 OF 36 MONTHS' ON THE FOLLOWING TERMS AND CONDITIONS:  
7 STAY AWAY FROM THE SAME PEOPLE, SAME FINES AND FEES  
8 EXCEPT NO DUPLICATES, SAME MENTAL HEALTH. 5/20/2019, IN  
9 THE CLERK'S OFFICE.

10 COUNT EIGHT AND COUNT NINE, I BELIEVE, ARE  
11 6540.

12 MS. PHILIPS: THE PEOPLE WOULD AGREE, YOUR HONOR.

13 THE COURT: SO IT'S THE SAME 36 MONTHS SUMMARY  
14 PROBATION, BUT THIS IS STAYED, PER 6540. EIGHT IS  
15 STAYED TO COUNT ONE; NINE IS STAYED TO COUNT SIX.

16 TWO FINAL THINGS. THE FIRST ONE IS, AS A  
17 CONDITION OF PROBATION, I DON'T INTEND AT ALL AND WILL  
18 NOT IMPOSE ANY RESTRICTIONS ON YOUR RIGHT TO DISTRIBUTE  
19 CARDS WITH THE FOLLOWING EXCEPTIONS: DO NOT THROW CARDS  
20 ON THE GROUND AND DO NOT PUT CARDS ON CARS. BEYOND  
21 THAT, YOU'RE FREE TO PUT WHATEVER IS PERMISSIBLE ON YOUR  
22 WEBSITE, HAND OUT WHATEVER CARDS YOU WANT TO HAND OUT IN  
23 COMPLIANCE WITH THE REASONABLE TIME, PLACE, AND MANNER  
24 RESTRICTIONS; HOWEVER, DON'T GO ANYWHERE NEAR ANY OF  
25 THESE PEOPLE THAT I'VE PREVIOUSLY ARTICULATED. SO THOSE  
26 ARE THE TERMS AND CONDITIONS THAT I PROPOSE FOR  
27 PROBATION. DO YOU AGREE AND ACCEPT THESE TERMS AND  
28 CONDITIONS?

1 MR. AMSTER: LET ME TALK TO HIM FIRST.

2 THE COURT: YES.

3

4 (DISCUSSION HELD OFF THE RECORD.)

5

6 MR. AMSTER: I WANT TO CLARIFY, IT'S 120 DAYS IN  
7 JAIL, TOTAL FOUR CREDIT.

8 THE COURT: RIGHT. BOND IS EXONERATED.

9 SIR, DO YOU UNDERSTAND AND ACCEPT THESE  
10 TERMS AND CONDITIONS?

11 THE DEFENDANT: YES.

12 THE COURT: LASTLY, YOU DO HAVE THE RIGHT TO  
13 APPEAL THE CONVICTION AND JUDGMENT OF THIS COURT. YOU  
14 MUST FILE A WRITTEN NOTICE OF APPEAL WITHIN 60 DAYS OF  
15 TODAY'S DATE. UNLESS YOUR ATTORNEY AGREES TO FILE THE  
16 NOTICE OF APPEAL, THE DEFENDANT -- THAT'S YOU -- MUST  
17 FILE THE NOTICE OF APPEAL. THE NOTICE OF APPEAL MUST BE  
18 FILED WITH THIS COURT, NOT WITH THE COURT OF APPEAL.  
19 THE NOTICE OF APPEAL MUST SPECIFY WHAT IS BEING  
20 APPEALED, THAT IS, WHETHER IT IS THE JUDGMENT OF THE  
21 COURT OR THE ENTIRE PROCEEDINGS LEADING TO THE  
22 CONVICTION.

23 YOU'RE ENTITLED TO AN APPOINTED ATTORNEY AND  
24 FREE TRANSCRIPT ON APPEAL IF YOU CANNOT AFFORD ONE. YOU  
25 MUST KEEP THE APPELLATE COURT ADVISED OF YOUR CURRENT  
26 ADDRESS AT ALL TIMES.

27 SIR, DO YOU UNDERSTAND AND ACCEPT THESE  
28 APPEAL RIGHTS?

1 THE DEFENDANT: YES.

2 THE COURT: IF THERE'S NOTHING ELSE, THAT'S THE  
3 ORDER. DOES EITHER SIDE WISH TO BE HEARD? PEOPLE?

4 MS. PHILIPS: NO, YOUR HONOR.

5 THE COURT: DEFENSE?

6 MR. AMSTER: NO, YOUR HONOR.

7 THE COURT: OKAY. THANK YOU.

8 MS. PHILIPS: THANK YOU, YOUR HONOR.

9

10

11 (END OF PROCEEDINGS.)

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