

1 MR. MANOUKIAN: I was no help, sorry.

2 THE COURT: Well, I would like to get the
3 evidence completed today. So, normally, I would
4 consider calling it a day and doing the last
5 witness tomorrow morning, but we will have a full
6 day tomorrow. I want to get this to you tomorrow.
7 So we have some issues to discuss, scheduling
8 primarily.

9 (ALTERNATE JUROR NUMBER 4), I know that
10 tomorrow begins to be a problem for you. Without
11 prying into your personal life, just give me an
12 idea of the nature of the problem so I can take it
13 into consideration.

14 Are you traveling out of town, that type of
15 thing?

16 ALTERNATE JUROR NUMBER 4: No, I'm not
17 traveling out of town. When I first started the
18 case my position was ended at my -- at my current
19 company, and then they wanted to bring me back on
20 with a new position, but they put me back on
21 starting tomorrow.

22 THE COURT: Is it safe to assume this is an
23 important job for you?

24 ALTERNATE JUROR NUMBER 4: Safe to say,
25 I -- yes.

26 THE COURT: You would be working full-time
27 from tomorrow on?

28 ALTERNATE JUROR NUMBER 4: Yes.

1 THE COURT: Okay. The others, I know we
2 had several who had concerns starting Friday. And
3 let me start out, preface this by saying I'm asking
4 you because I intend to make every effort not to
5 interfere with anybody's problems, since we have
6 grossly underestimated the length of the trial and
7 caused you to be in this problem.

8 The reason I'm asking these questions is so
9 I can find out a way to work around your schedules.
10 So I don't want anybody to feel that I'm going to
11 put the kibosh on their plans.

12 Let me start with (JUROR NUMBER 4), Juror
13 Number 4, you had something is it just this Friday,
14 or starting Friday making you unavailable?

15 JUROR NUMBER 4: Just this Friday.

16 THE COURT: Okay. Leave it at that for
17 now.

18 (ALTERNATE JUROR NUMBER 1), you also had
19 something this Friday, or was it starting Friday
20 and beyond?

21 ALTERNATE JUROR NUMBER 1: It was Friday,
22 but I have scheduled a replacement, so I am
23 okay.

24 THE COURT: Thank you.

25 So you are good Friday, or --

26 Okay. Let me say the case, which I intend,
27 fully intend to get this case to you tomorrow. It
28 may be the end of the day tomorrow, so it's hard to

1 predict how long deliberations will be beyond that,
2 but, obviously, we will have to consider the
3 schedule.

4 Then, (ALTERNATE JUROR NUMBER 11), you also
5 had something, was it Friday and beyond or just
6 Friday?

7 ALTERNATE JUROR NUMBER 11: It's Friday and
8 most of next week.

9 THE COURT: Okay. Is that a travel type
10 thing, work thing?

11 ALTERNATE JUROR NUMBER 11: Actually, three
12 flights, two that I have already changed.

13 THE COURT: We have already made you change
14 it twice.

15 I got it.

16 Okay. If my notes are correct, that is
17 everybody who mentioned so far that we have
18 problems this week.

19 What I would like to do is ask you to stick
20 around to get the last witness completed this
21 afternoon, because then once we do that things are
22 kind of more in my control, so I can control the
23 timing a little better.

24 As far as jury instructions, tomorrow
25 morning, I believe, assuming all of the witnesses
26 are finished today, we would start right out with
27 jury instructions, which takes about an hour, then
28 go to closing arguments, and it will be my hope

1 and expectation that we would complete those, and
2 the jury will be to the -- the case will be to the
3 jury tomorrow.

4 After that then the alternates, of course,
5 would be on call, not required here at the
6 courtroom, but still necessary, assuming that
7 you'll be excluded.

8 (ALTERNATE JUROR NUMBER 4) again, is -- I
9 will have to talk to --

10 ALTERNATE JUROR NUMBER 4: Yes, your Honor.

11 THE COURT: -- I have to consult with
12 counsel on that.

13 And again, we'll just take it day-by-day
14 beyond that.

15 I think what we should do now is recess for
16 the 35 minutes, 40 minutes real time. As soon as
17 the witness gets here, so if you want to start
18 hanging around about ten minutes to 3:00 or five to
19 3:00, as soon as the witness is here we will start
20 so that we can complete it as soon as possible.
21 Then once the witnesses are complete we will recess
22 for the day.

23 In the meantime, counsel and I have work to
24 do on the exhibits and the jury instructions. We
25 have been working on those before you get here,
26 over the lunch and after you leave, but until all
27 of the evidence is in I can't put the jury
28 instructions in the absolute final shape because

1 they depend on what the evidence is.

2 So we are getting close to that time and we
3 will be using the time between now and 3:00 and
4 after you leave today to get those in final so they
5 will be ready to go out of the box tomorrow
6 morning.

7 So with that I'll give you folks a half
8 hour recess, and remind you not to discuss the
9 case.

10 And we'll make every effort to start as
11 close to 3:00 as we can.

12 Yes, sir.

13 JUROR NUMBER 8: Due to jurors possibly
14 going to be out, and another juror stated possibly
15 next week, will we not be coming and at all next
16 Friday, or will we be coming in for one day or two
17 weeks from today we could be or a day or two, how
18 does that work?

19 THE COURT: Reasonable question, (JUROR
20 NUMBER 8), and it would be my tentative thoughts,
21 and I'm very interested in hearing your thoughts
22 because it's your lives, my suggestion would be to
23 plan on not deliberating Friday, because of the --
24 we have two conflicts, but to continue next week on
25 Monday and keep deliberating until a verdict is
26 reached continuing Monday if you are still
27 deliberating is my most likely request of you.

28 So it may be that we have to substitute

1 some jurors, but I need to talk to counsel about
2 that before I make that decision.

3 Yes, ma'am.

4 A JUROR: I think I'm the only one on
5 Friday?

6 THE COURT: Yes.

7 No, (ALTERNATE JUROR NUMBER 11) has Friday,
8 too.

9 A JUROR: He is next week, too.

10 THE COURT: But (ALTERNATE JUROR NUMBER 11)
11 may --

12 A JUROR: Okay. If it turns out just to me
13 on Friday, I can make some adjustments if we can
14 have a little bit of flexibility on that day. How
15 long will we -- I can make some adjustments.

16 THE COURT: I appreciate that, and
17 certainly we will be flexible. When I say that,
18 it's your time, but -- the jurors' time, but seems
19 to me worthwhile to be flexible, keep all of the
20 jurors we can.

21 Let me discuss with counsel, and we will
22 talk a little bit more before we recess this
23 afternoon, but why don't we take the half hour
24 break now and we'll resume as soon as the witness
25 gets here.

26 Please remember not to discuss the case.

27

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1 (WHEREUPON THE JURORS LEFT
2 THE COURTROOM)

3

4 THE COURT: Okay. The record will reflect
5 that all parties are present and all of the jurors
6 have left.

7 My thoughts, as you might have gathered,
8 would be to excuse (ALTERNATE JUROR NUMBER 4) at
9 the completion of testimony today, and to excuse
10 (ALTERNATE JUROR NUMBER 11) Thursday afternoon, if
11 they are still deliberating, and then ask them to
12 deliberate Friday around (JUROR NUMBER 4's)
13 schedule. That would leave us with two alternates
14 out of the four, if my math is correct.

15 In other words, I want to lose as few
16 jurors as possible.

17 MR. MOAWAD: I can't say I have an
18 objection to that.

19 THE COURT: As you know we would select
20 randomly among the alternates.

21 MR. MANOUKIAN: Your Honor, my only
22 thoughts for what they are on that scenario is that
23 we would then -- if we lose (ALTERNATE JUROR NUMBER
24 11), have to bring in the alternate and instruct
25 the jury to start their deliberations all over
26 again.

27 So that's --

28 THE COURT: You're right.

1 MR. MANOUKIAN: That -- that is that issue.
2 I know the alternative is -- to excuse him before
3 deliberations start, which then I believe gets us
4 down to one alternate, or how am I doing?

5 THE COURT: No, still be two.

6 MR. MANOUKIAN: Okay. So that's my only
7 thought. Then what happened if the case of this
8 length, this amount of evidence, I, you know, who
9 knows how long they will deliberate, but I think
10 it's difficult to say, it won't perhaps take a day,
11 at least, and then that -- that would make that day
12 a wasted day with the alternate then coming back
13 in and having to start deliberations all over
14 again.

15 MR. MOAWAD: That's a valid point, and I
16 understand it, although my preference would that we
17 cross that bridge when we get to it. It might be
18 that we -- at that point after a day of
19 deliberations, that they would prefer to come back
20 on Thursday of next week for however long they
21 need, if they need it. I just don't know, but I
22 would prefer not to excuse (JUROR NUMBER 11) at
23 this point, or rather, prior to deliberations.

24 THE COURT: And (JUROR NUMBER 11's)
25 schedule may change, in other words, he may choose
26 to deliberate Friday. So I think it's premature to
27 excuse him at this point, but your point is
28 well-taken.

1 If I excuse him Thursday and pick an
2 alternate at that point I would instruct them to
3 start all over again, in which case we may have
4 lost the effort that they put into it Thursday,
5 but we will talk about it as we go. But my present
6 plan is to follow the schedule I mentioned.

7 My suggestion is if you are comfortable,
8 give Craig a break, and we can run through the
9 exhibits.

10 MR. MANOUKIAN: Yes, sir.

11 MR. MOAWAD: Fine.

12 THE COURT: To the extent there is any
13 discussion.

14 Thank you.

15

16 (RECESS TAKEN)

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18 --oOo--

19

20 (WHEREUPON THE JURORS ENTERED

21 THE COURTROOM)

22

23 THE COURT: Ready?

24 Thanks.

25 The record will reflect that all parties,
26 our jurors are present.

27 Mr. Moawad, your next witness, please.

28 MR. MOAWAD: People would call Detective