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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GORDON SIMPSON,
Plaintiff,

No. C-06-4837 EMC

v.

**COURT’S PROPOSED VERDICT FORM
(May 11, 2010)**

OFFICER NGUYEN, OFFICER
WAYBRIGHT, OFFICER CERRUTI, SGT.
STANLEY,
Defendants.

We, the jury in the above-entitled action, unanimously find the following special verdict on the questions submitted to us.

SECTION 1983 CLAIM AGAINST OFFICERS IN INDIVIDUAL CAPACITIES

1. Has Plaintiff Gordon Simpson proven by a preponderance of the evidence that any of the officer defendants listed below deprived him of his constitutional rights by using excessive force?

- | | | |
|-----------------------------|-----------|----------|
| Defendant Officer Nguyen | Yes _____ | No _____ |
| Defendant Officer Waybright | Yes _____ | No _____ |
| Defendant Officer Cerruti | Yes _____ | No _____ |
| Defendant Sgt. Stanley | Yes _____ | No _____ |

If you answered “yes” to any part of Question 1, then proceed to Question 2. If you answered “no” to all of Question 1, then skip all remaining questions, sign the verdict form where indicated below, and return the form to the Courtroom Deputy Clerk.

SPECIAL INTERROGATORIES

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4. If you have found that at least one of the officer defendants violated Plaintiff Gordon Simpson’s constitutional rights, the Court is required to make additional determinations. Please answer all of the following special interrogatories (*i.e.*, Questions 4(a)-(e)).

a. Did Plaintiff Gordon Simpson raise his arms and clench his fists in a fighting stance when initially approached by Defendant Officer Nguyen?

Yes _____ No _____

b. When Plaintiff Gordon Simpson and Defendant Officer Nguyen first made contact, was there a smell of alcohol coming from Plaintiff Gordon Simpson?

Yes _____ No _____

c. Did Plaintiff Gordon Simpson, at any time during the incident in question, refuse to comply with the commands given to him by the officer defendants?

Yes _____ No _____

d. Did Plaintiff Gordon Simpson, at any time during the incident in question, attack or struggle against the officer defendants?

Yes _____ No _____

e. Was Plaintiff Gordon Simpson resisting the officer defendants’ attempt to restrain and arrest him?

Yes _____ No _____

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Please have the presiding foreperson sign and date the verdict form where indicated below, and return the form to the Courtroom Deputy Clerk.

Dated: May ____, 2010

Signed: _____