

United States District Court  
For the Northern District of California

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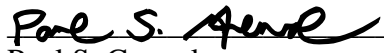
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ALEKSANDR BINKOVICH, )  
 )  
Plaintiff, )  
v. )  
OFFICER BARTHELMY, et al., )  
 )  
Defendants. )  
\_\_\_\_\_

Case No. 5:11-cv-03774-PSG  
**[SECOND PROPOSED]  
VERDICT FORM**

**IT IS SO ORDERED.**

Date: April 21, 2014

  
\_\_\_\_\_  
Paul S. Grewal  
United States Magistrate Judge

**SECTION 1: 42 U.S.C. § 1983**

**VIOLATION OF FOURTH AMENDMENT – UNREASONABLE SEIZURE WITHOUT PROBABLE CAUSE**

We, the jury, unanimously answer the Questions submitted to us as follows:

1-A. Did any individual defendant intentionally seize Aleksandr Binkovich?

i. Bruce Barthelemy: Yes \_\_\_\_\_ No \_\_\_\_\_

ii. Louis Grondahl: Yes \_\_\_\_\_ No \_\_\_\_\_

iii. Terry Craig: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 1-A as to any defendant is “Yes,” then answer Question 1-B for that defendant but for no others.

If you answered “No” to all defendants, go to Section 2.

1-B. Did the defendant have a reasonable suspicion that Binkovich was engaged in criminal conduct?

i. Bruce Barthelemy: Yes \_\_\_\_\_ No \_\_\_\_\_

ii. Louis Grondahl: Yes \_\_\_\_\_ No \_\_\_\_\_

iii. Terry Craig: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 1-B as to any defendant is “Yes,” then answer Question 1-C.

If you answered “No” to all defendants, go to Section 2.

1-C. Was either the length or the scope of the seizure unreasonable?

Yes \_\_\_\_\_ No \_\_\_\_\_

**GO TO SECTION 2.**

**SECTION 2: 42 U.S.C. § 1983**

**VIOLATION OF FOURTH AMENDMENT – EXCESSIVE FORCE BY INDIVIDUAL DEFENDANTS**

We, the jury, unanimously answer the Questions submitted to us as follows:

2-A. Did any defendant use excessive force against Binkovich?

i. Bruce Barthelemy: Yes \_\_\_\_\_ No \_\_\_\_\_

ii. Louis Grondahl: Yes \_\_\_\_\_ No \_\_\_\_\_

iii. Terry Craig: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 2-A as to any defendant is “Yes,” then answer Question 2-B for that defendant but for no others.

If you answered “No” to all defendants, go to Section 3.

2-B. Was Binkovich harmed by any defendant’s excessive force?

i. Bruce Barthelemy: Yes \_\_\_\_\_ No \_\_\_\_\_

ii. Louis Grondahl: Yes \_\_\_\_\_ No \_\_\_\_\_

iii. Terry Craig: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 2-B as to any defendant is “Yes,” then answer Question 2-C.

If you answered “No” to all defendants, go to Section 3.

2-C. Was any defendant’s conduct a substantial factor in causing harm to Binkovich?

i. Bruce Barthelemy: Yes \_\_\_\_\_ No \_\_\_\_\_

ii. Louis Grondahl: Yes \_\_\_\_\_ No \_\_\_\_\_

iii. Terry Craig: Yes \_\_\_\_\_ No \_\_\_\_\_

**GO TO SECTION 3.**

**SECTION 3: 42 U.S.C. § 1983**  
PUBLIC ENTITY LIABILITY – POLICY, PRACTICE, OR CUSTOM

We, the jury, unanimously answer the Questions submitted to us as follows:

3-A. We, the jury, have answered Yes” to one or more subparts of the following questions:

- i. \_\_\_\_\_ Question 1-C (§ 1983 – Unreasonable Seizure)
- ii. \_\_\_\_\_ Question 2-C (§ 1983 – Excessive Force)

If you checked any question under Question 3-A, then answer Question 3-B.  
If not, **stop here, answer no further questions, and have the foreperson sign and date this form.**

3-B. In seizing and/or using excessive force against Binkovich, was any defendant acting pursuant to an expressly adopted official policy or longstanding practice or custom of the City of San Jose?

Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 3-B is “Yes,” then answer Question 3-C.  
If your answer to Question 3-B is “No,” go to Section 4.

3-C. Was the City of San Jose’s policy or custom the moving force behind a deprivation of Binkovich’ Fourth Amendment rights?

Yes \_\_\_\_\_ No \_\_\_\_\_

**GO TO SECTION 4.**

**SECTION 4: DAMAGES**

We, the jury, unanimously answer the Questions submitted to us as follows:

4-A. What is the total amount of damages, if any, suffered by Binkovich? Do not award duplicate damages for the same harm suffered from multiple claims.

\$ \_\_\_\_\_

4-B. Did Binkovich use reasonable efforts to mitigate his damages?

Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 4-B is “No,” then answer Question 4-C.  
If your answer to Question 4-B is “Yes,” go to Question 4-D.

4-C. How much of Binkovich’ damages could have been mitigated by Binkovich’ reasonable efforts?

\$ \_\_\_\_\_

4-D. We, the jury, have answered “Yes” to one or more of the following questions with respect to the following defendants:

i. Question 1-C (§ 1983 – Unreasonable Seizure)

\_\_\_\_\_ Bruce Barthelemy

\_\_\_\_\_ Louis Grondahl

\_\_\_\_\_ Terry Craig

ii. Question 2-C (§ 1983 – Excessive Force)

\_\_\_\_\_ Bruce Barthelemy

\_\_\_\_\_ Louis Grondahl

\_\_\_\_\_ Terry Craig

If you checked any question for any defendant under Question 4-D, go to Question 4-E and answer as to each of the officers whom you checked.

If not, **stop here, answer no further questions, and have the foreperson sign and date this form.**

4-E. Did the officer(s) engage in malice, oppression, or in reckless disregard of Binkovich’ rights with respect to any of the claims that you checked in Question 4-D?

i. Bruce Barthelemy: Yes \_\_\_\_\_ No \_\_\_\_\_

ii. Louis Grondahl: Yes \_\_\_\_\_ No \_\_\_\_\_

iii. Terry Craig: Yes \_\_\_\_\_ No \_\_\_\_\_

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If you checked “Yes” for any defendant under Question 4-E, then answer Question 4-F as to that defendant only.

If not, **stop here, answer no further questions, and have the foreperson sign and date this form.**

4-F. What amount, if any, do you award in punitive damages?

Bruce Barthelemy:      \$ \_\_\_\_\_

Louis Grondahl:      \$ \_\_\_\_\_

Terry Craig:      \$ \_\_\_\_\_

**Have the foreperson sign and date this form.**

Signed: \_\_\_\_\_ Dated: \_\_\_\_\_