UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

JOSEPHINE SMITH, an individual, and A.S., a minor, Plaintiffs, v. CITY OF SANTA CLARA, a public entity, and CLAY ROJAS, an individual. Defendants.	Case No.: 11-CV-03999-LHK VERDICT FORM

We, the jury, unanimously agree to the answers to the following questions and return them under the instructions of this Court as our verdict in this case.

I. 42 U.S.C. § 1983 – Violation of Fourth Amendment – Excessive Force (Josephine Smith Against Defendant Clay Rojas).

We answer the questions submitted to us as follows:

1. Did Clay Rojas use excessive force against Josephine Smith?

Yes _____ No _____

If your answer to question 1 is yes, then answer question 2. If you answered no, go to Section II.

2. Did Clay Rojas act under color of law?

Yes _____ No _____

If your answer to question 2 is yes, then answer question 3. If you answered no, go to Section II.

3. Was Josephine Smith harmed by defendant Clay Rojas' use of force?

Yes _____ No _____

If your answer to question 3 is yes, then answer question 4. If you answered no, go to Section II.

4. Was Clay Rojas' conduct a substantial factor in causing harm to Josephine Smith?

Yes _____ No _____

If your answer to question 4 is yes, then answer question 5. If you answered no, go to Section II.

5. What are Josephine Smith's damages?

TOTAL: $_____.

Go to Section II.

II. 42 U.S.C. § 1983 – Violation of First Amendment – Retaliation (Josephine Smith Against Defendant Clay Rojas).

We answer the questions submitted to us as follows:

6. Did Josephine Smith engage in speech protected under the First Amendment?

Yes _____ No _____

If your answer to question 6 is yes, then answer question 7. If you answered no, go to Section III.

7. Did Clay Rojas take action against Josephine Smith?

Yes _____ No _____

If your answer to question 7 is yes, then answer question 8. If you answered no, go to Section III.

8. Was Josephine Smith's protected speech a substantial or motivating factor for Clay Rojas' action?

Yes _____ No _____

If your answer to question 8 is yes, then answer question 9. If you answered no, go to Section III.

9. Did Clay Rojas act under color of law?

Yes _____ No _____

If your answer to question 9 is yes, then answer question 10. If you answered no, go to Section III.

10. Was Josephine Smith harmed by Clay Rojas' action?

Yes _____ No _____

If your answer to question 10 is yes, then answer question 11. If you answered no, go to Section III.

11. Was Clay Rojas' conduct a substantial factor in causing harm to Josephine Smith?

Yes _____ No _____

If your answer to question 11 is yes, then answer question 12. If you answered no, go to Section III.

12. What are Josephine Smith's damages?

TOTAL: $_____.

Go to Section III.

III. Cal. Civ. Code § 52.1 – Violation of the Bane Act – (Josephine Smith Against Defendants Clay Rojas and the City of Santa Clara)

We answer the questions submitted to us as follows:

13. Did a defendant use actions that a reasonable person would have found threatening, intimidating, or coercive against Josephine Smith, which (a) interfered with Josephine Smith's constitutional rights, or (b) caused Josephine Smith to reasonably believe that if she exercised her constitutional rights, defendants would commit violence against her or her property?

Clay Rojas	Yes _____	No _____
City of Santa Clara	Yes _____	No _____

After you answer question 13, go to question 14.

14. Did a defendant act violently against Josephine Smith or her property, which interfered with her constitutional rights?

Clay Rojas	Yes _____	No _____
City of Santa Clara	Yes _____	No _____

After you answer question 14, go to question 15.

15. Did a defendant act violently against Josephine Smith or her property to prevent Josephine Smith from exercising or enjoying her constitutional rights, or to retaliate against Josephine Smith for having exercised or enjoyed her constitutional rights?

Clay Rojas	Yes _____	No _____
City of Santa Clara	Yes _____	No _____

If your answer to questions 13, 14, or 15 is yes, go to question 16. If you answered no to questions 13, 14, and 15, go to Section IV.

16. Was a defendant's conduct a substantial factor in causing harm to Josephine Smith?

Clay Rojas	Yes _____	No _____
City of Santa Clara	Yes _____	No _____

If your answer to question 16 is yes as to any defendant, then answer question 17. If your answer to question 16 is no as to all defendants, go to Section IV.

17. What are Josephine Smith's damages?

TOTAL: $_____.

Go to Section IV.

IV. Cal. Civ. Code § 52.1 – Violation of the Bane Act – (A.S. Against Defendants Clay Rojas and the City of Santa Clara)

We answer the questions submitted to us as follows:

18. Did a defendant use actions that a reasonable person would have found threatening, intimidating, or coercive against A.S., which (a) interfered with A.S.'s constitutional rights, or (b) caused A.S. to reasonably believe that if she exercised her constitutional rights, defendants would commit violence against her or her property?

Clay Rojas	Yes _____	No _____
City of Santa Clara	Yes _____	No _____

After you answer question 18, go to question 19.

19. Did a defendant act violently against A.S. or her property, which interfered with her constitutional rights?

Clay Rojas	Yes _____	No _____
City of Santa Clara	Yes _____	No _____

After you answer question 19, go to question 20.

20. Did a defendant act violently against A.S. or her property to prevent A.S. from exercising or enjoying her constitutional rights, or to retaliate against A.S. for having exercised or enjoyed her constitutional rights?

Clay Rojas	Yes _____	No _____
City of Santa Clara	Yes _____	No _____

If your answer to questions 18, 19, or 20 is yes, go to question 21. If you answered no as to questions 18, 19, and 20, go to Section V.

21. Was a defendant's conduct a substantial factor in causing harm to A.S.?

Clay Rojas Yes _____ No _____

City of Santa Clara Yes _____ No _____

If your answer to question 21 is yes as to any defendant, then answer question 22. If your answer to question 21 is no as to all defendants, go to Section V.

22. What are A.S.'s damages?

TOTAL: $_____.

Go to Section V.

V. Intrusion Into Private Affairs (Josephine Smith Against Defendants Clay Rojas and the City of Santa Clara)

We answer the questions submitted to us as follows:

23. Did Josephine Smith have a reasonable expectation of privacy in her home?

Yes _____ No _____

If your answer to question 23 is yes, then answer question 24. If you answered no, go to Section VI.

24. Did a defendant intentionally intrude in Josephine Smith's home?

Clay Rojas Yes _____ No _____

City of Santa Clara Yes _____ No _____

If your answer to question 24 is yes as to any defendant, then answer question 25. If you answered no as to all defendants, go to Section VI.

25. Would the defendant's intrusion be highly offensive to a reasonable person?

Clay Rojas Yes _____ No _____

City of Santa Clara Yes _____ No _____

If your answer to question 25 is yes as to any defendant, then answer question 26. If you answered no as to all defendants, go to Section VI.

26. Was the defendant's conduct a substantial factor in causing harm to Josephine Smith?

Clay Rojas Yes _____ No _____

City of Santa Clara Yes _____ No _____

If your answer to question 26 is yes as to any defendant, then answer question 27. If your answer to question 26 is no as to all defendants, go to Section VI.

27. What are Josephine Smith's damages?

TOTAL: $_____.

Go to Section VI.

VI. Intrusion Into Private Affairs (A.S. Against Defendants Clay Rojas and the City of Santa Clara)

We answer the questions submitted to us as follows:

28. Did A.S. have a reasonable expectation of privacy in her home?

Yes _____ No _____

If your answer to question 28 is yes, then answer question 29. If you answered no, go to Section VII.

29. Did a defendant intentionally intrude in A.S.'s home?

Clay Rojas Yes _____ No _____

City of Santa Clara Yes _____ No _____

If your answer to question 29 is yes as to any defendant, then answer question 30. If you answered no as to all defendants, go to Section VII.

30. Would the defendant's intrusion be highly offensive to a reasonable person?

Clay Rojas Yes _____ No _____

City of Santa Clara Yes _____ No _____

If your answer to question 30 is yes as to any defendant, then answer question 31. If you answered no as to all defendants, go to Section VII.

31. Was the defendant's conduct a substantial factor in causing harm to A.S.?

Clay Rojas Yes _____ No _____

City of Santa Clara Yes _____ No _____

If your answer to question 31 is yes as to any defendant, then answer question 32. If you answered no as to all defendants, go to Section VII.

32. What are A.S.'s damages?

TOTAL: $_____.

Go to Section VII.

VII. Battery By Peace Officer (Josephine Smith Against Defendants Clay Rojas and the City of Santa Clara)

We answer the questions submitted to us as follows:

33. Did a defendant intentionally touch Josephine Smith or cause Josephine Smith to be touched?

Clay Rojas	Yes _____	No _____
City of Santa Clara	Yes _____	No _____

If your answer to question 33 is yes as to any defendant, then answer question 34. If you answered no as to all defendants, go to Section VIII.

34. Did a defendant use unreasonable force in detaining Josephine Smith?

Clay Rojas	Yes _____	No _____
City of Santa Clara	Yes _____	No _____

If your answer to question 34 is yes as to any defendant, then answer question 35. If you answered no as to all defendants, go to Section VIII.

35. Did Josephine Smith consent to the use of that force?

Yes _____ No _____

If your answer to question 35 is no, then answer question 36. If you answered yes, go to Section VIII.

36. Was Josephine Smith harmed by a defendant's use of force?

Clay Rojas	Yes _____	No _____
City of Santa Clara	Yes _____	No _____

If your answer to question 36 is yes, then answer question 37. If you answered no, go to Section VIII.

37. Was a defendant's use of unreasonable force a substantial factor in causing harm to Josephine Smith?

Clay Rojas	Yes _____	No _____
City of Santa Clara	Yes _____	No _____

If your answer to question 37 is yes as to any defendant, then answer question 38. If you answered no as to all defendants, go to Section VIII.

38. What are Josephine Smith's damages?

TOTAL: $_____.

Go to Section VIII.

VIII. Intentional Infliction of Emotional Distress (Josephine Smith Against Defendants Clay Rojas and the City of Santa Clara)

We answer the questions submitted to us as follows:

39. Was a defendant's conduct outrageous?

Clay Rojas	Yes _____	No _____
City of Santa Clara	Yes _____	No _____

If your answer to question 39 is yes as to any defendant, then answer question 40. If you answered no as to all defendants, go to Section IX.

40. Did the defendant intend to cause Josephine Smith emotional distress, or did defendant act with reckless disregard of the probability that Josephine Smith would suffer emotional distress, knowing that Josephine Smith was present when the conduct occurred?

Clay Rojas	Yes _____	No _____
City of Santa Clara	Yes _____	No _____

If your answer to question 40 is yes as to any defendant, then answer question 41. If you answered no as to all defendants, go to Section IX.

41. Did Josephine Smith suffer severe emotional distress?

Yes _____ No _____

If your answer to question 41 is yes, then answer question 42. If you answered no, go to Section IX.

42. Was the defendant's conduct a substantial factor in causing Josephine Smith's severe emotional distress?

Clay Rojas Yes _____ No _____

City of Santa Clara Yes _____ No _____

If your answer to question 42 is yes as to any defendant, then answer question 43. If you answered no as to all defendants, go to Section IX.

43. What are Josephine Smith's damages?

TOTAL: $_____.

Go to Section IX.

IX. Intentional Infliction of Emotional Distress (A.S. Against Defendants Clay Rojas and the City of Santa Clara)

We answer the questions submitted to us as follows:

44. Was a defendant's conduct outrageous?

Clay Rojas Yes _____ No _____

City of Santa Clara Yes _____ No _____

If your answer to question 44 is yes as to any defendant, then answer question 45. If you answered no as to all defendants, go to Section X.

45. Did the defendant intend to cause A.S. emotional distress, or did defendant act with reckless disregard of the probability that A.S. would suffer emotional distress, knowing that A.S. was present when the conduct occurred?

Clay Rojas Yes _____ No _____

City of Santa Clara Yes _____ No _____

If your answer to question 45 is yes as to any defendant, then answer question 46. If you answered no, go to Section X.

46. Did A.S. suffer severe emotional distress?

Yes _____ No _____

If your answer to question 46 is yes, then answer question 47. If you answered no, go to Section X.

47. Was the defendant's conduct a substantial factor in causing A.S.'s severe emotional distress?

Clay Rojas Yes _____ No _____

City of Santa Clara Yes _____ No _____

If your answer to question 47 is yes as to any defendant, then answer question 48. If you answered no as to all defendants, go to Section X.

48. What are A.S.'s damages?

TOTAL: $_____.

Go to Section X.

X. Trespass (Josephine Smith Against Defendants Clay Rojas and the City of Santa Clara)

We answer the questions submitted to us as follows:

49. Did Josephine Smith own or control the property at 940 and 942 Gale Drive?

Yes _____ No _____

If your answer to question 49 is yes, then answer question 50. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

50. Did a defendant intentionally or negligently enter Josephine Smith's property?

Clay Rojas Yes _____ No _____

City of Santa Clara Yes _____ No _____

If your answer to question 50 is yes as to any defendant, then answer question 51. If you answered no as to all defendants, stop here, answer no further questions, and have the presiding juror sign and date this form.

51. Did the defendant enter the property without Josephine Smith's permission?

Clay Rojas Yes _____ No _____

City of Santa Clara Yes _____ No _____

If your answer to question 51 is yes as to any defendant, then answer question 52. If you answered no as to all defendants, stop here, answer no further questions, and have the presiding juror sign and date this form.

52. Was a defendant's entry into the property authorized by law?

Clay Rojas Yes _____ No _____

City of Santa Clara Yes _____ No _____

If your answer to question 52 was no as to any defendant, answer question 53. If your answer was yes as to all defendants, stop here, answer no further questions, and have the presiding juror sign and date this form.

53. Was Josephine Smith harmed by the defendant's entry?

Clay Rojas Yes _____ No _____

City of Santa Clara Yes _____ No _____

If your answer to question 53 is yes as to any defendant, then answer question 54. If you answered no as to all defendants, stop here, answer no further questions, and have the presiding juror sign and date this form.

54. Was the defendant's entry a substantial factor in causing harm to Josephine Smith?

Clay Rojas Yes _____ No _____

City of Santa Clara Yes _____ No _____

If your answer to question 54 is yes as to any defendant, then answer question 55. If you answered no as to all defendants, stop here, answer no further questions, and have the presiding juror sign and date this form.

55. What are Josephine Smith's damages?

TOTAL: $_____.

Have the presiding juror sign and date this form. After this verdict form has been signed, notify the clerk that you are ready to present your verdict in the courtroom.

Signed:_____ Date:_____

PRESIDING JUROR