Smith et al v. City of	\$anta Clara et al	Γ	Dod. 274
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8	UNITED STATES D	ISTRICT COURT	
9	NORTHERN DISTRIC		
10	SAN JOSE I		
11	SART JOSE E) Case No.: 11-CV-03999-LHK	
12	JOSEPHINE SMITH, an individual, and A.S., a) Case 110 11-C V-03///-LITE	
13	minor,	VERDICT FORM	
14	Plaintiffs,		
15	v.))	
16	CITY OF SANTA CLARA, a public entity, and CLAY ROJAS, an individual.))	
17))	
18	Defendants.))	
19	We, the jury, unanimously agree to the answers to	the following questions and return them	
20	under the instructions of this Court as our verdict		
21	I. 42 U.S.C. § 1983 – Violation of Four	th Amendment – Excessive Force (Josephin	ne
22	Smith Against Defendant Clay Rojas	S).	
23	We answer the questions submitted to us	as follows:	
24	Did Clay Rojas use excessive force aga	ainst Josephine Smith?	
25	Yes No _		
26	If your answer to question 1 is yes, then ar	nswer question 2. If you answered no, go to	
	Section II.		
27			
28	1		
	Case No. 11-CV-03999-LHK VERDICT FORM		

1	2	Did Clay Rojas act under color of law?
2	۷.	Yes No
	If.	your answer to question 2 is yes, then answer question 3. If you answered no, go to
3		
4	Section II.	
5	3.	Was Josephine Smith harmed by defendant Clay Rojas' use of force?
6		Yes No
7		your answer to question 3 is yes, then answer question 4. If you answered no, go to
8	Section II.	
9	4.	Was Clay Rojas' conduct a substantial factor in causing harm to Josephine Smith?
10		Yes No
11	If y	your answer to question 4 is yes, then answer question 5. If you answered no, go to
12	Section II.	
13	5.	What are Josephine Smith's damages?
14	TC	OTAL: \$
15	Go	to Section II.
16	II.	42 U.S.C. § 1983 – Violation of First Amendment – Retaliation (Josephine Smith
17		Against Defendant Clay Rojas).
18	We	e answer the questions submitted to us as follows:
19	6.	Did Josephine Smith engage in speech protected under the First Amendment?
20		Yes No
21	If y	your answer to question 6 is yes, then answer question 7. If you answered no, go to
22	Section III	[.
23	7. I	Did Clay Rojas take action against Josephine Smith?
24		Yes No
25	If y	your answer to question 7 is yes, then answer question 8. If you answered no, go to
26	Section III	[.
27		
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1	8. Was Josephine Smith's protected speech a substantial or motivating factor for Clay
2	Rojas' action?
3	Yes No
4	If your answer to question 8 is yes, then answer question 9. If you answered no, go to
5	Section III.
6	9. Did Clay Rojas act under color of law?
7	Yes No
8	If your answer to question 9 is yes, then answer question 10. If you answered no, go to
9	Section III.
10	10. Was Josephine Smith harmed by Clay Rojas' action?
11	Yes No
12 13	If your answer to question 10 is yes, then answer question 11. If you answered no, go to
14	Section III.
15	11. Was Clay Rojas' conduct a substantial factor in causing harm to Josephine Smith?
16	Yes No
17	If your answer to question 11 is yes, then answer question 12. If you answered no, go to
18	Section III.
19	12. What are Josephine Smith's damages?
20	TOTAL: \$
21	Go to Section III.
22	
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	VERDICT FORM

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2	17.	What are Josephine Sm	ith's damages?	
3	TOT	ΓAL: \$	·	
4	Go	to Section IV.		
5		Cal. Civ. Code § 52.1 - Clay Rojas and the Ci		ct – (A.S. Against Defendants
6	We	answer the questions su	abmitted to us as follows:	
7	18.	Did a defendant use a	ctions that a reasonable pe	erson would have found threatening,
8		intimidating, or coerc	ive against A.S., which (a)) interfered with A.S.'s
9		constitutional rights, o	or (b) caused A.S. to reaso	nably believe that if she exercised
10		her constitutional righ	its, defendants would com	mit violence against her or her
11		property?		
12		Clay Rojas	Yes	No
13		City of Santa Clara	Yes	No
14	Afte	er you answer question	18, go to question 19.	
15	19.	Did a defendant act vi	olently against A.S. or he	r property, which interfered with her
16		constitutional rights?		
17		Clay Rojas	Yes	No
18		City of Santa Clara	Yes	No
19	Afte	er you answer question	19, go to question 20.	
20	20.	Did a defendant act vi	olently against A.S. or he	r property to prevent A.S. from
21		exercising or enjoying	g her constitutional rights,	or to retaliate against A.S. for
22		having exercised or en	njoyed her constitutional r	ights?
23		Clay Rojas	Yes	No
24		City of Santa Clara	Yes	No
25	If yo	our answer to questions	18, 19, or 20 is yes, go to	question 21. If you answered no as
26	to questions	s 18, 19, and 20, go to S	ection V.	
27				
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1	2	 Was a defend 	lant's conduct a	substanti	ial factor in causing h	arm to A.S.?
2		Clay Rojas		Yes _		No
3		City of San	ta Clara	Yes _		No
4	If	your answer to q	uestion 21 is yes	s as to an	y defendant, then ans	swer question 22. If your
5	answer to	question 21 is no	o as to all defend	lants, go	to Section V.	
6	2:	2. What are A.S.	's damages?			
7	Т	OTAL: \$		_•		
8	G	so to Section V.				
9	V.	Intrusion Into and the City o		(Joseph	nine Smith Against E	Defendants Clay Rojas
11	V	Ve answer the que	estions submitted	to us as	follows:	
12		23. Did Josephine	Smith have a re-	asonable	e expectation of privac	ey in her home?
13		Yes			No	
14	If	your answer to q	uestion 23 is yes	s, then ar	nswer question 24. If	you answered no, go to
15	Section V	VI.				
16	2	4. Did a defendan	t intentionally in	trude in	Josephine Smith's ho	ome?
17		Clay Rojas		Yes _		No
18		City of Santa C	Clara	Yes _		No
19	If	your answer to q	uestion 24 is yes	s as to an	y defendant, then ans	swer question 25. If you
20	answered	l no as to all defe	ndants, go to Sec	tion VI.		
21	2.	5. Would the defe	endant's intrusion	n be high	aly offensive to a reas	onable person?
22		Clay Rojas		Yes _		No
23		City of Santa C	Clara	Yes _		No
24	If	your answer to q	uestion 25 is yes	s as to an	y defendant, then ans	swer question 26. If you
25	answered	l no as to all defe	ndants, go to Sec	tion VI.		
26	2		lant's conduct a	substanti	ial factor in causing h	arm to Josephine Smith?
27		Clay Rojas		Yes _		No
28		City of Santa C	Clara	Yes _		No
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1	If	your answe	r to question 26 is y	yes as to any	defendant, then answ	ver question 27.	If your
2	answer to	question 26	5 is no as to all defe	endants, go to	Section VI.		
3	27	. What are .	Josephine Smith's o	damages?			
4	TO	OTAL:	\$	·			
5	G	o to Section	ı VI.				
67	VI.	Intrusion of Santa (irs (A.S. Aga	inst Defendants Cla	ay Rojas and th	e City
8	W		e questions submitt	ted to us as fo	ollows:		
9	28	B. Did A.S. l	nave a reasonable e	xpectation of	privacy in her home	?	
10		Yes	_ No	·			
11	If	your answe	r to question 28 is y	yes, then ansv	ver question 29. If y	ou answered no	, go to
12	Section V	II.					
13	29	Did a defe	endant intentionally	intrude in A.	.S.'s home?		
14		Clay Roja	S	Yes		No	
15		City of Sa	nta Clara	Yes		No	
16	If	your answe	r to question 29 is y	yes as to any	defendant, then answ	ver question 30.	If you
17	answered	no as to all	defendants, go to S	Section VII.			
18	30). Would the	e defendant's intrus	ion be highly	offensive to a reason	nable person?	
19		Clay Roja	S	Yes		No	
20		City of Sa	ınta Clara	Yes		No	
21	If	your answe	r to question 30 is y	yes as to any	defendant, then answ	ver question 31.	If you
22	answered	no as to all	defendants, go to S	Section VII.			
23	31	. Was the d	efendant's conduct	a substantial	factor in causing har	rm to A.S.?	
24		Clay Roja	S	Yes	<u></u>	No	
25		City of Sa	nta Clara	Yes	<u></u>	No	
26	If	your answe	r to question 31 is y	yes as to any	defendant, then answ	ver question 32.	If you
27	answered	no as to all	defendants, go to S	Section VII.			
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1	32. What are A	S's damages?			
2		S			
3			<u> </u>		
4	Go to Section				
5		Peace Officer (Jo Santa Clara)	sephine Smith	n Against Defendants Clay Ro	jas and
6	We answer the	questions submitte	d to us as follo	ows:	
7	33. Did a defen	dant intentionally t	ouch Josephine	e Smith or cause Josephine Smi	th to be
8	touched?				
9	Clay Ro	jas	Yes	No	
10	City of S	Santa Clara	Yes	No	
11	If your answer	to question 33 is ye	es as to any def	fendant, then answer question 3	4. If you
12	answered no as to all d	efendants, go to Se	ection VIII.		
13	34. Did a defen	dant use unreasona	able force in de	taining Josephine Smith?	
14	Clay Ro	jas	Yes	No	
15	City of S	Santa Clara	Yes	No	
16	If your answer	to question 34 is ye	es as to any def	fendant, then answer question 3	5. If you
17	answered no as to all d	efendants, go to Se	ection VIII.		
18	35. Did Josephi	ne Smith consent t	o the use of tha	at force?	
19	,	Yes	No		
20	If your answer	to question 35 is no	o, then answer	question 36. If you answered y	es, go to
21	Section VIII.				
22	36. Was Joseph	ine Smith harmed	by a defendant	's use of force?	
23	Clay R	ojas	Yes	No	
24	City of	Santa Clara	Yes	No	
25	If your answer	to question 36 is ye	es, then answer	question 37. If you answered	no, go to
26	Section VIII.				
27					
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1	37.	Was a defendant's use o	f unreasonable force a	substantial factor in causing harm to
2		Josephine Smith?		
3		Clay Rojas	Yes	No
4		City of Santa Clara	Yes	No
5	If yo	our answer to question 37	is yes as to any defend	ant, then answer question 38. If you
6	answered no	o as to all defendants, go t	o Section VIII.	
7	38. V	What are Josephine Smith	's damages?	
8	ТОТ	AL: \$	·	
9	Go t	o Section VIII.		
10		Intentional Infliction of l		
11		Defendants Clay Rojas a	·	Clara)
12		answer the questions subm		
13	39. \	Was a defendant's conduc	_	
14		Clay Rojas	Yes	No
15		City of Santa Clara	Yes	No
16	If yo	our answer to question 39	is yes as to any defend	ant, then answer question 40. If you
17	answered no	o as to all defendants, go t	o Section IX.	
18	40. I	Did the defendant intend t	o cause Josephine Smi	th emotional distress, or did
19	d	lefendant act with reckles	s disregard of the prob	ability that Josephine Smith would
20	S	suffer emotional distress, l	knowing that Josephine	e Smith was present when the
21	С	conduct occurred?		
22		Clay Rojas	Yes	No
23		City of Santa Clara	Yes	No
24	If yo	our answer to question 40	is yes as to any defend	ant, then answer question 41. If you
25	answered no	o as to all defendants, go t	o Section IX.	
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41. Did Josephine Smith suffe	er severe emotional distre	ss?
1	or severe emotional aistre	
Yes	No	
If your answer to question 41	is yes, then answer quest	ion 42. If you answered no, go to
Section IX.		
42. Was the defendant's cond	uct 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 defendan	t, then answer question 43. If you
answered no as to all defendants, go t	to Section IX.	
43. What are Josephine Smith	's damages?	
TOTAL: \$		
Go to Section IX.		
		. Against Defendants Clay Rojas
We answer the questions subr	mitted to us as follows:	
44. Was a defendant's conduc	et outrageous?	
Clay Rojas	Yes	No
City of Santa Clara	Yes	No
If your answer to question 44	is yes as to any defendan	t, then answer question 45. If you
answered no as to all defendants, go t	to Section X.	
45. Did the defendant inte	end to cause A.S. emotion	al distress, or did defendant act
with reckless disregard of	the probability that A.S.	would suffer emotional distress,
knowing that A.S. was pre	esent when the conduct of	ccurred?
Clay Rojas	Yes	No
City of Santa Clara	Yes	No
	is yes as to any defendan	t, then answer question 46. If you
answered no, go to Section X.	10	
	If your answer to question 41 Section IX. 42. Was the defendant's condemotional distress? Clay Rojas City of Santa Clara If your answer to question 42 answered no as to all defendants, go at 43. What are Josephine Smith TOTAL: Go to Section IX. IX. Intentional Infliction of and the City of Santa Clara We answer the questions subsequence of the section of th	If your answer to question 41 is yes, then answer quest Section IX. 42. Was the defendant's conduct a substantial factor in emotional distress? Clay Rojas Yes City of Santa Clara Yes If your answer to question 42 is yes as to any defendant 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 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 City of Santa Clara Yes If your answer to question 44 is yes as to any defendant answered no as to all defendant, go to Section X. 45. Did the defendant intend to cause A.S. emotion with reckless disregard of the probability that A.S. knowing that A.S. was present when the conduct of Clay Rojas Yes City of Santa Clara Yes If your answer to question 45 is yes as to any defendant answered no, go to Section X.

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1	46. Did A.S. suffer severe emotional distress?
2	Yes No
3	If your answer to question 46 is yes, then answer question 47. If you answered no, go to
4	Section X.
5	47. Was the defendant's conduct a substantial factor in causing A.S.'s severe emotional
6	distress?
7	Clay Rojas Yes No
8	City of Santa Clara Yes No
9	If your answer to question 47 is yes as to any defendant, then answer question 48. If you
10	answered no as to all defendants, go to Section X.
11	48. What are A.S.'s damages?
12	TOTAL: \$
13	Go to Section X.
1415	X. Trespass (Josephine Smith Against Defendants Clay Rojas and the City of Santa Clara)
16	We answer the questions submitted to us as follows:
17	49. Did Josephine Smith own or control the property at 940 and 942 Gale Drive?
18	Yes No
19	If your answer to question 49 is yes, then answer question 50. If you answered no, stop
20	here, answer no further questions, and have the presiding juror sign and date this form.
21	50. Did a defendant intentionally or negligently enter Josephine Smith's property?
22	Clay Rojas Yes No
23	City of Santa Clara Yes No
24	If your answer to question 50 is yes as to any defendant, then answer question 51. If you
25	answered no as to all defendants, stop here, answer no further questions, and have the presiding
26	juror sign and date this form.
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1	51 Did the defendant enter th	a proparty without Issar	shina Smith's narmission?				
2	51. Did the defendant enter th		-				
3	Clay Rojas	Yes	No				
4	City of Santa Clara	Yes	No				
5	If your answer to question 51 is yes as to any defendant, then answer question 52. If yo answered no as to all defendants, stop here, answer no further questions, and have the presiding						
6		here, answer no further	questions, and have the presiding				
7	juror sign and date this form.						
8	52. Was a defendant's entry in		•				
9	Clay Rojas	Yes	No				
10	City of Santa Clara	Yes	No				
11	If your answer to question 52	was no as to any defend	ant, answer question 53. If your				
12	answer was yes as to all defendants, s	stop here, answer no furt	her questions, and have the				
13	presiding juror sign and date this form	n.					
	53. Was Josephine Smith harr	med by the defendant's e	ntry?				
14	Clay Rojas	Yes	No				
15	City of Santa Clara	Yes	No				
16	If your answer to question 53	is yes as to any defendar	nt, then answer question 54. If you				
17	answered no as to all defendants, stop	here, answer no further	questions, and have the presiding				
18	juror sign and date this form.						
19	54. Was the defendant's entry	a substantial factor in ca	ausing harm to Josephine Smith?				
20	Clay Rojas	Yes	No				
21	City of Santa Clara	Yes	No				
22	If your answer to question 54	is yes as to any defenda	nt, then answer question 55. If you				
23	answered no as to all defendants, sto	p here, answer no furthe	er questions, and have the presiding				
24	juror sign and date this form.						
25	55. What are Josephine Smith	's damages?					
26	TOTAL: \$	·					
27							
28		10					
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ne eleik that you	are ready to present you	s form. After this verdict form ha ir verdict in the courtroom.	s seen signed, ii
Signed:		Date:	
	PRESIDING JUROR		
Case No. 11-CV-039	200 4 4447	13	

VERDICT FORM