

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SAMUEL SMALL,

Plaintiff,

v.

THE CITY OF NEW YORK, EMMANUEL  
BAILEY, IAN FEINSTEIN, TYRONE  
SIMON, and MARCO VILLACIS,

Defendants.

No. 09-CV-1912 (RA)

VERDICT FORM

I. LIABILITY

A. Defendant Emmanuel Bailey

Question 1:

Has the plaintiff, Samuel Small, proven by a preponderance of the evidence that Defendant Emmanuel Bailey knew or should have known that Mr. Small was incarcerated under conditions that posed a substantial risk of serious harm, yet either intentionally or recklessly failed to act with reasonable care to mitigate such risk of harm?

YES \_\_\_\_\_ NO   X  

*If you answered "No" to Question 1, proceed to Question 3.*

Question 2:

Has the plaintiff, Samuel Small, proven by a preponderance of the evidence that Defendant Emmanuel Bailey's failure to mitigate this risk of harm proximately caused his injuries?

YES \_\_\_\_\_ NO \_\_\_\_\_

**B. Defendant Ian Feinstein**

Question 3:

Has the plaintiff, Samuel Small, proven by a preponderance of the evidence that Defendant Ian Feinstein knew or should have known that Mr. Small was incarcerated under conditions that posed a substantial risk of serious harm, yet either intentionally or recklessly failed to act with reasonable care to mitigate such risk of harm?

YES \_\_\_\_\_ NO   X  

*If you answered "No" to Question 3, proceed to Question 6.*

Question 4:

Has the plaintiff, Samuel Small, proven by a preponderance of the evidence that on March 9, 2009, Defendant Ian Feinstein had a realistic opportunity to intervene and prevent the harm Small suffered, yet nonetheless failed to do so?

YES \_\_\_\_\_ NO \_\_\_\_\_

Question 5:

Has the plaintiff, Samuel Small, proven by a preponderance of the evidence that Defendant Ian Feinstein's failure to mitigate this risk of harm proximately caused his injuries?

YES \_\_\_\_\_ NO \_\_\_\_\_

**C. Defendant Tyrone Simon**

Question 6:

Has the plaintiff, Samuel Small, proven by a preponderance of the evidence that Defendant Tyrone Simon knew or should have known that Mr. Small was incarcerated under conditions that posed a substantial risk of serious harm, yet either intentionally or recklessly failed to act with reasonable care to mitigate such risk of harm?

YES \_\_\_\_\_ NO   X  

*If you answered "No" to Question 6, proceed to Question 9.*

Question 7:

Has the plaintiff, Samuel Small, proven by a preponderance of the evidence that on March 9, 2009, Defendant Tyrone Simon had a realistic opportunity to intervene and prevent the harm Small suffered, yet nonetheless failed to do so?

YES \_\_\_\_\_ NO \_\_\_\_\_

Question 8:

Has the plaintiff, Samuel Small, proven by a preponderance of the evidence that Defendant Tyrone Simon's failure to mitigate this risk of harm proximately caused his injuries?

YES \_\_\_\_\_ NO \_\_\_\_\_

**D. Defendant Marco Villacis**

Question 9:

Has the plaintiff, Samuel Small, proven by a preponderance of the evidence that Defendant Marco Villacis knew or should have known that Mr. Small was incarcerated under conditions that posed a substantial risk of serious harm, yet either intentionally or recklessly failed to act with reasonable care to mitigate such risk of harm?

YES \_\_\_\_\_ NO   P  

*If you answered "No" to Question 9, proceed to Question 12.*

Question 10:

Has the plaintiff, Samuel Small, proven by a preponderance of the evidence that on March 9, 2009, Defendant Marco Villacis had a realistic opportunity to intervene and prevent the harm Small suffered, yet nonetheless failed to do so?

YES \_\_\_\_\_ NO \_\_\_\_\_

Question 11:

Has the plaintiff, Samuel Small, proven by a preponderance of the evidence that Defendant Marco Villacis's failure to mitigate this risk of harm proximately caused his injuries?

YES \_\_\_\_\_ NO \_\_\_\_\_

**E. Defendant New York City**

Question 12:

Has the plaintiff, Samuel Small, proven by a preponderance of the evidence that a City employee violated his constitutional rights in connection with the alleged assaults that occurred on October 14 and 15, 2006 and March 9, 2009?

YES   P   NO \_\_\_\_\_

*If you answered "No" to Question 12, proceed to Question 17.*

Question 13:

Has the plaintiff, Samuel Small, proven by a preponderance of the evidence that Defendant New York City had an unconstitutional policy, practice, or custom, or that it consciously chose not to implement a policy, practice, or custom, despite knowing that its failure to do so would lead to constitutional violations?

YES   P   NO \_\_\_\_\_

*If you answered "No" to Question 13, proceed to Question 15.*

Question 14:

Has the plaintiff, Samuel Small, proven by a preponderance of the evidence that this policy, practice, or custom—or lack thereof—caused his injuries or harm?

YES   P   NO \_\_\_\_\_

Question 15:

Has the plaintiff, Samuel Small, proven by a preponderance of the evidence that Defendant New York City failed to properly train its employees?

YES   P   NO \_\_\_\_\_

*If you answered "No" to Question 15, proceed to Question 17.*

Question 16:

Has the plaintiff, Samuel Small, proven by a preponderance of the evidence that this failure to train caused his injuries or harm?

YES   P   NO \_\_\_\_\_

**II. DAMAGES**

*You may only award damages against Defendant Bailey if you answered "yes" to Questions 1 and 2.*

*You may only award damages against Defendant Feinstein if you answered "yes" to Questions 3 and 5.*

*You may only award damages against Defendant Simon if you answered "yes" to Questions 6 and 8.*

*You may only award damages against Defendant Villacis if you answered "yes" to Questions 9 and 11.*

*You may only award damages against the City of New York if you answered "yes" to either (a) Questions 12, 13, and 14 and/or (b) Questions 12, 15 and 16.*

Question 17:

Has plaintiff, Samuel Small, proved by a preponderance of the evidence that he suffered any compensatory damages as a result of the injury or harm proximately caused by any of the defendants?

YES   P   NO \_\_\_\_\_

If yes, in what amount?

  \$ 1.5 MILLION

If no, you are required to enter an award of nominal damages in an amount not to exceed one dollar (\$1.00):

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

Question 18:


Has plaintiff proved by a preponderance of the evidence that he is entitled to punitive damages against any of the individual defendants?

- |                    |           |             |
|--------------------|-----------|-------------|
| a. Emmanuel Bailey | YES _____ | NO <u>✓</u> |
| b. Ian Feinstein   | YES _____ | NO <u>✓</u> |
| c. Tyrone Simon    | YES _____ | NO <u>✓</u> |
| d. Marco Villacis  | YES _____ | NO <u>✓</u> |

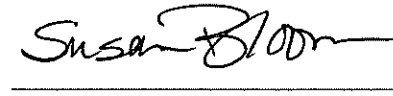
If yes, what amount of punitive damages do you award?

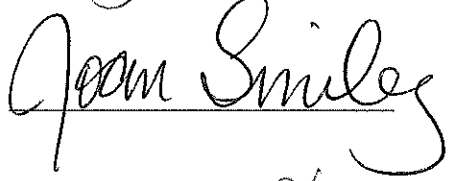
- |                    |          |
|--------------------|----------|
| a. Emmanuel Bailey | \$ _____ |
| b. Ian Feinstein   | \$ _____ |
| c. Tyrone Simon    | \$ _____ |
| d. Marco Villacis  | \$ _____ |

Your deliberations are finished. Please sign and date this form.

  
Foreperson

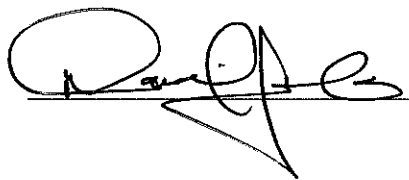














Date: 06/02/2021