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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

K.J.P., a minor, and K.P.P., a minor,
individually, by and through their mother,
LOAN THI MINH NGUYEN, who also
sues individually and as successor in interest
to her now deceased husband, Lucky
Phounsy,

Plaintiffs,

v.

COUNTY OF SAN DIEGO and RICHARD
FISCHER,

Defendants.

Case No. 15-cv-2692-H-MDD

JURY SPECIAL VERDICT

SECTION I

Excessive Force

By Plaintiff Loan Nguyen on behalf of Lucky Phounsy against Defendant Richard Fischer

A. Do you find by a preponderance of the evidence that Defendant Richard Fischer used excessive force on Lucky Phounsy in violation of the Fourth Amendment?

Yes No

If you answered "Yes" to question A, proceed to questions B and C. If you answered "No" to question A, proceed to Section II below.

B. Do you find by a preponderance of the evidence that defendant Richard Fischer's excessive force was a proximate cause of injury or death to Lucky Phounsy?

Yes No

If you answered "Yes" to questions A and B, you will determine damages later in Section VI.

Proceed to question C.

C. Do you find by a preponderance of the evidence that Defendant Richard Fischer's excessive force was malicious, oppressive, or done in reckless disregard of Lucky Phounsy's right to be free from excessive force?

Yes No

Proceed to Section II below.

SECTION II

Failure to Train

By Plaintiff Loan Nguyen on behalf of Lucky Phounsy Against Defendant County of San Diego

A. Do you find by a preponderance of the evidence that one or more San Diego County Sheriff's deputies violated Lucky Phounsy's constitutional rights to be free from excessive force:

Yes No

If yes, specify name(s): Jischer, Collins

If you answered "Yes" to question A, proceed to questions B and C. If you answered "No" to question A, proceed to Section III below.

B. Do you find by a preponderance of the evidence that the violation of Lucky Phounsy's constitutional rights was a foreseeable result of a failure to train by the County of San Diego to avoid violating a constitutional right to be free from excessive force?

Yes No

If you answered "Yes" to question B, proceed to question C. If you answered "No" to question B proceed to Section III below.

C. Do you find by a preponderance of the evidence that the County's failure to train caused injury to Lucky Phounsy?

Yes No

If you answered "Yes" to question C, you will determine damages later in Section VI. Proceed to Section III below.

SECTION III

Interference with Civil Rights (Bane Act)

By Plaintiff Loan Nguyen on behalf of Lucky Phounsy Against Defendant Richard Fischer

A. Do you find by a preponderance of the evidence that Defendant Richard Fischer acted violently against Lucky Phounsy?

Yes No

Proceed to question B.

B. Do you find by a preponderance of the evidence that defendant Richard Fischer intended to deprive Lucky Phounsy of his right to be free from excessive force or acted in reckless disregard of Lucky's Phounsy's right to be free from excessive force?

Yes No

If you answered "Yes" to question A or question B, proceed to question C. If you answered "No" to both question A and question B, proceed to Section IV below.

C. Do you find by a preponderance of the evidence that Defendant Richard Fischer's conduct was a substantial factor in causing harm to Lucky Phounsy?

Yes No

If you answered "Yes" to questions A, B and C, proceed to question D.

D. Do you find by clear and convincing evidence that Defendant Richard Fischer's conduct was malicious or oppressive?

Yes No

Proceed to Section IV.

SECTION IV

Negligence

By Plaintiff Loan Nguyen on behalf of Lucky Phounsy Against County of San Diego and Richard Fischer

A. Do you find by a preponderance of the evidence that one or more San Diego County Sheriff's deputies were negligent on April 13, 2015?

Yes No

If yes, specify name(s): Fischer, Collins, Ralph, Allen

B. Do you find by a preponderance of the evidence that the negligence of one or more San Diego County Sheriff's deputies on April 13, 2015 was a substantial factor in causing harm to Lucky Phounsy?

Yes No

C. Do you find by a preponderance of the evidence that Lucky Phounsy was negligent?

Yes No

D. Do you find by a preponderance of the evidence that Lucky Phounsy's negligence was a substantial factor in causing his harm?

Yes No

E. We assign the following percentage of responsibility for negligence to the following individuals:

Richard Fischer: 20 %

Other Sheriff's deputies: 70 % (Specify Name(s): Collins, Allen, Ralph,

Lucky Phounsy: 0 %

Other: 10 % (Specify Name(s): DAFF, Poynter, Hackett

3/16/22

Proceed to Section V.

SECTION V

Wrongful Death

By Plaintiffs K.J.P., K.P.P, and Loan Nguyen Against Defendant County of San Diego and Defendant Richard Fischer

A. Do you find by a preponderance of the evidence that Lucky Phounsy’s death was caused by a violation of one or more of his constitutional or civil rights?

Yes No

B. Do you find by a preponderance of the evidence that Lucky Phounsy’s death was caused by the negligence of one or more San Diego County Sheriff’s deputies on April 13, 2015?

Yes No

If you answered “Yes,” to either question A or B, you will determine damages in Section VI.

Proceed to Section VI.

SECTION VI

Damages

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A. If you found for the Plaintiff Loan Nguyen (on behalf of Lucky Phounsy) for excessive force (Section I) and/or failure to train (Section II), we the jury determine damages, by a preponderance of the evidence, as follows:

1. Mental, physical, and emotional pain and suffering experienced by Lucky Phounsy up to the time he was placed in the ambulance: \$ 2 million

2. Mental, physical, and emotional pain and suffering experienced by Lucky Phounsy from ambulance until the time of his death: \$ 3 million

B. If you found Lucky Phounsy's death was a result of negligence and/or the violation of Lucky Phounsy's constitutional rights, we determine, by a preponderance of the evidence, the following wrongful death damages for Plaintiffs K.J.P., K.P.P., and Loan Nguyen:

Non-economic damages:

Loss of love, companionship, comfort, care, assistance, protection, affection, society, moral support, training, and guidance:

April 20, 2015 through present: \$ 20 million

Future: \$ 60 million

C. If you found for the Plaintiff Loan Nguyen (on behalf of Lucky Phounsy) for excessive force (Section I (A)) but found no causation (Section I (B)), do you award nominal damages?

Yes No

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This is the end of special verdict form.

**The Presiding Juror should sign and date below, then notify the bailiff that you
have reached a verdict.**

Dated: March 15, 2022
San Diego, CA

Signed:



PRESIDING JUROR