

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSHUA WHARTON, GAIL WHARTON and
JONATHAN WHARTON,

07-CV-2137

Plaintiffs,

-against-

PROPOSED VERDICT
SHEET

COUNTY OF NASSAU, NASSAU COUNTY
POLICE DEPARTMENT, P.O. PHILLIP KOURIL,
P.O. CHARLES DECARO and LIEUTENANT
MICHAEL H. McGOVERN,

Defendants,

-----X

PLEASE NOTE – Each Juror will be provided with a Verdict Sheet Form in Order to Facilitate understanding of the charge and to aid in deliberation as to the elements of each claim. HOWEVER, YOUR VERDICT SHOULD BE REPORTED TO THE JUDGE ON ONLY ONE VERDICT SHEET FORM WHICH IS SIGNED BY THE JURY FOREPERSON. The remaining Verdict Sheet Forms should be returned to the courtroom deputy unsigned. Each question must be answered unanimously.

Also, please carefully follow the directions accompanying each question.

PLAINTIFF JOSHUA WHARTON'S SECTION 1983 CLAIMS FOR FALSE ARREST/FALSE IMPRISONMENT

1. Has Joshua Wharton made out a Section 1983 claim based upon his allegation of an unjustifiable stop by Officer Phillip Kouril?

_____ Yes _____ No

If yes, go to question 2. If no, go to question 4.

2. Is Officer Phillip Kouril entitled to qualified immunity for the stop of Joshua Wharton?

_____ Yes _____ No

If yes, go to question 4. If no, go to question 3.

3. State the amount of actual or nominal damages to be awarded to Joshua Wharton for the unconstitutional stop by Officer Phillip Kouril.

\$ _____

Go to question 4.

4. Has Joshua Wharton made out a Section 1983 claim for false arrest against Officer Phillip Kouril based upon his allegation that he was arrested after being stopped and brought to the station?

_____ Yes _____ No

If yes, go to question 5. If no, go to question 7.

5. Is Officer Phillip Kouril entitled to qualified immunity for the arrest of Joshua Wharton?

_____ Yes _____ No

If yes, go to question 7. If no, go to question 6.

6. State the amount of actual or nominal damages to be awarded to Joshua Wharton for the false arrest by Officer Phillip Kouril:

\$ _____

Go to question 7.

7. Has Joshua Wharton made out a Section 1983 claim based upon his allegation of an unjustifiable stop by Officer Charles DeCaro?

_____ Yes _____ No

If yes, go to question 8. If no, go to question 10.

8. Is Officer Charles DeCaro entitled to qualified immunity for the stop of Joshua Wharton?

_____ Yes _____ No

If yes, go to question 10. If no, go to question 9.

9. State the amount of actual or nominal damages to be awarded to Joshua Wharton for the unconstitutional stop by Officer Charles DeCaro.

\$ _____

Go to question 10.

10. Has Joshua Wharton made out a Section 1983 claim for false arrest against Officer Charles DeCaro based upon his allegation that he was arrested after being stopped and brought to the station?

_____ Yes _____ No

If yes, go to question 11. If no, go to question 13.

11. Is Officer Charles DeCaro entitled to qualified immunity for the arrest of Joshua Wharton?

_____ Yes _____ No

If yes, go to question 13. If no, go to question 12.

12. State the amount of actual or nominal damages to be awarded to Joshua Wharton for the false arrest by Officer Charles DeCaro:

\$ _____

Go to question 13.

PLAINTIFF JOSHUA WHARTON'S SECTION 1983 CLAIMS FOR MALICIOUS PROSECUTION

13. Has Joshua Wharton made out a Section 1983 claim for malicious prosecution against Officer Phillip Kouril based upon his allegation that Officer Kouril maliciously caused a criminal proceeding to be commenced and continued against Joshua Wharton which was resolved in Joshua Wharton's favor?

_____ Yes _____ No

If yes, go to question 14. If no, go to question 16.

14. Is Officer Phillip Kouril entitled to qualified immunity for the prosecution of Joshua Wharton?

_____ Yes _____ No

If yes, go to question 16. If no, go to question 15.

15. State the amount of actual or nominal damages to be awarded to Joshua Wharton for the malicious prosecution by Officer Phillip Kouril:

\$ _____

Go to question 16.

16. Has Joshua Wharton made out a Section 1983 claim for malicious prosecution against Officer Charles DeCaro based upon his allegation that Officer DeCaro maliciously caused a criminal proceeding to be commenced and continued against Joshua Wharton which was resolved in Joshua Wharton's favor?

_____ Yes _____ No

If yes, go to question 17. If no, go to question 19.

17. Is Officer Charles DeCaro entitled to qualified immunity for the prosecution of Joshua Wharton?

_____ Yes _____ No

If yes, go to question 19. If no, go to question 18.

18. State the amount of actual or nominal damages to be awarded to Joshua Wharton for the malicious prosecution by Officer Charles DeCaro:

\$ _____

Go to question 19.

PLAINTIFF JOSHUA WHARTON’S STATE COMMON LAW CLAIMS FOR MALICIOUS PROSECUTION

19. Has Joshua Wharton made out a State of New York common law claim for malicious prosecution against Officer Phillip Kouril based upon his allegation that Officer Kouril maliciously caused a criminal proceeding to be commenced and continued against Joshua Wharton which was resolved in Joshua Wharton’s favor?

_____ Yes _____ No

If yes, go to question 20. If no, go to question 22.

20. Is Officer Phillip Kouril entitled to qualified immunity for the prosecution of Joshua Wharton?

_____ Yes _____ No

If yes, go to question 22. If no, go to question 21.

21. State the amount of compensatory damages to be awarded to Joshua Wharton for the malicious prosecution by Officer Phillip Kouril:

\$ _____

Go to question 22.

22. Has Joshua Wharton made out a State of New York common law claim for malicious prosecution against Officer Charles DeCaro based upon his allegation that Officer DeCaro maliciously caused a criminal proceeding to be commenced and continued against Joshua Wharton which was resolved in Joshua Wharton's favor?

_____ Yes _____ No

If yes, go to question 23. If no, go to question 25.

23. Is Officer Charles DeCaro entitled to qualified immunity for the prosecution of Joshua Wharton?

_____ Yes _____ No

If yes, go to question 25. If no, go to question 24.

24. State the amount of compensatory damages to be awarded to Joshua Wharton for the malicious prosecution by Officer Charles DeCaro:

\$ _____

Go to question 25 only if you awarded at least \$1 in damages to on questions 3, 6, 9, 12, 15, 18, 21 or 24. If you did not meet one of these conditions, go to the end.

PUNITIVE DAMAGES

25. Is Joshua Wharton entitled to punitive damages to be awarded as against Officer Phillip Kouril?

_____ Yes _____ No

If yes, go to question 26. If no, go to question 27.

26. State the amount of punitive damages to be awarded to Joshua Wharton as against Officer Phillip Kouril.

\$ _____

Go to question 27.

27. Is Joshua Wharton entitled to punitive damages to be awarded as against Officer Phillip Kouril?

_____ Yes _____ No

If yes, go to question 27. If no, go to question 29.

28. State the amount of punitive damages to be awarded to Joshua Wharton as against Officer Charles DeCaro.

\$ _____

Go to question 29.

PLAINTIFF’S GAIL WHARTON AND JONATHAN WHARTON’S CLAIM FOR PAYMENT OF LEGAL FEES FOR SERVICES TO DEFEND JOSHUA WHARTON.

29. Are Plaintiffs Gail Wharton and Jonathan Wharton entitled to damages from Officer Phillip Kouril for payment of legal fees for the services to defend their son Joshua Wharton in the criminal trial?

_____ Yes _____ No

If yes, go to question 30. If no, go to question 31.

30. State the amount of damages to be awarded to Gail Wharton and Jonathan Wharton as against Officer Phillip Kouril.

\$ _____

Go to question 31.

31. Are Plaintiffs Gail Wharton and Jonathan Wharton entitled to damages from Officer Charles DeCaro for payment of legal fees for the services to defend their son Joshua Wharton in the criminal trial?

_____ Yes _____ No

If yes, go to question 32. If no, go to the end.

32. State the amount of damages to be awarded to Gail Wharton and Jonathan Wharton as against Officer Charles DeCaro.

\$ _____

Go to the end.

**PLEASE REPORT YOUR VERDICT TO THE MARSHAL. PLEASE
REMEMBER TO DATE AND SIGN THIS VERDICT SHEET. THANK YOU.**

Date

Foreperson