

FILED
KING COUNTY, WASHINGTON
JUL 24 2017
SUPERIOR COURT CLERK
DEBRA BAILEY TRAIL
DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

THERESA BIGLER, individually and as
Personal Representative of the Estate of
RICHARD BIGLER,

Plaintiff,

v.

OLYMPUS AMERICA INC., a foreign
corporation, OLYMPUS CORPORATION
OF THE AMERICAS, a foreign corporation;
OLYMPUS MEDICAL SYSTEMS CORP., a
foreign corporation; and VIRGINIA MASON
MEDICAL CENTER,

Defendants.

No.: 15-2-05472-4SEA

VERDICT FORM A

We, the jury, return the following verdict:

1. Was Virginia Mason negligent?

YES

NO

If you answered "Yes" to Question 1, proceed to 1(a). If you answered "No," proceed to Question 2.

(a) Was Virginia Mason's negligence a proximate cause of injury or damage to Plaintiff Biglers?

YES

NO

*If you answered "Yes" to Question 1(a), then circle Virginia Mason in Question 6.
Proceed to Question 2.*

1 **2. Did one or more of the Olympus companies fail to provide adequate warnings or**
2 **instructions for use for the Olympus 180 scope at the time of manufacture?**

3 YES _____ NO

4 *If you answered "Yes" to Question 2, proceed to 2(a). If you answered "No," proceed to*
5 *Question 3.*

6 **(a) Was the failure to provide adequate warnings or instructions at the time of**
7 **manufacture of the Olympus 180 scope a proximate cause of injury or damage to**
8 **Plaintiff Biglers?**

9 YES _____ NO _____

10 *If you answered "Yes" to Question 2(a), then circle Olympus companies in Question 6.*
11 *Proceed to Question 3.*

12 **3. Did one or more of the Olympus Companies fail to provide adequate warnings or**
13 **instructions for use for the Olympus 180 scope after the time of manufacture?**

14 YES NO _____

15 *If you answered "Yes" to Question 3, proceed to 3(a). If you answered "No," proceed to*
16 *Question 4.*

17 **(a) Was the failure to provide adequate warnings or instructions for use after the**
18 **time of manufacture a proximate cause of injury or damage to Plaintiff Biglers?**

19 YES _____ NO

20 *If you answered "Yes" to Question 3(a), then circle Olympus companies in Question 6.*
21 *Proceed to Question 4.*

22 **4. Was the Olympus 180 scope not reasonably safe as designed?**

23 YES _____ NO

24 *If you answered "Yes" to Question 4, proceed to 4(a). If you answered "No," proceed to*
25 *Instruction after 4(a).*

26 **(a) Was the unsafe design of the Olympus 180 scope a proximate cause of injury or**
27 **damage to Plaintiff Biglers?**

28 YES _____ NO _____

29 *If you answered "Yes" to Question 4(a), then circle Olympus companies in Question 6.*

ORIGINAL

1 *INSTRUCTION: If any Defendant is circled in Question 6, then answer Question 5. If no*
2 *Defendant is circled, then sign this verdict form.*

3 **5. What do you find to be the Plaintiffs' amount of damages?**

4 Survival Claim - injury to Richard Bigler:

5 \$ 750,000.00

6 Wrongful Death Claims:

7 Theresa Bigler (wife) \$ 50,000.00

8 Stephanie Burrell (daughter) \$ 50,000.00

9 Cheryl Davis (daughter) \$ 50,000.00

10 Melissa Gustafson (daughter) \$ 50,000.00

11 Jeffrey Bigler (son) \$ 50,000.00

12
13 *Proceed to answer Question 6.*

14 **6. Assume that 100% represents the total combined fault that proximately caused the**
15 **Bigler Plaintiffs' injury. What percentage of this 100% is attributable to each**
16 **Defendant whose fault you found to have been a proximate cause of the injury to the**
17 **Bigler Plaintiffs?**

18 **Assign a percentage to any Defendant that is circled. Do not assign a percentage to**
19 **a Defendant that is not circled.**

19 Virginia Mason	100 %
20 Olympus companies	%
21	
22 TOTAL	100%

23 *If you did not assign a percentage to the Olympus companies, skip Question 7, sign this*
24 *Verdict Form, and proceed to Verdict Form B. If you assigned a percentage to the*
25 *Olympus companies, proceed to Question 7.*

26
ORIGINAL

1 7. Has Plaintiff proven that she is entitled to punitive damages from one or more of the
2 Olympus companies?

3 YES _____ NO _____


4 *If you answered "Yes," please answer 7(a). If you answered "No," sign this verdict*
5 *form.*

6 (a) If yes, what do you find to be the appropriate total amount of punitive damages?

7 \$ _____

8
9 *Sign this verdict form*

10
11 Date: July 24, 2017

12 
13 _____
14 Presiding Juror

15 (DIRECTION: Notify the bailiff when all verdict forms are completed)

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26 ORIGINAL

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

THERESA BIGLER, individually and as
Personal Representative of the Estate of
RICHARD BIGLER,
Plaintiff,

No.: 15-2-05472-4SEA

VERDICT FORM B

v.

OLYMPUS AMERICA INC., a foreign
corporation, OLYMPUS CORPORATION
OF THE AMERICAS, a foreign corporation;
OLYMPUS MEDICAL SYSTEMS CORP., a
foreign corporation; and VIRGINIA MASON
MEDICAL CENTER,
Defendants.

We, the jury, return the following verdict:

8. Did any of the Olympus companies violate the Consumer Protection Act as to Virginia Mason?

YES _____ NO

If you answered "Yes," please answer Question 8(a). If you answered "No," then proceed to Question 13.

a. Were any of the Olympus companies' violation(s) of the Consumer Protection Act a proximate cause of injury or damage to Virginia Mason?

YES _____ NO _____

If you answered "Yes" to Question 8(a), then circle Olympus companies in Question 12 and proceed to Question 9.

If you answered "No" to Question 8(a), then proceed to Question 13.

1
2 **9. What do you find to be the total amount of Virginia Mason's damages for its**
3 **Consumer Protection Act claim (without reduction for any failure to mitigate)?**

4 \$ _____

5 *Proceed to Question 10.*

6 **10. Was Virginia Mason negligent as to its Consumer Protection Act claim?**

7 YES _____ NO _____

8 *If you answered "Yes," please answer Question 10(a).*

9 *If you answered "No," then proceed to Question 11.*

10 a. **Was any such negligence a proximate cause of injury or damage to Virginia**
11 **Mason?**

12 YES _____ NO _____

13 *If you answered "Yes" to Question 10(a), then circle Virginia Mason in Question 12.*
14 *Proceed to Question 11.*

15 **11. Did Virginia Mason fail to mitigate its damages as to its Consumer Protection Act**
16 **claim?**

17 YES _____ NO _____

18 *If you answered "Yes," please answer Question 11(a).*

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

20 a. **By what percentage of its total damages under its Consumer Protection Act**
21 **claim did Virginia Mason fail to mitigate?**

22 _____%

23 *Proceed to Question 12.*

1
2
3
4
12. Assume that 100% represents the total combined fault that proximately caused Virginia Mason's injury and damage as to its Consumer Protection Act claim. What percentage of this 100% is attributable to each Party whose fault you found to have been a proximate cause of the injury and damage to Virginia Mason as to its Consumer Protection Act claim (without consideration of your finding regarding failure to mitigate)?

5
6
Assign a percentage to any Party that is circled. Do not assign a percentage to a Party that is not circled.

Virginia Mason	%
Olympus companies	%
TOTAL	100%

7
8
9
10
Proceed to Question 13.

11
12
13. Did one or more of the Olympus companies fail to provide adequate warnings or instructions for use for the Olympus 180 scope at the time of manufacture?

13
14
YES _____ NO

15
16
If you answered "Yes" to Question 13, proceed to 13(a). If you answered "No," proceed to Question 14.

17
18
19
20
21
(a) Was the failure to provide adequate warnings or instructions at the time of manufacture of the Olympus 180 scope a proximate cause of injury or damage to Virginia Mason?

22
23
YES _____ NO _____

24
25
If you answered "Yes" to Question 13(a), then circle Olympus companies in Question 19. Proceed to Question 14.

26
14. Did one or more of the Olympus companies fail to provide adequate warnings or instructions for use for the Olympus 180 scope after the time of manufacture?

YES NO _____

If you answered "Yes" to Question 14, proceed to 14(a). If you answered "No," proceed to Question 15.

1 (a) Was the failure to provide adequate warnings or instructions for use after the
2 time of manufacture a proximate cause of injury or damage to Virginia Mason?

3 YES NO

4 If you answered "Yes" to Question 14(a), then circle Olympus companies in Question 19.
5 Proceed to Question 15.

6 15. Was the Olympus 180 scope not reasonably safe as designed?

7 YES NO

8 If you answered "Yes" to Question 15, proceed to 15(a).
9 If you answered "No," proceed to the "INSTRUCTION" after Question 15(a).

10 (a) Was the unsafe design of the Olympus 180 scope a proximate cause of injury or
11 damage to Virginia Mason?

12 YES NO

13 If you answered "Yes" to Question 15(a), then circle Olympus companies in Question 19.

14 **INSTRUCTION:**

15 Proceed to Question 16 if you answered "YES" to any of Questions 13(a), 14(a), or 15(a).

16 Otherwise, proceed to Question 20 if you answered "YES" to Question 8(a).

17 If you did not answer "YES" to any of Questions 8(a), 13(a), 14(a), or 15(a), please sign the
18 verdict form.

19 16. What do you find to be the total amount of Virginia Mason's damages (without
20 reduction for failure to mitigate) for any product liability claim(s) for which you
21 answered "YES" to Questions 13(a), 14(a), or 15(a). You may not duplicate damages
22 you may have awarded, if any, under the Consumer Protection Act claim.

23 Economic Damages \$ 430,000.00

24 Noneconomic Damages \$ 25,000,000.00

25 Proceed to Question 17.



1 17. Was Virginia Mason negligent as to its product liability claims?

2 YES NO

3 *If you answered "Yes" to Question 17, proceed to 17(a).*
4 *If you answered "No" to Question 17, proceed to Question 18.*

5 a. Was any such negligence a proximate cause of injury or damage to Virginia
6 Mason?

7 YES NO

8 *If you answered "Yes" to Question 17(a), then circle Virginia Mason in Question 19.*
9 *Proceed to Question 18.*

10 18. Did Virginia Mason fail to mitigate its damages as to its product liability claim(s)?

11 YES NO

12 *If you answered "Yes," please answer Question 18(a).*
13 *If you answered "No," proceed to Question 19.*

14 a. If yes, by what percentage of its total damages under its product liability
15 claim(s) did Virginia Mason fail to mitigate?

16 57 %

17 *Proceed to Question 19.*

18 19. Assume that 100% represents the total combined fault that proximately caused
19 Virginia Mason's injury and damage as to its product liability claim(s). What
20 percentage of this 100% is attributable to each Party whose fault you found to have
21 been a proximate cause of the injury and damage to Virginia Mason as to its
22 product liability claim(s) (without consideration of your finding regarding failure to
23 mitigate)?

24 *Assign a percentage to any Party that is circled. Do not assign a percentage to a
25 Party that is not circled.*

26 Virginia Mason	40 %
Olympus companies	60 %
TOTAL	100%

Proceed to Question 20.

1 **20. Has Virginia Mason proven that it is entitled to punitive damages from one or more**
2 **of the Olympus companies?**

3 YES _____ NO

4 *If you answered "Yes," please answer 20(a). If you answered "No," sign this verdict*
5 *form.*

6 **a. If yes, what do you find to be the appropriate total amount of punitive damages?**

7 \$ _____

8 *(DIRECTION: Sign this verdict form and notify the bailiff when all verdict forms are*
9 *completed).*

10
11
12 Date: July 24, 2017

13 
14 Presiding Juror