IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION

LORI NICHOLSON and WILLIS WILLIAM NICHOLSON, Plaintiffs, vs. BIOMET, INC; BIOMET ORTHOPEDICS, LLC; BIOMET MANUFACTURING CORP.; and BIOMET U.S. RECONSTRUCTION, LLC, Defendants.	No. 18-CV-3057-CJW-KEM **JURY INSTRUCTIONS**

Members of the Jury: I am now going to give you some instructions about this case and about your duties as jurors. At the end of the trial I will give you more instructions. I may also give you instructions during the trial. All instructions - those I give you now and those I give you later—whether they are in writing or given to you orally—are equally important and you must follow them all.

INSTRUCTION NO. 1

Plaintiffs Lori and Willis Nicholson allege that Biomet designed a total hip replacement called the M2a-Magnum, and that the M2a-Magnum's design was defective. This M2a-Magnum total hip replacement was implanted in Lori Nicholson in July 2007. Lori and Willis Nicholson allege that Lori was injured as a result of the defective design. Biomet denies that its M2a-Magnum was defectively designed or that its design injured plaintiffs.

Your duty is to decide what the facts are from the evidence. You are allowed to consider the evidence in the light of your own observations and experiences. After you have decided what the facts are, you will have to apply those facts to the law that I give you in these and in my other instructions. That is how you will reach your verdict. Only you will decide what the facts are. On the other hand, you must follow my instructions, whether you agree with them or not. You have taken an oath to follow the law that I give you in my instructions.

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness says, or only part of it, or none of it. In deciding what testimony to believe, consider the witnesses' intelligence, their opportunity to have seen or heard the things they testify about, their memories, any reasons they might have to testify a certain way, how they act while testifying, whether they said something different at another time, whether their testimony is generally reasonable, and how consistent their testimony is with other evidence that you believe.

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Do not let sympathy, or your own likes or dislikes, influence you. The law requires you to come to a just verdict based only on the evidence, your common sense, and the law that I give you in my instructions, and nothing else.

Nothing I say or do during this trial is meant to suggest what I think of the evidence or what I think your verdict should be.

INSTRUCTION NO. 2

During recesses, do not discuss this case among yourselves or with anyone else, including your family and friends. Do not allow anyone to discuss the case with you or within your hearing. "Do not discuss" also means do not e-mail, send text messages, blog or engage in any other form of written, oral or electronic communication about this case.

You must decide this case only from the evidence received by the court here in the courtroom and the instructions on the law that I give you. Do not read any newspaper or other written account, watch any televised account or streamed video account, or listen to any streamed internet or radio program on the subject of this trial. Do not conduct any Internet research or consult with any other sources about this case, the people involved in the case, or its general subject matter. You must keep your mind open and free of outside information. Only in this way will you be able to decide the case fairly based solely on the evidence received in court and my instructions on the law. If you decide this case on anything else, you will have done an injustice. It is very important that you follow these instructions.

I may not repeat these things to you before every recess, but keep them in mind until you are discharged.

INSTRUCTION NO. 3

The fact that a defendant is a corporation should not affect your decision. All persons are equal before the law, and corporations, whether large or small, are entitled to the same fair and conscientious consideration by you as any other person.

INSTRUCTION NO. 4

When I use the word "evidence," I mean the testimony of witnesses; documents and other things I receive as exhibits; facts that I tell you the parties have agreed are true; and any other facts that I tell you to accept as true.

Some things are not evidence. I will tell you now what is not evidence:

1. Lawyers' statements, arguments, questions, and comments are not evidence.
2. Documents or other things that might be in court or talked about, but that I do not receive as exhibits, are not evidence.
3. Objections are not evidence. Lawyers have a right—and sometimes a duty—to object when they believe something should not be a part of the trial. Do not be influenced one way or the other by objections. If I sustain a lawyer's objection to a question or an exhibit, that means the law does not allow you to consider that information. When that happens, you have to ignore the question or the exhibit, and you must not try to guess what the information might have been.
4. Testimony and exhibits that I strike from the record, or tell you to disregard, are not evidence, and you must not consider them.
5. Anything you see or hear about this case outside the courtroom is not evidence, and you must not consider it unless I specifically tell you otherwise.

Also, I might tell you that you can consider a piece of evidence for one purpose only, and not for any other purpose. If that happens, I will tell you what purpose you can consider the evidence for and what you are not allowed to consider it for. You need to pay close attention when I give an instruction about evidence that you can consider for only certain purposes, because you might not have that instruction in writing later in the jury room.

INSTRUCTION NO. 5

Some of you may have heard the terms "direct evidence" and "circumstantial evidence." You should not be concerned with those terms, since the law makes no distinction between the weight to be given to direct and circumstantial evidence.

INSTRUCTION NO. 6

At the Court's direction, the parties have blacked out and removed some information from documents submitted into evidence. You should not speculate as to the content of the portions that have been blacked out, nor should you consider as part of your deliberations the fact that certain portions of documents introduced by the plaintiffs or by the defendants have been removed from your consideration. Rather, you should only consider those portions that I have allowed to be admitted into evidence.

INSTRUCTION NO. 7

During the trial, I will sometimes need to talk privately with the lawyers. I may talk with them here at the bench or through electronic devices while you are in the courtroom, or I may call a recess and let you leave the courtroom while I talk with the lawyers. Either way, please understand that while you are waiting, we are working. We have these conferences to make sure that the trial is proceeding according to the law and to avoid confusion or mistakes. We will do what we can to limit the number of these conferences and to keep them as short as possible.

INSTRUCTION NO. 8

Some testimony may be presented to you in the form of a deposition. A deposition is the recorded answers a witness made under oath to questions asked by lawyers before trial. Deposition testimony may be offered as electronic video recordings that will be played for you. You should consider the deposition testimony, and judge its credibility, as you would that of any witness who testified here in person.

INSTRUCTION NO. 9

You may hear testimony from witnesses who testify remotely. You should draw no inference from this circumstance. This remote testimony is made under oath just like all the other testimony you will hear, and you should judge this testimony just as you would any other testimony. You may accept it or reject it and give it the weight as you think it deserves, considering all other evidence in this case.

You also should draw no inference from the absence of a lawyer, witness, or party representative from the courtroom for any period of time. These circumstances were handled within my discretion and have no consequence with respect to the issues you are being asked to consider.

INSTRUCTION NO. 10

You may hear testimony from witnesses who may be knowledgeable in a field because of their education, experience, or both. These witnesses are permitted to give their opinions on matters in that field and the reasons for their opinions.

You may accept or reject testimony from these witnesses just like you may with testimony from any other witness. After considering the witnesses' education and experience, the reasons given for the opinion, and all the other evidence in the case, you may give such testimony whatever weight, if any, you think it deserves.

INSTRUCTION NO. 11

At the end of the trial, you will have to make your decision based on what you recall of the evidence. You will not have a written copy of the testimony to refer to. Because of this, you have to pay close attention to the testimony and other evidence as it is presented here in the courtroom.

If you wish, however, you may take notes to help you remember what witnesses say. If you do take notes, do not show them to anyone until you and your fellow jurors go to the jury room to decide the case after you have heard and seen all of the evidence. Do not let taking notes distract you from paying close attention to the evidence as it is presented.

Before the opening statements, we will give each juror an envelope with a pad and pen in it. The envelopes are numbered according to your seat in the jury box. When you leave for breaks or at night, please put your pad and pen in the envelope and leave the envelope on your chair. Your notes will be secured, and they will not be read by anyone. At the end of trial and your deliberations, your notes should be left in the jury room for destruction.

Any notes you have taken during this trial are only aids to your memory. The notes are not evidence. If you have not taken notes, you should rely on your independent recollection of the evidence and not be unduly influenced by the notes of other jurors. Notes are not entitled to any greater weight than the recollections or impressions of each juror about the testimony.

INSTRUCTION NO. 12

To make sure this trial is fair to all parties, you must follow these rules:

First, do not talk or communicate among yourselves about this case, or about anyone involved with it, until the end of the trial when you go to the jury room to consider your verdict.

Second, do not talk with anyone else about this case, or about anyone involved with it, until the trial has ended and you have been discharged as jurors.

Third, when you are outside the courtroom, do not let anyone tell you anything about the case, or about anyone involved with it until the trial has ended and your verdict has been accepted by me. If someone tries to talk to you about the case before a verdict is rendered, please report it to the court security officer.

Fourth, during the trial, do not talk with or speak to any of the parties, lawyers, or witnesses in this case – not even to pass the time of day. It is important not only that you do justice in this case, but also that you act accordingly. If a person from one side of the lawsuit sees you talking to a person from the other side – even if it is just about the weather – that might raise a suspicion about your fairness. So, when the lawyers, parties and witnesses do not speak to you in the halls, on the elevator or the like, you must understand that they are not being rude. They know they are not supposed to talk to you while the trial is going on, and they are just following the rules.

Fifth, you may need to tell your family, close friends, and other people that you are a part of this trial. You can tell them when you have to be in court, and you can warn them not to ask you about this case, tell you anything they know or think they know about this case, or talk about this case in front of you. But, you must not communicate with anyone or post information in any manner about the parties, witnesses, participants, claims, evidence, or anything else related to this case.

(CONTINUED)

You must not tell anyone anything about the jury's deliberations in this case until after I accept your verdict or until I give you specific permission to do so. If you talk about the case with someone besides the other jurors during deliberations, it looks as if you might already have decided the case or that you might be influenced in your verdict by their opinions. That would not be fair to the parties, and it might result in the verdict being thrown out and the case having to be tried over again. During the trial, while you are in the courthouse and after you leave for the day, do not give any information to anyone, by any means, about this case. For example, do not talk face-to-face or use any electronic device, such as a telephone, cell phone, smart phone, Blackberry, PDA, computer, or computer-like device. Likewise, do not use the Internet or any Internet service; do not text or send instant messages; do not go on or use any Internet or other medium, including an Internet chat room, blog, App, or other websites such as Facebook, LinkedIn, Instagram, YouTube, or Twitter. In other words, do not communicate with anyone about this case – except for the other jurors during deliberations – until I accept your verdict.

Sixth, do not do any research — on the Internet, in libraries, newspapers, or otherwise — and do not investigate this case on your own. Do not visit or view any place discussed in this case, and do not use the Internet or other means to search for or view any place discussed in the testimony. Also, do not look up any information about this case, the law, or the people involved, including the parties, the witnesses, the lawyers, me, or the court.

Seventh, do not read or otherwise receive any information, including any news stories or Internet articles or blogs that are about the case, or about anyone involved with it. Do not listen to any radio or television reports, or digital streaming, about the case or about anyone involved with it. In fact, until the trial is over I suggest that you reduce or limit reading or receiving any digital streaming or any newspapers or news journals, and avoid listening to any television or radio newscasts at all. I do not know whether there will be news reports about this case, but if there are, you might accidentally find yourself reading or listening to something about the case. If you want, you can have someone collect information or clip out any stories and set them aside to give to you after the trial is over. I can assure you, however, that by the time you have heard all the evidence in this case, you will know what you need to return a just verdict.

The parties have a right to have you decide their case based only on evidence admitted here in court. If you research, investigate, or experiment on your own, or get information from other sources, your verdict might be influenced by inaccurate, incomplete, or misleading information. Witnesses here in court take an oath to tell the truth, and the accuracy of their testimony is tested through cross-examination. All of the parties are entitled to a fair trial and an impartial jury, and you have to conduct yourselves in a way that assures the integrity of the trial process. If you decide a case based on information not admitted in court, you will deny the parties a fair trial. You will deny them justice. Remember, you have taken an oath to follow the rules, and you must do so. If you do not, the case might have to be retried, and you could be held in contempt of court and possibly punished.

Eighth, do not make up your mind during the trial about what your verdict should be. Keep an open mind until after you and your fellow jurors have discussed all the evidence.

INSTRUCTION NO. 13

The trial will proceed in the following manner:

First, the plaintiffs' lawyer may make an opening statement. Next, the defendant's lawyer may make an opening statement. An opening statement is not evidence, but it is a summary of the evidence the lawyers expect you will see and hear during the trial.

After opening statements, the plaintiffs will then present evidence. The defendant's lawyer will have a chance to cross-examine the plaintiffs' witnesses. After the plaintiffs have finished presenting their case, the defendant may present evidence, and the plaintiffs' lawyer will have a chance to cross-examine its witnesses.

After you have seen and heard all of the evidence from both sides, the lawyers will make closing arguments that summarize and interpret the evidence. Just as with opening statements, closing arguments are not evidence. After the closing arguments, I will instruct you further on the law. After the lawyers' arguments and after the court's instructions you will go to the jury room to deliberate and decide on your verdict.

INSTRUCTION NO. 14

The plaintiffs and the defendant have stipulated—that is, they have agreed—that the following facts are true. You must, therefore, treat those facts as having been proved.

1. Lori and Willis Nicholson, wife and husband, are the Plaintiffs in this case.
2. Lori and Willis Nicholson are citizens of the State of Iowa.
3. Throughout this trial, you may hear or see references to multiple Biomet entities, such as: Biomet, Inc.; Biomet Orthopedics, LLC; Biomet U.S. Reconstruction, LLC; and/or Biomet Manufacturing, LLC f/k/a Biomet Manufacturing Corp. and Zimmer-Biomet. For purposes of this trial you should consider all of these entities to be "Biomet."
4. In July of 2007, Plaintiff Lori Nicholson underwent a total hip replacement surgery on her left hip.
5. Ms. Nicholson was implanted with the M2a-Magnum hip system.
6. Ms. Nicholson's hip replacement surgery in 2007 was performed by her surgeon, Dr. Li.
7. Ms. Nicholson had the M2a-Magnum hip removed in June of 2012.
8. Biomet designed and sold the M2a-Magnum hip replacement system, which is the subject of this lawsuit, throughout the United States, including Iowa.

INSTRUCTION NO. 15

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness said, or only part of it, or none of it.

You may consider a witness's intelligence; the opportunity the witness had to see or hear the things testified about; a witness's memory, knowledge, education, and experience; any reasons a witness might have for testifying a certain way; how a witness acted while testifying; whether a witness said something different at another time; whether a witness's testimony sounded reasonable; and whether or to what extent a witness's testimony is consistent with other evidence you believe.

In deciding whether to believe a witness, remember that people sometimes hear or see things differently and sometimes forget things. You will have to decide whether a contradiction is an innocent misrecollection, or a lapse of memory, or an intentional falsehood; that may depend on whether it has to do with an important fact or only a small detail.

INSTRUCTION NO. 16

Whenever a party must prove something they must do so by the preponderance of the evidence.

Preponderance of the evidence is evidence that is more convincing than opposing evidence. Preponderance of the evidence does not depend upon the number of witnesses testifying on one side or the other.

INSTRUCTION NO. 17

In order to recover on the claim that defendant's product was defective in design, the plaintiff must prove all of the following propositions:

1. The defendant sold or distributed the M2a-Magnum;
2. The defendant was engaged in the business of selling or distributing the M2a-Magnum;
3. The product was in a defective condition at the time it left defendant's control because of a defect in its design.
4. A reasonable alternative safer design could have been practically adopted at the time of sale or distribution.
5. The alternative design would have reduced or avoided the foreseeable risks of harm posed by the M2a-Magnum;
6. The omission of the alternative design renders the M2a-Magnum not reasonably safe;
7. The alternative design would have reduced or prevented the plaintiff's harm;
8. The design defect was a cause of plaintiff's damage; and
9. The amount of damage.

If the plaintiff has failed to prove any of these propositions, the plaintiff is not entitled to damages.

INSTRUCTION NO. 18

Concerning Instruction No. 17, you may consider the following factors and their interaction to determine whether an alternative design is reasonable and whether its omission renders the M2a-Magnum not reasonably safe:

- The magnitude and probability of the foreseeable risks of harm;
- Consumer expectations about product performance and the dangers attendant to use of the M2a-Magnum, including expectations arising from product portrayal and marketing;
- Whether the risk presented by the M2a-Magnum is open and obvious to, or generally known by, foreseeable users;
- The technological feasibility and practicality of the alternative design;
- Whether the alternative design could be implemented at a reasonable cost;
- The relative advantages and disadvantages of the M2a-Magnum as designed and as it alternatively could have been designed;
- The likely effects of the alternative design on product longevity, maintenance, repair, esthetics and on the efficiency and utility of the M2a-Magnum;
- The range of consumer choice among similar products, with and without the alternative design;
- The overall safety of the M2a-Magnum with and without the alternative design and whether the alternative design would introduce other dangers of equal or greater magnitude;
- Custom and practice in the industry and how defendant's design compares with other competing products in actual use; and
- Any other factor shown by the evidence bearing on this question.

INSTRUCTION NO. 19

A defect in a product is a proximate cause of damage when the damage would not have happened except for the defect.

The mere fact a party was injured does not mean that a product was defective or that a party was at fault.

_____ _____

Date

C.J. Williams
United States District Judge
Northern District of Iowa

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION

LORI NICHOLSON and WILLIS WILLIAM NICHOLSON, Plaintiffs, vs. BIOMET, INC; BIOMET ORTHOPEDICS, LLC; BIOMET MANUFACTURING CORP.; and BIOMET U.S. RECONSTRUCTION, LLC, Defendants.	No. 18-CV-3057-CJW-KEM **FINAL JURY INSTRUCTIONS**

Members of the jury, the instructions I gave at the beginning of the trial and during the trial are still in effect. Now I am going to give you some additional instructions. You have to follow all of my instructions – the ones I gave you earlier, as well as those I give you now. Do not single out some instructions and ignore others, because they are all important. You will have copies of the instructions, those I gave you at the beginning of trial and those I am giving you now, in the jury room. Remember, you have to follow all instructions, no matter when I give them, whether or not you have written copies.

INSTRUCTION NO. 20

Testimony and other evidence that post-dates Ms. Nicholson's July 10, 2007 implant surgery has been presented. Testimony and other evidence that post-dates Ms. Nicholson's July 10, 2007 implant surgery should not be considered by you on the issues of whether the product was in a defective condition at the time it left defendant's control and whether plaintiffs are entitled to punitive damages. If you find the product was defectively designed, however, you may consider evidence that post-dates Ms. Nicholson's July 10, 2007 implant surgery to determine whether the design defect was a cause of plaintiffs' damages.

INSTRUCTION NO. 21

If you find Lori Nicholson is entitled to recover damages, you shall consider the following items:

- Past loss of function.

  Past loss of function is the loss of function of the body from the date of injury to the present time. Loss of body function is the inability of a particular part of the body to function in a normal manner.

- Future loss of function.

  Future loss of function is the present value of future loss of function of the body.

- Past pain and suffering.

  Past pain and suffering is the physical and mental pain and suffering from the date of injury to the present time. Physical pain and suffering may include, but is not limited to, bodily suffering or discomfort. Mental pain and suffering may include, but is not limited to, mental anguish or loss of enjoyment of life.

- Future pain and suffering.

  Future pain and suffering is the present value of future physical and mental pain and suffering.

INSTRUCTION NO. 22

The amount you assess for physical and mental pain and suffering in the past and future and loss of function of the body in the past and future cannot be measured by any exact or mathematical standard. You must use your sound judgment based upon an impartial consideration of the evidence. Your judgment must not be exercised arbitrarily, or out of sympathy or prejudice, for or against the parties. The amount you assess for any item of damage must not exceed the amount caused by a party as proved by the evidence.

Plaintiffs are not seeking damages for non-hip related issues, such as possible heart problems, vertigo, headaches, or mood changes.

A party cannot recover duplicate damages. Do not allow amounts awarded under one item of damage to be included in any amount awarded under another item of damage. Similarly, damages awarded to one party shall not be included in any amount awarded to another party.

The amounts, if any, you find for each of the above items will be used to answer the special verdicts.

INSTRUCTION NO. 23

Punitive damages may be awarded if the plaintiff has proven by a preponderance of clear, convincing and satisfactory evidence the defendant's conduct constituted a willful and wanton disregard for the rights or safety of another and caused actual damage to the plaintiff. Punitive damages are appropriate when the defendant acted with "legal malice" which may be shown by wrongful conduct committed with a willful or reckless disregard for the rights of another. Punitive damages are not intended to compensate for injury but are allowed to punish and discourage the defendant and others from like conduct in the future. You may award punitive damages only if the defendant's conduct warrants a penalty in addition to the amount you award to compensate for plaintiff's actual injuries.

There is no exact rule to determine the amount of punitive damages, if any, you should award. You may consider the following factors:

1. The nature of defendant's conduct that harmed the plaintiff.
2. The amount of punitive damages which will punish and discourage like conduct by the defendant. You may consider the defendant's financial condition or ability to pay. You may not, however, award punitive damages solely because of the defendant's wealth or ability to pay.
3. The plaintiff's actual damages. The amount awarded for punitive damages must be reasonably related to the amount of actual damages you award to the plaintiff.
4. The existence and frequency of prior similar conduct. Although you may consider harm to others in determining the nature of defendant's conduct, you may not award punitive damages to punish the defendant for harm caused to others, or for out-of-state conduct that was lawful where it occurred, or for any conduct by the defendant that is not similar to the conduct which caused the harm to the plaintiff in this case.

INSTRUCTION NO. 24

Evidence is clear, convincing, and satisfactory if there is no serious or substantial uncertainty about the conclusion to be drawn from it.

Conduct is willful and wanton when a person intentionally does an act of an unreasonable character in disregard of a known or obvious risk that is so great as to make it highly probable that harm will follow.

INSTRUCTION NO. 25

There are rules you must follow when you go to the jury room to deliberate and return with your verdict.

First, you will select a foreperson. That person will preside over your discussions and speak for you here in court.

Second, it is your duty, as jurors, to discuss this case with one another in the jury room. You should try to reach agreement, if you can do this without going against what you believe to be the truth, because all jurors have to agree on the verdict. Each of you must come to your own decision, but only after you have considered all the evidence, discussed the evidence fully with your fellow jurors, and listened to the views of your fellow jurors.

Do not be afraid to change your mind if the discussion persuades you that you should. But, do not come to a decision just because other jurors think it is right, or just to reach a verdict. Remember you are not for or against any party. You are judges – judges of the facts. Your only job is to study the evidence and decide what is true.

Third, if you need to communicate with me during your deliberations, send me a note signed by one or more of you. Give the note to the court security officer and I will answer you as soon as I can, either in writing or here in court. While you are deliberating, do not tell anyone—including me—how many jurors are voting for any side.

Fourth, your verdict has to be based only on the evidence and on the law that I have given to you in my instructions. Nothing I have said or done was meant to suggest what I think your verdict should be. The verdict is entirely up to you.

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Fifth, I am giving you a Verdict Form. A Verdict Form is simply the written notice of the decision that you reach in this case. The answers to the questions in the Verdict Form must be the unanimous decisions of the jury. You will take this form to the jury room, and when you have completed your deliberations and each of you has agreed on the answers to the Verdict Form, your foreperson will fill out the forms, sign and date them. The foreperson must bring the signed Verdict Forms to the courtroom when it is time to announce your verdict. When you have reached a verdict, the foreperson will advise the Court Security Officer that you are ready to return to the courtroom.

Finally, members of the jury, take this case and give it your most careful consideration, and then without fear or favor, prejudice or bias of any kind, return such verdict as accords with the evidence and these instructions.

_____ _____

Date

C.J. Williams
United States District Judge
Northern District of Iowa

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION

LORI NICHOLSON and WILLIS WILLIAM NICHOLSON, Plaintiffs, vs. BIOMET, INC; BIOMET ORTHOPEDICS, LLC; BIOMET MANUFACTURING CORP.; and BIOMET U.S. RECONSTRUCTION, LLC, Defendants.	No. 18-CV-3057-CJW-KEM **VERDICT FORM**

QUESTION 1: On Plaintiff **Lori Nicholson's** claim of design defect against Biomet, as submitted in Instruction Number 17, we, the undersigned jurors, find in favor of: *(circle one below)*

Plaintiff Lori Nicholson or Defendant Biomet

Note: If you answered Question 1 in favor of plaintiff Lori Nicholson, go on to answer Question 2. If you answered Question 1 in favor of Defendant Biomet, do not answer any other questions, but sign and date the verdict form.

QUESTION 2: On Plaintiff **Lori Nicholson's** claim of design defect against Biomet, as submitted in Instruction Number 17, we, the undersigned jurors, on the question of whether the alleged design defect caused Plaintiff's damage, find in favor of: *(circle one below)*

Plaintiff Lori Nicholson or Defendant Biomet

Note: If you answered Question 2 in favor of Plaintiff Lori Nicholson, go on to answer Question 3. If you answered Question 2 in favor of defendant Biomet, do not answer any other questions, but sign and date the verdict form.

QUESTION 3: Complete the following questions as to compensatory damages only if you found for Plaintiff **Lori Nicholson** in Questions 1 and 2 above:

We, the undersigned jurors, assess compensatory damages for the personal injuries of Plaintiff **Lori Nicholson** as follows: *(write in amounts awarded below)*

Past physical and mental pain and suffering: $_____

Future physical and mental pain and suffering: $_____

Past loss of function of body or mind: $_____

Future loss of function of body or mind: $_____

QUESTION 4: If you found for Plaintiff **Lori Nicholson** in Questions 1 and 2 above, do you find by a preponderance of clear, convincing and satisfactory evidence that the conduct of Biomet constituted willful and wanton or reckless disregard for the rights or safety of another? *(circle one below)*

Answer: "Yes" or "No"

Note: If your answer to Question No. 4 is "No," do not answer Question Nos. 5 and 6. If your answer is "Yes," go on to answer Question No. 5.

QUESTION 5: What amount of punitive damages, if any, do you award? *(write in amount awarded below)*

Answer $_____

Note: If your answer to Question No. 5 is "$0.00" or "None," do not answer Question No. 6. Otherwise, answer Question No. 6.

QUESTION 6: Was the conduct of Biomet directed specifically at Plaintiff **Lori Nicholson**? (circle one below)

Answer: "Yes" or "No"

_____ _____

Date Foreperson