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Attorney for DEBRA GIARRUSSO

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

CENTRAL DIVISION

DEBRA GIARRUSSO

Plaintiff,

v.

JOEL BERGER, D.D.S..

Defendant.

CASE NO: GIC 825933

JUDGMENT ON SPECIAL
VERDICT

Trial Date: April 22, 2005
Judge: Hon. Jay Bloom
Dept.: 70

This action came on regularly for trial on April 22, 2005, in Department 70 of the Superior Court, the Honorable Jay Bloom, Judge presiding; the plaintiff appearing by attorney James J. Filicia and the defendant appearing by attorney Kenneth W. Drake of Rushfeldt, Shelley & Drake, LLP.

A jury of 12 persons was regularly impaneled and sworn. Witnesses were sworn and testified. After hearing the evidence and arguments of counsel, the jury was duly instructed by the Court and the cause was submitted to the jury with directions to return a verdict on special issues. The jury deliberated and thereafter returned into court with its verdict which consisted of the special issues submitted to the jury and the answers given thereto by the jury, which was in words and figures as follows, to-wit:

We, the jury in the above entitled action, find the following special verdict on the questions submitted to us:

Question No. 1: Was Defendant Joel Berger, D.D.S., M.D. negligent in his care and treatment of Plaintiff Debra Giarrusso?

Answer "yes" or "no".

Answer: YES.

If you answer Question 1 YES, then answer Question 2. If you answer Question 1 NO, go to Question 3.

Question No. 2: Was the negligence of Defendant Joel Berger, D.D.S., M.D. more likely that not a cause of harm to Plaintiff Giarrusso?

Answer "yes" or "no".

Answer: YES.

Proceed to Question 3.

Question No. 3: Did Debra Giarrusso give informed consent to the Ramus Bone Graft?

Answer “yes” or “no”.

Answer: YES.

If you answered NO, go to Question 4. If you answered YES, move on to Question 5, only if you previously answered Question 2 YES. If you answered Question 3 YES and Question 1 or 2 NO, stop here, answer no further questions, and have the presiding juror sign and date this form.

Question No. 4: Would a reasonable person in Debra Giarrusso’s position have consented to a Ramus Bone Graft if she had been fully informed of the possible risks of the Ramus Bone Graft?

Answer “yes” or “no”.

Answer: _____

If you answered NO to Question 4, then go to Question 5.

If you answered Question 4 YES, move on to Question 5 only if you previously answered Question 2 YES. If you answered Question 4 YES and Question 1 or 2 NO, stop here, answer no further questions, and have the presiding juror sign and date this form.

Question 5: What are Ms. Giarrusso’s damages?

	a. Past economic loss for medical
expenses: \$ 3,093.00	
	b. Future economic loss, for medical
expenses: \$ 6,000.00	
	c. Past noneconomic loss, for physical pain,
	physical impairment and
	emotional suffering.
\$100,000.00	
	d. Future noneconomic loss, for
	physical pain, physical impairment and
	emotional suffering:
\$ 50,000.00	
	TOTAL \$159,093.00

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

That plaintiff DEBRA GIARRUSSO have judgment as stated above in the amount of \$159,093.00.

That plaintiff DEBRA GIARRUSSO recover from defendant JOEL BERGER, D.D.S., M.D., costs and disbursements taxed in a sum according to proof.
Approved as to form:

DATED: June ____, 2005

Plaintiff JAMES J. FILICIA, Attorney for
DEBRA GIARRUSSO

DATED: June ____, 2005

Defendant KENNETH W. DRAKE, Attorney for
JOEL BERGER, D.D.S., M.D.

IT IS SO ORDERED, ADJUDGED AND DECREED:

Dated: _____

COURT JUDGE OF THE SUPERIOR