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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
EASTERN DIVISION**

**MARTHA PEDROZA,**

**Plaintiff,**

**v.**

**UNITED STATES OF AMERICA,**

**Defendant.**

**Case No.: EDCV 20-00131-CJC(KKx)**

**MEMORANDUM OF DECISION**

**I. INTRODUCTION**

Plaintiff Martha Pedroza initiated this negligence action against Defendant United States of America under the Federal Tort Claims Act for injuries she sustained when she was struck by a United States Postal Service (USPS) mail delivery truck. Having considered the evidence, the parties' objections to the evidence, the credibility of the trial

1 witnesses, and both parties' arguments at trial, the Court finds in favor of Plaintiff and  
2 awards her damages in the total amount of \$677,744.

## 3 4 **II. FINDINGS OF FACT**

### 5 6 **A. Plaintiff's Prior Accident and Injuries**

7  
8 On December 1, 2017, Plaintiff was involved in a motor vehicle accident. (Trial  
9 Transcript, Day Two, Volume One [hereinafter "D2 V1"] at 130:5-7.) After the accident,  
10 Plaintiff went to Pomona Valley Hospital and complained of pain in her neck, or cervical  
11 spine, and lower back, or lumbar spine. (Ex. 501.) In July 2018, Plaintiff was diagnosed  
12 with sciatica in her lumbar spine. (Exs. 508, 509; D2 V1 at 133:12-15.) Plaintiff  
13 received epidural injections in her lumbar spine to treat her sciatica. (D2 V1 at 19:4-8.)  
14 Plaintiff received her final lumbar spine epidural injection in December 2018. (*Id.* at  
15 134:20-23.) Plaintiff's lumbar spine and cervical spine pain had subsided prior to  
16 January 22, 2019. (*Id.* at 8:24-25, 9:11-13; 19:4-8, 91:3-7.)

### 17 18 **B. The Incident**

19  
20 On January 22, 2019 between 5:00 PM and 6:00 PM, Plaintiff was struck by a  
21 USPS mail delivery truck driven by then USPS employee Enri De Rosas in a parking lot  
22 outside of Plaintiff's place of employment, Victory Outreach, located at 250 W. Arrow  
23 Highway, San Dimas, California (the "Incident"). (Ex. 108; Dkt. 55 [hereinafter  
24 "Stipulated Facts"] ¶¶ 1, 3.) At the time of the Incident, Mr. De Rosas was employed by  
25 USPS and acting within the scope of his employment. (Stipulated Facts ¶¶ 5-6.) For  
26 reference, an image of the parking lot outside of Victory Outreach is reproduced below:  
27  
28



(See Ex. 112.)

The bottom of the above image is the north side of the parking lot. (Ex. 108.) The top of the image is the south side of the parking lot. (*Id.*) Victory Outreach is on the east side of the parking lot (or the left-hand side of the above photo). Before the Incident, Mr. De Rosas was delivering mail to Victory Outreach. (Ex. 108; Trial Transcript, Day One, Volume Two [hereinafter “D1 V2”] at 21:22-22:13.) When Mr. De Rosas made the delivery, it was already dark outside. (Trial Transcript, Day Two, Volume Two [hereinafter “D2 V2”] at 54:2-4.) Before exiting his vehicle to deliver the mail, Mr. De Rosas parked his mail delivery truck on the west side of the parking lot, parallel to the front side of Victory Outreach, facing south. (See Ex. 108; Trial Transcript, Day One, Volume One [hereinafter “D1 V1”] at 60:14-18; D2 V2 at 56:21-57:1.)

Plaintiff, then 56 years old, held the door open for Mr. De Rosas so that he could enter the Victory Outreach building to deliver the mail. (D1 V2 at 22:6-18, 13:1.) Plaintiff was wearing dark clothing on the evening of the Incident. (D2 V2 at 88:2-3.) After allowing Mr. De Rosas to enter, Plaintiff walked away from the Victory Outreach building and into the parking lot while Mr. De Rosas was still in the building. (D1 V2 at 22:19-24; D2 V2 at 63:22-25.) After leaving from the Victory Outreach building,

1 Plaintiff stopped to converse with some coworkers in front of the building on the east  
2 side of the parking lot. (D2 V2 at 64:12-17, 66:7-15; Ex. 115.) Mr. De Rosas exited  
3 Victory Outreach and passed the Plaintiff and her coworkers to head towards his mail  
4 delivery truck. (D2 V2 at 64:10-17.) At some point, Plaintiff headed towards her car as  
5 well, which was parked on the west side of the parking lot, south of where Mr. De Rosas  
6 had parked his mail delivery truck. (D1 V2 at 27:15-22; D2 V2 at 59:13-18; Ex. 114.) In  
7 order to get to her car, Plaintiff had to pass in front of the mail delivery truck. (D1 V2  
8 34:2-5.)

9  
10 When Mr. De Rosas got back to his mail delivery truck, he turned on the engine  
11 and headlights and moved forward. (D2 V2 at 67:14-21.) Before he started the mail  
12 delivery truck and moved the vehicle forward, Mr. De Rosas was wearing a headlamp  
13 that was turned on. (D2 V2 at 75:6-8; Ex. 108.) The light from the headlamp reflected  
14 off the mail truck's windshield. (D2 V2 at 75:10-12; Ex. 108.) The light reflecting off  
15 the windshield prevented Mr. De Rosas from clearly seeing what was in front of his  
16 vehicle. (D2 V2 at 75:13-15; Ex. 108.)

17  
18 When Mr. De Rosas moved the mail truck forward, it struck Plaintiff on her right  
19 side as she passed in front of it. (D1 V2 at 27:15-22; Ex. 108.) The mail truck weighs  
20 3,050 pounds. (Stipulated Facts ¶ 8.) The mail truck dragged Plaintiff ten feet across an  
21 asphalt surface as she was pinned under the front-left of the vehicle's bumper. (D1 V2 at  
22 35:23-25; Ex. 108; D1 V1 at 21:15-23:18.) The dragging ripped a hole in Plaintiff's  
23 blouse and left behind a roughly ten-foot skid mark of Plaintiff's skin and clothing. (D1  
24 V1 21:15-23:18, 86:1-4; Ex. 108.) Mr. De Rosas had to back up his mail truck so that  
25 Plaintiff could get out from underneath the truck's bumper. (D2 V2 at 69:17-70:5.)

1           **C. Plaintiff’s Injuries, Treatment, and Cost of Treatment**

2  
3           **1. Plaintiff’s Superficial Injuries and Initial Care**

4  
5           After being struck by the mail delivery truck, Plaintiff remained on the ground for  
6 some time. (*See* Ex. 101.) At the scene, Plaintiff complained of pain to her hand, back,  
7 head, and right shoulder. (*See id.*; Ex. 108.) An ambulance then transported Plaintiff to  
8 Pomona Valley Hospital. (Ex. 149.) The ambulance cost Plaintiff \$2,234, which her  
9 insurance paid. (Stipulated Facts ¶ 11.) Pictures of Plaintiff taken at the hospital and  
10 shortly after she left the hospital reveal that Plaintiff suffered numerous soft tissue  
11 injuries, including bruising and abrasions to her right shoulder, left forearm, left forehead,  
12 back of head, left ear, right hand, left buttock, and back. (Exs. 118, 121, 124, 126, 127,  
13 132, 134, 135, 136, 137, 140.) The abrasion between Plaintiff’s shoulder blades—a ten-  
14 inch by four-inch road rash—was especially pronounced. (Exs. 108, 137.) Immediately  
15 after the Incident, Plaintiff had trouble raising her right arm. (D1 V1 at 111:23-112:2.)

16  
17           Plaintiff was given various medical services at Pomona Valley Hospital, including  
18 medical evaluations and several X-Rays and CT scans. (Exs. 516, 519-525.) Of note  
19 here, Pomona Valley Hospital performed a CT scan of Plaintiff’s cervical spine. (Ex.  
20 520.) The scan showed that Plaintiff’s cervical spine was normal. (*Id.*) Plaintiff incurred  
21 \$54,087.58 in bills for the medical services provided at Pomona Valley Hospital, which  
22 her insurance paid. (Stipulated Facts ¶ 9.) Plaintiff was discharged from Pomona Valley  
23 Hospital on January 23, 2019, the day after the Incident. (Ex. 527.)

24  
25           The next day, on January 24, 2019, Plaintiff received an evaluation from her  
26 primary care physician, Dr. Lorindha Argudo. (Ex. 528.) Dr. Argudo explained that  
27 Plaintiff complained of pain in her neck, back, and shoulder. (*Id.*) Dr. Argudo did not,  
28 however, order any treatment for these symptoms. (*Id.*) On January 26, 2019, Plaintiff

1 went to San Dimas Community Hospital Emergency Room because she was lightheaded  
2 and vomiting. (Ex. 530.) San Dimas Community Hospital noted that Plaintiff had full  
3 range of motion in her neck. (*Id.*) Plaintiff was discharged from San Dimas Community  
4 Hospital the same day with no recommendations for treatment to her neck, back, or  
5 shoulders. (*Id.*) Plaintiff incurred \$1,002.40 in bills for these follow up medical services,  
6 which her insurance paid. (Stipulated Facts ¶¶ 10, 12.)

## 8                   **2.     Plaintiff’s Treatment with Healthpointe Medical Group**

9  
10           On February 5, 2019, Plaintiff commenced a long course of treatment with several  
11 doctors at Healthpointe Medical Group. She began with Dr. Cristian Santizo. (D2 V1 at  
12 136:14-18.) Dr. Santizo conducted X-rays on Plaintiff’s thoracic and lumbar spine and  
13 ordered an MRI to Plaintiff’s lumbar spine. (Dkt. 544.) He also recommended Plaintiff  
14 commence physical therapy for her lumbar spine and right shoulder and undergo a  
15 psychological evaluation. (*Id.*; *see also* Ex. 539 at 6.) Dr. Santizo charged Plaintiff  
16 \$2,126.27 for his services. (Ex. 203 at 14.)

17  
18           From February 2019 to March 2019, Plaintiff underwent physical therapy with Dr.  
19 Ferdinand Lopez for pain in her lower back and right shoulder. (Ex. 203 at 6-7; *see also*  
20 Ex. 539 at 6.) Plaintiff also commenced psychiatric treatment with a Dr. Derrig in March  
21 2019. (D2 V1 at 27:2-9.) Dr. Derrig assisted Plaintiff in dealing with the emotional  
22 trauma stemming from the Incident. (*Id.* at 27:13-28:18.) At the time, Plaintiff was  
23 having nightmares and trouble sleeping. (*Id.* at 27:22-28:3.) Plaintiff’s psychiatric  
24 treatment ended in May 2019. (Ex. 203 at 12.) Plaintiff’s psychiatric treatment cost  
25 \$6,700. (Ex. 203 at 12, 21.)

26  
27           Plaintiff underwent an MRI for her lumbar spine on February 15, 2019, as well as  
28 an MRI for her right shoulder on February 20, 2019. (Ex. 162.) The total cost for these

1 MRIs was \$8,050. (*Id.*) On March 20, 2019, Dr. Michael Chuang rendered an evaluation  
2 of Plaintiff. (Ex. 539.) Plaintiff came to Dr. Chuang complaining of pain in her mid-  
3 back, lower-back, and right shoulder. (*Id.* at 2.) In his evaluation, Dr. Chuang noted that  
4 there were no issues with Plaintiff's cervical spine and left shoulder. (*Id.* at 3-4.) He  
5 noted several issues with Plaintiff's right shoulder and lumbar spine. (*Id.* at 4-5.) Dr.  
6 Chuang diagnosed Plaintiff with radiculopathy, or sciatica, in her lumbar spine. (*Id.* at  
7 5.) He also evaluated the MRI to Plaintiff's right shoulder and noted a full thickness tear  
8 at the leading edge of the subscapularis tendon. (*Id.* at 6.) At trial, Plaintiff's expert, Dr.  
9 Jonathan Frank, noted that the MRI of Plaintiff's right shoulder showed a full thickness  
10 tear with no retraction of the tendon and no muscular atrophy, suggesting that the tear in  
11 Plaintiff's right shoulder was acute rather than chronic. (D2 V2 at 15:10-16:7.) Dr.  
12 Chuang recommended that Plaintiff continue with physical therapy and undergo surgery  
13 to repair the acute tear in her right shoulder. (Ex. 539 at 7.)

14  
15 Plaintiff underwent surgery on her right shoulder on May 13, 2019. (Ex. 543.)  
16 The right shoulder surgery and corresponding consultations and follow up visits with Dr.  
17 Chuang cost Plaintiff \$60,355. (Ex. 164; Ex. 203 at 17<sup>1</sup>; Ex. 203 at 11<sup>2</sup>.) After her  
18 surgery, Plaintiff was in significant pain, and she was forced to wear her right arm in a  
19 sling for eight weeks, such that she had to rely on her left arm for everyday activities.  
20 (D2 V1 at 17:16-18:24.) Plaintiff also recommenced physical therapy for her right  
21 shoulder from June 2019 to September 2019. (D2 V1 at 16:7-17; Ex. 203 at 7-10.)  
22 Plaintiff's physical therapy up to this point, including the initial physical therapy ordered  
23 by Dr. Santizo and the physical therapy accompanying her right shoulder surgery, cost  
24 Plaintiff \$7,086. (Ex. 203 at 6-7.) Plaintiff's right shoulder surgery and corresponding  
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26 <sup>1</sup> The Court includes only those billing entries from Ex. 203 at 17 that correspond to Plaintiff's right  
27 shoulder, which end at October 16, 2019.

28 <sup>2</sup> The Court includes the cost of the services of Dr. Pedro Alupay from March 2019 to May 2019. (Ex.  
203 at 11.) In his report, Dr. Chuang listed Dr. Alupay as a co-treater for Plaintiff's right shoulder. (Ex.  
539 at 7.)

1 physical therapy seems to have been successful, as Dr. Chuang evaluated Plaintiff in  
2 October 2019 and discharged her, finding that she had full use in both of her shoulders.  
3 (Trial Transcript, Day Three, Volume One [hereinafter “D3 V1”] at 68:3-7; *see also* Ex.  
4 203 at 17.)

5  
6 On June 7, 2019, Plaintiff went to see Dr. Saeed Nick with complaints about pain  
7 in her cervical spine and lumbar spine. (Ex. 544 at 5.) Dr. Nick noted some tenderness  
8 and muscle spasms in Plaintiff’s cervical spine. (*Id.* at 3.) He also noted some  
9 tenderness in Plaintiff’s lumbar spine with pain radiating from her lumbar spine to her  
10 leg. (*Id.* at 5.) Dr. Nick did not order any treatment for the cervical spine, but he did  
11 order epidural injections to treat Plaintiff’s lumbar spine. (*Id.* at 6.) Thereafter, Plaintiff  
12 received three sets of three epidural injections to her lumbar spine. (Ex. 203 at 15-16.)  
13 The treatment for Plaintiff’s lumbar spine, including consultations with Dr. Nick and the  
14 epidural injections, cost \$86,249. (Ex. 203 at 15-16; Ex. 172-174.)

15  
16 On November 21, 2019, ten months after the Incident, Plaintiff had an MRI done  
17 for her cervical spine. (Exs. 161, 553.) The MRI showed similar degenerative changes at  
18 all levels of Plaintiff’s cervical spine and no evidence of nerve impingement. (D3 V1 at  
19 86:25-87:5.) Defendant’s expert, Dr. Geoffrey Miller, noted that the MRI appeared to  
20 show an average spine for a woman of Plaintiff’s age. (*Id.* at 89:4-7.) Nearly a year after  
21 her MRI, in October 2020, Plaintiff began receiving treatment for her cervical spine from  
22 Dr. Blake Berman. (Ex. 203 at 19.) Plaintiff began receiving epidural injections for her  
23 cervical spine in February 2021. (*Id.*) Plaintiff had an additional MRI on her cervical  
24 spine in June 2021. (Ex. 159.) Plaintiff incurred \$32,275 in medical bills for treatment  
25 for her cervical spine, including MRIs, epidural injections, and consultations. (Exs. 159,  
26 161, 176, 203 at 19.)



1 Plaintiff began to feel pain in her left shoulder in March 2020. (D2 V1 at 23:17-  
2 24:9.) In June 2020, Plaintiff had an MRI on her left shoulder. (Ex. 160.) On August 6,  
3 2020, Plaintiff underwent surgery on her left shoulder with Dr. Chuang. (Ex. 566.) After  
4 the surgery, Plaintiff commenced physical therapy for her left shoulder from September  
5 2020 to March 2021. (Ex. 203 at 4-5, 13, 24.) Plaintiff also received a “Cold Therapy  
6 Unit” from Ortho Surgical Care to help her recover from her left shoulder surgery. (Ex.  
7 181 at 1; D2 V1 at 43:9-20.) The medical bills associated with Plaintiff’s left shoulder,  
8 including the MRI, surgery, physical therapy, “Cold Therapy Unit,” and various  
9 consultations with Dr. Chuang amount to \$69,580.78. (Exs. 160, 166, 181, 203 at 4-5,  
10 13, 17-18, 23-24.)

11  
12 **D. Plaintiff’s Missed Work**

13  
14 Owing to the medical treatment described above, Plaintiff missed a substantial  
15 amount of work at Victory Outreach. By the Court’s count, Plaintiff missed 113 days of  
16 work in 2019. (Ex. 235 at 7.) Most of the days that Plaintiff missed from work in 2019  
17 were directly after the accident or around the time of her right shoulder surgery. (*Id.*)  
18 Plaintiff earned \$1,378.04 every two weeks in 2019. (*See* Ex. 232 at 1.) Plaintiff also  
19 missed significant time from work in 2020, mostly around the time of her left shoulder  
20 surgery, but also for her lumbar spine epidurals. (Ex. 235 at 29.) Plaintiff earned  
21 \$1,333.27 every two weeks in 2020. (*See* Ex. 233 at 1.)

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1 **III. Conclusions of Law**

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3 Plaintiff asserts a single claim for negligence against Defendant under the Federal  
4 Tort Claims Act, 28 U.S.C. § 1346(b)(1). (Dkt. 1.) In California, the elements of  
5 negligence are duty, breach of duty, causation, and damages.<sup>3</sup> *Carrera v. Maurice J.*  
6 *Sopp & Son*, 177 Cal.App.4th 366, 377 (2009) (citations omitted). Defendant did not  
7 dispute that Mr. De Rosas owed Plaintiff a duty of care and breached that duty. (*See,*  
8 *e.g.*, Trial Transcript, Day Four [hereinafter “D4”] at 37:18-20; Dkt. 45 at 6.) Indeed,  
9 drivers like Mr. De Rosas owe pedestrians a duty of ordinary care. *See Francis v. City &*  
10 *Cty. of San Francisco*, 44 Cal. 2d 335, 339 (1955). Mr. De Rosas failed to exercise “the  
11 care required of a reasonable and prudent person under the existing circumstances” when,  
12 on a dark night and knowing that pedestrians were nearby, he began to move his mail  
13 truck forward while wearing a headlamp that denied him the ability to clearly see through  
14 his windshield. *See id.*; (*see also* D2 V2 at 75:6-15; Ex. 108.) Because Mr. De Rosas  
15 was employed by Defendant and acting within the scope of his employment when his  
16 mail truck struck Plaintiff, (Stipulated Facts ¶¶ 4-5), his negligence is attributable to  
17 Defendant. *See Lewine v. Babbit*, 1994 WL 665142, at \*1 (N.D. Cal. Nov. 14, 1994)  
18 (explaining that FTCA covers “injury or loss of property, or personal injury or death  
19 caused by the negligent or wrongful act or omission of any employee of the federal  
20 government while acting within the scope of his office or employment”) (internal  
21 quotations and citation omitted).

22  
23 Defendant does, however, dispute Plaintiff’s role in causing the Incident, raising a  
24 comparative fault affirmative defense. Defendant also asserts that Plaintiff’s injuries

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<sup>3</sup> Because the Incident occurred in California, California law applies to Plaintiff’s claims. *See* 28 U.S.C. § 1346(b)(1) (creating governmental liability “in accordance with the law of the place where the act or omission occurred”).

1 were not caused by the Incident and that she incurred unreasonable medical expenses.  
2 These issues will be discussed in turn below.

### 3 4 **A. Comparative Fault**

5  
6 Comparative fault reduces a plaintiff's recovery in proportion to his or her share of  
7 fault. *See Li v. Yellow Cab Co. of Calif.*, 13 Cal. 3d 804, 824 (1975). Defendant has the  
8 burden of proving Plaintiff's fault. *See Phipps v. Copeland Corp. LLC*, 64 Cal. App. 5th  
9 319, 278 (2021). Defendant has failed to meet that burden and the Court will not reduce  
10 Plaintiff's recovery on grounds of comparative fault.

11  
12 Plaintiff did not behave in a negligent manner before being struck by the mail  
13 truck. Defendant failed to prove that Plaintiff stepped in front of the mail truck after Mr.  
14 De Rosas had started its engine. (*See* D2 V1 at 128:21-22; D2 V2 at 68:4-8.) And that  
15 Plaintiff was wearing dark clothing at night is not, without more, negligent behavior.  
16 Further, though it was hardly clear from the record, even if Plaintiff stepped in front of  
17 the mail truck after Mr. De Rosas turned on the vehicle's headlights, (*see* D2 V2 at  
18 67:18-20), that would not be negligent behavior. In fact, the fact that a driver has his  
19 headlights on is all the more reason for a pedestrian who wants to pass in front of the  
20 driver's vehicle to believe that the driver can see her.

21  
22 The case cited by Defendant in its Trial Brief, *Wittenbach v. Ryan*, 63 Cal. App. 3d  
23 712 (1976), is inapposite. That case dealt with a pedestrian-plaintiff who passed behind a  
24 vehicle and was struck by the vehicle as it backed up. *Id.* at 715. The court faulted the  
25 plaintiff for not waiting for the defendant to back his vehicle up after having watched the  
26 defendant enter his vehicle and "[knowing] that he had to back up." *Id.* at 717. But a  
27 vehicle backing up is a markedly different circumstance than a vehicle moving forward.  
28 A reasonably prudent pedestrian in a parking lot knows that a driver who is backing their

1 vehicle up has somewhat impaired visibility as to what is behind his vehicle. The same  
2 does not hold for a pedestrian in a parking lot passing *in front* of a vehicle. That  
3 pedestrian can reasonably expect that the driver knows what is in front of his vehicle and  
4 therefore should not have to take the extra cautionary steps described in *Wittenbach*.

## 5 6 **B. Causation**

7  
8 Plaintiff must prove by a preponderance of the evidence a causal connection  
9 between Mr. De Rosas’ negligence and her injuries. *See Mitchell v. Gonzales*, 54 Cal. 3d  
10 1041, 1052 (1991); *Skinner v. Vacaville Unified Sch. Dist.*, 37 Cal. App. 4th 31, 42  
11 (1995). A tortfeasor must take a plaintiff as she is—even if, by reason of some  
12 preexisting condition, the plaintiff is more susceptible to injury than an ordinary person  
13 and incurred more harm because of the defendant’s conduct than an ordinary person  
14 would. *See Rideau v. Los Angeles Transit Lines*, 124 Cal.App.2d 466, 471 (1954);  
15 Judicial Council of California Civil Jury Instruction (“CACI”) 3928. While a plaintiff is  
16 not entitled to damages for any preexisting physical or emotional condition, she may  
17 recover damages if such condition was aggravated by a defendant’s wrongful conduct.  
18 *See CACI 3927*.

19  
20 The parties do not dispute that Plaintiff’s need for immediate medical care in the  
21 days after the Incident was the result of Mr. De Rosas’ negligence. (*See, e.g.*, Dkt. 45 at  
22 24.) After being struck and dragged by a heavy truck, Plaintiff reasonably sought  
23 medical attention for the harms caused by the event. This included Plaintiff’s ambulance  
24 ride from the scene of the Incident, stay and care at Pomona Valley Hospital Emergency  
25 Room, and subsequent visits to her primary care physician and San Dimas Community  
26 Hospital Emergency Room.

1 Defendant does, however, dispute that Mr. De Rosas' negligence caused the  
2 injuries for which Plaintiff was treated by Healthpointe Medical Group. The Court  
3 concludes that Mr. De Rosas' negligence caused Plaintiff's right shoulder injury and the  
4 aggravation of her preexisting lumbar spine injury.<sup>4</sup> However, Plaintiff has failed to  
5 prove by a preponderance of the evidence that her left shoulder and cervical spine injuries  
6 or conditions were caused by Mr. De Rosas' negligence.

### 7 8 **1. Right Shoulder and Lumbar Spine**

9  
10 Plaintiff offered persuasive evidence to show that she suffered an acute tear to her  
11 right rotator cuff when she was struck by the mail delivery truck. The truck, weighing  
12 3,050 pounds, (Stipulated Facts ¶ 8), struck Plaintiff and dragged her at least ten feet  
13 across an asphalt surface, leaving behind a skid of clothing and skin on the ground, (*See*  
14 *Ex. 108.*) Dr. Frank testified that it was likely that Plaintiff was attempting to extricate  
15 herself from underneath the vehicle while she was being dragged by pushing away from  
16 the mail truck with her arms. (D2 V2 15:7-15.)

17  
18 The medical evidence presented at trial establishes that Plaintiff's right shoulder  
19 injury resulted from the Incident. Plaintiff complained of pain in her right shoulder  
20 immediately after the Incident, both at the scene and with Dr. Argudo on the day  
21 following the Incident. (Exs. 108, 528.) She also had trouble raising her right arm  
22 directly after the Incident. (D1 V1 at 111:23-112:2.) Plaintiff's complaints of right  
23 shoulder pain also persisted in the months following the Incident. (Ex. 539 at 2.) Photos  
24 taken at Pomona Valley Hospital also show that Plaintiff sustained bruising on the front  
25 of her right shoulder. (Ex. 118.) Dr. Frank also testified that an acute tear to the  
26 subscapularis tendon in a person's right shoulder would cause internal bleeding in the  
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28 <sup>4</sup> The Court also concludes that Mr. De Rosas' negligence caused Plaintiff significant emotional trauma,  
(*see* D2 V1 at 27:22-28:3), for which psychiatric treatment was necessary.

1 area where Plaintiff had bruising. (D2 V2 at 14:13-21.) Plaintiff also received an MRI  
2 on her right shoulder on February 20, 2019, less than one month after the Incident. (Ex.  
3 162.) In his March 2019 evaluation, Dr. Chuang also explained that the MRI of  
4 Plaintiff's right shoulder revealed a full thickness tear at the leading edge of Plaintiff's  
5 subscapularis tendon. (Ex. 539 at 6.) Dr. Frank also reviewed this MRI and explained  
6 that it showed that Plaintiff's tendon had not significantly retracted from the bone. (D2  
7 V2 at 15:10-16:7.) Dr. Frank explained that with a chronic, or long-term, rotator cuff  
8 injury, one's tendon retracts from the bone, whereas an acute tear is not accompanied by  
9 significant retraction. (*Id.* at 20:8-21:7, 25:22-26:1.) From Plaintiff's MRI as well as  
10 photos from Plaintiff's right shoulder surgery, Dr. Frank concluded that Plaintiff suffered  
11 an acute tear in her right shoulder at the time of the Incident. (*Id.* at 15:16-16:7, 19:2-8.)  
12

13 Plaintiff has also proven that her lumbar spine injury was aggravated by the  
14 Incident. As explained above, Plaintiff was involved in a motor vehicle accident in  
15 December 2017. (D2 V1 at 130:5-7.) As a result, Plaintiff developed sciatica in her  
16 lumbar spine, diagnosed in July 2018. (Exs. 508, 509; D2 V1 at 10:10-20.) Plaintiff  
17 received epidural injections to her lumbar spine to treat her sciatica up until December  
18 2018. (D2 V1 at 19:4-8, 134:20-23.) However, Plaintiff's lumbar spine sciatica had  
19 subsided by the time of the Incident. (*Id.* at 19:6-8.)  
20

21 The pain in Plaintiff's lumbar spine then returned and intensified because of the  
22 Incident. Her complaints of lower back pain were immediate. She complained of back  
23 pain at the scene, (Ex. 101), with Dr. Argudo the day following the Incident, (Ex. 528),  
24 and at San Dimas Community Hospital on January 26, 2019, (Ex. 530). Her lumbar  
25 spine pain was also much different in nature than the pain she experienced after her 2017  
26 accident. The pain was greater and it affected a different area of her body, her lower  
27 back and right glute, than the area affected after the 2017 accident, her leg and hip. (D2  
28 V1 at 19:9-16.)

1 Plaintiff's complaints of lower back pain persisted in the months following the  
2 Incident. (Ex. 539 at 2.) She received an MRI on her lumbar spine on February 15,  
3 2019, just weeks after the Incident. (Ex. 533.) Dr. Chuang discussed various problems  
4 with Plaintiff's lumbar spine in his March 2019 evaluation and diagnosed her with  
5 sciatica, recommending that she continue her course of physical therapy with Dr. Lopez.  
6 (Ex. 539 at 6-7.) Plaintiff's sciatica persisted through physical therapy, as she  
7 complained to Dr. Nick in June 2019 of sharp pain to her lower back, causing Dr. Nick to  
8 order epidural injections for her lumbar spine. (Ex. 544.) Dr. Alexander reviewed  
9 Plaintiff's February 2019 MRI as well as his own X-rays and noted disc protrusion and  
10 disc space narrowing in Plaintiff's lumbar spine. (D2 V1 at 78:14-16, 80:7-18.) Dr.  
11 Alexander concluded that Plaintiff's injury was caused by the accident, based on his  
12 review of the MRI, the degree of Plaintiff's ongoing symptoms, and the fact that her  
13 lumbar spine pain had subsided prior to the Incident. (D2 V1 at 77:20-23, 91:3-7.)  
14

15 The medical treatment that Plaintiff received relating to her lumbar spine and right  
16 shoulder include initial consults with Dr. Santizo, (Ex. 203 at 14), physical therapy with  
17 Dr. Lopez, (Ex. 203 at 6-10), MRIs on Plaintiff's lumbar spine and right shoulder, (Ex.  
18 162), right shoulder surgery, (Exs. 164, Ex. 203 at 17), a number of epidural injections to  
19 Plaintiff's lumbar spine, (Exs. 172-174, 203 at 15-16), and various office consultations  
20 with Dr. Chuang, Dr. Alupay, and Dr. Nick, (Ex. 203 at 11, 15-16, 17.)<sup>5</sup> As noted by Dr.  
21 Alexander, Plaintiff will also require future medical care for her lumbar spine, including  
22 visits with her physicians, medication, physical therapy, and further epidural injections.  
23 (D2 V1 at 124:18-125:7; *see also* Ex. 605.)  
24  
25  
26  
27

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28 <sup>5</sup> The Court cannot discern from the record to which injury Plaintiff's acupuncture relates. (*See* Ex. 203 at 1.) Therefore, she will not recover the reasonable value of the acupuncture.

## 2. Left Shoulder and Cervical Spine

1  
2  
3 In contrast to her showing of causation on her right shoulder injury, Plaintiff did  
4 not prove by a preponderance of the evidence that her left shoulder injury was causally  
5 related to the Incident. Plaintiff's theory of causation for her left shoulder injury, as  
6 testified to by Dr. Frank, is that she injured her left shoulder because she had to overuse it  
7 while her right shoulder recovered from surgery. (D2 V2 at 26:14-21.) However, in  
8 rendering his opinion, Dr. Frank did not know how long Plaintiff's right arm was  
9 immobilized after her surgery. (*Id.* at 42:20-23.) He further acknowledged that there is  
10 no published literature supporting his theory of injury by overuse. (*Id.* at 43:3-10.)  
11 Further belying Plaintiff's theory is the timing of her complaints regarding her left  
12 shoulder. Plaintiff first complained of pain in her left shoulder in March 2020. (*Id.* at  
13 41:13-42:8.) This came well after she had recovered from her right shoulder surgery, as  
14 Dr. Chuang concluded that she had full use of both of her arms in October 2019. (D3 V1  
15 at 68:3-11.)

16  
17 Similarly, Plaintiff has failed to adequately prove a causal relationship between the  
18 Incident and her cervical spine injury. A CT scan of Plaintiff's cervical spine taken at  
19 Pomona Valley Hospital on the evening of the Incident showed that her cervical spine  
20 was normal. (Ex. 520.) Consistent with the CT scan results, Dr. Chuang also noted that  
21 Plaintiff's cervical spine was normal in his March 2019 evaluation. (Ex. 539 at 3.)  
22 While there is evidence that Plaintiff complained of pain in her neck soon after the  
23 Incident, (*see, e.g.*, Ex. 528), no MRI was ordered on Plaintiff's cervical spine until  
24 November 21, 2019, ten months after the Incident, (Ex. 553). On top of that, Plaintiff did  
25 not begin receiving epidural injections to her cervical spine until January 2021, (D2 V1 at  
26 29:22-24), and the record does not reflect that Plaintiff received other forms of treatment  
27 to her cervical spine prior to the epidural injections.



1 Dr. Miller’s testimony regarding Plaintiff’s cervical spine condition was  
2 instructive. Dr. Miller noted that in discussing a cervical spine injury, one must identify a  
3 specific level of the cervical spine that appears to be in a worse condition than the others.  
4 (D3 V1 at 87:17-25.) Dr. Miller reviewed the MRI on Plaintiff’s cervical spine and noted  
5 that no level appeared different than any other. (*Id.* at 87:23-88:6.) Dr. Miller concluded  
6 that Plaintiff’s cervical spine showed multiple-level degeneration, typical for a 56-year-  
7 old woman like Plaintiff. (*Id.* at 87:23-88:2.) This is somewhat consistent with Dr.  
8 Alexander’s testimony that he had seen cervical spine conditions like Plaintiff’s in  
9 patients who had never been in an accident. (D2 V1 at 121:25-122:2.)

### 11 C. Damages

12  
13 Defendant must pay Plaintiff reasonable compensation for the harm it caused her.  
14 *See* CACI 3900. A plaintiff may recover any reasonable charges for past medical  
15 treatment that the plaintiff has paid or still owes, *see Williams v. The Pep Boys Manny*  
16 *Moe & Jack of California*, 27 Cal.App.5th 225, 237 (2018), reasonably necessary future  
17 medical care, *see Bermudez v. Ciolek*, 237 Cal.App.4th 1311, 1328 (2015), and lost  
18 wages, *see* CACI 3903C.

19  
20 “[A]n injured plaintiff whose medical expenses are paid through private insurance  
21 may recover as economic damages no more than the amounts paid by the plaintiff or his  
22 or her insurer for the medical services received or still owing at the time of trial.” *Howell*  
23 *v. Hamilton Meats & Provisions, Inc.*, 52 Cal. 4th 541, 566 (2011). When a plaintiff pays  
24 for medical treatment through an insurer, evidence of the full amount billed is  
25 inadmissible. *Corenbaum v. Lampkin*, 215 Cal. App. 4th 1308, 1328-1333 (2013).  
26 However, in cases involving uninsured plaintiffs, courts take a far more holistic approach  
27 to determining the reasonable value of medical expenses. *See Bermudez*, 237 Cal. App.  
28 4th at 1330 (explaining that damages for uninsured plaintiffs “will usually turn on a wide-

1 ranging inquiry into the reasonable value of medical services provided.”) The court in  
2 *Bermudez* explained that in assessing damages for an uninsured plaintiff, courts should  
3 assess the “full range” of fees paid in the market and that no part of the full range of fees  
4 should be “wall[ed] off.” *Id.* at 1334. A plaintiff who elects not to use his or her  
5 insurance is treated as uninsured for the purposes of calculating damages. *Pebley v.*  
6 *Santa Clara Organics, LLC*, 22 Cal. App. 5th 1266, 1276 (2018).<sup>6</sup>

7  
8 Defendant’s expert Lindsay Knutson’s methodology most accurately captures the  
9 reasonable market value for Plaintiff’s past and future medical treatment. Ms. Knutson’s  
10 methodology is a market value analysis that accounts for what payers and providers are  
11 paying and charging in the relevant market. (Trial Transcript, Day Three, Volume Two  
12 [hereinafter “D3 V2”] at 19:20-23.) In calculating the cost of medical services, Ms.  
13 Knutson takes Medicare reimbursement rates and multiplies them by a multiplier that  
14 represents what commercial payers typically pay in the market. (*Id.* at 36:25-41:6.) Ms.  
15 Knutson’s methodology relies on comprehensive data from a multitude of reputable  
16 sources, including the U.S. Department of Health and Human Services, the American  
17 Hospital Association, the American Society of Anesthesiologists, and GoodRX, a website  
18 that lists costs at major pharmacies. (*Id.* at 36:24-41:6, 46:19-47:1, 48:12-22, 49:18-24.)  
19 Ms. Knutson noted that cash-paying patients, like Plaintiff, typically pay the same or less  
20 than the amounts paid by commercial payers. (*Id.* at 21:21-25; 41:7-10.)

21  
22 The methodologies of Dr. Alexander and Carol Hyland were not as reliable as that  
23 of Ms. Knutson. Dr. Alexander testified that a 25% reduction would be appropriate  
24 across the board for Plaintiff’s past medical expenses. (D2 V1 at 92:17-19.) Dr.

25  
26 \_\_\_\_\_  
27 <sup>6</sup> Contrary to Plaintiff’s assertion in her Trial Brief, *Pebley* did not hold that damages calculations are  
28 inadmissible when arrived at through a methodology that makes use of Medicare rates. (*See* Dkt. 49 at  
11-14.) The court in *Pebley* explained that an uninsured plaintiff’s recovery should not be limited “to  
what [an insurer] (and possibly Medicare) would have paid.” 22 Cal. App. 5th at 1277. But the court  
never said that those rates cannot be part of the “wide-ranging inquiry” into the reasonable value of  
medical expenses.

1 Alexander was unclear on how he arrived at his calculation. On direct examination, Dr.  
2 Alexander made a vague reference to FAIR Health, a publication that “looks at  
3 reasonable rates for healthcare around the county,” but failed to explain how he made use  
4 of this publication in arriving at his 25% reduction. (D2 V1 at 75:13-18.) On cross  
5 examination, Dr. Alexander acknowledged that he did not refer to FAIR Health or any  
6 other publication in this case specifically. (D2 V1 at 124:14-17.) In determining the cost  
7 of Plaintiff’s future medical care, Ms. Hyland relied on the Medical Fee Book. (D2 V2 at  
8 113:21-25.) Ms. Knutson pointed out that the Medical Fee Book provides data on the  
9 amount providers charge, rather than the amount payers end up paying. (D3 V2 at 51:14-  
10 23.) But what providers receive is a more accurate representation of the reasonable  
11 market value of a medical service than the amount providers hope to receive.

### 12 13 **1. Past Medical Care**

14  
15 Plaintiff incurred significant costs for immediate medical care in the days directly  
16 after the Incident, including an ambulance ride, care at Pomona Valley Hospital  
17 Emergency Room and San Dimas Community Hospital Emergency Room, and a  
18 consultation with her primary physician. These costs, totaling **\$57,323.98**, were covered  
19 by Plaintiff’s insurer. Defendant does not dispute the reasonableness of those costs.  
20 (Stipulated Facts ¶¶ 9-12.) Plaintiff will receive the full amount of these costs.

21  
22 Plaintiff further incurred the following medical bills relating to her emotional  
23 trauma, right shoulder injury, and lumbar spine injury after she began treating with  
24 Healthpointe Medical Group: \$8,050 from Precise Imaging for MRIs of Plaintiff’s  
25 lumbar spine and right shoulder, (Ex. 162), \$44,200 from Orangewood Surgical Center  
26 for her right shoulder surgery, (Ex. 164), \$60,900 from Orangewood Surgical Center for  
27 epidural injections to Plaintiff’s lumbar spine (Ex. 172-74), \$2,126.27 from Healthpointe  
28 Medical Group for initial consultations and evaluations with Dr. Santizo, (Ex. 203 at 14),

1 \$7,086 from Healthpointe for physical therapy related to Plaintiff's lumbar spine and  
2 right shoulder, (Ex. 203 at 6-10), \$25,349 from Healthpointe for various consultations  
3 and treatments relating to Plaintiff's lumbar spine, (Ex. 203 at 15-16), \$16,155 from  
4 Healthpointe for various consultations and treatments related to Plaintiff's right shoulder,  
5 (Ex. 203 at 11, 17), and \$6,700 from Healthpointe for psychiatric services, (Ex. 203 at 12,  
6 21). The Court will not consider the remainder of the bills submitted by Plaintiff because  
7 these bills are either related to Plaintiff's cervical spine or left shoulder or Plaintiff failed  
8 to clearly tie them to injuries caused by the Incident.

9  
10         Unfortunately, at trial, Ms. Knutson did not go through the various bills submitted  
11 by Plaintiff and opine on the reasonable value of the services described in each bill.  
12 Rather, she gave a total reasonable value for all services rendered by each provider. For  
13 example, Ms. Knutson opined that the reasonable value of *all* the bills from Healthpointe  
14 totaled \$18,329.55. However, that reasonable total value would cover bills relating to  
15 Plaintiff's right shoulder and lumbar spine, for which she will recover, as well as bills  
16 relating to her left shoulder and cervical spine, for which she will not recover. To solve  
17 this issue, the Court finds it appropriate to derive a reasonable value percentage from Ms.  
18 Knutson's testimony and apply that percentage to the bills that it has deemed causally  
19 related to the Incident.

20  
21         For Healthpointe's bills that are causally related to the Incident, Plaintiff will  
22 receive 32.5% of the charged amount. The 32.5% figure comes from Knutson's total  
23 reasonable value of \$18,329.55 divided by the total amount charged by Healthpointe as  
24 of June 3, 2020 of \$56,472. (*See* D3 V2 at 54:8.) For Orangewood Surgical Center's  
25 bills that are causally related to the Incident, Plaintiff will receive 14% of the amount  
26 charged. (*See id.* at 54:11.) The 14% figure comes from Knutson's total reasonable  
27 value of \$18,317.72 divided by the total amount charged by Orangewood Surgical Center  
28 as of February 8, 2021 of \$130,610. (*See id.* at 54:10-11.) And Plaintiff will receive

1 20% of the amounts charged by Precise Imaging that are causally related to the Incident.  
2 (*See id.* at 54:14). The 20% figure comes from Knutson’s total reasonable value of  
3 \$2,505.88 divided by the total amount charged by Precise Imaging as of June 2, 2020 of  
4 \$12,450. (*See id.* at 54:12-14.) Thus, Plaintiff will receive \$1,610 for her Precise  
5 Imaging bills, \$14,714 for her Orangewood Surgical Center bills, and \$18,660.29 for her  
6 Healhpointe bills. In total, Plaintiff will receive **\$34,984.29** for these bills.

## 7 8 **2. Future Medical Care**

9  
10 Plaintiff seeks recovery for various types of future medical treatment. However,  
11 Plaintiff failed to produce qualified expert testimony supporting the reasonable necessity  
12 of much of this future care, including the “ENT Evaluation,” “Multidisciplinary Pain  
13 Program,” and “Shoulder Corticosteroid.”<sup>7</sup> (*See Ex. 605* at 8-10.) Other aspects of  
14 Plaintiff’s future treatment are not causally related to the Incident, including cervical  
15 spine epidurals and cervical spine surgery. (*Id.*) Dr. Alexander testified that Plaintiff  
16 would need future care for her lumbar spine, including intermittent physical therapy,  
17 medication, epidural injections, and follow-up doctor’s visits. (D2 V1 at 125:18-126:7.)  
18 He acknowledged that it was somewhat speculative that Plaintiff would need follow up  
19 X-rays and MRIs for her lumbar spine. (*Id.* at 125:8-11.)

20  
21 Plaintiff will therefore recover for the medical treatments identified in Section A:  
22 Physician Visits, Section F: Physical Therapy, and Section I: Lumbar Epidurals in  
23 Exhibit 605. For the reasons explained above, the Court will use Ms. Knutson’s  
24 reasonable value for these medical services. Using the values in Exhibit 605 that Ms.  
25 Knutson provided, Plaintiff will recover **\$63,085.15** for her future medical treatment.

26  
27  
28 <sup>7</sup> It is not enough that Carol Hyland, who is not a medical expert, testified as to what medical experts told her was reasonably necessary.

1  
2                   **3.     Lost Earnings**  
3

4           Plaintiff will also recover lost earnings for the days she missed from work in 2019  
5 that were causally related to the Incident. As mentioned above, Plaintiff missed 113  
6 workdays in 2019. (Ex. 235 at 7.) Four of those days predate the accident, (Ex. 235 at  
7 7), the record indicates that three days were spent at a “Latin America Conference,” six  
8 days were only partially missed for a doctor’s appointment, and one day was missed for  
9 Plaintiff’s cervical spine MRI. (Ex. 235 at 8-25.) Therefore, only 99 of the missed  
10 workdays, or 9.9 two-week pay periods, were causally related to the Incident. Plaintiff  
11 will recover \$13,642.60 for lost earnings in 2019, or 9.9 multiplied by Plaintiff’s 2019  
12 pay of \$1,378.04.

13  
14           In 2020, Plaintiff missed three days of work for her lumbar spine epidurals. (Ex.  
15 235 at 30-37.) The remainder of the workdays Plaintiff missed were for her husband’s  
16 surgery, cervical spine epidurals, and left shoulder surgery. (*Id.*) The Court will  
17 therefore award Plaintiff lost earnings for three days in 2020, or 0.3 two-week pay  
18 periods. This amounts to \$399.98, or 0.3 multiplied by Plaintiff’s 2020 pay of \$1,333.27.  
19 In total, Plaintiff will recover **\$14,042.58** in lost earnings.

20  
21                   **4.     Pain and Suffering**  
22

23           A plaintiff is entitled to recover damages for physical pain and for mental suffering  
24 from her physical injuries. *Hilliard v. A. H. Robins Co.*, 148 Cal. App. 3d 374, 413  
25 (1983). Mental suffering may include any “fright, nervousness, grief, anxiety, worry,  
26 mortification, shock, humiliation, indignity, embarrassment, apprehension, terror or  
27 ordeal.” *Capelouto v. Kaiser Foundation Hospitals*, 7 Cal. 3d 889, 892–893 (1972).  
28

1 Loss of enjoyment of life is also a factor in determining pain and suffering damages. *Huff*  
2 *v. Tracy*, 57 Cal. App. 3d 939, 942–944 (1976).

3  
4 In its trial brief, Defendant argued that Plaintiff’s pain and suffering damages  
5 should be limited to one-third of economic damages. (Dkt. 45 at 8.) The Court rejects  
6 Defendant’s attempt to extrapolate a limit from a handful of cases. *See, e.g., Estate of*  
7 *Mary Honda v. United States of America*, No. 15-cv-00317, Dkt. 61 (C.D. Cal. Jan. 20,  
8 2017) (awarding non-economic damages at 1.5 times economic damages). No fixed  
9 standard exists for deciding the amount of pain and suffering damages. *See Pearl v. City*  
10 *of Los Angeles*, 36 Cal.App.5th 475, 491 (2019) (internal citations omitted); CACI  
11 3905A. Instead, “jur[ies] [are] entrusted with vast discretion in determining the amount  
12 of damages to be awarded.” *Plotnik v. Meihaus*, 208 Cal.App.4th 1590, 1602 (2012).  
13 The only standard for pain and suffering damages is that they be an amount that “a  
14 reasonable person would estimate as fair compensation.” *Duarte v. Zachariah*, 22  
15 Cal.App.4th 1652, 1664-1665 (1994) (internal citations omitted).

16  
17 The Incident took a great physical and mental toll on Plaintiff. Being dragged ten  
18 feet against an asphalt surface by a heavy mail truck is both terribly frightening and  
19 painful. At the scene of the Incident and at Pomona Valley Hospital afterwards, Plaintiff  
20 was clearly traumatized and seemed to be agitated and in significant pain. (Exs. 101,  
21 104-107.) She was reeling from an acute tear in her right shoulder, an aggravation of her  
22 lumbar spine sciatica, and serious soft tissue injuries, including a severe abrasion between  
23 her shoulder blades. (Ex. 137.) When Plaintiff’s family had to change the bandage on  
24 the abrasion between Plaintiff’s shoulder blades, the pain was excruciating, as Plaintiff  
25 felt like they “were tearing [her] skin off.” (D1 V2 at 44:13-20.) Immediately after the  
26 accident, Plaintiff required help from her family with bathing and cleaning her wounds.  
27 (D1 V1 at 106:22-107:3.) In the months after the Incident, Plaintiff was having  
28 nightmares and could not sleep. (D2 V1 at 27:22-28:3.)

1 As described above, Plaintiff has had to undergo extensive medical treatment to  
2 treat her right shoulder and lumbar spine, including surgery, physical therapy, and  
3 various epidural injections. This treatment has been painful and disruptive to Plaintiff's  
4 life. For example, after Plaintiff's right shoulder surgery, she was unable to use her right  
5 arm for many months. (*Id.* at 18:15-17.) The surgery also caused Plaintiff to miss a  
6 substantial amount of time from work and prevented Plaintiff from spending time with  
7 her family, an activity she greatly values. (*Id.* at 67:9-14.)

8  
9 Due to the pain caused by the Incident, Plaintiff has been unable to partake in the  
10 hobbies that she used to enjoy frequently, including riding her motorcycle, (*id.* at 54:20-  
11 57:17), fishing, (*id.* at 57:19-59:19), and hiking, (*id.* at 59:23-64:3). Plaintiff also cannot  
12 perform some basic tasks without triggering her pain, such as cleaning her home. (*Id.* at  
13 68:25-69:9.) Plaintiff's co-worker, Rosanna Carrillo, explained that Plaintiff has slowed  
14 down significantly since the Incident and must take frequent breaks during her work.  
15 (D1 V1 at 88:20-89:11.) Plaintiff's daughter also testified that her mom has slowed  
16 down since the Incident and is no longer able to partake in various family activities. (*Id.*  
17 at 122:6-123:22.) It is obvious that Plaintiff's emotional trauma still lingers, as Plaintiff  
18 was unable to speak about the Incident and its aftermath at trial without becoming  
19 emotional. The Court concludes that pain and suffering damages should be awarded at  
20 three times Plaintiff's economic damages, or **\$508,308.**

21 \\

22 \\

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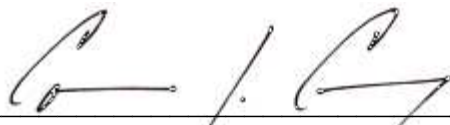
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1 **IV. CONCLUSION**

2  
3 For the foregoing reasons, the Court finds in favor of Plaintiff and awards her  
4 **\$677,744** in total damages, or \$169,436 for her past and future medical care and lost  
5 wages and \$508,308 for her pain and suffering.

6  
7 DATED: September 27, 2021

8   
9 \_\_\_\_\_  
10 CORMAC J. CARNEY  
11 UNITED STATES DISTRICT JUDGE

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