

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

PHILIP TUCKER and TONI HOTTEN,
husband and wife,

Plaintiffs,

v.

CASCADE GENERAL, INC., an Oregon
corporation, and UNITED STATES OF
AMERICA,

Defendants.

CV 09-1491-AC

ORDER ON
OBJECTIONS TO
SPECIAL DAMAGES

ACOSTA, Magistrate Judge

This order addresses the Defendants' to Plaintiffs' Special Damages, which appears in the court file as Docket No. 120. The court has issued a separate order containing its ruling on the parties' respective motions in limine. To the extent that the parties made objections to Plaintiffs' special damages that fall within the scope of the motions in limine, the parties are directed to consult the court's rulings on those motions. In the event of a conflict between the court's ruling on the motions in limine and the court's ruling on the motions in limine control.

Furthermore, the court also has ruled (*see* Docket No. 161) on Plaintiffs' motion (Docket No. 135) to amend their damages allegations, and on reconsideration revised its ruling regarding Plaintiff Hotten's loss of consortium damages. In the event of a conflict between the court's revised ruling on Plaintiffs' motion to amend and Defendants' objections to Plaintiffs' Special Damages, and the court's revised ruling on Plaintiffs' motion to amend controls.

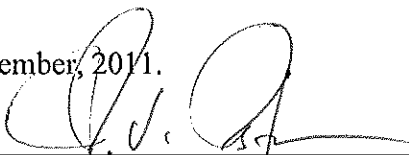
I. Cascade General's Objections

Cascade General generally reiterates the objections and arguments it asserted in support of its Motion in Limine No. 5. and in its opposition to Plaintiffs' recent motion to amend complaint. Similarly, Plaintiffs assert arguments they previously asserted in support of their position in connection with those motions. The United States filed no objections to Plaintiffs' special damages beyond those objections contained in their motions in limine.

The court overrules the objections. The Plaintiffs' revised present value figure does not prejudice the Defendants. Plaintiffs represent the figure is lower, their expert's prior calculation can be used by Defendants as impeachment, and the method of calculation is either known to the Defendants or available to them. Finally, Tucker's promotion is a question for the jury to determine, and on that issue Plaintiffs must provide an adequate foundation for the assumption upon which their expert's calculations are based.

IT IS SO ORDERED.

DATED this 9th day of November, 2011.



John V. Acosta
U.S. Magistrate Judge