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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

YESENIA PACHECO, *et al.*,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. C15-1175RSL

FINDINGS OF FACT REGARDING
DAMAGES

The Court, having decided that defendant was liable to plaintiffs following a bench trial in January 2020, conducted a damages trial in this matter from September 14, 2020, to September 22, 2020. Having heard and reviewed the evidence presented by the parties, the Court finds as follows:

1. Plaintiffs’ past special damages are \$42,294.81, equaling the value of Medicaid’s two liens.
2. After careful consideration of the various expert opinions provided by both plaintiffs and defendant, and adding in expenses related to the vision care recommended by Dr. Theodore Kadet, the net present value of SLP’s future special damages for extraordinary medical, educational, and similar expenses attributable to her conditions is \$7.5 million.
3. Yesenia Pacheco and Luis Lemus are entitled to an award of general damages to “compensate for mental anguish and emotional stress suffered by the parents during [S.L.P’s] life as a proximate result of [defendant’s] negligence. Any emotional benefits to

1 the parents resulting from the birth of the child should be considered in setting the
2 damages.” *Harbeson v. Parke-Davis, Inc.*, 98 Wh.2d 460, 477 (1983). Guided by these
3 principles, Yesenia Pacheco’s general damages are \$1.5 million. Luis Lemus’ general
4 damages are \$1 million.

5 4. Defendant has requested that the Court impose a medical reversionary trust over
6 the \$7.5 million awarded SLP for her future special damages, citing RCW 4.56.260 as
7 authority for the request. Each party shall, on or before November 18, 2020, submit a
8 proposal for periodic payment of the future economic damage award. The proposals shall
9 include provisions for (1) the name of the recipient or recipients of the payments; (2) the
10 dollar amount of the payments; (3) the interval between payments; (4) the number of
11 payments or the period of time over which the payments shall be made; (5) procedures for
12 modification for hardship or unforeseen circumstances; (6) posting of adequate security;
13 (7) any special terms and conditions requested; and (8) whether those special terms and
14 conditions differ from or are consistent with state law.

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16 Dated this 10th day of November, 2020.

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19 Robert S. Lasnik
20 United States District Judge
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