

PANISH SHEA & BOYLE LLP
11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

1 PANISH SHEA & BOYLE LLP
BRIAN J. PANISH, State Bar No. 116060
2 *panish@psblaw.com*
THOMAS A. SCHULTZ, State Bar No. 149578
3 *schultz@psblaw.com*
JOHN W. SHALLER, State Bar No. 276084
4 *shaller@psblaw.com*
11111 Santa Monica Boulevard, Suite 700
5 Los Angeles, California 90025
Telephone: 310.477.1700
6 Facsimile: 310.477.1699

7 BANAFSHE LAW FIRM, PC
P. RYAN BANAFSHE, State Bar No. 224061
8 *prb@banalaw.com*
9320 Wilshire Boulevard, Suite 212
9 Beverly Hills, CA 90212
Telephone: 310.273.7300
10 Facsimile: 310.273.7316

11 Attorneys for Plaintiffs, STEEVE O. ROJAS and
SANDRA E. ACEVEDO

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**
14

15 STEEVE O. ROJAS, an individual, and
16 SANDRA E. ACEVEDO, an individual,

17 Plaintiffs,

18 v.

19 HAJOCA CORPORATION, a Maine
Corporation; KEVIN ANTHONY
20 HENDERSON, an individual; and DOES 1 to
21 50, inclusive,

22 Defendants.
23

Case No. BC689703
[Assigned to: Hon. Laura A. Seigle, Dept. 4B]

PLAINTIFF'S TRIAL BRIEF

Action Filed: January 10, 2018
Trial Date: September 10, 2019

24 Plaintiffs STEEVE O. ROJAS and SANDRA E. ACEVEDO hereby submit the following
25 trial brief:

26 ///

27 ///

28 ///

1 **I. FACTUAL BACKGROUND**

2 On December 5, 2017 at approximately 8:20 a.m., Mr. Rojas was driving his 2003 Yamaha R6
3 motorcycle in a safe and reasonable manner at a lawful speed southbound on Coldwater Canyon
4 Avenue (hereinafter "Coldwater Canyon") in the number 3 lane¹ toward the intersection of Coldwater
5 Canyon and Ventura Boulevard, where he intended on making a left turn on to Ventura Boulevard. At
6 the same time, Defendant Kevin Anthony Henderson, while in the course and scope of his
7 employment with Hajoca Corporation, was operating a White 2016 Dodge Ram Pickup Truck, which
8 was owned by his employer, on eastbound Valleyheart Drive, at a complete stop at a stop sign,
9 waiting for traffic on southbound Coldwater Canyon to clear so that he could make a left turn on to
10 northbound Coldwater Canyon. As Mr. Rojas was in the process of proceeding straight through the
11 uncontrolled intersection of Coldwater Canyon and Valleyheart Drive towards the intersection of
12 Ventura Boulevard, suddenly and
13 without warning, he was struck by Mr.
14 Henderson who was attempting to
15 cross the three lanes of southbound
16 Coldwater Canyon without stopping in
17 order to make a left turn on to
18 northbound Coldwater Canyon.

19 Despite being struck with
20 tremendous force, Mr. Rojas was
21 initially able to maintain control of the
22 motorcycle, but as the severe pain
23 began to set in, he started to lose control and the bike began to wobble. Although Mr. Rojas tried to
24 _____



25 ¹ The Traffic Collision Report numbers the lanes on southbound Coldwater Canyon from right to left
26 as opposed to the more common left to right . Usually, the far left lane in the direction of traffic flow
27 is referred to as the number 1 lane and each lane to the right is numbered sequentially starting with 2.
28 Here, however, the TCR refers to the far left lane of southbound Coldwater Canyon as the number 3
lane and the far right lane (i.e., the lane closest to the west curb of Coldwater Canyon) as the number 1
lane. To avoid confusion, this brief will refer to the lanes by the numbers assigned to them in the TCR.

1 regain control of the motorcycle, the pain was overwhelming, and he was forced to lay the motorcycle
2 down in the northbound lanes of Coldwater Canyon. A female bystander rushed to Mr. Rojas's aid and
3 helped him to the eastbound side of Coldwater Canyon until emergency personnel from the Los
4 Angeles Fire Department arrived on scene.

5 As a result of all of the evidence and the witness statements, the responding officers of the
6 LAPD determined that Defendant Henderson violated California Vehicle Code §21802(a)
7 "Approaching intersection entrance" and was the sole cause of the collision. For the same reasons set
8 forth above, and based on the evidence and deposition testimony, Defendant Henderson also violated
9 California Vehicle Code §21801 "Left turn or U -turn right of way."

10 **II. LIABILITY**

11 Liability is clear and has been admitted by the defendants in deposition:

12 **Francisco Partida – Defendant Henderson's Supervisor At Time of Collision**

13 Q All right. And that section preventive
14 measures is filled out by the manager when there's
15 been a determination that the driver is at fault for
16 the incident?

17 A That's correct.

18 Q And so you believe that that finding
19 has been made with respect to Mr. Henderson for this
20 incident – correct?

21 A Yes Sir.

22 (Francisco Partida Depo Tran. at p. 22:2-16.)

23 Q One of the reasons why Mr. Henderson is deemed at fault for
24 this collision and why there were preventive
25 measures is because he is impeding the motorcycle's
26 right of way and struck the motorcycle as he's
27 crossing without yielding to the motorcycle -- correct?

28 A Yes, sir.

1 (Francisco Partida Depo Tran. at pp. 45:22-46:12.)

2 Q The left turning vehicle has to yield the
3 right of way to all other vehicles; correct?

4 A Correct.

5 Q Mr. Henderson did not do that but proceeded
6 through the intersection and struck the motorcycle;
7 correct?

8 A That's my understanding.

9 (Francisco Partida Depo Tran. at p. 53:2-13.)

10 Q [Pursuant to Vehicle Code 21801] and assuming there's a stop sign
11 there, Mr. Henderson would have been required to
12 stop at it and then yield the right of way to Mr. Rojas; correct?

13 A Yes.

14 Q And your understanding as the person most
15 knowledgeable is that that didn't happen. Instead
16 Mr. Henderson proceeded across the roadway and
17 struck Mr. Rojas; correct?

18 A That's my understanding.

19 (Francisco Partida Depo Tran. at pp. 53:19-55:5.)

20 Q As the person most knowledgeable for Hajoca
21 as to how this incident occurred, do you have any
22 contrary information about Mr. Henderson violating
23 Vehicle Code 21802? 12:45

24 A No.

25 Q And it's your understanding based upon the
26 conversation with Mr. Henderson that he violated the
27 vehicle code and struck Mr. Rojas and caused the
28 collision; correct?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A That's my understanding.
(Francisco Partida Depo Tran. at pp. 55:17-56:2.)

Defendant Kevin Anthony Henderson

Q You can't make a left turn and hit
another vehicle; correct? You can't do that?

A Yes.

Q And so you understood that
that's what you did? You made a left turn and in
the process of making a left turn struck another
vehicle; correct?

A Correct.

(Henderson Depo. Tran at p. 61:12-23.)

Matt Moore – Regional Manager For Hajoca Corporation

Q Well, the traffic collision report,
if you look on page 2, it -- you know, it has, you
know, party number 1, which is Mr. Henderson, the
Hajoca driver, and it says he violated the Vehicle
Code Section 21802(a), you know, making a left turn
and not yielding the right-of-way.

Do you have any reason to disagree with
that?

A No.

(Matt Moore Depo. Tran. at p. 16:8-16).

Q And so you -- you, based upon what was
reported to you by Mr. Henderson, understood that
Mr. Henderson was at fault for this collision; correct?

A. Yes.

(Matt Moore Depo. Tran. at p. 26:15-20).

1 **Roy Ramirez - Profit Center Manager For Hajoca Corporation**

2 Q. And what Mr. Henderson told
3 you is that he made a left and, as he made a left in
4 a continuous manner, he hit a motorcycle; correct?

5 A. That's correct.

6 Q. All right. And so the motorcycle, as you
7 understood it according to Mr. Henderson, it was
8 proceeding straight and had the right-of-way;
9 correct?

10 A. Yes.

11 (Roy Ramirez Depo Tran. at p. 22:13-22).

12 Q. Mr. Henderson admitted to you that he
13 proceeded from the stop sign in a continuous path
14 and struck the motorcycle without seeing the
15 motorcycle --

16 A. Uh-huh. Yes, sir.

17 (Roy Ramirez Depo Tran. at p. 24:12-16).

18 Q. All right. And so you know, and as when
19 Mr. Henderson was reporting this to you, even if he
20 thinks that he got the right-of-way from two lanes,
21 he still has to clear and get the right-of-way from
22 the third lane before he can proceed into that next
23 lane because he might hit a vehicle just as he did;
24 correct?

25 A. Yes.

26 (Roy Ramirez Depo Tran. at p. 28:6-13).

27 At the scene of this collision, the intersection of Coldwater Canyon and Valleyheart Drive is a
28 T-intersection wherein Valleyheart Drive (that runs east-west) terminates at Coldwater Canyon (that

1 runs north-south). Motorists on eastbound Valleyheart Drive intending to make a left turn onto
2 northbound Coldwater Canyon are required to yield the right-of-way to southbound Coldwater
3 Canyon traffic and cannot enter the intersection until they are able to clear it completely and it is safe
4 to do so.

5 LAPD Officer Hernandez was the investigating officer who responded to the scene of the
6 collision. As a result of all evidence and witness statements, Officer Hernandez determined that
7 Defendant Henderson violated California Vehicle Code § 21802(a) and was at fault for the collision.

8 Defendant Henderson failed to clear all three lanes of southbound Coldwater Canyon traffic
9 before he proceeded into the intersection. Instead, despite only being able to clear the first two lanes of
10 traffic, Defendant Henderson proceeded into the intersection, and rather than proceeding with caution
11 and stopping before the third lane of traffic to confirm that it was safe to proceed, he proceeded with
12 his turn without stopping and without clearing the third lane, resulting in the subject collision.

13 Defendant Henderson has tried to circumvent liability that surely befalls him for his negligent
14 actions by fabricating a version of events that is inconsistent with his original statement to the
15 investigating officer, inconsistent with his conversations with his supervisors and employer following
16 the collision, and inconsistent with the written statement he provided to his employer on the day of the
17 collision. In all three of these instances, Mr. Henderson contended that after he was able to clear all
18 three lanes of southbound Coldwater Canyon, he entered the intersection and attempted to turn left
19 without stopping. However, Mr. Henderson has since changed his story. He now contends that he
20 cleared the first two lanes of traffic, entered the intersection, made a complete stop in the middle of
21 the intersection, cleared lane number 3, and began to cross lane number 3, at which point the collision
22 occurred.

23 This fabricated version of events is wholly untenable, however, and will seriously undermine
24 Mr. Henderson's credibility and trustworthiness at trial. First, Mr. Hernandez never told the
25 investigating officer that he made a stop after entering the intersection. Second, Mr. Henderson failed
26 to tell his supervisor, Mr. Partida, or his employer at any time following the collision that he made a
27 second stop. Finally, in his written statement for his employer detailing how the accident occurred,
28 which was authored on the day of the collision, Mr. Henderson made no mention of stopping after he

1 entered the intersection. In fact, in the portion of the accident investigation form named "preventative
2 measures", which Mr. Partida testified is only filled out after there is a finding by Hajoca Corporation
3 that its driver was at fault for the collision, Mr. Henderson specifically wrote out preventive measures
4 to prevent a collision from occurring in the future, which included making turns only after the
5 intersection is fully cleared and watch out for motorcycles or bikes when traffic is stopped.

6 There is absolutely no evidence that Plaintiff Steeve Rojas was in any way at fault or
7 comparatively at fault for the collision. Although Defendant Henderson initially tried to shift blame
8 onto Mr. Rojas by alleging that Mr. Rojas was travelling in between the solid yellow lines that
9 separate the northbound and southbound lanes of Coldwater Canyon, in his deposition, Mr. Henderson
10 admitted that he never saw Mr. Rojas prior to the collision and was not sure what lane he was in.
11 There is no suggestion that Mr. Rojas was speeding, and Mr. Henderson even admitted that Mr. Rojas
12 was travelling at a lawful speed prior to the collision. Further, because Mr. Henderson admitted in his
13 deposition that he never actually saw Mr. Rojas until just prior to impact, and that he is not even sure
14 whether he was able to apply the brakes before the collision, thus making it clear that his initial
15 statement to police was a fabrication, Mr. Henderson cannot claim that Mr. Rojas did anything wrong
16 in terms of speed or movement.

17 No mechanical defects were noted or claimed, and all witness testimony and available
18 evidence clearly support a finding that in no way was Mr. Rojas comparatively at fault for this
19 collision. At the time of the collision, Mr. Rojas was an experienced motorcyclist with nearly 30 years'
20 experience riding a motorcycle, and he was properly wearing a DOT-approved helmet, specialized
21 motorcycle gloves and jacket, and steel toe boots. Much of Mr. Rojas's riding was in city traffic, and
22 he had driven on that particular stretch of Coldwater Canyon and through that intersection for years
23 and was very familiar with traffic patterns there. Mr. Rojas had never before had any problem riding
24 on Coldwater Canyon, and in fact, he had never had an accident or been issued a traffic citation in all
25 his years of riding a motorcycle. Further, there is no evidence or testimony that remotely suggests any
26 non-party was in any way at fault. Based on the undisputed evidence, Defendants are 100% at fault for
27 the subject incident and all of plaintiffs' injuries and damages arising therefrom.

28

1 **III. INJURIES/MEDICAL TREATMENT**

2 **A. Brief Summary of Mr. Rojas's Injuries and Medical Procedures**

3 As a result of the collision and being thrown from his
 4 motorcycle, Mr. Rojas suffered severe and permanent
 5 injuries. He sustained, among other injuries, the following:

- 6 • Complex open injury to the right foot
- 7 • Right foot crush injury
- 8 • Right foot open Chopart fracture dislocation
- 9 • Right foot open Lisfranc fracture dislocation



10
 11 **Figure 2.** Mr. Rojas during his initial admission to
 12 Cedars-Sinai Medical Center.

11 For his severe injuries, Mr. Rojas has had near
 12 constant treatment since December 2017, which has resulted
 13 in the following surgeries/procedures:

| Date | Description of Procedure(s) | Surgeon |
|----------|---|--------------------|
| 12/05/17 | 1. Application of multiplanar external fixation to right foot; 2. Closed reduction of chopart and lisfranc dislocations; & 3. Irrigation & debridement of fracture site down to / including bone. | Charles Moon, MD |
| 12/07/17 | Irrigation and debridement of soft tissue, muscle and bone. | Charles Moon, MD |
| 12/10/17 | Irrigation and debridement; revision of external fixator; K-wire removal; tarsal bone debridement; wound VAC exchange | James Reid, MD |
| 12/13/17 | Below Knee Amputation | James Reid, MD |
| 01/10/18 | 1. R foot irrigation + deb including nonviable soft tissue and bone; 2. Revision of right foot external fixation; 3. K-wire removal; 4. Right tarsal bone debridement; 5. Right foot Wound V.A.C. exchange; & 6. Right foot ACell dermal matrix placement. | James Reid, MD |
| 12/08/18 | Incision, irrigation & drainage of BKA stump + revision | Vahe Panossian, MD |

14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25
 26 **B. A Detailed Summary of Mr. Rojas's Injuries and Treatment**

27 Mr. Rojas was treated by emergency medical personnel at the scene and was transported by
 28 ambulance to Cedars-Sinai Medical Center complaining of severe right foot pain.

1 Upon arrival at Cedars-Sinai Medical Center, a physical examination was undertaken by
2 emergency personnel, and Mr. Rojas was reported to have complaints of severe pain to his lower right
3 extremity. An Acute Care Surgery Consultation was also performed. Diagnostic testing, including
4 plain X-rays and CT scans, was ordered and obtained for Mr. Rojas's chest, pelvis, cervical spine, and
5 lower right extremity. The diagnostic testing revealed that Mr. Rojas had sustained an open talus
6 metatarsal fracture dislocation with a crush injury to his right lower right extremity, including right
7 foot open Chopart fracture dislocation and right foot open Lisfranc fracture dislocation. As a result,
8 Mr. Rojas was admitted to Cedars-Sinai Medical Center.

9 On December 5, 2017, Mr. Rojas underwent orthopedic evaluation with Dr. Charles Moon,
10 MD. Based on the diagnostic imaging results, Mr. Rojas was prepped for surgery. Dr. Moon
11 performed irrigation and debridement of the open fracture site down to and including bone, closed
12 reduction of the Chopart and Lisfranc dislocations, and application of a multiplanar external fixator
13 and wound VAC to the right foot on the same day.

14 Following the procedure, Mr. Rojas remained hospitalized at Cedars-Sinai and was seen for a
15 follow up orthopedic surgery consultation with Dr. Moon. Dr. Moon noted that Mr. Rojas had a large
16 open laceration on the right foot and would require surgery.

17 On December 8, 2017, Mr. Rojas underwent an additional irrigation and debridement of the
18 soft tissue, muscle and bone by Dr. Moon. The intraoperative findings from this procedure included
19 diffuse ischemic muscle with poor perfusion. As a result, Dr. Moon recommended that Mr. Rojas's
20 care be transferred for further treatment, including a below knee amputation of Mr. Rojas's lower right
21 extremity.

22 On December 9, 2017, Mr. Rojas was transferred to Huntington Hospital where he underwent
23 an initial evaluation with Jessie Trieu, MD, an orthopedic surgeon, who noted that Mr. Rojas had not
24 yet decided if he wanted to proceed with an amputation.

25 Mr. Rojas was then referred to James Reid, MD for further orthopedic who stated that although
26 the patient wished to avoid a below knee amputation he would require it due to the soft tissue and
27 bony damage sustained; however, for the time being further irrigation and debridement would be
28 undertaken.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

On December 10, 2017 Dr. Reid performed right foot irrigation and debridement including



Figure 3. Steeve Rojas following the 12/13/17 BKA beginning to learn to live with his new ill-found fate.

nonviable soft tissue and bone, revision of the external fixator, K-wire removal, tarsal bone debridement, and wound VAC exchange.

Mr. Rojas remained hospitalized and eventually consented to undergoing a below knee amputation due to the extensive damage sustained in the December 5, 2017 collision. On December 13, 2017, Dr. Reid performed removal of the right foot wound VAC and external fixator with subsequent below knee amputation.

During his post-operative recovery, Mr.

Rojas was kept on an around-the-clock regimen of OxyContin and Percocet for breakthrough pain and eventually began to participate in physical therapy and crutch training before being transferred for convalescent rehabilitation with further therapy and transfer training at USC Verdugo Hills Hospital on December 17, 2017.

On December 17, 2017, Mr. Rojas was transferred via ambulance to Verdugo Hills where he convalesced for two days before being deemed safe for discharge. He was instructed to remain ambulating with crutches, which he he did for approximately five months after being discharged, as well as advised purchase a shower chair to use at home, which he did.

Thereafter, Mr. Rojas followed up on an outpatient basis with Dr. Reid at Huntington Orthopedics. On February 28, 2018, Dr. Reid opined that Mr. Rojas should be fitted for a prosthesis of the right lower extremity. Mr. Rojas was referred to Rick Chavez, CPO at Vogue Prosthetic Orthotic Center in Northridge, where Mr. Rojas was subsequently fitted with a prosthesis in June 2018.

In October 2018, Mr. Rojas attempted to go back to work at the Peninsula Hotel wearing a prosthesis with accommodation from his employer as a temporary means, having others assist with job tasks; however, this return to work attempt was short-lived. Shortly after returning to work, Mr. Rojas developed an infection of his right lower extremity below knee amputation stump with the onset of

1 soft tissue swelling, pain, erythema, fluctuance
 2 and induration.

3 On December 8, 2018, Mr. Rojas was
 4 rushed to the Emergency Room at Huntington
 5 Memorial Hospital where he was evaluated and
 6 diagnosed with an infection requiring surgery. Mr.
 7 Rojas was taken to the operating room by Vahe
 8 Panossian, MD, who performed an incision,
 9 irrigation and drainage procedure with slight
 10 revision of the stump. Mr. Rojas remained
 11 hospitalized at Huntington Hospital for the next
 12 two days and was discharge to home on an
 13 antibiotic regimen on December 10, 2018.



Figure 4. Photograph showing Steeve Rojas's stump prior to the time he developed an infection in December 2018.

14 As a result of these severe and permanent injuries caused by the defendant's negligence, there
 15 is a long and painful road in front of Mr. Rojas.

16 **IV. PLAINTIFFS' DAMAGES**

17 **A. Past Medical Expenses**

18 Plaintiff has incurred **\$373,652.12** in past medical expenses alone, as follows:

| 19 Date(s) of Service | 20 Provider | 21 Amount |
|------------------------------|---------------------------------|---------------------|
| 22 12/05/17 | 23 Los Angeles Fire Department | \$1,604.00 |
| 24 12/05/17 – 12/09/17 | 25 Cedars-Sinai Medical Center | \$266,625.56 |
| 26 12/09/17 – 12/17/17 | 27 Huntington Memorial Hospital | \$93,089.66 |
| 28 12/17/17 | Med Coast Ambulance | \$1,456.40 |
| 12/17/17 – 12/19/17 | USC Verdugo Hills Hospital | \$7,766.49 |
| 01/04/18 – 08/23/18 | Huntington Orthopedics | \$1,655.21 |
| 01/26/18 – 8/13/18 | Bennett Williamson, Ph.D. | \$3,110.01 |
| Total..... | | \$373,652.12 |

28 ///

1 **B. Loss of Earnings**

2 Mr. Rojas has suffered a significant past and future loss of earnings, which together are
3 approximately **\$991,786.00**.

4 At the time of the collision, Mr. Rojas was 39-years-old and was employed by the Peninsula
5 Hotel in Beverly Hills as a Houseman in the housekeeping department. He was working 40 hours per
6 week and was earning \$18.40 per hour, and his average annual earnings for the few year prior to this
7 incident was in excess of \$36,000 per year, exclusive of benefits, which included
8 medical//vision/dental coverage and a 401k plan. As of 2019, had the collision not occurred, Mr.
9 Rojas would have expected to make approximately \$38,674 per year.

10 Mr. Rojas's job duties at a Houseman included moving furniture in and out of the hotel rooms
11 (e.g., beds, tables, and chairs). His work required movements such as heavy lifting, twisting, standing,
12 bending, balancing, reaching above shoulder level, pushing, stooping, crouching, squatting, pulling,
13 crawling, and kneeling. Due to his extensive injuries, however, since the collision, Mr. Rojas has had
14 persistent limitations in his ability to lift, carry, bend, twist, push, pull, walk, stand, squat, kneel, climb
15 and balance.

16 Given the ongoing medical treatment, there are concerns about the probable success of Mr.
17 Rojas's future employment potential. The outcome of his future medical treatment in relation to his
18 functional abilities is not fully known at this time; however, given the severe injuries he sustained in
19 the collision, the extensive medical care and treatment that he will require in the future, the period of
20 time he has been off work, and the recent failed return to work attempt, there is a strong prospect that
21 he is totally, vocationally disabled.

22 Future employment is not an expected likelihood. On a post-incident basis, considering Mr.
23 Rojas's functional limitations that have been described, the medical history this far, his limited
24 education, poor test results in academic areas and aptitude, lack of transferable skills from the work
25 history and limited English language confidence, even with extensive vocational rehabilitation
26 services, there is no guarantee or foundational evidence that Mr. Rojas would acquire enough of such
27 skills to emerge as a proper candidate for vocational training leading towards re-entry in the open,
28 competitive labor market in some other job capacity. Therefore, it is more than likely that Mr. Rojas

1 has been left with a zero earning capacity post incident.

2 **C. Future Medical Care**

3 Due to the injuries he sustained in the collision, Mr. Rojas will require will require extensive
4 future medical care in the form of diagnostic testing; orthopedic and other medical evaluations and
5 treatment; procedural, surgical, and intensive intervention; post-surgical rehabilitation; pain
6 management; orthotics; psychosocial services; physical therapy; home nursing and supportive
7 services; therapeutic equipment needs; aids for independent function; drugs and supplies; wheelchair
8 needs; transportation; and home modifications.

9 Assuming Mr. Rojas receives the required care he needs, we anticipate he will have a normal
10 life expectancy. Mr. Rojas was 39-years-old at the time of the collision with a statistical life
11 expectancy of 38 additional years. The estimated total of future procedural/surgical/intensive
12 intervention medical treatment; internists, physiatrists / pain management specialists, neurologists,
13 orthopedic surgeons / lower extremity specialists, and case management; ongoing diagnostic
14 evaluations; orthotics / prosthetics, including prosthetic devices, palliative modalities, orthopedic
15 stability shoes, and related items; psychological services and counseling; therapeutic intervention and
16 treatment, including but not limited to physical therapy and restorative massage / acupuncture; future
17 educational / vocational services; therapeutic equipment needs; future social / leisure needs; aids for
18 independent functioning; drugs and supplies; home / home maintenance; and transportation are
19 estimated to be **between \$2,143,722 and \$2,265,408.**

20 **D. Non-Economic Damages**

21 **1. Steeve O. Rojas's Noneconomic Damages**

22 Mr. Rojas has suffered severe non-economic physical pain, mental suffering, loss of enjoyment
23 of life, disfigurement, physical impairment, inconvenience, grief, anxiety, humiliation, and emotional
24 distress.

25 Prior to the subject incident, Mr. Rojas, was independent and timely in the performance of his
26 activities (e.g., toileting, bathing, dressing, grooming, etc.) of daily living (ADL's) and instrumental
27 activities (e.g., yard work, auto maintenance, grocery shopping, household chores, etc.) of daily living
28 (IADL's); in excellent physical and mental health; free of chronic pain and/or balance issues; enjoying

1 full and adequate use of his lower extremities and able to drive a motor vehicle and access his home
2 and community without limitations; gainfully employed on a full-time basis, and performing his
3 occupational duties without restrictions; participating in a variety of leisure activities (e.g., riding
4 motorcycles, playing sports, going to the beach with his family, etc.); engaging in a physically
5 intimate relationship with wife, Plaintiff Sandra Acevedo; free of sleep pattern disturbances; happy;
6 sociable; happy; jovial; energetic; outgoing; etc.

7 Since the collision, however, Mr. Rojas is slower in the performance of his ADLs, is
8 dependent and/or in need of assistance for completion of his IADLs, and has and is experiencing the
9 following: intermittent severe headaches, aggravated by such activities as reading; a decreased
10 appetite, resulting in an unintentional loss of weight; chronic pain, further aggravated by sitting and/or
11 standing, and accompanied by trembling when attempting to lift his residual limb; balance difficulties
12 and a propensity for, and incidents of, falling; an inability to perform the duties of his prior occupation
13 and/or engage in his preferred recreational/leisure pursuits or drive a motor vehicle; decreased interest
14 in physical intimacy, due to fear of injuring himself; difficulty getting to and/or staying asleep; mood
15 lability (e.g., irritability, frustration, short temperance, tearfulness, etc.); an aversion to socialization
16 and a propensity toward being isolative and withdrawn; depression and despondence over his
17 limitations and resultant dramatic changes in lifestyle.

18 It is evident that Mr. Rojas has suffered significant sequelae from the injuries incurred during
19 the subject incident. The constellation of neurologic, ophthalmologic, orthopedic, and psychiatric /
20 psychological impairments associated with his impairments significantly compromises Mr. Rojas's
21 participation in normal life experiences requisite to a positive self-concept, and effective and
22 satisfying family system interactions conducive to ongoing adult growth and development. The extent
23 and severity of his disability have imposed permanent alterations to his self-care, vocational, social,
24 home maintenance, leisure and recreational domains.

25 There can be no doubt that Mr. Rojas's accident-related injuries will continue to affect him
26 for the rest of his life. The ten different non-economic damage elements outlined in CACI 3905a
27 all apply here. Given Mr. Rojas's life altering damages in this case and the reality that the past two
28 years year and the next 30+ years, Mr. Rojas will be faced with daily pain, mental suffering, loss

1 of enjoyment of life, disfigurement, physical impairment, inconvenience, grief, humiliation and
2 emotional distress.

3 **2. Plaintiff Sandra Acevedo's Non-Economic Damages**

4 Sandra Acevedo has been severely harmed as a result of the injuries that Mr. Rojas sustained
5 in the collision. She has suffered the loss of love, affection, companionship, comfort, care, assistance,
6 protection, society and moral support, and the loss of the enjoyment of sexual relations Mr. Grant had
7 otherwise been providing and giving to his wife prior to the collision.

8 The various responsibilities that Ms. Acevedo has been forced to undertake are overwhelming
9 and physically and mentally demanding. She has been forced to evolve into her husband's constant
10 caretaker. At home, Ms. Acevedo has created a safe, secure and protected environment. All of the
11 household and yard work that she and Mr. Rojas used to do together must now be done by her alone;
12 the assistance of a healthy and strong 6-foot-tall, 187 lbs. husband is no longer an option. The stress
13 and anxiety has paid a large toll.

14 **V. CONCLUSION**

15 The vast and unique injuries and polytrauma in this case will require the testimony of
16 numerous treaters, specialists, and experts to testify as to the plaintiffs' past and future damages. The
17 parties have stipulated that this case should be in Long Cause.

18
19 DATED: July 19, 2019

PANISH SHEA & BOYLE LLP

20
21 By: 
22 Brian J. Panish
23 Thomas A. Schultz
24 John W. Shaller
25 Attorneys for Plaintiffs
26
27
28