

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

TIM NAY, Personal Representative for the  
ESTATE OF ERRIC EDWARD GILBERT,  
Deceased,

Plaintiff,

v.

THE PORTLAND CLINIC, DLLP, an  
Oregon Domestic Registered Limited  
Liability Partnership; OREGON  
ANESTHESIOLOGY GROUP, PC, an  
Oregon Domestic Professional Corporation;  
YOUNG K. CHOI, MD (surgeon); DAVID  
L. STELLWAY, MD (anesthesiologist); and  
JOHN DOES 1-10,

Defendants.

Case No. 21CV18955

ORDER DENYING, IN PART,  
DEFENDANT THE PORTLAND  
CLINIC, DLLP'S MOTION TO REDUCE  
DAMAGES

The matter before the court is Defendant The Portland Clinic, DLLP's Motion to Reduce Damages. A hearing was held on December 13, 2024. Attorney Nadia Dahab appeared on behalf of plaintiff. Attorney Hillary Taylor appeared on behalf of defendant. The court considered the pleadings, verdict, briefs, and arguments submitted to the court. For the reasons stated on the record, the defendant's motion to reduce damages is DENIED, in part, as specified below.

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IT IS HEREBY ORDERED:

1. The Portland Clinic's motion to reduce the damages to reflect the jury's 40 percent allocation of fault against The Portland Clinic is GRANTED, resulting in an award of \$1,645,400 in economic damages and \$8,200,000 in noneconomic damages.
2. For the reasons argued by plaintiff, which the court adopts, the Portland Clinic's motion to reduce the noneconomic damages to \$500,000 pursuant to ORS 31.710(1) is DENIED, on the grounds that the cap on noneconomic damages violates Article I, section 10, as applied to the circumstances of this case, because application of the cap on noneconomic damages would leave plaintiff with an unconstitutionally insubstantial remedy for the damages sustained as a result of defendant's negligence and would be a paltry sum of the jury's award.
3. Plaintiff must submit a judgment (after conferral) consistent with the court's ruling, within 30 days of the date this order is signed.

A handwritten signature in black ink, reading "Steffan Alexander". The signature is fluid and cursive, with the first name "Steffan" and last name "Alexander" clearly distinguishable.

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Circuit Court Judge Steffan Alexander

**12/13/2024 4:12:45 PM**