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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SHARI McASEY,

No. C 00-2063 JL

Plaintiff,

**ORDER FOR
AMENDED JUDGMENT**

v.

U.S. DEPARTMENT OF NAVY.,

Defendants.

_____/

Plaintiff Shari McAsey filed her Motion to Correct Computational Error (FRCP 60(a)) in Judgment on March 26, 2002. This court on March 19, 2002 filed its Findings of Fact and Conclusions of Law Following Bench Trial finding defendant United States Department of the Navy liable to Plaintiffs Shari McAsey, Robert W. McAsey and Tammy McAsey-Ingle for damages for the wrongful death of Robert McAsey. The court found that Shari McAsey was entitled to \$246,721 in economic damages and \$3 million in non-economic damages, for a total of \$3,246,721, prior to any reduction for comparative fault. The court then deducted 10% (\$324,673) from the combined total for the comparative negligence of Dillingham Construction. The 10% reduction for comparative fault was applied to both economic and non-economic damages awarded by the court to Shari McAsey. On March

1 20, 2002, the court entered Judgment for Shari McAsey in the amount of \$2,922,048. ¹
2 However, under California law, the 10% reduction should have been applied only to the
3 non-economic damages.

4 California Civil Code §1431.2(a), known as Proposition 51, provides that economic
5 damages, unlike non-economic damages, are not offset by the comparative negligence of
6 another tortfeasor. *DaFonte v Up-Right, Inc.* (1992) 2 Cal. 4th 593, 600. Pursuant to
7 §1431.2(a), in any action for personal injury, the liability of each defendant for non-
8 economic damages shall be several only, not joint. Each defendant shall be liable only for
9 the amount of non-economic damages allocated to that defendant in direct proportion to
10 that defendant's percentage of fault, and a separate judgment shall be rendered against
11 that defendant for that amount. *Arena v Owens Corning Fiberglas Corp.* (1998) 63
12 Cal.App.4th 1178, 1196.

13 The court hereby corrects the error and orders that Judgment be entered for Plaintiff
14 Shari McAsey in the amount of \$246,721 for her economic damages and \$2.7 million for
15 her non-economic damages, for a total judgment of \$2,946,721, plus taxable costs.

16 IT IS SO ORDERED.

17 DATED: April 2, 2002

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19 _____
20 James Larson
21 United States Magistrate Judge

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¹ This Order has no effect on the Judgment as to Robert W. McAsey and Tammy McAsey-Ingle.