

At a Special Term of the Supreme Court held in and for the County of Erie at the Courthouse located in the City of Buffalo, New York, on the 5th day of February, 2019.

PRESENT: Hon. Mark A. Montour, J.S.C.  
Justice Presiding

STATE OF NEW YORK  
SUPREME COURT :: COUNTY OF ERIE

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ROSEANN MAURER,

Plaintiff,

vs.

KENDALL COLTON  
SHERRY COLTON  
THOMAS COLTON,

Defendants.

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**ORDER FOR ADDITUR**

Index No.: 800663/2017

Assigned Justice:  
Hon. Mark A. Montour, J.S.C.

Plaintiff having moved this Court by Notice of Motion dated December 7, 2018, seeking an Order of additur to the jury verdict rendered on November 19, 2018, and/or ordering a new trial on the issue of damages owed to plaintiff, and

Now, upon reviewing plaintiff's Notice of Motion and Affirmation of Terrence P. Higgins, Esq. dated December 7, 2018 with attached exhibits on behalf of plaintiff in support of said motion; and the Affirmation of Elise Cassar, Esq. dated January 14, 2019 on behalf of defendants in opposition thereto; and the Reply Affirmation of Terrence P. Higgins, Esq. dated January 21, 2019 with attached exhibit in further support of said motion; and

Now upon hearing oral argument of counsel on behalf of the respective parties on February 5, 2019, and due deliberation being given thereto, it is hereby

ORDERED that plaintiff's motion is granted, and it is further

ORDERED that additur is made for future medical expenses increasing the jury's verdict from \$125,000 to \$130,000, and it is further

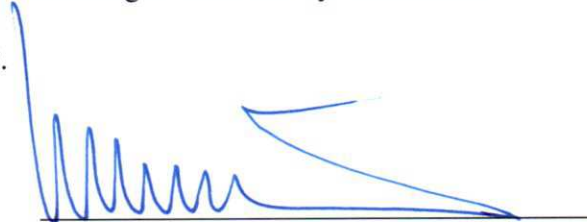
ORDERED that additur is made for future pain and suffering increasing the jury's verdict from \$266,305 to \$480,000, and it is further

ORDERED that the jury verdict for past pain and suffering shall remain as rendered by the jury in the amount of \$108,695, and it is further

ORDERED that the modified total verdict shall be \$718,695; and it is further

ORDERED that defendants shall have 20 days from service of the executed order to advise in writing as to their agreement to additur herein, and if defendants do not agree to such additur as set forth, then plaintiff shall be granted a new trial on damages owed her by defendants.

Granted this 20<sup>th</sup> day of February, 2019.



Hon. Mark A. Montour  
Justice of the Supreme Court