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SUPERIOR COURT
OF GUAM

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BY: 

IN THE SUPERIOR COURT OF GUAM

A.T., By and Through Her Guardian Ad Litem
Georgine Taitano,

Plaintiff,

v.

THE GUAM DEPARTMENT OF
EDUCATION, GOVERNMENT OF GUAM,

Defendant.

CIVIL CASE NO. CV0407-24

**FINDINGS OF
FACT AND
CONCLUSIONS OF LAW**

INTRODUCTION

This matter came before the Honorable Arthur R. Barcinas for a bench trial from July 9 to July 11, 2025. Plaintiff, A.T., by and through her guardian ad litem, Georgine Taitano ("Plaintiff") is represented by Attorney Robert Keogh. Defendant, the Guam Department of Education, Government of Guam ("Defendant") is represented by Assistant Attorney General Jay Matthew Strader. Plaintiff filed Proposed Findings of Fact and Conclusions of Law on July 22, 2025. Defendant filed Findings of Fact and Conclusions of Law on August 6, 2025. Upon review of the evidence, oral and written arguments, and legal authorities presented, the Court hereby issues its Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

The Court makes the following factual findings:

A. The Accident

1. The accident at issue occurred on September 8, 2023, around 1:56 p.m. at the AIJMS girls' quad bathroom on the second floor. At that time, Plaintiff was an 11-year-old sixth grade student at AIJMS. While washing her hands, the sink fell and injured her foot. (Trial Tr. At 11:05:54, July 9, 2025).
2. Immediately after the accident, Plaintiff returned to her classroom and reported the incident to her teacher, who instructed her to write a statement. Plaintiff was then directed to the nurse's office. (Trial Tr. At 11:11:33, July 9, 2025).
3. The nurse assessed Plaintiff and noted no deformity, redness, bruising, or swelling, and Plaintiff was able to ambulate. Plaintiff reported she was "okay" and remained in school until the end of the day. (Exhibit, 14).
4. Plaintiff's mother received an Injury/Illness Report later that day. At home, she observed a possible bruise and advised Plaintiff to rest. (Trial Tr. At 2:27:26, July 10, 2025).
5. Over the weekend, Plaintiff's discomfort increased, and on September 11, 2023, her mother brought her to American Medical Center. (Trial Tr. At 2:10:09, July 10, 2025).

B. Medical Treatment

6. At American Medical Center, Plaintiff complained of constant left foot and ankle pain. An x-ray was taken, and Plaintiff was placed in a post-op shoe, prescribed over-the-counter pain medication, and referred to a podiatrist. (Trial Tr. At 2:10:09, July 10, 2025).
7. On September 22, 2023, Plaintiff went to Marianas Footcare Clinic ("MFC") and reported pain in her left foot. A second x-ray was taken. Plaintiff was told that her foot would likely be casted due to persistent pain. (Trial Tr. At 1:56:42, July 11, 2025).

- 1 8. The September 22 x-ray revealed a buckle fracture of the third metatarsal. (Trial Tr. At
2 2:36:32, July 9, 2025).
- 3 9. On September 25, 2023, Plaintiff's foot was placed in a fiberglass non-weight-bearing
4 cast. She was prescribed crutches and instructed to return after three weeks. (Exhibit 28).
- 5 10. On October 4, 2023, Plaintiff went to MFC and reported her cast wet, pain level 9/10,
6 and inability to move her foot. She was diagnosed with neuropraxia of the left lower
7 extremity and advised that further imaging might be needed if symptoms persisted.
8 (Exhibit 26).
- 9 11. An October 16, 2023 x-ray showed no significant change from the September 22 film.
10 (Trial Tr. At 2:44:05, July 9, 2025).
- 11 12. On December 1, 2023, Plaintiff continued to report pain with walking. She was referred
12 to physical therapy. (Trial Tr. At 2:28:51, July 11, 2025).
- 13 13. From January 24 to April 10, 2024, Plaintiff attended nine physical therapy sessions.
14 She regained functional mobility and range of motion, though strength was incomplete
15 when therapy ended. (Trial Tr. At 2:35:46, July 11, 2025).
- 16 14. Plaintiff's physical therapy was discontinued due to the therapist's maternity leave.
17 (Trial Tr. At 2:36:35, July 11, 2025).
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21 **C. Expert Testimony**

- 22 15. Dr. Peachy Piana-Pacheco ("Dr. Pacheco"), radiologist at Guam Radiology Consultants,
23 testified that Plaintiff's September 22 x-ray showed a buckle fracture that was already
24 visible on the September 11 x-ray. (Trial Tr. At 2:35:01, July 9, 2025).
- 25 16. Dr. Carmelino Galang ("Dr. Galang"), orthopedic surgeon, saw Plaintiff in February
26 2025, and found fracture had healed. (Trial Tr. At 3:35:55, July 10, 2025).
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1 17. Facilities expert Richard Long testified that photographs showed the mounting bracket
2 was fully rusted, which would have taken approximately one year to develop, and that the
3 rust stains would have been visible upon inspection. (Trial Tr. 2:02:12, July 10, 2025).
4

5 **D. GDOE Maintenance and Inspection**

6 18. John Palomo (“Mr. Palomo”), Guam Department of Education Maintenance
7 Superintendent, investigated the accident and personally observed the rusted mounting
8 bracket. (Trial Tr. At 4:52:38, July 9, 2025).
9

10 19. Mr. Palomo confirmed that rust stains would have been visible on inspection. (Trial Tr.
11 At 5:01:42, July 9, 2025).

12 20. Mr. Palomo’s investigation revealed a service request entered on January 25, 2023, for
13 replacement of the sink in the Quad Girls’ restroom. The work order was approved but
14 never completed. (Trial Tr. At 4:40:57, July 9, 2025).
15

16 **CONCLUSIONS OF LAW**

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18 **E. Negligence**

19 21. In a case for negligence, the establishment of tort liability requires the existence of a
20 duty, the breach of such duty, causation and damages. *Leon Guerrero v. DLB Constr.*
21 *Co.*, 1999 Guam 9 ¶ 14.
22

23 **F. Duty of Care**

24 22. Title 18 of the Guam Code Annotated (“GCA”) § 90107 states that everyone is
25 responsible, not only for the result of his willful acts, but also for an injury occasioned to
26 another by his want of ordinary care or skill in the management of his property or
27 person, except so far as the latter has willfully brought the injury upon himself.
28

1 23. A property owner must exercise reasonable care in the management of their property.

2 *Guerrero v. McDonald's Intern. Property Co., Ltd.*, 2006 Guam 2 ¶ 8. A property owner
3 may be liable for injury caused by a harmful or dangerous condition on the property only
4 where the property owner caused the condition, or had actual or constructive knowledge
5 of the existence of the condition and failed to exercise reasonable care to eliminate it. *Id.*

6
7 24. Here, Guam Department of Education (“GDOE”), as the exclusive manager and operator
8 of AIJMS, owed a duty of reasonable care to inspect, repair, and, if necessary, cordon
9 off unsafe areas. The Court finds that GDOE, having exclusive control over the AIJMS
10 campus, had both the legal and practical responsibility to ensure its premises were safe
11 for use by students like Plaintiff.
12

13 **G. Breach**

14 25. Defendant had actual knowledge of the defective sink through the January 25, 2023,
15 service, request and failed to repair it.

16 26. Defendant also had constructive knowledge, as rust stains were readily visible.

17 27. Defendant breached its duty by failing to repair the sink in a timely manner.

18
19 28. This conduct was unreasonable since Defendant knew of the defective sink and failed to
20 repair it.

21 **H. Causation**

22 29. The proximate cause element of a negligence action embraces, at the very least, a
23 causation-in-fact test, that is, the defendant's negligence must be a cause-in-fact of the
24 plaintiff's claimed injuries. *Fenwick v. Watabe Guam, Inc.*, 2009 Guam 1 ¶ 12. When
25 determining cause-in-fact, many courts traditionally apply the “but for” test. *Id.* The
26 Defendant's conduct is a cause in fact of the event if the event would not have occurred
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1 but for that conduct; conversely the Defendant's conduct is not a cause of the event, if
2 the event would have occurred without it. *Id.*

3 30. Here, but for Defendant's negligence in failing to inspect or repair, the sink would not
4 have fallen on September 8, 2023, causing Plaintiff's injuries.

5 **I. Damages**

6 **a. Economic Damages**

7
8 31. Title 17 GCA § 6112 states that if a pupil of any of the public or private schools of
9 Guam is injured during school hours on school property, while traveling directly
10 between the pupil's home and school in public school buses, while participating in or
11 attending any regularly approved, supervised activity of the school during school hours,
12 or, after school hours, if the school activity is under direct school supervision, or while
13 traveling in public school buses to and from such school activity as a member of group
14 which is under the school's supervision, all medical expenses incurred as a result of such
15 injury shall be covered pursuant to the provisions of the Government Claims Act, except
16 that if the pupil is covered by health or accident insurance as will reimburse the pupil, or
17 the pupil's parents or guardians, for such medical expenses in whole or in part, then such
18 claims can be covered only for those expenses, if any, in excess of the insurance
19 payments made or to be made by the pupil's insurance carrier on account of such injury.
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21

22 32. Plaintiff incurred medical expenses of \$2,326.79. (Exhibit 18).

23
24 33. Under Title 17 GCA § 6112 Plaintiff may only recover her out-of-pocket expenses,
25 totaling \$140.00.

26 **b. Non-Economic Damages**

1 34. Title 5 GCA § 6301 (b) states that the Government of Guam, in the case of line agencies,
2 shall be liable in tort for not more than Two Hundred Thousand Dollars (\$200,000) in an
3 action for wrongful death, nor for more than Five Hundred Thousand Dollars (\$500,000)
4 in any other tort action.

5 35. Non-economic loss shall mean loss for physical and emotional pain, suffering,
6 inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment
7 of life, loss of society and companionship; loss of consortium, other than loss of
8 domestic service; hedonic damages; injury to reputation and all other non-pecuniary
9 losses of any kind or nature. *Rutledge v. U.S.*, 2008 WL 3914965 (D. Guam Aug. 21,
10 2008).
11

12 36. The Court concludes that Plaintiff is entitled to recover non-economic damages for the
13 pain and suffering, inconvenience, temporary impairment, temporary loss of enjoyment
14 of life, and educational disruption caused by her injuries.
15

16 37. Pain and Suffering. There is no definite and specific rule for a court to follow in arriving
17 at a dollar figure for actual compensation for pain and suffering. Pain and suffering
18 includes mental suffering. "Anxiety, shock and worry are examples of what might be
19 included under mental pain and suffering, and loss of capacity to work, labor and enjoy
20 life-separately from monetary earnings-may be considered as an item causing mental
21 suffering." *MacDonald v. United States*, 900 F. Supp. 483, 488 (M.D.Ga.1995). Plaintiff
22 suffered substantial pain from September 8, 2023 through April 2024, at times rating her
23 pain as high as 9 out of 10. (Trial Tr. At 1:35:21, July 9, 2025). She required casting,
24 crutches, and months of physical therapy to restore mobility. *Id.*
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1 38. Inconvenience. Plaintiff endured daily inconveniences, including ambulating with
2 crutches that caused her to fall on several occasions, needing assistance wrapping her
3 cast before bathing, and repeated disruptions from approximately twenty medical
4 appointments, some during school hours. (Trial Tr. At 3:27:43, August 10, 2025).

5 39. Temporary Physical Impairment. Guam law defines physical disability as a “physical
6 impairment which substantially limits one or more of a person’s major life activities.” 7
7 GCA § 22101(g). Plaintiff’s orthopedic injury caused months of physical impairment.
8 (Trial Tr. At 2:53:53, August 10, 2025). Plaintiff was unable to walk, run, climb stairs, or
9 participate in P.E. or sports. *Id.* Plaintiff could not play with her cousins or attend family
10 activities such as parties. *Id.* Plaintiff’s injury temporarily but substantially limited major
11 life activities including walking, standing, learning, and participating in recreation. *Id.*
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14 40. Temporary Loss of Enjoyment of Life. Plaintiff’s ability to enjoy life was temporarily
15 curtailed. *Id.* She missed out on sports, physical education, and social opportunities. *Id.*
16 She was unable to swim on a family boat cruise, play with her cousins, or fully engage
17 in family gatherings. *Id.*
18

19 41. Loss of Education Time. Plaintiff was required to attend school virtually from the
20 counselor’s office between September 2023 and April 2024. *Id.* This isolated her from
21 classmates, limited her ability to ask questions, and diminished the quality of her
22 instruction. *Id.* She also missed school due to medical appointments, creating gaps in
23 sequential subjects such as mathematics. *Id.*
24

25 42. In *Rutledge v. United States*, the District Court employed a structured per-diem
26 methodology to quantify non-economic damages. The court first determined the
27 plaintiff’s life expectancy—approximately 13,870 days—and then assigned daily
28

1 monetary values to specific categories of non-economic loss based on the severity and
2 permanence of her injuries. The court awarded \$250 per day for pain and suffering, \$25
3 per day for inconvenience, and \$100 per day for loss of enjoyment of life, resulting in
4 multi-million-dollar totals when multiplied across the plaintiff's lifetime. In addition to
5 the per-diem amounts, the court awarded lump-sum amounts for categories not suited to
6 daily calculations, such as physical impairment and disfigurement, and used a weekly
7 calculation for loss of consortium. This methodology reflected both the permanence of
8 Mrs. Rutledge's injuries and the court's conclusion that per-diem valuation was an
9 appropriate, non-duplicative measure of long-term non-economic loss.
10

11 43. To quantify Plaintiff's non-economic damages, the Court uses the per-diem framework
12 endorsed in *Rutledge v. United States*, 2008 WL 3914965 (D. Guam Aug. 21, 2008). That
13 approach assigns a daily monetary value to categories like pain, inconvenience, and loss
14 of enjoyment of life and multiplies those amounts by the period in which the plaintiff
15 experienced those harms. Plaintiff's injuries here were temporary, but they affected her
16 mobility, daily functioning, and school participation for roughly one year. So the Court
17 applies reduced per-diem rates that reflect the lesser severity and duration of her injury
18 while still capturing the real impact it had on her life. The Court therefore awards: \$50
19 per day for pain and suffering (\$18,250), \$5 per day for inconvenience (\$1,825), and \$10
20 per day for loss of enjoyment of life (\$3,650). And because Plaintiff's mobility
21 limitations and academic disruption are not well measured on a per-diem basis, the Court
22 awards \$5,000 for temporary physical impairment and \$3,000 for loss of education time.
23 These amounts account for Plaintiff's months of restricted movement, reliance on
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1 crutches, missed school days, virtual attendance from the counselor's office, and loss of
2 normal childhood and academic experiences during her recovery.

3 44. In total, the Court awards \$31,725 in non-economic damages. This figure aligns with the
4 per-diem methodology used in *Rutledge*, adjusted to reflect a temporary orthopedic injury
5 rather than a permanent neurological one, and it remains well within the \$500,000
6 statutory limit set by 5 GCA § 6301(b).
7

8 **J. Res Ipsa Loquitur**

9 **K.** The doctrine of res ipsa loquitur, meaning "the thing speaks for itself," permits a trier of
10 fact to infer negligence from the occurrence of an unusual event without direct evidence
11 of the defendant's conduct. *Rahmani v. Park*, 2011 Guam 7 ¶ 37 (citing Restatement
12 (Second) of Torts § 328D (1965)). It is a rule of evidence allowing a fact finder, when
13 presented only with circumstantial evidence, to reasonably conclude that the defendant
14 was negligent. *Id.* The Restatement provides that negligence may be inferred when: a) the
15 event is of a kind which ordinarily does not occur in the absence of negligence; b) other
16 responsible causes, including the conduct of the plaintiff and third persons, are
17 sufficiently eliminated by the evidence; and c) the indicated negligence is within the
18 scope of the defendant's duty to the plaintiff. *Id.* Here, all three elements were established
19 at trial. GDOE's Maintenance Superintendent, John Palomo, confirmed that GDOE had
20 exclusive control and responsibility for maintenance and repair of AIJMS facilities. The
21 Plaintiff credibly testified that she did nothing more than lean on the sink with her arms
22 while rinsing her hands. A properly maintained sink would not detach from the wall
23 under these ordinary circumstances. The failure of the sink to remain mounted is an
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1 occurrence that ordinarily does not happen absent negligence, and the negligence in
2 question falls within Defendant's duty to provide a safe school environment.

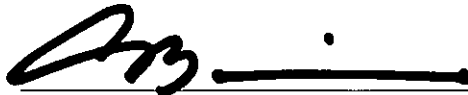
3 **CONCLUSION**

4 It is hereby ordered, adjudged, and decreed that upon consideration of the evidence
5 produced at trial by the Plaintiff, and the evidence of Defendant Guam Department of
6 Education, that Judgment shall be entered in FAVOR of Plaintiff on her cause of action for
7 damages and AGAINST the Defendant Guam Department of Education, Government of Guam.
8

9 The Court finds that Defendant is liable for one hundred forty dollars (\$140.00) in
10 economic damages and thirty-one thousand seven hundred twenty-five dollars (\$31,725) in non-
11 economic damages totaling thirty-one thousand eight hundred sixty-five dollars (\$31,865).
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13 Plaintiff also requests to recover her costs of litigation. To enable the Court to evaluate
14 that request, the Court orders Plaintiff to submit a brief identifying the specific amount sought
15 and providing the evidentiary support establishing entitlement to each cost. This brief shall be
16 filed within thirty (30) days of the issuance of these Findings of Fact and Conclusions of Law.
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19 **IT IS SO ORDERED** NOV 24 2025.

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22 **HONORABLE ARTHUR R. BARCINAS**
23 **Judge, Superior Court of Guam**
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