

# NO. 20-0923

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## IN THE SUPREME COURT OF TEXAS

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**JESUS VIRLAR, M.D. AND GMG HEALTH SYSTEMS ASSOCIATES, P.A., A/K/A  
AND D/B/A GONZABA MEDICAL GROUP, INC.,  
Defendant Petitioners**

**v.**

**JO ANN PUENTE,  
Plaintiff – Respondent**

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**On Petition for Review from the 4<sup>th</sup> Court of Appeals, San Antonio, Texas  
Case No. 04-18-00118-CV**

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## RESPONDENT'S BRIEF ON THE MERITS

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ATTORNEYS FOR RESPONDENT

## **IDENTITY OF PARTIES AND COUNSEL**

The following supplements Petitioners' list of all parties to the trial court's final judgment, as well as the names and addresses of trial and appellate counsel.

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## STATEMENT OF THE CASE

<i>Nature of the case</i>	Medical malpractice action by injured patient and her minor child. Minor child settled her loss of consortium claim with hospital. Later, Patient settled with surgeon and went to trial against Petitioner hospitalist doctors.
<i>Trial court</i>	Hon. Norma Gonzalez (131st Jud. Dist. Ct. Bexar Cty.)
<i>Trial court disposition</i>	Jury found for the Patient and assessed responsibility: (a) 40% on settling surgeon Nilesh Patel, (b) 60% on hospitalist Jesus Virlar, and (c) 0% on Virlar's co-worker Manuel Martinez. The court rendered judgment on the verdict against Virlar and his employer Gonzaba, allowing full credit for the settlement with surgeon. The court did not reduce Patient's recovery by the minor child's loss of consortium settlement with the hospital.
<i>Court of Appeals</i>	Fourth.
<i>Disposition on appeal</i>	Affirmed as modified in part. Reversed and remanded in part for a hearing on any benefit to Patient from loss of consortium settlement by her minor child, under <i>Utts v. Short</i> , 81 S.W.3d 822 (Tex. 2002).
<i>Opinions</i>	Reported at 613 S.W.3d 652.  Majority (Rodriguez, J.) – The trial court did not err in its rulings about admission and exclusion of evidence or in declining to order periodic payment of future damages, but the finding of lost future earning capacity was excessive. Petitioners are only entitled to a credit for the minor child's settlement to the extent of any benefit to the Patient. Tex. Civ. Prac. & Rem. Code § 33.012.  Chief Justice Marion and Justice Alvarez agreed on all points but the credit. They would have credited the full amount of the minor child's settlement against the patient's recovery.

## STATEMENT OF JURISDICTION

Jurisdiction exists because (1) the trial court signed an appealable judgment, and (2) this is not a case “in which the jurisdiction of the court of appeals is made final by statute.” Tex. Govt Code § 22.001(a). However, in weighing whether review is justified, the Court should consider three points.

1. The court of appeals did fine work. Its opinion worked carefully through the issues and analyzed the arguments in an evenhanded manner.

2. The decision does not conflict with any other decision. In fact, Petitioners concede that on their lead issue—settlement credit—the “opinion below is the only appellate decision that addresses this issue.” (Petitioners’ Brief at xvi). This appeal involves a scenario that we have never seen before: a case where a party seeks to credit a child’s separate loss of consortium recovery against a parent’s judgment involving only economic damages.

3. The periodic payments issue involves nothing new. The Court of Appeals simply obeyed the text of the statute, as construed by *Regent Care of San Antonio, L.P. v. Detrick*, 610 S.W.3d 830 (Tex. 2020). Although Petitioners now claim to want to “cure the record based on the newly-announced *Detrick* standard” (Petitioners’ Brief at 45), that is the same interest-of-justice argument that Regent Care made on rehearing and that this Court declined to sustain. To be consistent, the Court should give the argument the same ruling here.

## **ISSUES PRESENTED**

### **Issue One**

The Court of Appeals correctly held that Petitioners were not entitled to credit for the settlement made by Ms. Puente's minor daughter for her loss of consortium claim except to the extent the settlement benefited Ms. Puente.

### **Issue Two**

The Court of Appeals correctly found no abuse of discretion in entry of a lump-sum judgement—Petitioners are not entitled to pay periodically.

### **Issue Three**

The Court of Appeals correctly concluded that there was no reversible error regarding Dr. Kuncl's Testimony.

### **Issue Four**

The Court of Appeals correctly concluded that the trial court committed no reversible error in admitting testimony from Dr. Virlar.

## STATEMENT OF FACTS

This appeal is less about the verdict's validity than about its legal effects. Although Issues 3 and 4 half-heartedly question the verdict on the basis of a few evidentiary rulings, those complaints are insubstantial. The core of the appeal involves judgment formation: given this verdict, what is the right judgment? Accordingly, this statement will not dwell on medical details.

### *The parties*

The case involves three plaintiffs. First there is the patient, Jo Ann Puente. Second, there is her mother and personal representative, Maria Ester Carr. Third, there is Jo Ann Puente's daughter C.P., a minor with a claim for loss of consortium due to Ms. Puente's catastrophic and permanent injuries.

The defendants were Dr. Jesus Virlar, his employer Gonzaba, his co-worker Dr. Manuel Martinez, Methodist Hospital, and Ms. Puente's bariatric surgeon, Dr. Nilesh Patel.

### *The negligence and injury*

JoAnn Puente suffered permanent brain damage and severe neurological injury as a result of the negligence of Petitioner Virlar, who was, at that time, employed by Petitioner Gonzaba Medical Group as a hospitalist. (CR 5192-5205; 12 RR 75, lines 3-6; 19 RR 29; 21 RR 51; 22 RR 28-29). In November of 2011, Ms. Puente had bariatric surgery performed by Dr. Patel, a settling party. Later, she

presented at Metropolitan Methodist Hospital with nausea and restricted food intake as a result of the surgery. At the hospital, Virlar's negligent care caused Ms. Puente to develop an untreated thiamine deficiency. This culminated in Wernicke's encephalopathy, a condition that caused brain damage and other severe neurological deficits, including temporary quadriplegia followed by severe limitation of function and cognitive deficiencies caused by organic brain damage. (8 RR 145-146; 9 RR 140:18- 9 RR 143:1).

*The lawsuit, the settlements, and the trial*

The plaintiffs filed suit and demanded a jury trial. (CR 28-44). With ad litem and court approval, C.P. made a confidential settlement of her separate loss of consortium claims against Metropolitan Methodist Hospital. All but \$434,000 of that settlement (a \$310,000 loan for ongoing litigation expenses plus 40% of that amount in attorney fees) was used to purchase an annuity for the exclusive benefit of the minor C.P., deposited in a court supervised trust for the sole and exclusive benefit of C.P., or else represented 40% attorney's fees calculated and allocable to the same. (21 RR 50; 72 RR 21-Plaintiff's Exhibit 2; 21 RR 11: 3 -21 RR 12:25; 21 RR 13:3- 21 RR 14:25). Jo Ann Puente dismissed her claims against the hospital and others but received from them no payment. (21 RR 13-14; 21 RR 50: 7-13; CR 5087-5119). The remainder of the case involved Ms. Puente as plaintiff and Petitioners as defendants along with her treating surgeon Patel. Gonzaba's

other physician employee, Dr. Martinez, was also a defendant, but the jury exonerated him of any liability. Ms. Puente made a settlement shortly before trial with the surgeon Patel.

Petitioners' defense from *voir dire* to closing argument was that Ms. Puente never had Wernicke's encephalopathy at all, and thus no health care provider could have foreseen, prevented, or caused her brain damage. (19 RR 48:14- 19 RR 51:1). Ms. Puente claimed that the standard of care required treating for and preventing Wernicke's by safe, simple, and inexpensive means and that Petitioners had not done so, with devastating results. The jury agreed with Ms. Puente. (20 RR 1-6).

The relative fault of Petitioner Virlar and Dr. Patel was submitted to the jury. The jury found Virlar negligent and 60% responsible for (and therefore jointly and severally liable for) Ms. Puente's actual damages and they found Dr. Patel 40% responsible. (CR 4906-4915). It was stipulated that Petitioner Gonzaba employed Virlar and is jointly and severally responsible with him for his liability. (21 RR 51; 22 RR 6-7; CR 5179). Petitioners did not request that the negligence of anyone other than Patel be submitted to the jury. (18 RR 163-173). The damages found by the jury, which were submitted without objection in the usual "what sum if paid now in cash" form, included \$133,202.00 in past loss earnings, \$888,429.000 in loss of future earning capacity, and \$13,263,874.86 in future medical care expenses. There was no award of any non-economic elements of damages. (CR

4906-4913). Ms. Puente agreed to Petitioners' receiving a credit for the Patel settlement, and they received one in the judgment. (21 RR 12; CR 5192-5205).

**Trial court proceedings post-verdict**

After the jury was discharged, Petitioners filed motions seeking to have an undisclosed amount (beyond the Patel settlement) credited against the judgment from the confidential settlement made by Methodist Hospital of Ms. Puente's daughter's consortium claim. (CR 4946-5121). They also moved to convert the jury's damage verdict into "periodic payments" without having ever pleaded for such relief, without mentioning it in response to properly served Requests for Disclosure, and without designating any witness or evidence in connection with it. (CR 5137-5143; CR 2917-2929; CR 2804-2888; *See* Appendix Tab A).

Both Petitioners' motions were heard by the trial court on November 2, 2017. No evidence was introduced either of the amount of any claimed settlement credit or in support of the request for periodic payments. Petitioners' only motion for periodic payments asked the trial court to divide the total amount of Ms. Puente's future damages awarded by the jury into thirty-one equal annual payments into the future (Puente's alleged life expectancy), without accounting for the fact that the jury's award was discounted to present value. (CR 5140; *Virlar v. Puente*, 613 S.W.3d 652, 698, n. 34 (Tex. App.—San Antonio 2020, pet. filed)).<sup>1</sup> The trial

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<sup>1</sup> As the Court of Appeals opinion unanimously pointed out, Petitioners now admit that the trial court had no discretion to grant Petitioners' only periodic payments motion because it would



court denied both motions on November 9, 2017, setting Puente's motion for judgment on the verdict for hearing November 28, 2017 (CR 5164).

At the hearing on the motion for judgment, again no evidence was introduced of the amount of any claimed settlement credit. (CR 5165-5182; RR 22:1-32). Petitioners called one witness and offered one document in evidence regarding Gonzaba's financial condition (RR 22:10-23), neither of which had ever been identified in answer to proper discovery (CR 2917-2929; CR 2804-2888), but again there was no evidence offered regarding how the trial court could, consistent with the verdict, unwind the present value calculations made by the jury, and no new periodic payment motion was made. (RR 22:10-23). At no time did Petitioners attempt to demonstrate Petitioner Virlar's financial ability to make future periodic payments, although both he and Gonzaba were undisputedly drastically underinsured and jointly and severally liable for the judgment. (21 RR 16-17, 22-23, 25-62; 22 RR 1-32).<sup>2</sup>

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involve a "double discount," i.e., a further discount of the jury's already discounted award for future economic losses. (*Virlar* @ 698, n. 34).

<sup>2</sup> Virlar not only *did not* produce evidence of financial responsibility to pay between \$14 million and \$24 million in future damages over time, but he *could not* have done so, since he was insolvent, in part due to a claim made against him by the United States government for \$19.5 million for health care fraud. See Appendix B-ECF Doc. #53, pp. 18, 31, in *In re Jesus Alfredo Virlar*, Cause No. 21-50753-cag (U.S. Bankruptcy Court S.D. Tex.) (showing the claim of the U.S. and liabilities of \$34+ million as opposed to Assets of only \$658,534.26). See also *USA v. Virlar-Cadena*, Cause No. 1:19-CR-00557, Southern District of Texas-Brownsville Division.

At the conclusion of the hearing on November 28, 2017, the court signed a lump-sum judgment based on the verdict and allowing an undisputed \$200,000 credit for the settlement with Dr. Patel. (CR 5192-5205).

***Proceedings on appeal***

Virlar and Gonzaba appealed. The Court of Appeals heard oral argument in February 2019, but the court later ordered the case submitted to the *en banc* court. Tex. R. App. P. 41.1(b).

On March 30, 2020, approximately two and one half years after receiving the verdict, Jo Ann Puente died in a nursing home in Del Rio, Texas. Although Ms. “Puente died during the appeal’s pendency...the parties are proceeding as if she were alive.” Tex. R. App. P. 7.1(a). (Petitioners’ Brief, 4.)

The Court of Appeals granted partial relief to Dr. Virlar and Gonzaba. First, the court rejected their lead complaints on appeal, which dealt with admission and exclusion of evidence. Second, the court found excessiveness in the award of lost future earning capacity, so it suggested a remittitur, which Puente then accepted. Third, the Court of Appeals held that under the Open Courts provision of the Texas constitution, Ms. Puente’s recovery of economic damages should not be reduced because of the settlement between her minor child and the hospital except to the extent Ms. Puente benefited. Fourth, relying on *Regent Care of S.A. v. Detrick*, 610 S.W.3d 830 (Tex. 2020), the court further held that the trial court did not abuse its

discretion by declining to award future medical expenses in periodic payments.

Two justices wrote separately to note their disagreement about the settlement credit question, but they agreed with the majority on all other points.

## SUMMARY OF THE ARGUMENT

In the rare circumstances of this case, where only economic damages were sought, Petitioners are not entitled to any credit from the minor's settlement *beyond any amount that "benefited" Ms. Puente*. The Court of Appeals was correct that applying Chapter 33 to require Ms. Puente to accept more credit than this violates the common law One-Satisfaction Rule and thus the Open Courts Provision of the Constitution.<sup>3</sup> The established common law malpractice claims of Ms. Puente for solely economic loss, including the common law regime of the One-Satisfaction Rule, are unreasonably restricted by Chapter 33 as applied in this case. Neither Ms. Puente nor the Court of Appeals claims that Chapter 33's settlement credit provisions are always unconstitutional; only that they are unconstitutional when used to reduce one plaintiff's *economic damages* by the amount of a settlement made by another person, *and when the credit far exceeds any amount of that settlement that benefited the plaintiff*.

Petitioners' attempts to distinguish defining a "claimant" from unreasonably reducing Ms. Puente's jury-awarded recoveries are unconvincing. As the Court of Appeals held, "the legislature cannot circumvent the Open Courts Provision by simply statutorily changing the definition of 'claimant' and thereby *restricting a*

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<sup>3</sup> TEX. CONST. art I, Section 13

*common law cause of action protected by the Open Courts Provision.” Virlar at 694 (emphasis original).*

If the legislature unreasonably restricts Ms. Puente’s common law cause of action by pretending she is the same person as her daughter, the Open Courts Provision of the Texas Constitution is violated. In cases still protected by the Open Courts Provision (where only economic damages are sought), the Legislature is without constitutional authority *to go beyond the common law One-Satisfaction Rule* in reducing plaintiffs’ claims by settlement credits. Moreover, Petitioners did not preserve their settlement credit complaint for appellate review.

Any complaint about periodic payments was also waived. Petitioners’ dilatory litigation strategy prevented the trial court from being able to craft a periodic payment scheme consistent with the jury’s lump sum verdict. This Court’s opinion in *Regent Care of S.A. v. Detrick*, 610 S.W.3d 830 (Tex. 2020) is directly on point. The Court of Appeals correctly ruled that given the lack of any proper and specific request and the lack of appropriate jury questions or evidence on a number of determinative issues, the trial court did not abuse its discretion by following the lump-sum jury verdict and framing its judgment to be “paid now in cash.”

The Court of Appeals correctly disposed of Petitioners’ evidentiary complaints, which do not confer jurisdiction on the Court in any event. This Court should affirm and render judgment against the sureties on the bonds. *See* Tex. R.

App. P. 60.5 (“When affirming, modifying, or rendering a judgment against the party who was the appellant in the court of appeals, the Supreme Court must render judgment against the sureties on that party’s supersedeas bond”).

## **ARGUMENT AND AUTHORITIES**

### **I. THE COURT OF APPEALS CORRECTLY HELD THAT PETITIONERS WERE NOT ENTITLED TO CREDIT FOR THE SETTLEMENT MADE BY MS. PUENTE’S MINOR DAUGHTER FOR HER LOSS OF CONSORTIUM CLAIM EXCEPT TO THE EXTENT THE SETTLEMENT BENEFITTED MS. PUENTE.**

#### **A.**

There was no double-recovery in this case, nor was there any double-payment required of Petitioners, so such a credit would unreasonably or arbitrarily burden Puente’s established common law claim because it would violate the One-Satisfaction Rule subsumed within such causes of action. Petitioners did not prove entitlement to such a credit; any credit beyond any benefit conferred upon Puente would violate the Texas Constitution in the unique circumstances of this case; and in any event, Petitioners cannot possibly be entitled to a credit greater than the amount Puente has offered to remit.

#### **A. Settlement Unproved—Review Waived.**

“A non-settling defendant seeking a settlement credit under the one-satisfaction rule has the burden *to prove* its right to such a credit.” *Sky View at Las Palmas, LLC v. Mendez*, 555 S.W.3d 101, 107 (Tex. 2018) (emphasis added).

The Court of Appeals correctly held that a non-settling defendant's burden of proof is the same under Chapter 33 and the One-Satisfaction Rule. Even if this Court were to grant review, which Puente denies as improvident, the Court should conclude that the Court of Appeals' only error was deciding that "proof" did not require actual "proof." *Virlar* at 687 (citing *Ellender*).

Petitioners never introduced the daughter's settlement agreement or the amount of the settlement into evidence, even though this Court has repeatedly recommended "placing the settlement agreement or some other *evidence* of the settlement amount in the record." *Sky View*, 555 S.W.3d 101, 107 (citing *Ellender*, 968 S.W.2d 917, 927) (emphasis added).

In this case, Petitioners urged the Court of Appeals to ignore this evidentiary gap solely because Virlar's counsel mentioned a putative settlement amount to the trial judge in passing and "Puente's counsel... did not dispute the amount was accurate." (*Virlar* at 687). This is not the standard for parties bearing the burden of proof in civil litigation in this state. Under this rule, plaintiffs need prove no medical expenses, lost wages, other expense, or other tangible damages as long as their counsel "mention" the amounts requested and defense counsel do "not dispute the amount was accurate." *Id.* Petitioners never proved the amount of the settlement; the record does not reflect anything other than this assertion by Petitioners' counsel; and the record indicates no stipulation of its amount by Puente.

Lawyer assertions are insufficient to substitute for evidence and are “inherently unreliable” and generally incompetent to establish a fact. *Salais v. Tex. Dept. of Aging and Disability*, 323 S.W.3d 527, 537 (Tex. App. – Waco 2010, pet. denied); *Ashton Grove L.C. v. Jackson Walker L.L.P.*, 366 S.W.3d 790, 795 (Tex. App. – Dallas 2012, no pet.); *Escamilla v. Estate of Escamilla by Escamilla*, 921 S.W.2d 723, 726 (Tex. App. – Corpus Christi 1996, writ denied).

Puente was not required to contest matters that are not proven by evidence. To hold otherwise violates TEX. CONST. art I, Sections 3 (equal rights), 17 (special privileges), and 19 (due course of law). There is no rational basis for requiring plaintiffs to discharge their burdens of proof with evidence and not requiring defendants to do the same. As Chief Justice Pope wrote in his concurring and dissenting opinion in *Duncan v. Cessna*, “There is no greater inequality than the unequal treatment by the same court of things that are equal.”<sup>4</sup> Petitioners had repeated opportunities in the trial court to prove the amount of the settlement and offer the relevant documents into evidence and did not do so. (21 RR 5-62; 22 RR 5-32).

Further, Petitioners are required to provide this Court with a record sufficient to enable it to conduct a meaningful review of the trial court’s findings. *Vernco Constr., Inc. v. Nelson*, 460 S.W.3d 145, 151 (Tex. 2015) (citing *Schafer v. Conner*,

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<sup>4</sup> *Duncan v. Cessna*, 665 S.W.2d at 438-439 (Pope, C.J., concurring and dissenting).



813 S.W.2d 154, 155 (Tex. 1991). Petitioners had the burden of proof and waived this issue by not offering any evidence of the amount of the claimed settlement.

## **B. Unconstitutionality**

The Court of Appeals correctly held that the Open Courts Provision prohibits crediting the minor's settlement against her mother's recovery of purely *economic* damages, *except* to the extent that the mother *received a benefit* from that settlement. Reducing the mother's recovery more would violate the common law One-Satisfaction Rule and thereby unreasonably restrict a recognized and long-established common law right to actual damages. This Court has long held that a loss of consortium claim that a minor child owns because of a severe injury to a parent is a separate and independent cause of action. *In re Labatt Food Service, L.P.*, 279 S.W.3d 640, 646-7 (Tex. 2009); *Whittlesey v. Miller*, 572 S.W.2d 665, 667-669 (Tex. 1978).

The Petitioners claim that Chapter 33 mandates otherwise, arguing that its legislative history shows a reasonable or non-arbitrary intent to protect defendants from "manipulating" settlements. But Petitioners ignore two interrelated things: 1. the relevance of the One-Satisfaction Rule in defining common law rights and therefore in determining reasonableness and "manipulation"; 2. under that rule, it is arbitrary and unreasonable to credit one person's settlement against another person's recovery *beyond the extent of any benefit to the non-settler*; and 3. the

claimed purpose of Chapter 33, to discourage “manipulation” of settlements, is not served at all where the plaintiff receives no double recovery.

This Court has made clear that Chapter 33’s statutory contribution/credit regime “incorporates the one-satisfaction rule...” *In re Xerox*, 555 S.W.3d at 523. The Court has also explained that the rule, in the service of which the statute operates, is a “tort concept that limits a plaintiff to only one recovery for any damages suffered because of an injury.” *Id.* Inherently, “[t]he one-satisfaction rule’s *purpose* is to make the plaintiff whole, but not more than whole for [her] injuries.” *Home Ins. Co. v. McClain* , No. 05-97-01479-CV, 2000 WL 144115, at \* 7 (Tex. App.—Dallas 2000, no pet.). Therefore, in the words of the Court of Appeals,

This *purpose* of making the plaintiff whole, but not more than whole, is not consistent with restricting a plaintiff from recovering less than the full amount of her economic damages. *Virlar* at 693 (emphasis added).

Petitioners misconstrue the notion of “manipulation” in describing the purpose of Chapter 33 and the One-Satisfaction Rule. “Manipulation” of settlements in this context is action inconsistent with ensuring that the plaintiff is “made whole but not more than whole.” In light of this purpose, restated repeatedly by the Court since at least 1935 when *Bradshaw v. Baylor University*<sup>5</sup> described it as “a rule of general acceptance,” violating the One-Satisfaction Rule does not achieve the statute’s purpose. The statute shares the same purpose as the One-

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<sup>5</sup> 84 S.W.2d 703 (Tex.Comm.App.1935, opinion adopted).

Satisfaction Rule. Indeed, since *Mobil Oil Corp. v. Ellender*<sup>6</sup> in 1998, the Court has consistently looked to the One-Satisfaction Rule in construing Chapter 33, ultimately concluding in *In re Xerox*, 555 S.W.3d 518, 523 (Tex. 2018) (orig. proceeding) that the statute incorporates the rule. Thus the statute is also constitutionally limited by that rule unless the Open Courts Provision’s protection of common law rights of action no longer applies because of constitutional amendment. (See, e.g., Tex Const., art. III, Section 66.)

As recently as 2018, the Court reiterated that the One-Satisfaction Rule’s purpose is to ensure that “a plaintiff is entitled to only one recovery for any damages suffered.” *Sky View*, 555 S.W.3d at 107. Therefore, any statutory burden or reduction fiated upon Ms. Puente’s established common-law cause of action *for economic damages* is unreasonable and unrelated to the purpose of Chapter 33 to the extent it goes beyond ensuring that she receives “only one recovery for any damages suffered.” Anything more is an unreasonable and gratuitous benefit to defendants long prohibited by *Sax*, *Lucas* and their progeny.<sup>7</sup> Since 2003, The Constitution has authorized such legislative boons if associated with limiting *non-economic* damages, but not where only *economic damages* are sought.<sup>8</sup> If Petitioners and the Legislature now wish to remove even pure economic loss from

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<sup>6</sup> 968 S.W.2d 917, 927 (Tex. 1998).

<sup>7</sup> *Sax v. Voteller*, 648 S.W.2d 661 (Tex. 1983); *Lucas v. United States*, 757 S.W.2d 687 (Tex. 1988).

<sup>8</sup> TEX. CONST., art III, Section 66.

the aegis of protection under the Open Courts Provision, they have their remedy: a constitutional amendment. Without one, the Court's path in this matter is compelled by decades of its own jurisprudence.

Petitioners' requested application of Chapter 33 to the unique circumstances of this case restricts "a cognizable common law cause of action" in an "unreasonable or arbitrary" way "when balanced against the purpose and basis of the statute." *Virlar* at 688-694; *Lucas*, 757 S.W.2d at 688 (quoting *Sax*, 648 S.W.2d at 666). Thus, the Court of Appeals correctly held that the residual common-law One-Satisfaction Rule determines the application of settlement credits in this case as interpreted by *Utts* and *Sky View*. Under an *Utts-Sky View* regime, a "nonsettling defendant must present evidence to the trial court that demonstrates the nonsettling plaintiff benefited from the settlement." *Utts v. Short*, 81 S.W.3d 822, 829 (Tex. 2002).

From a One-Satisfaction standpoint, there was no "manipulation" or "benefit" to Ms. Puente from her daughter's settlement. Petitioners are in no way harmed by the fact that the daughter, rather than Ms. Puente, recovered a settlement from Methodist Hospital. Petitioners produced no evidence of any *Utts* "benefit" to Ms. Puente from the minor's settlement because the term "benefit" in the One-Satisfaction context means only that the plaintiff received a benefit from another person's settlement *that would create a double recovery for that plaintiff*. As the

Court recently explained, “the plaintiff can rebut the presumption that the nonsettling defendant is entitled to settlement credits by showing that the settlement proceeds are allocated among defendants, injuries, or damages such that entering judgment on the jury’s award *would not provide for the plaintiff’s double recovery...*” *Sky View*, 555 S.W.3d at 107-8 (emphasis added). This is precisely what the undisputed evidence below did show. (21 RR 6-32; 21 RR 50; 72 RR 21-Plaintiff’s Exhibit 2; 21 RR 11: 3 -21 RR 12:25; 21 RR 13:3- 21 RR 14:25). The evidence was conclusive that the only possible benefit to Ms. Puente was a \$310,000 litigation loan (and fees thereon) made to her from the daughter’s settlement, all of which will more than be paid back to her daughter from Ms. Puente’s judgment in this case.

**C. No Error in Light of Voluntary Remittitur.**

To be clear, Puente’s position is that she will accept a credit for any *Utts* “benefit” she received from her daughter’s settlement. As noted, Ms. Puente sees none on this record. Petitioners’ position, on the other hand, is that Puente should *automatically* have her common law claims reduced by the full amount of any settlement by the daughter *whether or not Ms. Puente derived any benefit* from it. In the interest of judicial economy, Puente conditionally and voluntarily offered to remit the \$434,000 that would without question more than cure any error found by any court with respect to settlement credits “without waiving any complaint that the

court of appeals erred.” TEX. R. APP. P. 46.5; *Virlar* at 697. The evidence below was uniform and conclusive that every penny of the minor’s settlement besides \$434,000 was applied to the purchase of an annuity for the sole and exclusive benefit of C.P. or deposited in a court supervised trust for the sole and exclusive benefit of C.P. or else are 40% attorney’s fees calculated and allocable to the same. (21 RR 50; 72 RR 21-Plaintiff’s Exhibit 2 (with minor’s name converted to initials); 21 RR 11: 3 -21 RR 12:25; 21 RR 13:3- 21 RR 14:25). Even if this petition warranted review, the only necessary remedy would be modification of the judgment to reduce it by \$434,000. TEX. R. APP. P. 46.5, 53 (c)(2), 53 (c)(3).

**II. THE COURT OF APPEALS CORRECTLY FOUND NO ERROR IN ENTERING A LUMP-SUM JUDGEMENT—PETITIONERS ARE NOT ENTITLED TO PAY PERIODICALLY.**

This appeal is, in all salient respects, indistinguishable from *Regent Care of San Antonio, L.P. v. Detrick*, 610 S.W.3d 830 (Tex. 2020). After a lump sum verdict, Regent requested the trial court to order Detrick’s future medical damages to be awarded as periodic payments under Subchapter K.<sup>9</sup> Regent produced no evidence from which the trial court could have done so consistent with the jury’s present-value verdict. The only specific periodic payment request Regent made to

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<sup>9</sup> TEX. CIV. PRAC. REM. CODE, Section 74.501, et. seq.

the trial court would have “double-discounted,” and thereby done violence to, the jury’s lump-sum award.

The Court agreed with Regent that trial courts must award all or part of future medical expenses *upon proper request* by a medical defendant, but it unanimously rejected Regent’s appeal because granting Regent’s periodic payment request:

would be an abuse of discretion here because it would effectively “double discount” the award... *Detrick* at 838.

In reaching this conclusion, the court explained that:

1. “Subchapter K gives the trial court no discretion to craft its own award of damages inconsistent with the jury’s verdict.”
2. Thus, simply ordering the jury’s present-value damages award to be divided up and paid in periodic payments would be an abuse of discretion and effectively “double discount” the jury’s award.
3. “The party requesting an order for periodic payments has the burden to identify for the trial court evidence regarding each of the findings required by section 74.503,” and “the findings must be supported by sufficient evidence.”
4. The trial court cannot have abused its discretion if the defendant has not provided and pointed out to the court evidence supporting a specific periodic payment scheme that will not be inconsistent with the jury’s verdict.
5. This is impossible for the defendant to do when the jury finds future medical expenses in the form of “if paid now in cash” and “[n]o party requested that the jury find the amount that would compensate [plaintiff] if paid periodically” and no party offered “evidence post-trial from which the trial court could make such a finding.” *Id.* (citing TEX. CIV. PRAC. & REM. CODE §74.501, *et. seq.*).

As in *Detrick*, these Petitioners never made any specific request that the trial court could have granted, and they failed to request or obtain relevant jury findings or point the trial court to any evidence justifying a periodic payment regimen *that would not be inconsistent with the jury's lump-sum verdict*. The trial judge here committed no error because she was not given any plan by Petitioners for how to award periodic payments other than one that would clearly have been erroneous: to double discount Puentes's lump-sum recovery, just as Regent unsuccessfully attempted to do in *Detrick*.

**A. Petitioners did not provide evidence of financial responsibility as required by the statute.**

Since they were both drastically underinsured,<sup>10</sup> In order to complain on appeal, each Petitioner also had the threshold burden to “provide evidence of financial responsibility in an amount adequate to assure full payment of damages awarded by the judgment.” TEX. CIV. PRAC. & REM. CODE, §74.505 (a). They did not.

**1. Virlar's failure to produce any evidence of responsibility is material.**

Virlar never attempted to prove he could fund anything, and Petitioners never introduced any evidence that Gonzaba would fund Virlar's obligations under any hypothetical periodic payment regime. There is nothing in the statute excusing a

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<sup>10</sup> It is undisputed that Petitioners each had only \$1 million in coverage, none of which their insurer offered in response to a *Stowers* demand made before verdict. (21 RR 16-17, 22-23, 49; 72 RR Plaintiff Exhibit 1).



defendant from proof of the requirements necessary to pay a judgment over time. TEX. CIV. PRAC. & REM. CODE. §74.505 (a). The Court of Appeals was mistaken in claiming Virlar's financial status was immaterial.

In construing the provisions of a statute, the court always begins with a review of the plain language of the provisions. *Sullivan v. Abraham*, 488 S.W.3d 294, 299 (Tex. 2016). "It is the Legislature's prerogative to enact statutes; it is the judiciary's responsibility to interpret those statutes according to the language the Legislature used, absent a context indicating a different meaning or the result of the plain meaning ... yielding absurd ... results." *Molinet v. Kimbrell*, 356 S.W.3d 407, 414–15 (Tex. 2011) (citations omitted).

Section 74.505's plain language provides that in order to be entitled to make periodic payments, "the court shall require a defendant who is not adequately insured to provide evidence of financial responsibility in an amount adequate to assure full payment of damages awarded by the judgment." There is nothing in the statute relieving a defendant of the requirement to show financial responsibility if another defendant has done so.

In the trial court, Petitioners claimed that construing Section 74.505 in this way and according to its plain language is "a ridiculous misinterpretation of the statute." (21 RR 52). Since this is no argument at all, it can be rejected out of hand. The Court of Appeals expressed a more nuanced concern over how contribution

between two fully jointly and severally liable defendants would work if one is allowed to pay over time while another must pay in cash. *Virlar* at 700-701. Although this was *dicta* in that it was not relied upon in reaching the court's holding, it is an illusory concern. The Court of Appeals mused that:

Assuming the facts of this case—that is, assuming Gonzaba provided evidence of financial responsibility but its employee, Dr. Virlar, did not—under Puente's interpretation of subsection (a), Gonzaba could be granted its requested relief of making periodic payments but, in practicality, be denied that relief because Puente could seek to collect the entire amount of the joint and several judgment from Gonzaba when Dr. Virlar did not pay the lump sum in full. We conclude the Legislature could not have intended such a result. *Id.*

However, this is simply not true for a number of reasons. First, since one must be more than 50% responsible in order to be jointly and severally liable in negligence, the only way that two defendants can both be jointly and severally liable is under *respondeat superior* where one is employed by the other. That is the situation here. TEX. CIV. PRAC. REM. CODE, §33.013(b)(1).

Second, there is no contribution between defendants in this situation; rather, the cross claims between them lie solely in the law of indemnity. Gonzaba is only liable vicariously, and only because of the negligence of its employee Virlar. Gonzaba therefore has no claim for contribution but only a valid claim for indemnity against Virlar. *Gunn v. McCoy*, 554 S.W.3d 645, 677-678 (Tex. 2018); *St. Anthony Hospital v. Whitfield*, 946 S.W.2d 174, 177-178 (Tex. App.—Amarillo 1997, writ denied). If Ms. Puente chooses to collect from Gonzaba, Gonzaba is

entitled to full reimbursement from Virlar of whatever it pays, whenever it pays, in whatever way it pays it. Conversely, if Ms. Puente chooses to collect from Virlar, Vilar has no right of reimbursement in whole or in part from Gonzaba because any such right is defeated by his own obligation of full indemnity to Gonzaba. See, e.g., *Panhandle Gravel Co. v. Wilson*, 248 S.W.2d 779, 784-785 (Tex. Civ. App.—Amarillo, writ ref'd n.r.e.).

Third, whether a defendant pays the judgment in a lump sum or periodically, *the present value* of the judgment must be the same under *Detrick*. And in Texas, it has been undisputed for a century that a plaintiff may sue one of several joint tortfeasors and to collect the full damages from him and leave any risk of insolvency or other complications to be borne between the judgment creditors. *Landers v. East Texas Salt Water Disposal Co.*, 248 S.W.2d 731 (1952).

Fourth, under Petitioners' construction of the statute, *any* defendant who shows financial responsibility can provide *all* defendants the right to pay in future installments, even those clearly *financially unable to do so*. For example, if Gonzaba were not a defendant in this case, but the jury had found Virlar 99% responsible (instead of 60%) and Dr. Martinez 1% responsible (instead of 0%), Virlar would be jointly and severally liable for the entire \$14 million judgment and Martinez for only 1% (approximately \$140,000). If Petitioners have their way, Dr. Martinez could show that he could afford a future periodic payments judgment with

a present value of \$140,000 (1% of \$14 million), require at least 50%<sup>11</sup> of the entire \$14 million be paid periodically in the future by Virlar, and excuse the insolvent Virlar from having to show any ability to fund any such future periodic payments. Virlar would get the benefits of the periodic payments statute although clearly unqualified to do so. Statutes cannot be construed so as to produce such absurd results. *Molinet*, 356 S.W.3d 407,414-15 (Tex. 2011).

Fifth, since in a malpractice case where there are contribution rights between defendants only one of them can be over 50% responsible and thus jointly and severally liable, only that defendant could ever seek contribution for overpayment of its share of the liability. That means such a defendant that overpays its percentage share can never seek more than 49% of the plaintiff's total recovery from another liable defendant. Petitioners and their amici have repeatedly acknowledged that Chapter 74 requires that at least forty to fifty percent of any periodic payment judgment would still need to be paid in a lump sum to account for "attorney fees, litigation expenses, and health care expenses to be incurred soon after trial."<sup>12</sup> (See, e.g., Amicus Brief of TMA, TADC and THA at 12-13). Thus, it is virtually impossible, as a matter of arithmetic, for a jointly and severally liable defendant that pays 100% of plaintiff's recovery to ever need to seek contribution and repayment of any but the lump sum portion of any periodic payment judgment

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<sup>11</sup> After accounting for attorney fees (*see* below).

<sup>12</sup> The record shows the fee in this case to be 40% plus expenses. (72 RR 21-Plaintiff's Exhibit 2).

from another defendant. There simply is no contribution problem of the sort suggested by Petitioners. The only reasonable interpretation of the statute is that it provides each defendant who timely and properly invokes it with a separate right to pay a part of its share of any liability periodically over time.

In any event, both Petitioners failed to show financial responsibility. Virlar was drastically uninsured, and given that only two to three years after judgment he had liabilities of over \$20 million more than this judgement and assets of only \$658,534.26, he could not possibly have shown the ability to pay a \$14 million dollar lump sum judgment, much less many millions more stretching over future decades. In the trial court he didn't even attempt to show such ability to pay. *See* App. Tab B, ECF Doc. #53, pp. 18, 31 in *In re Jesus Alfredo Virlar*, Cause No. 21-50753-cag (U.S. Bankruptcy Court S.D. Tex.).

## **2. Petitioners' request was tardy.**

With the jury already gone, Petitioners' request for periodic payments was tardy. Without a specific structure for a *legitimate* periodic payment plan, without any evidence supporting one, and without jury findings on the relevant issues, the court could not determine and "make a specific finding of the dollar amount of periodic payments that will compensate the claimant for the future damages" in accordance with the jury's verdict. TEX. CIV. PRAC. & REM. CODE Section 74.503 (c). Ms. Puente demanded a jury and was constitutionally

entitled to jury trial of all contested issues of fact, including this one. (CR 28-44).

The statute does not take issues material to its operation away from the jury. Subsection 74.503(d) only requires that the trial court “*specify* in its judgment” the dollar amount, interval between, and number of payments. *See* §74.503(d)(2)–(4) (emphasis added). In contrast, subsection 74.503(c) states that the trial court “*shall make a specific finding* of the dollar amount of periodic payments that will compensate the claimant for the future damages.” § 74.503(c) (emphasis added). The Legislature’s use of that different language in subsections (c) and (d) is instructive as to when a court can and cannot make a material finding: “In interpreting statutes, [a court] . . . may not impose its own judicial meaning on a statute by adding words not contained in the statute’s language. If the statute’s plain language is unambiguous, [courts] interpret its plain meaning, presuming that the *Legislature intended for each of the statute’s words to have a purpose and that the Legislature purposefully omitted words it did not include.*” *Silguero v. CSL Plasma, Inc.*, 579 S.W.3d 53, 59 (Tex. 2019) (internal citations omitted) (emphasis added).

Unlike subsection (c), the Legislature “purposefully omitted” the “court shall make . . . specific finding[s]” language in subsection (d). The Legislature’s use of the word “specify” contemplates that the trier of fact (here, the jury) has *already* evolved material issues of disputed fact—life expectancy and annualized future

medical—which in turn allows the trial court to “specify” the statutory allocation of future medical expenses as per subsection (d). *See* § 74.503(d). The statute did not vest the trial court with authority to “find” the “dollar amount,” the “interval between,” or “the period of time over which payments must be made” when a jury trial has been timely and properly requested. Had the Legislature intended for the trial judge to make those “findings,” it certainly knew how to do so. *See, e.g.*, §74.503(c) (providing that the “court shall make . . . finding”). Critically, the Legislature omitted the “findings” language from subsection (d).

It is axiomatic that when timely and properly requested, the jury must answer material and disputed questions of fact. *See* TEX. R. CIV. P. 278. A trial judge has no authority to resolve disputed fact issues in such circumstances. Rule 278 provides a “substantive, *non-discretionary directive* to trial courts requiring them to submit requested questions to the jury if the pleadings and any evidence support them.” *Elbaor v. Smith*, 845 S.W.2d 240, 243 (Tex. 1992) (emphasis added). Because life expectancy, discount rates, and a determination of year-by-year future medical were material to the proper application of the statute and involved disputed issues of fact,<sup>13</sup> the trial court was obligated to submit them to a “jury properly instructed in the law.” *Crown Life Ins. Co. v. Casteel*, 22 S.W.3d 378, 388 (Tex. 2000).

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<sup>13</sup> *See* 21 RR 40 showing the dispute as further detailed below.

Without such findings, there was no proposed judgment of periodic payments for Petitioners to prove the financial responsibility to meet. Such a judgment, depending upon the timing, amount, and duration of the payments, would necessarily have aggregated far more than the \$14 million lump-sum verdict.

**3. Gonzaba's fiscal evidence was inadmissible and insufficient.**

Neither Petitioner provided the court with any evidence of their ability to use any of Section 74.505(b)'s methods of funding, and therefore provided the court with no evidence of the ability to make payments as far into the future as any periodic judgment might provide. The only evidence provided to the court at all was a balance sheet testified to by Petitioner Gonzaba's bookkeeper, who was not shown to be an expert and whose testimony was objected to because she had never been designated as an expert witness or even a person with knowledge of relevant facts. (22 RR 12-13; 22 RR 16-19; 22 RR 19: 14-18; 22 RR 23: 12-16). Petitioners never proved good cause or lack of surprise, so the witness should have been excluded and cannot support any complaint on appeal. (TEX. R. CIV. P. 193.6). In any event, Gonzaba's evidence did not show the ability to satisfy the requirements of the statute into the future, or by reference to any of the vehicles authorized by the above-referenced Section 74.505(b). It chiefly showed only uncollected accounts receivable.



Neither Petitioner produced evidence that if the trial court ordered *instanter* that \$13.263 million be put “into the registry of the court for purposes of periodic payments that he would be able to do so.” (22 RR 14-23). *See Prabhakar v. Fitzgerald*, No.05-10-00126-CV, 2012 WL 3667400 (Tex. App. – Dallas Aug. 24 2012, no pet., judgment vacated Oct. 15, 2016). And Petitioner Gonzaba never demonstrated how uncollected accounts receivable in an amount far less than the total of any long-term payments could be used to fund such undiscounted future payments into the distant future. Neither Petitioner showed entitlement to a periodic payment judgment.

**B. Petitioners provided no proposal or evidence in support of a periodic payment plan consistent with the jury verdict.**

Petitioners did not produce any evidence of how the trial court should have ordered the jury’s future medical expense verdict to be paid periodically. Petitioners only moved for one specific plan of future periodic payments, and it was exactly the type of “double discount” plan the trial court lacked any discretion to approve. Since Petitioners never produced any economic evidence, they took the trial testimony of the Puente’s economist, Dr. Fairchild, that Puente had a 31-year life expectancy and asked the court to divide the jury’s \$13,263,874.86 lump sum award of future medical needs into 31 equal annual payments with no provision for the fact that the award was already discounted to present value. (CR 5137-5143 (Appendix Tab A;

21 RR 39:19- 21 RR 41:16; 21 RR 53:13- 54:6). Even before this Court's decision in *Detrick*, Petitioners had to admit they would not have been entitled to any such thing. *Virlar* at 698, n34.

Other than this now-abandoned motion, Petitioners never provided the court with either an explanation for, or any evidence of, “the dollar amount...; interval between payments; and number of payments or the period of time over which payments must be made” that they claim should have been reflected in the judgment so as to “compensate the plaintiff for the future damages” *consistent with the jury verdict*, which was significantly less than the only quantitative future medical evidence before the trial court and relied on by Petitioners. TEX. CIV. PRAC. & REM. CODE §74.503 (c) & (d). Without evidence, appropriate jury findings, or a specific plan, they were relegated to trying to recast and bootstrap testimony introduced during the trial from Puente's expert, Dr. Fairchild, but they had to admit that the jury had not awarded all the future damages he testified to, which was the only evidence they placed before the court. (21 RR 39: 19 - 21 RR 41: 16). They never produced evidence from which the court could have, *consistent with the jury's verdict*, made all the findings required by statute.

As the Court of Appeals pointed out, the only evidence Petitioners relied on with respect to future medical expense, Fairchild's report and

testimony, totaled almost \$3 million *more than the jury's award*; and it was composed of sub-elements of future costs discounted *with different rates* because the inflation rate used by Fairchild for each was different (*Virlar* at 704; 21 RR 17:23; 21 RR 22:11; 47 RR Plaintiff Ex. 23, beginning at p. 136 of pdf). Indeed, Petitioners confessed this to the trial court, acknowledging that due to Petitioners' own efforts, the jury awarded millions less than Fairchild's testimony and report and:

“[the jury] awarded the number they thought was appropriate. So that's the number we need to work with...because *that's the only number that has support as a finding of fact.*” (21 RR 40, emphasis added).

Petitioners admitted to the judge that she could only award periodic payments consistent with the amount found by the jury “*because that's the only number that has support as a finding of fact,*” which is the precise holding in *Detrick*. Without supplying the trial court more evidence or requesting appropriate jury findings on the disputed issues of fact, Petitioners cannot complain now that the court should have done the mathematically impossible then: order periodic payments while still maintaining fidelity to the jury's lump sum, present-value verdict that was at variance by many millions of dollars with the only evidence before the court. There was no way for the trial court to know what portion of Fairchild's report/calculations the jury chose not to award, or to know the appropriate matrix of discount rates

to apply to the remainder. This circumstance was a direct result of Petitioners' own failure to provide the trial court with any help in the form of a request for appropriate jury questions or a specific plan supported by additional evidence—other than their only proposed plan to improperly double-discount the jury's verdict. This, their only plan, was correctly refused by the trial court.

Contrary to the claims of Petitioners and their *amici*, it would not have been “wholly impracticable” or even difficult to rectify this omission by charging the jury correctly. (See Petitioner's Brief 43). The simplest way to do so would have been, as *Detrick* suggests, to either ask the jury to “find the amount that would compensate [the plaintiff] if paid periodically,” or even more simply to submit one jury question asking the overall aggregate rate of discount the jury used in providing a lump-sum answer to the future medical damages question. But as in *Detrick*, “[n]o party requested that the jury” do either. *Detrick* at 838. As a result, the trial court had no choice but to enter judgment in a lump sum. Because the relevant issues were contested and material, to do otherwise would have unconstitutionally abridged the right to jury trial where the jury's verdict was at substantial variance with the only future economic evidence offered.

**C. Neither the trial court nor Ms. Puente had timely notice  
Petitioners wanted factual findings on the requisites for  
periodic payments—any complaint was waived.**

Rule 94 requires a defendant to affirmatively plead any matter “constituting an avoidance or affirmative defense.” TEX. R. CIV. P. 94. Because over one hundred years of Texas common law requires the submission of future damages to a jury “if paid now in cash,” a defendant is required to plead that it will seek to “avoid” the usual lump sum award and instead have damages paid in periodic installments that might cease completely if the judgment creditor were to die prematurely. That way the plaintiff and the court know to instruct the jury to determine the damages based on future value as well – a calculation necessary to satisfy the Statute’s requirements unless the jury award is entirely congruent with uncontroversial testimony at trial and the court can discern this without any further evidence. *Detrick* at 838.

And Petitioners’ claim that Ms. Puente’s unfortunate and unanticipated death results in “the paradigmatic example of the type of windfall the Legislature sought to ameliorate” is an unhelpful *ad hominem* this Court expressly rejected in *Gunn v. McCoy*, 554 S.W.3d 645, 678 (Tex. 2018). In that case, the malpractice defendant made the same argument, as to which Justice Green responded that courts follow the law, not claims of “windfall”:

Texas Rule of Appellate Procedure 7.1 speaks to this very situation...We do not disagree that if this case were remanded to the trial court for a new trial,

the issue of future medical expenses would become moot (and the amount of past medical expenses would almost certainly increase); however, that is not the disposition of this case...We have already determined that liability in this case was established by legally sufficient evidence and that future medical expenses were proven to an ascertainable amount with reasonable certainty. Therefore, we issue our judgment as if Shannon were still alive, as Rule 7.1 requires. *Id.* at 678-679.

Not content to leave matters there, the Court continued that:

Besides that, we are hardly persuaded by the argument that McCoy received a windfall merely because Shannon's actual life span was shorter than her projected life span. While evidence must establish a reasonable probability of future medical expenses in order to support an award, such an award, by its nature, evades certainty, [and]... the jury clearly considered the possibility that Shannon's life expectancy would end up not being accurate, [b]ut of course, we would not go back and adjust the judgment upwards if she had outlived Dr. Willingham's projection. Similarly, we do not vacate a judgment for future medical expenses simply because a party died earlier than projected. *Id.* at 679.

The Court pointed out that “the outcome may well be different had the trial court awarded McCoy periodic payments of future medical expenses...” but that “there is nothing in the record to indicate that Dr. Gunn or OGA requested periodic payments.” *Id.* at 679. Just as in *Gunn* and in *Detrick*, here there was *no request for periodic payments that the trial court could have granted*, and affirming the judgment results in no “windfall.” It is required by law.

To meet federal due process requirements, the Plaintiff must be given reasonable notice and an opportunity to be heard to rebut any claim or defense by controverting evidence. U.S. CONST., AM. 14. The Texas Constitution has its own and even more restrictive “due course of law” clause requiring that “No citizen of

this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.” TEX. CONST., Article I, Section 13. And the Texas Constitution also has retained unchanged through every iteration since 1836, the “open courts provision” of the same declaration of rights averring that “All courts shall be open,” and that “every person for an injury done him, in his lands, goods, person or reputation, shall have remedy by due course of law.” TEX. CONST., Article I, Section 19.<sup>14</sup> These Texas due course provisions have been interpreted to be broader than the due process clause. *Turner v. Robinson*, 534 S.W.3d 115, 129 (Tex. App. – Houston [14<sup>th</sup> Dist.] 2017, no pet.).

Petitioners’ claim that the periodic payment statute need not be pleaded as a matter of defense or avoidance is wrong. The purpose of the statute is “at the request of a defendant” to allow it to avoid over 100 years of common law to the effect that future damages shall be awarded in a lump sum representing what “if paid now in cash” would reasonably compensate the injured party. Such matters *may not be first raised after judgment*. *Man Engines & Components, Inc. v. Shows*, 434 S.W.3d 132 (Tex. 2014). And it is clear that no evidence should be heard and no judgment may be rendered outside the pleadings in the case in any event. *Latch v. Gratty*, 107 S.W.3d 543, 546 (Tex. 2003). Ms. Puente repeatedly pointed out to

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<sup>14</sup> Tex. Const., Article I, Section 19. For the survival unscathed of the open courts provision, see *LeCroy v. Hanlon*, 713 S.W.2d 335, 339 (Tex. 1986).

the court Petitioners' failures to timely plead and disclose this matter of avoidance (22 RR 12-13; 22 RR 16-19; 22 RR 19: 14-18; 22 RR 23: 12-16; CR 5149-5163; CR 5183-5186; CR 5322-5336). There was no trial of the issue by consent, and indeed no trial of it at all before verdict. Yet, TEX. R. CIV. P. 265 requires that trial of causes before a jury "shall proceed" with all parties introducing all their evidence in the case *during the trial* and thereafter be "confined to rebutting testimony on each side." As already stated, TEX. R. CIV. P. 278 provides a "substantive, *non-discretionary directive* to trial courts requiring them to submit requested questions to the jury if the pleadings and any evidence support them." *Elbaor v. Smith*, 845 S.W.2d 240, 243 (Tex. 1992) (emphasis added). "It is fundamental to our system of justice that parties have the right to be judged by a jury properly instructed in the law." *Casteel*, 22 S.W.3d at 388. These rights arise under both the United States and Texas Constitutions and require that essential elements of the case be determined by the jury. *See* U.S. CONST. amend. VII; TEX. CONST. art. I, § 15; *Mercedes-Benz Credit Corp. v. Rhyne*, 925 S.W.2d 664, 666–67 (Tex. 1996).

Petitioners also never supplemented their disclosures to identify periodic payments as an issue or to designate any witness to testify about it (CR 2804-2888). Any complaint about periodic future payments was waived and not preserved for appellate review because TEX. R. CIV. P. 194 requires that all testifying expert witnesses and persons with knowledge of relevant facts be timely



designated in response to an appropriate request for disclosures. TEX. R. CIV. P. 193.6 automatically excludes evidence from witnesses or experts not timely designated in response to a request for disclosures. The only exception is where a party establishes good cause for failure to timely designate, or the lack of unfair surprise and unfair prejudice.

When Petitioners chose not to submit to the jury the amount and frequency of any periodic award of future damages, or at least the discount rate used to calculate present value, they intentionally risked the situation we have here: it will probably be impossible for the court to later figure an undiscounted payment scheme *consistent with the jury's lump-sum verdict*. Aspects of Subchapter K illustrate this. Section 74.507 requires the court to determine the present value of any periodic payments, “For purposes of computing the award of attorney's fees when the claimant is awarded a recovery that will be paid in periodic payments.” TEX. CIV. PRAC. & REM. CODE §74.507. Thus, the legislature expressly requires that attorney fees be paid in cash and based on the present value of an award of future periodic payments. But if the jury already awarded future damages only as a lump sum, there is nothing for the trial court to reduce to present value.

The arguments now made after-the-fact by Petitioners and *amicus curiae* cannot solve this quandary of Petitioners' own making. Their various current suggestions of how the trial court might have order periodic payments consistent

with the jury's verdict cannot gainsay two facts conclusively demonstrated by this record: 1. Even though it was Petitioners' burden to do so, none of these suggestions were ever requested of the trial court, and so it could not have abused its discretion by refusing them; 2. There is no way consistent with axiomatic arithmetic to un-discount the jury's award because it does not match the only evidence Petitioners placed before the court, and there is no way to know the either the nature of the variance or the aggregate discount rate used by the jury. And this is a an enigma arising solely from Petitioners' litigation strategy and failure to request and obtain necessary jury findings, which left the trial court no discretion but to do what it did.

#### **D. No Equitable Remand.**

Petitioners' now claim that they should be afforded a remand even if the lower courts correctly decided this case. This is easily answered by *Detrick*, upon which their request is based. *Detrick* was not a novel innovation but a simple interpretation of a statute clear in all relevant respects. No "new standards" were announced, which is why the Court did not remand *Detrick* to give the parties or lower courts opportunity follow any such "new standards." And unlike the Petitioner in *Detrick*, who only had one bite, Petitioners here already had several bites at this apple in the trial court (at least two post-verdict hearings) and repeatedly failed to provide proper pleadings, discovery responses, and a valid

request for relief or sufficient evidence in support of it. And the Court of Appeals was correct in holding that Petitioners “had a full and fair opportunity to provide the trial court with evidence to support an order of periodic payments *after the trial court informed them it had denied their request for any credit for Puentes daughter's settlement with the hospital.*” *Virlar* at 703 (emphasis original). (CR 5164; 22 RR 7-8).

Moreover, *Detrick's* admonition that periodic payment plans must be consistent with jury verdicts is not a jurisprudential innovation. It is required, and has always been required, by time-honored and sacrosanct constitutional principles that if violated would abrogate both the U.S. and Texas constitutions, as well as over one hundred years of common law requiring that tort damages be determined in present value cash terms,<sup>15</sup> as well as over 170 years of Texas law and TEX. R. CIV. P. 156 that require that even “when a party in a jury case dies between verdict and judgment...judgment shall be rendered and entered as if all parties were living.”

Other constitutional provisions relevant to this inquiry include two specific jury trial guarantees in the Texas Constitution. TEX. CONST., Article V, Section 10; TEX. CONST., Article I, Section 15. The rules of procedure further require that, in any case where the jury fee is paid, all contested issues of fact shall be submitted to

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<sup>15</sup> *Galveston, H. & S. A. Ry. Co. v. Harris*, 172 S.W. 1129, 1134 (Tex. Civ. App. – San Antonio 1915, writ ref'd); *Southern Traction Co. v. Dillon*, 199 S.W. 698 (Tex. Civ. App. – Dallas 1917, no writ).

the jury. TEX. R. CIV. P. 216, 277. Specifically, Rule 277 requires that in a jury case, the trial court “shall, whenever feasible, submit the cause upon broad form questions...[and] shall submit such instructions and definitions as shall be proper to enable *the jury to render a verdict* (emphasis added).” As this Court has said, “The right to jury trial is one of our most precious rights...”<sup>16</sup>

Also, without a jury determination of damages, the entire statutory scheme would violate the separation of powers between the judiciary and legislature, would be unconstitutionally vague, and would be plagued with other constitutional problems. The separation of powers argument is one of independent constitutional validity. As the Houston 14<sup>th</sup> Court of appeals has held:

Our Texas Constitution also limits governmental power, and it goes even further than its federal counterpart by including "an explicit Separation of Powers provision to curb overreaching and to spur rival branches to guard their prerogatives." *In re State Bd. for Educator Certification*, 452 S.W.3d 802, 808 n.39 (Tex. 2014) (orig. proceeding) (citing Tex. Const. art. II, §1). In addition, as noted above, the Texas Bill of Rights expressly recognizes the role of courts in providing due course of law. Tex. Const. art. I, § 19. *Turner*, 534 S.W.3d at 129.

The result here and in *Detrick* is compelled by ancient legal principles.

Petitioner’s request for equitable remand is without merit.

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<sup>16</sup> *General Motors Corp. v. Gayle*, 951 S.W.2d 469, 476 (Tex. 1997).

III. THE COURT OF APPEALS CORRECTLY CONCLUDED THAT THERE WAS NO REVERSIBLE ERROR REGARDING DR. KUNCL'S TESTIMONY.

Petitioners complain of the trial court excluding certain deposition testimony from Dr. Ralph W. Kuncl that was cumulative, and which they claim was relevant only to the supposed responsibility of others for Ms. Puente's injury, a claim that Petitioner never requested be submitted to the jury. There is no error, no complaint was preserved, and any error would be harmless anyway.

**A. Standard of review for excluded evidence.**

The proper standard of review of trial court evidentiary rulings is abuse of discretion. *Brookshire Bros., Ltd. v. Aldridge*, 438 S.W.3d 9, 27 (Tex. 2014). An appellate court must uphold a trial court's evidentiary ruling if it is proper on any grounds. *Grand Homes 96, L.P. v. Loudermilk*, 208 S.W.3d 696, 702 (Tex. App. – Fort Worth 2006, pet. denied).

Furthermore, a Petitioner is only entitled to a reversal based on evidentiary rulings if the ruling complained of was calculated to cause and probably did cause the rendition of an improper verdict. TEX. R. APP. P. 44.1(a)(1). In evaluating whether an alleged abuse of discretion was calculated to cause and probably did cause an improper judgment, appellate courts “must evaluate the whole case from voir dire to closing argument, considering the state of the evidence, the strength and weakness of the case, and the verdict.” *Reliance Steel & Aluminum Co. v. Sevcik*, 267 S.W.3d 867, 871(Tex. 2008) It is axiomatic that there can be no harmful error

in excluding or admitting evidence that is cumulative and thus does not change the entire trajectory of the trial. *Gee v. Liberty Mut. Fire Ins. Co.*, 765 S.W.2d 394, 396 (Tex. 1989). Any evidentiary error requires reversal only if it is “both controlling on a material issue and not cumulative.” *Mentis v. Barnard*, 870 S.W.2d 14, 16 (Tex. 1994). “A successful challenge to the trial court's evidentiary rulings usually requires that the complaining party demonstrate that the judgment turned on the particular evidence excluded.” *City of Brownsville v. Alvarado*, 897 S.W.2d 750, 753-54 (Tex. 1995).

Meanwhile, in order to preserve any error, a party complaining of the exclusion of testimony must: 1) properly attempt to offer the evidence in the evidentiary portion of the trial; 2) in response to any objection, specify the purpose for which it is offered; 3) obtain a ruling; and 4) make an offer of proof in order to make a clear record of what the excluded evidence would have been. *City of San Antonio v. Kopplow Dev., Inc.*, 441 S.W.3d 436, 440-441 (Tex. App.—San Antonio 2014, pet. denied); *Sink v. Sink*, 364 S.W.3d 340, 347 (Tex. App. – Dallas 2012, no pet.). Failure to follow any of these steps will be fatal to any appeal of an exclusion of evidence by the trial court. *Sink*, 364 S.W.3d at 347; *see also* TEX. R. EVID. 103(a); TEX. R. APP. P. 33.1(a).

**B. Petitioners withdrew Dr. Kuncl as a witness and waived any appellate complaint about his testimony.**

Petitioners withdrew Dr. Kuncl as a witness. That should end the inquiry on this claimed error. Ms. Puente, after withdrawing an objection to a prior passage of Dr. Kuncl's deposition (17 RR 177, lines 17-24), objected to one later question and answer (17 RR 177-180). In response, the court sustained the objection to *that one excerpt* from Dr. Kuncl's deposition, to wit: page 60, line 21 to page 61, line 2 (17 RR 180, lines 20-21). After this ruling, counsel argued with each other over various matters, but no further objection to another portion of Kuncl's testimony was made (17 RR 180-188). At the end of this colloquy, the court reiterated "All right, I am sustaining *the* objection" (17 RR 188, line 3-4).

Petitioners admit they withdrew their *entire* offer from Dr. Kuncl's deposition, using the words: "All right Judge, then *we are going to withdraw the offer* on Dr. Kuncl..." (Petitioners' Brief at 49). As a direct result, Ms. Puente withdrew all her cross-examination of the same witness. (17 RR 188). On this record, it simply cannot be said that Petitioners preserved any ruling on Dr. Kuncl's testimony for appellate review. When a witness is not called to testify, or once having begun to testify, his examination is halted by its proponent and his testimony withdrawn, what he said before or might have said if questioned further is moot and has been waived by the proponent. The fact that Petitioners chose to go through some form of "Offer of Proof" (17 RR 188) became irrelevant once they had already withdrawn any testimony from the witness altogether. And this is not a

mere technicality: because Petitioners chose to withdraw Dr. Kuncel as a witness, Ms. Puente also chose not to offer any testimony from him to the jury. Both the trial court and opposing counsel were entitled to rely upon Petitioners' withdrawal of the witness, and did so. To preserve error on an exclusion of evidence, the Petitioner must first actually offer the evidence. Advisory opinions from the bench about what types of evidence might or might not be viewed favorably *if offered* will not suffice. *Perez v. Lopez*, 74 S.W.3d 60, 66 (Tex. App. – El Paso 2002, no pet.).” *Kopplow Dev.*, 441 S.W.3d at 440-441.

Even if Petitioners only intended to withdraw the “remaining” deposition designations, the question persists: “remaining after what?” The only portion of the deposition that was ever ruled upon by the trial court was page 60, line 21 to page 61, line 2 (17 RR 180, lines 20-21, 17 RR 188, lines 3-4). That one question and answer are as follows:

Q Are you critical and do you believe that the physicians who saw Ms. Puente; that would include Dr. Silva and the ER physicians, are also -- are you critical of their care, also?

A I'm critical of the care of every physician, every nurse, every dietician, every member of the team that cared for Mrs. Puente.

Even accepting their mischaracterization of the record at face value, Petitioners admit they withdrew from the evidentiary portion of the trial every *other* portion of Kuncel's deposition, including pages 1 through 60 of his testimony, before this question and answer. That would include his name, his background, his



education, his experience, his other qualifications, and any methodology he utilized in studying the case. Under these circumstances, the only evidentiary error preserved for appellate review would be the blank assertion of an unnamed, unqualified, non-expert witness in the form of a surmise or conclusory statement of “criticism” unmoored in any appropriate standard of care, and of no probative value.

Before any evidentiary error can be preserved for review, a Petitioner must first establish its “attempt during the evidentiary portion of the trial to introduce the evidence.” *Comiskey v. F.H. Partners, LLC*, 373 S.W.3d 620, 629 Tex. App.—Houston [14<sup>th</sup> Dist. 2012, pet. denied). Without the remainder of Dr. Kuncl’s deposition testimony offered in evidence, even the broadest reading of the trial court’s ruling presents no possibility of an abuse of discretion. The portion of Kuncl’s deposition actually offered before being withdrawn, no matter how broadly one construes it, lacked at least 59 pages of necessary predicate to make it of any probative value. The ensuing “Offer of Proof” outside the confines of the evidentiary portion of the trial preserved nothing of substance for appellate review.

**C. The purported testimony complained of was not admissible expert opinion in any event, so its exclusion was not reversible error.**

Admissible expert testimony in a medical malpractice case must meet the following criteria:

1. The witness must be a physician practicing medicine at the time such testimony is given or who was practicing medicine at the time the claim arose; and
2. The witness must be qualified by education, training, and/or experience, as an expert on the proper standard of medical practice accepted within that relevant field;
3. The witness must base his or her opinions on a reliable methodology; and
4. Mere conclusory allegations ungrounded in appropriate expertise and supporting methodology are *ipse dixit* and do not qualify as probative expert opinions. *Coastal Transp. Co. v. Crown Cent. Petro. Corp.*, 136 S.W.3d 227, 232 (Tex. 2004); TEX. CIV. PRAC. & REM. CODE §74.001, *et. seq.*

The one question and answer actually ruled on by the trial judge are not an expert opinion of any probative value in establishing negligence or proximate cause against any of the 25 health care providers that Petitioners now accuse. The statement “I am critical of everyone,” absent any qualifications of the witness, testimony regarding the relevant standard of care, basis in the facts of each allegedly negligent person’s conduct, and

supporting reliable methodology has no probative value in a professional malpractice case.

None of the other testimony Petitioners now complain of (but that the trial court never excluded because Petitioners themselves withdrew it) can be characterized any more generously. Petitioners now claim they wanted to introduce the testimony of Dr. Kuncl found between page 61, line 3 through page 64 of his deposition but “there was no reason” to do so after the one objection sustained by the trial court. Petitioners cite no authority for this proposition of evidence law because there is none. Moreover, this testimony does not satisfy the requirements of Chapter 74 or *Daubert/Robinson* any more than the excluded question and answer did. With pages 1-60 of the deposition testimony never offered during the evidentiary portion of the trial and any offer of it *affirmatively withdrawn* there remains no proof that Dr. Kuncl was a physician, or a physician practicing medicine at the time such testimony was given, or was practicing medicine at the time the claim arose, or that he was qualified by education, training, and/or experience, not only as an expert, but as an expert in the very field of medicine practiced by the health care providers at issue, and there was nothing to show he based his opinions on a reliable methodology, or that he testified that anyone departed from those standards of care. Indeed, the testimony now complained of

was nothing more than conclusory, and thus was not evidence *at all*. See *Coastal Transp. supra.*; *Burrow v. Arce*, 997 S.W.2d 229, 235 (Tex. 1999).

Petitioners claim that Dr. Kuncl’s “criticisms” of nurses and dieticians and “every person who had a moment or a hand on her” would support submission of the relative fault of all these individuals and entities, even though Dr. Kuncl testified that in giving such an answer he did not account for the fact that “[o]bviously some physicians and therapists had vanishing little time to spend with her.” (25A RR 62).

Under these circumstances, “They are all responsible in a way” and “you’re critical of all those physicians,” without more, is not an admissible expert medical opinion in a malpractice case. To hold otherwise would contravene scores of Texas opinions that have held the opposite when plaintiffs sought to hold physicians liable in similar cases.

**D. Any exclusion of part of Dr. Kuncl’s testimony was not harmful because it was cumulative of other witnesses and Petitioner failed to request a jury question on the only issue to which it might have been relevant.**

Petitioners have not challenged the jury’s finding that they were negligent and proximately caused Ms. Puente’s injuries. They claim only that Kuncl’s testimony is relevant to the negligence of Dr. Patel and to a list of other supposed “responsible third parties.” The problem with this argument is that with respect to Dr. Patel, any of the evidence from Dr. Kuncl was cumulative because other

witnesses testified to this. Petitioners admitted to the trial court there was “overwhelming evidence” admitted of Dr. Patel’s causation of the injury (CR 5246-5250, 5257 bold and underlined portions). Patel was also found negligent by the jury, a finding unchallenged here, so again the exclusion of any Kuncl evidence could not have been harmful. *Mentis*, 870 S.W.2d at 16; *Gee*, 765 S.W.2d at 396.

With respect to the other alleged responsible third parties, Petitioners waived any complaint by not requesting that their fault and relative causation, if any, be submitted to the jury (18 RR 163-172). Indeed, it was not until after they had lost the case that Petitioners - for the first time - claimed that exclusion of evidence from Dr. Kuncl was the reason why they “failed to submit responsible third parties for the jury’s consideration in apportioning responsibility for Ms. Puente’s injury or harm.” (CR 5242, 5261). Now that it is clear that Petitioners *never requested the submission of any such issue or question for the jury’s consideration*, they attempt to bootstrap around that waiver by arguing they chose not to preserve any error solely because of Dr. Kuncl. But this avails nothing. Petitioners withdrew Kuncl as a witness, and then failed to request that any third party be submitted to the jury other than Dr. Patel. In order to complain on appeal that another party’s fault should have been submitted to the jury, Petitioners must have properly and timely requested submission of that jury question. TEX. R. CIV. P. 276-278; *Cruz v.*

*Andrews Restoration, Inc.*, 364 S.W.3d 817, 831 (Tex. 2012). This Petitioners did not do (18 RR 163-172).

Petitioners' reason for not doing so had nothing to do with Dr. Kuncl. It was because Petitioners' entire theory of the case until perfecting this appeal was that "unless this was Wernicke's encephalopathy, there is absolutely no case against any defendant for negligence that caused injury to the plaintiff" (7 RR 50).

Petitioner Virlar himself testified that the standard of care would require him to treat a patient with Wernicke's by administering thiamine, but that he had not violated the standard of care in JoAnn Puente's case only because:

"I was not treating somebody with Wernicke's encephalopathy [sic] at the time." (14 RR 114:5 – 14 RR 115:13).

This was the same argument made again and again by Petitioners in summation to the jury (18 RR 166-167; 19 RR 21, 52-53; 19 RR 88-89).

And again:

More than 25 doctors saw her in these two hospitalizations alone, more than 25 doctors. Most of them, in fact, except for the three that are named, are not parties to this lawsuit, all of them doing the very best they could for their patient, all of them trying to figure out what was going on with her. And not one of them made a diagnosis of Wernicke's. *Not one of them ordered thiamine, which they say is the standard of care that everybody ought to know. You learned it in medical school. Remember Dr. Gavi? None of them did. Twenty-five of them...These guys saw her. They treated her. They know about these things.* (19 RR 60-61, emphasis added).

Evidentiary error is only harmful when the entire case hinges upon the excluded evidence. *City of Brownsville* at 753-54; *Mentis v.* at 16. But Petitioners' entire defense in this case was unrelated to relative fault. It hinged upon whether Ms. Puente ever had Wernecke's at all. Moreover, in this portion of their final argument, Petitioners admitted that there was testimony from other expert witnesses besides Kuncl that any provider who saw JoAnn Puente "should have been aware" of Wernicke's, and that anyone who failed to properly treat her for it might be "criticized" or in some way thought "responsible." These are the only words used by Dr. Kuncl. Dr. Gavi's testimony on these matters mirrored the testimony Petitioner claims was excluded from Dr. Kuncl. Dr. Gavi also testified that, as to patients like Ms. Puente being susceptible to thiamine deficiencies and Wernicke's :

Well, doctors should know that. If you don't know -- if you're not familiar with bariatric patients, then you shouldn't be involved in their care. You can say, Well, I can't take care of this patient, I'm not familiar. You can get a consultation (13 RR 40)

When asked when medical students are taught about thiamine deficiency and Wernicke's encephalopathy, his answer was "Probably within the first two years" (13 RR 70).

Similarly, Dr. Altman, a neurologist (9 RR 93-96) familiar with Wernicke's (9 RR 101-103), testified to the same effect:

. . . this is something that we get taught in medical school, all medical students learn this, and -- because it's so critically important -- is that if you have a patient that you even suspect might be at risk for thiamine

deficiency, because it's so safe and cheap, you want to just give it automatically... Because if you don't, the consequences can be devastating and permanent. (9 RR 127:11-9 RR 128:7)

Altman also testified that none of Ms. Puente's doctors from January 14<sup>th</sup> to January 26<sup>th</sup> identified Wernicke's encephalopathy as a probable diagnosis:

Nor did they identify the risk for thiamine deficiency in a patient who's post-bariatric who would have been experiencing nausea, vomiting and had had a stricture (10 RR 16: 4-7).

He opined the same could also be said of two dieticians, and all of the nurses (10 RR 16:13- 10 RR 17: 13). Petitioners' counsel then went through the same analysis with the witness referencing several physicians individually, repeating that they failed to diagnose Wernicke's and prevent it by administering thiamine supplements: Dr. Jaso, Dr. Silva, and Dr. Christopherson, culminating in Dr. Altman repeating that "I would agree that no one during that hospitalization started thiamine" (10 RR 17:14- 10 RR 20:6).

Just as telling was Petitioner Virlar's own testimony on the same subject. He admitted that the relevant standard of care required Wernicke's patients to be administered thiamine, but that the reason he didn't violate the standard of care was because JoAnn Puente didn't have Wernicke's at all (14 RR 114:5 – 14 RR 115:13). He also testified that if the jury were to disagree with him "and determine that there was poor care," both he and Dr. Martinez should accept responsibility for Appellee's injury, and that because "it is a team approach," he would take "equal



responsibility as everyone,” which in his opinion would “include all the team members” (14 RR 47:3 – 14 RR 49:14). He defined team members to include “the nurses,... the physical therapists,... the dieticians,” and “the other physicians during the hospitalization.” (14 RR 47:6-9; 14 RR 49: 4-15) Nonetheless, Petitioners chose not to request that the relative fault of any of these other “team members” be submitted in the jury’s charge.

Any error in limiting Dr. Kuncl’s testimony could not have been harmful because it was cumulative of similar testimony on the same subject given by Dr. Gavi, Dr. Altman, and Petitioner Virlar himself. Petitioners are on the horns of a dilemma of their own creation from which no briefing now can extract them:

If Dr. Kuncl’s excluded testimony is not sufficient to support submission to the jury of negligence questions against the other “25 doctors” that saw Ms. Puente, then its exclusion was harmless. If it was sufficient for such a submission, it was equally harmless because Dr. Gavi’s, Dr. Altman’s, and Dr. Virlar’s testimony was equally sufficient, and Petitioners waived any error by not requesting such a question be submitted to the jury.

IV. THE COURT OF APPEALS CORRECTLY CONCLUDED THAT THE TRIAL COURT COMMITTED NO REVERSIBLE ERROR IN ADMITTING TESTIMONY FROM DR. VIRLAR.

Petitioners next argue that the trial court abused its discretion in allowing Petitioner Virlar to testify that he no longer had privileges at the hospital where he

treated JoAnn Puente (Petitioners' Brief, 52-53), and to testify briefly about his treatment of another patient, but the only testimony complained of was composed of small snippets from a long examination of the witness (*Id.*; 12 RR 49:12-RR 52: 24; 12 RR 75: 7-21; 12 RR 80: 3-17). This comprises a total of 22 questions over less than five pages of a record of Dr. Virlar's testimony spanning over 300 pages of testimony and involving over 1,000 questions and answers.

Of these twenty-two questions now complained of, Petitioners objected to only five, but two of those objections were sustained (12 RR 51: 25- 12 RR 52: 3; 12 RR 80: 15-17) and cannot form the basis of any appellate complaint. Of the other three objections, one resulted in the question being withdrawn (12 RR 75: 22-25) and is also moot; one was overruled relating only to "argumentative" (12 RR 54, line 24- 12 RR 55, line 1), and the last was overruled as to a question whether Petitioner Virlar often renders treatment without seeing a patient or reviewing her chart, which the Petitioner Virlar promptly denied doing (12 RR 50, line 21-12 RR 51, line 4). Dr. Virlar then testified in one answer briefly *and without objection* as to his treatment of another patient, Charlotte Watson. That evidence was that in her case, Virlar had treated her without seeing her or her chart. The next question as to the result of that treatment was objected to by Petitioners, the objection was sustained, and counsel moved on to another subject (12 RR 51:20-12 RR 52:3). There was no harmful error.

### **A. Standard of review for admitted evidence.**

The admission of evidence is reviewed only for an abuse of discretion, and even if evidence is erroneously admitted, reversal is warranted only if the particular evidence complained of “probably resulted in the rendition of an improper judgment.” TEX. R. APP. P. 44.1; *Nissan Motor Co.*, 145 S.W.3d at 144; *Alvarado*, 897 S.W.2d at 753. As with the evaluation of excluded evidence, appellate review of admission of evidence requires the court to “review the entire record, and require the complaining party to demonstrate that the judgment turns on the particular evidence admitted.” *Nissan Motor Co.*, 145 S.W.3d at 144; *GTE Southwest, Inc. v. Bruce*, 998 S.W.2d 605, 620 (Tex.1999). That the entire case “turned on the particular evidence admitted” means that the evidence must be uniquely probative on a controlling issue and not cumulative of other competent probative evidence. *Bruce Id.*

In order to preserve error in the admission of evidence, it is axiomatic that the complaining party must object to it when it is introduced. Failure to timely object is fatal to any appellate complaint. *Serv. Corp. Int’l v. Guerra*, 348 S.W.3d 221, 234 (Tex. 2011) (*citing* TEX. R. EVID. 103); TEX. R. APP. P. 33.1(a)(1). Moreover,

error in the admission of testimony is deemed harmless and is waived if the objecting party subsequently permits the same or similar evidence to be introduced without objection.

*Ramirez*, 159 S.W.3d at 907; *see also Bay Area Healthcare Group, ltd. v. McShane*, 239 S.W.3d 231, 235-236 (Tex. 2007).

**B. Appellate review was not preserved as to the portion of Dr. Virlar’s testimony now complained of.**

This case is analogous to *McShane*, where the Texas Supreme Court held that any error in the admission of evidence about a health care provider’s treatment of a “prior patient” was waived, even though the questioning went well beyond the admonition of the court at a bench conference:

The cross-examination continued, and Bay Area's counsel asked numerous, specific questions concerning Cardwell's treatment of the prior patient, to which the McShanes did not object... Therefore, we agree with the court of appeals that the McShanes did not properly preserve this issue for appeal.

*McShane*, 239 S.W.3d at 236.

While counsel for Petitioners in this case raised various concerns at bench conferences during recesses in Dr. Virlar’s testimony (12 RR 5 – 12 RR 10, line 23; 12 RR 61:12- 12 RR 61:12 RR 71:5), Ms. Puente’s counsel properly approached the bench before going into such matters (12 RR 47:19-12 RR 49:11; 12 RR 61:12- 12 RR 61:20). After these colloquies, counsel resumed asking questions, the vast majority of which were answered by Dr. Virlar without objection.

Without objection, Dr. Virlar testified that he had lost his privileges at the same hospital where he treated Ms. Puente, and that he had not regained those privileges (12 RR 75:13-19; 12 RR 80: 3-10). Petitioners admitted to the trial court

that such evidence was “probably” admissible (12 RR 61:21 -12 RR 62:3). Virlar also testified without objection that he had treated another patient without examining her or reviewing her chart (12 RR 51:20-25). No objection to this testimony was made when it was introduced, not even that the evidence was prejudicial and violated TEX. R. EVID. 403.

The only relevant testimony admitted over any substantive objection was that Petitioner Virlar does not often render treatment without seeing a patient or reviewing her chart, which is testimony obviously not harmful to the Petitioners (13 RR 50, line 21-13 RR 51, line 4). The only objection made to this question was “Your honor, we’re now opening up the entire practice,” which is not a legally cognizable objection and preserves nothing for review (12 RR 50, line 21-12 RR 51, line 4). (TEX. R. APP. P. 33.1(a)(1). In addition, the same or similar evidence was later introduced without objection, presenting nothing for review. (12 RR 50: 5-19).

The only other pertinent objection overruled by the trial court was one of form, not substance, which would only entitle the objector to have the question rephrased, and is an objection from which it would be near impossible to prove reversible error. Petitioners’ objection to that question was “argumentative” (12 RR 54, line 24- 12 RR 55, line 1). Moreover, this one question and answer was cumulative of a great deal of other testimony on the same subject from the same

witness (12 RR 20:9 -12 RR 22:25; 12 RR 43:1- 12 RR 46:6; 12 RR 52:4-12 RR 59:10; 15 RR 71:18- 15 RR 74:23, 15 RR 78:3 – 15 RR 82:1).

**C. The admission of Dr. Virlar’s testimony was not error.**

In any event, it was not error to admit testimony from Dr. Virlar of either his lack of hospital privileges or his habits in recording conversations in a patient’s chart.

Dr. Virlar testified as an expert witness in his own behalf. The qualifications of a medical expert include the nature and extent of his or her practice, including the existence or lack of hospital privileges, and Petitioners’ counsel acknowledged this during the trial ((12 RR 61:21 -12 RR 62:3) (TEX. CIV. PRAC. & REM CODE §74.401, *et. seq.*; *Daubert/Robinson*, *supra.*). In a medical malpractice case - although they are not dispositive - “credentials are important” and thus very relevant. *In re Commitment of Bohannon*, 388 S.W. 3d 396, 304 (Tex. 2012).

Similarly, the extent to which an expert relies upon other experts (in this case physicians like Dr. Patel) and normally records his data (e.g., conversations) from another expert consultant, what sound expert practices require in that regard, and the circumstances under which he deviates from those practices are also relevant. TEX. R. CIV. P. 192.3(e)(3)(6); TEX. R. EVID. 703. In this connection, Dr. Virlar testified that he does not often treat patients without seeing them or their chart. When asked in impeachment about a situation involving a prior patient where his

routine practice was not followed, he testified *without objection* that he had not followed that usual practice (12 RR 51:20-25).

**D. The admission of Dr. Virlar’s testimony was not harmful error because it was cumulative and the entire case did not turn upon it.**

Petitioners point to the final argument of Appellee’s counsel to try to demonstrate harm regarding the smidgen of testimony that was admitted over objection, but that the argument was invited by Petitioners, and was based entirely upon other evidence introduced at the trial without objection.

The subject of Dr. Virlar’s documentation of conversations, especially with the settling surgeon Dr. Patel, was revisited time and again without objection throughout the trial.<sup>17</sup> Dr. Virlar’s testimony about such conversations was denied by Dr. Patel (18 RR 157-159). This extensive and disturbing record of inconsistencies ultimately prompted the startling admission from Virlar’s own counsel in summation that:

Dr. Virlar testified to conversations that he now remembers that he did not remember at the time of his deposition...[Y]ou could conclude...that Dr. Virlar made up some of those conversations...I will tell you if you believe he made up those conversations, that was wrong, and you have every right to be angry about that, because you’re not supposed to do that, and I can’t even try and defend that, and I won’t...If you believe Dr. Virlar was not reliable in his testimony, it is your right and indeed your duty to give no weight to anything that he

---

<sup>17</sup> (12 RR 20:9 -12 RR 22:25; 12 RR 43:1- 12 RR 46:6; 12 RR 52:4-12 RR 59:10; 15 RR 62:6-15 RR 74:23; 15 RR 76:3 – 15 RR 82:1; 15 RR 82:17- 15 RR 93:12).

said on the witness stand, no weight (19 RR 48:14- 19 RR 49:20, truncated).

Petitioners do not contend in their brief that the testimony about Ms. Watson, Dr. Virlar's other patient, was mentioned by Appellee's counsel in final argument, and it was not. Given that Petitioners' counsel was forced to admit in his final argument that his own client could well have "made up" conversations not recorded in JoAnn Puente's chart, it strains credulity that the snippets of Dr. Virlar's testimony he objected to "turned the case."

The only final argument complained of by Petitioners was not objected to and was invited by their own discussion of Dr. Virlar, and it recounted testimony admitted *without objection*. Puente's counsel stated:

Mr. Anderson says you don't have to believe anything he says. Well I disagree with that. The judge says you can believe part of it, all of it, or none of it. You can believe it when he says he lost his hospital privileges at every hospital in San Antonio and cannot practice in any hospital in this city. You can believe him when he said he got fired from IPC. You can believe him when he says that I don't work for Gonzaba anymore.

Dr. Virlar testified without objection that he lost his privileges at the San Antonio hospital where this tort occurred (12 RR 75:13-19; 12 RR 80: 3-10). He testified without objection that he was fired from his previous employer IPC, and that he no longer practices as a hospitalist in San Antonio at all (15 RR 93:22 - 15 RR 94:14). And it was undisputed that he no longer worked for Petitioner Gonzaba at the time of trial.



Under this record it would be absurd to claim that the entire case turned upon one question and answer about documentation of one other patient's records and one question and answer about lack of hospital privileges. Rather, his own counsel was forced to admit that Dr. Virlar may well not have been a credible witness, and then tried to get the jury to disregard all of his testimony. That invited the response that the jury could choose to accept some of the testimony anyway, and Appellee was entitled to catalog that testimony *which had been admitted into evidence without objection*.

### **CONCLUSION & PRAYER**

The Court should deny the petition. If the Court grants the petition, it should affirm the judgment or, alternatively, affirm the judgment as modified in accordance with Respondent's offer of remittitur. The Court should then render judgment against the sureties on the bonds. *See* Tex. R. App. P. 60.5. The sureties are Fidelity and Deposit Company of Maryland (CR 5302-12) and Aspen American Insurance Company (CR 5313-21). Respondents request all other relief to which they may be entitled.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

## CERTIFICATE OF COMPLIANCE

I certify that this document was produced on a computer using Microsoft Word and contains 14,972 words, as determined by the computer software's word-count function, excluding those sections not required to be counted under Texas Rule of Appellate Procedure 9.4(i)(1). The document is prepared in Times New Roman 14pt. font for the body and 12pt. font for footnotes.

/s/ William J. Chriss /s/  
WILLIAM J. CHRISS

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument will be served on this 27th day of December 2021 to opposing counsel of record via electronic service through Texas.gov:

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/s/ William J. Chriss /s/  
WILLIAM J. CHRISS

## **APPENDIX**

In compliance with Rule 38.1(k) of the Texas Rules of Appellate Procedure, Appellee Jo Ann Puente submits this Appendix to the Respondent's Brief on the Merits containing the following items:

- Tab A:                   Gonzaba's Motion for Periodic Payments
- Tab B:                   Virlar Amended Schedules (ECF Doc. #53, Cause No.21-50753-cag, U.S. Bankruptcy. Ct. W.D. Tex.)
- Tab C:                   Constitutional Authorities

# TAB A

Petitioners' Motion for Periodic Payments

# **TAB A**

Motion for Periodic Payments

CAUSE NO. 2014CI04936

JO ANN PUENTE;	§	IN THE DISTRICT COURT
MARIA ESTHER CARR, INDIVIDUALLY	§	
AND AS GUARDIAN OF [REDACTED]	§	
[REDACTED], A MINOR	§	131ST
	§	
vs.	§	<del>57</del> TH JUDICIAL DISTRICT
	§	
NILESH PATEL, M.D.;	§	
JAMES HOUSTON, P.A.;	§	
NITYA SURGICAL ASSOCIATES, PLLC	§	
D/B/A TEXAS BARIATRIC SPECIALISTS;	§	
TEXAS BARIATRIC SPECIALISTS, LLC;	§	
MANUEL MARTINEZ, M.D.;	§	
JESUS VIRLAR, M.D.;	§	
GONZABA MEDICAL GROUP;	§	
METHODIST HEALTHCARE SYSTEM	§	
OF SOUTH TEXAS, LTD., LLP D/B/A	§	
METROPOLITAN METHODIST HOSPITAL;	§	
ANGELA GARCIA, R.D.; and	§	
"JKD"	§	BEXAR COUNTY, TEXAS

**DEFENDANTS JESUS VIRLAR, M.D.'S  
AND GONZABA MEDICAL GROUP'S MOTION FOR  
ORDER OF PERIODIC PAYMENTS**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW JESUS VIRLAR, M.D., and GONZABA MEDICAL GROUP, Defendants in the above entitled and numbered cause, and file their Motion for the Court to Order Periodic Payments, and would respectfully show unto the Court as follows:

I.

This case was tried to the jury September 11-28, 2017, with a verdict being reached on September 29, 2017. This Court has set a hearing for 3:00

p.m. on October 24, 2017, for the entry of a judgment. The verdict of the jury awarded damages for loss of earning capacity sustained in the past of \$133,202.00; for loss of earn capacity that, in reasonable probability, Jo Ann Puente will sustain in the future of \$888,429.00; and for medical expenses that in reasonable probability Jo Ann Puente will incur in the future of \$13,263,874.86. The jury answered “No” when asked whether the negligence of Manuel Martinez, M.D., proximately caused the occurrence or injury to Jo Ann Puente.

## II. NON-WAIVER OF RIGHTS

Defendants disagree with the findings of the jury against Dr. Virlar and in response to Questions 1, 2, and 3 in the Charge of the Court and believe grounds exist for either a judgment in their favor or a new trial. Defendants disagree with any judgment awarding any recovery to Plaintiffs. By filing these arguments regarding a final judgment to be signed by this Court, Defendants are not waiving any rights to challenge the evidence, the jury’s verdict, the Court’s rulings, the judgment, or any other aspect of this case. Defendants also do not waive any right to file additional motions attacking the evidence, verdict, rulings, judgment, or other aspects of this case, including any post-verdict or post-judgment motions. Defendants contend any judgment is contrary to both the law and evidence at trial. Any positions taken by Defendants in this pleading should not be construed as concurring with the content of any judgment to be rendered by this Court and/or the result in this case.<sup>1</sup>

Without waiving any rights, as set forth above, Defendants assert the following regarding any Final Judgment to be signed herein. Additionally,

---

<sup>1</sup> See *First Nat’l Bank of Beeville v. Fojtik*, 775 S.W.2d 632, 644 (Tex. 1989).



Defendants received a draft form of judgment from Plaintiff's counsel on Friday evening, October 20, 2017. Defendants reserve the right to object to Plaintiff's calculations, and form of judgment. Asserting any objections or arguments regarding Plaintiff's proposed Final Judgment, do not constitute any waiver of rights to challenge the jury's verdict or complain about the content of any Final Judgment.

In addition Defendants have filed a Motion for Credit against the verdict for settlements previously made by Methodist Hospital and Nilesh Patel, M.D., and in making those arguments, Defendants do not waive their rights to challenge the jury's verdict or complain about the content of any Final Judgment. Defendants further reserve the right to file all post-trial motions available to Defendants, and to appeal this case should Defendants decide to do so. Defendants do not waive any of these rights by filing this motion.

### III.

Pursuant to Section 74.503 Tex. Civ. Prac. & Rem. Code Defendants respectfully request this Court to order that future damages awarded by the jury in this case be paid in periodic payments rather than by a lump sum payment.

Section 74.503 states:

(a)At the request of a defendant physician or healthcare provider or claimant, the court shall order that medical, health care, or custodial services awarded in a health care liability claim be paid in whole or in part in periodic payments rather by a lump-sum payment.

(b)At the request of a defendant physician or health care provider or claimant, the court may order that future damages other than medical, health care, or custodial services awarded in a health care liability claim be paid in whole in part in periodic payments rather than by a lump sum payment.

(c)The court shall make a specific finding of the dollar amount of periodic payments that will compensate the claimant for the future damages.

(d)The court shall specify in its judgment ordering the payment of future damages by periodic payments the:

- (1) Recipient of the payments;
- (2) Dollar amount of the payments;
- (3) Interval between payments; and
- (4) Number of payments or the period of time over which payments must be made.

Pursuant to 74.053(a) this Court shall order that medical, health care or custodial services awarded in this case be paid in whole or in part in periodic payments. That would encompass the entire \$13,263,874.86 awarded for future medical expenses.

Dr. Altman, Plaintiff's lifecare planner, asserted his report and testified that Jo Ann Puente has a reasonable life expectancy of 31 years. This evidence was not disputed by Defendants. Therefore, Defendants would request that, after applying appropriate credits for settlement amounts previously received by Plaintiffs, this Court determine the appropriate amount of annual payment to be made by dividing the remainder of the amount into periodic payments over 31 years.

Pursuant to section 74.503(b), this Court may also order periodic payments of all other awards for future damages made by the jury. In this case, the \$888,429.00 in future loss of earning capacity should also be structured pursuant to the statute.

Pursuant to section 74.503(c) this Court is obligated to make a specific finding of the dollar amount of periodic payments that will compensate the claimant for the future damages. There was no evidence that Plaintiff has any immediate need for a large sum of money. Therefore, Defendants believe it would be appropriate to structure the entire amount of future damages over 31 years.

Section 74. 503(d) requires that this Court specify in the judgment, who is to receive the payments, the dollar amount of the payments, the interval between the payments, and the number of payments or period of time over which payments must be made. Defendants respectfully requests that this Court enter judgment awarding such payments over the 31 years of Jo Ann Puente's probable life.

#### IV.

Defendants are prepared to prove to this Court evidence of financial responsibility by purchasing an annuity contract pursuant to Section 74.505(b)(1) which will satisfy the judgment awarding future damages in periodic payments. Defendants cannot provide this annuity contract to the Court prior to the time a determination has been made as to the amount of such payments, the interval between payments, and the period of time over which payments are to be made.

#### V.

The order of such periodic payments is compelled by the provisions of Section 74.502, in that this is a health care liability claim against a physician in

which the present value of the award of future damages equals or exceeds \$100,000.00.

WHEREFORE, Defendants JESUS VIRLAR, M.D., and GONZABA MEDICAL GROUP, respectfully request this Court to enter an Order providing that the future damages awarded by the jury in this case be paid by periodic payments over the course of 31 years, rather than by lump-sum payment and for such other and further relief to which Defendants may show themselves justly entitled.

Respectfully submitted,

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BY:

  
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ATTORNEY FOR DEFENDANTS  
MANUEL MARTINEZ, M.D.  
JESUS VIRLAR, M.D. AND  
GONZABA MEDICAL GROUP

**CERTIFICATE OF SERVICE**

I do hereby certify that on the 23<sup>rd</sup> of October, 2017, a true and correct copy of the above and foregoing document was furnished to all counsel of record in accordance with the TEX. R. CIV. P.

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BRUCE ANDERSON

# TAB B

Virlar Amended Schedules (ECF Doc. #53,  
Cause No.21-50753-cag, U.S. Bankruptcy. Ct.  
W.D. Tex.)

Fill in this information to identify your case and this filing:

Debtor 1	<u>Jesus</u>	<u>Alfredo</u>	<u>Virlar</u>
	First Name	Middle Name	Last Name
Debtor 2 (Spouse, if filing)	_____	_____	_____
	First Name	Middle Name	Last Name
United States Bankruptcy Court for the:	<u>Western District of Texas</u>		
Case number	<u>21-50753</u>		

Check if this is an amended filing

Official Form 106A/B

**Schedule A/B: Property**

12/15

In each category, separately list and describe items. List an asset only once. If an asset fits in more than one category, list the asset in the category where you think it fits best. Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

**Part 1: Describe Each Residence, Building, Land, or Other Real Estate You Own or Have an Interest In**

1. Do you own or have any legal or equitable interest in any residence, building, land, or similar property?

- No. Go to Part 2.
- Yes. Where is the property?

1.1 17287 Salado Draw  
Street address, if available, or other description

San Antonio, TX 78258-1602  
City State ZIP Code

Bexar  
County

What is the property? Check all that apply.

- Single-family home
- Duplex or multi-unit building
- Condominium or cooperative
- Manufactured or mobile home
- Land
- Investment property
- Timeshare
- Other \_\_\_\_\_

Who has an interest in the property? Check one.

- Debtor 1 only
- Debtor 2 only
- Debtor 1 and Debtor 2 only
- At least one of the debtors and another

Other information you wish to add about this item, such as local property identification number: \_\_\_\_\_

Do not deduct secured claims or exemptions. Put the amount of any secured claims on Schedule D: Creditors Who Have Claims Secured by Property.

Current value of the entire property?	Current value of the portion you own?
<u>\$630,000.00</u>	<u>\$630,000.00</u>

Describe the nature of your ownership interest (such as fee simple, tenancy by the entireties, or a life estate), if known.

Homestead

Check if this is community property (see instructions)

2. Add the dollar value of the portion you own for all of your entries from Part 1, including any entries for pages you have attached for Part 1. Write that number here.....

→ \$630,000.00

Debtor 1 Jesus Alfredo Virjar Case number (if known) 21-50753  
 First Name Middle Name Last Name

**Part 2: Describe Your Vehicles**

Do you own, lease, or have legal or equitable interest in any vehicles, whether they are registered or not? Include any vehicles you own that someone else drives. If you lease a vehicle, also report it on *Schedule G: Executory Contracts and Unexpired Leases*.

3. Cars, vans, trucks, tractors, sport utility vehicles, motorcycles

- No
- Yes

4. Watercraft, aircraft, motor homes, ATVs and other recreational vehicles, other vehicles, and accessories

Examples: Boats, trailers, motors, personal watercraft, fishing vessels, snowmobiles, motorcycle accessories

- No
- Yes

5. Add the dollar value of the portion you own for all of your entries from Part 2, including any entries for pages you have attached for Part 2. Write that number here.....

→ \$0.00

**Part 3: Describe Your Personal and Household Items**

Do you own or have any legal or equitable interest in any of the following items?

Current value of the portion you own?  
Do not deduct secured claims or exemptions.

6. Household goods and furnishings

Examples: Major appliances, furniture, linens, china, kitchenware

- No
- Yes. Describe.....

kitchen table \$50, chairs \$50, couch \$100, bed \$50, dining table and chairs \$300, guest bed \$100, stove \$50, microwave \$25, oven \$50, refrigerator \$50, dresser \$50, TV stand \$25, recliner chair \$50, office desk \$200, book shelves \$100, china cabinet \$200, end table \$25, linens and towels \$50, Kitchenware \$50, weed eater \$50, hedge trimmer \$25, misc tools \$25, step ladder \$10.

\$1,685.00

7. Electronics

Examples: Televisions and radios; audio, video, stereo, and digital equipment; computers, printers, scanners; music collections; electronic devices including cell phones, cameras, media players, games

- No
- Yes. Describe.....

2 TVs (\$100) (50 inches or less), Xbox Game Console (\$100), Desk top Mac (\$500), DVD Player (\$25), 1995 Toshiba Camcorder (\$25), Electric Drum Set (\$200)

\$950.00

8. Collectibles of value

Examples: Antiques and figurines; paintings, prints, or other artwork; books, pictures, or other art objects; stamp, coin, or baseball card collections; other collections, memorabilia, collectibles

- No
- Yes. Describe.....

9. Equipment for sports and hobbies

Examples: Sports, photographic, exercise, and other hobby equipment; bicycles, pool tables, golf clubs, skis; canoes and kayaks; carpentry tools; musical instruments

- No
- Yes. Describe.....

Foosball Table

\$100.00



Debtor 1 Jesus Alfredo Virlar Case number (if known) 21-5075 3  
 First Name Middle Name Last Name

10. **Firearms**  
*Examples:* Pistols, rifles, shotguns, ammunition, and related equipment  
 No  
 Yes. Describe.....  \_\_\_\_\_

11. **Clothes**  
*Examples:* Everyday clothes, furs, leather coats, designer wear, shoes, accessories  
 No  
 Yes. Describe..... Mens shirts, pants, jackets and undergarments \$250.00

12. **Jewelry**  
*Examples:* Everyday jewelry, costume jewelry, engagement rings, wedding rings, heirloom jewelry, watches, gems, gold, silver  
 No  
 Yes. Describe..... Wedding Band \$400.00

13. **Non-farm animals**  
*Examples:* Dogs, cats, birds, horses  
 No  
 Yes. Describe.....  \_\_\_\_\_

14. **Any other personal and household items you did not already list, including any health aids you did not list**  
 No  
 Yes. Describe..... Piano \$8,000.00

15. Add the dollar value of all of your entries from Part 3, including any entries for pages you have attached for Part 3. Write that number here..... → \$11,385.00

**Part 4: Describe Your Financial Assets**

Do you own or have any legal or equitable interest in any of the following? Current value of the portion you own?  
Do not deduct secured claims or exemptions.

16. **Cash**  
*Examples:* Money you have in your wallet, in your home, in a safe deposit box, and on hand when you file your petition  
 No  
 Yes..... Cash ..... \$150.00

17. **Deposits of money**  
*Examples:* Checking, savings, or other financial accounts; certificates of deposit; shares in credit unions, brokerage houses, and other similar institutions. If you have multiple accounts with the same institution, list each.  
 No  
 Yes.....

Debtor 1	<b>Jesus</b> First Name	<b>Alfredo</b> Middle Name	<b>Virlar</b> Last Name	Case number (if known) <b>21-50753</b>
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Institution name:

17.1. Checking account:	<b>USAA, Joint Account with Tina Knight (2,629.35 Knights and \$1649.01 Debtors)</b>	<b>\$1,648.88</b>
17.2. Checking account:	<b>Bank of America - Business</b>	<b>\$160.00</b>
17.3. Savings account:		
17.4. Savings account:		
17.5. Certificates of deposit:		
17.6. Other financial account:	<b>PayPal</b>	<b>\$1,500.00</b>
17.7. Other financial account:		
17.8. Other financial account:		
17.9. Other financial account:		

18. **Bonds, mutual funds, or publicly traded stocks**  
*Examples:* Bond funds, investment accounts with brokerage firms, money market accounts

No  
 Yes.....

Institution or issuer name:  
 \_\_\_\_\_

19. **Non-publicly traded stock and interests in incorporated and unincorporated businesses, including an interest in an LLC, partnership, and joint venture**

No  
 Yes. Give specific information about them.....

Name of entity: \_\_\_\_\_ % of ownership: \_\_\_\_\_

20. **Government and corporate bonds and other negotiable and non-negotiable instruments**  
*Negotiable instruments* include personal checks, cashiers' checks, promissory notes, and money orders.  
*Non-negotiable instruments* are those you cannot transfer to someone by signing or delivering them.

No  
 Yes. Give specific information about them.....

Issuer name:  
 \_\_\_\_\_

Debtor 1 Jesus Alfredo Virlar Case number (if known) 21-50753  
First Name Middle Name Last Name

21. Retirement or pension accounts

Examples: Interests in IRA, ERISA, Keogh, 401(k), 403(b), thrift savings accounts, or other pension or profit-sharing plans

- No
- Yes. List each account separately.

Type of account: Institution name:

IRA: Charles Schwab \$8,363.46

22. Security deposits and prepayments

Your share of all unused deposits you have made so that you may continue service or use from a company

Examples: Agreements with landlords, prepaid rent, public utilities (electric, gas, water), telecommunications companies, or others

- No
- Yes.....

Institution name or individual:

Electric: \_\_\_\_\_

Gas: \_\_\_\_\_

Heating oil: \_\_\_\_\_

Security deposit on rental unit: \_\_\_\_\_

Prepaid rent: \_\_\_\_\_

Telephone: \_\_\_\_\_

Water: \_\_\_\_\_

Rented furniture: \_\_\_\_\_

Other: \_\_\_\_\_

23. Annuities (A contract for a periodic payment of money to you, either for life or for a number of years)

- No
- Yes.....

Issuer name and description:

\_\_\_\_\_

24. Interests in an education IRA, in an account in a qualified ABLE program, or under a qualified state tuition program.

26 U.S.C. §§ 530(b)(1), 529A(b), and 529(b)(1).

- No
- Yes.....

Debtor 1 Jesus Alfredo Virlar  
First Name Middle Name Last Name

Case number (if known) 21-50753

Institution name and description. Separately file the records of any interests. 11 U.S.C. § 521(c):  
\_\_\_\_\_

25. **Trusts, equitable or future interests in property (other than anything listed in line 1), and rights or powers exercisable for your benefit**

- No
- Yes. Give specific information about them....

\_\_\_\_\_

26. **Patents, copyrights, trademarks, trade secrets, and other intellectual property**

*Examples:* Internet domain names, websites, proceeds from royalties and licensing agreements

- No
- Yes. Give specific information about them....

\_\_\_\_\_

27. **Licenses, franchises, and other general intangibles**

*Examples:* Building permits, exclusive licenses, cooperative association holdings, liquor licenses, professional licenses

- No
- Yes. Give specific information about them....

\_\_\_\_\_

**Money or property owed to you?**

**Current value of the portion you own?**  
Do not deduct secured claims or exemptions.

28. **Tax refunds owed to you**

- No
- Yes. Give specific information about them, including whether you already filed the returns and the tax years.....

\_\_\_\_\_

Federal: \_\_\_\_\_  
State: \_\_\_\_\_  
Local: \_\_\_\_\_

29. **Family support**

*Examples:* Past due or lump sum alimony, spousal support, child support, maintenance, divorce settlement, property settlement

- No
- Yes. Give specific information.....

\_\_\_\_\_

Alimony: \_\_\_\_\_  
Maintenance: \_\_\_\_\_  
Support: \_\_\_\_\_  
Divorce settlement: \_\_\_\_\_  
Property settlement: \_\_\_\_\_

Debtor 1 Jesus Alfredo Virlar Case number (if known) 21-50753  
 First Name Middle Name Last Name

30. Other amounts someone owes you

Examples: Unpaid wages, disability insurance payments, disability benefits, sick pay, vacation pay, workers' compensation, Social Security benefits; unpaid loans you made to someone else

No

Yes. Give specific information.....

Potential Malpractice Claim

unknown

31. Interests in insurance policies

Examples: Health, disability, or life insurance; health savings account (HSA); credit, homeowner's, or renter's insurance

No

Yes. Name the insurance company of each policy and list its value....

Company name:

Beneficiary:

Surrender or refund value:

Optum Bank HSA (Health Savings Account)

Debtor

\$50.00

32. Any interest in property that is due you from someone who has died

If you are the beneficiary of a living trust, expect proceeds from a life insurance policy, or are currently entitled to receive property because someone has died.

No

Yes. Give specific information.....

33. Claims against third parties, whether or not you have filed a lawsuit or made a demand for payment

Examples: Accidents, employment disputes, insurance claims, or rights to sue

No

Yes. Describe each claim.....

34. Other contingent and unliquidated claims of every nature, including counterclaims of the debtor and rights to set off claims

No

Yes. Describe each claim.....

35. Any financial assets you did not already list

No

Yes. Give specific information.....

36. Add the dollar value of all of your entries from Part 4, including any entries for pages you have attached for Part 4. Write that number here.....→

\$17,149.26

**Part 5: Describe Any Business-Related Property You Own or Have an Interest In. List any real estate in Part 1.**

37. Do you own or have any legal or equitable interest in any business-related property?

No. Go to Part 6.

Yes. Go to line 38.

Debtor 1 Jesus Alfredo Virlar  
First Name Middle Name Last Name

Case number (if known) 21-50753

Current value of the portion you own? Do not deduct secured claims or exemptions.

38. Accounts receivable or commissions you already earned

No  
 Yes. Describe.....

39. Office equipment, furnishings, and supplies

Examples: Business-related computers, software, modems, printers, copiers, fax machines, rugs, telephones, desks, chairs, electronic devices

No  
 Yes. Describe.....

40. Machinery, fixtures, equipment, supplies you use in business, and tools of your trade

No  
 Yes. Describe.....

41. Inventory

No  
 Yes. Describe.....

42. Interests in partnerships or joint ventures

No  
 Yes. Describe.....

Name of entity: \_\_\_\_\_ % of ownership: \_\_\_\_\_%

43. Customer lists, mailing lists, or other compilations

No  
 Yes. Do your lists include personally identifiable information (as defined in 11 U.S.C. § 101(41A))?

No  
 Yes. Describe.....

44. Any business-related property you did not already list

No  
 Yes. Give specific information.....

45. Add the dollar value of all of your entries from Part 5, including any entries for pages you have attached for Part 5. Write that number here..... →

\$0.00

**Part 6: Describe Any Farm- and Commercial Fishing-Related Property You Own or Have an Interest In.**  
If you own or have an interest in farmland, list it in Part 1.

Debtor 1 Jesus Alfredo Virtar  
First Name Middle Name Last Name

Case number (if known) 21-5053

46. Do you own or have any legal or equitable interest in any farm- or commercial fishing-related property?

- No. Go to Part 7.
- Yes. Go to line 47.

Current value of the portion you own?  
Do not deduct secured claims or exemptions.

47. Farm animals

Examples: Livestock, poultry, farm-raised fish

- No
- Yes.....

\_\_\_\_\_

48. Crops—either growing or harvested

- No
- Yes. Give specific information.....

\_\_\_\_\_

49. Farm and fishing equipment, implements, machinery, fixtures, and tools of trade

- No
- Yes.....

\_\_\_\_\_

50. Farm and fishing supplies, chemicals, and feed

- No
- Yes.....

\_\_\_\_\_

51. Any farm- and commercial fishing-related property you did not already list

- No
- Yes. Give specific information.....

\_\_\_\_\_

52. Add the dollar value of all of your entries from Part 6, including any entries for pages you have attached for Part 6. Write that number here.....→

\$0.00

**Part 7: Describe All Property You Own or Have an Interest in That You Did Not List Above**

53. Do you have other property of any kind you did not already list?

Examples: Season tickets, country club membership

- No
- Yes. Give specific information.....

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

54. Add the dollar value of all of your entries from Part 7. Write that number here.....→

\$0.00

Debtor 1 Jesus Alfredo Virlar Case number (if known) 21-07 53  
 First Name Middle Name Last Name

**Part 8: List the Totals of Each Part of this Form**

55. Part 1: Total real estate, line 2.....→		\$630,000.00
56. Part 2: Total vehicles, line 5	\$0.00	
57. Part 3: Total personal and household items, line 15	\$11,385.00	
58. Part 4: Total financial assets, line 36	\$17,149.26	
59. Part 5: Total business-related property, line 45	\$0.00	
60. Part 6: Total farm- and fishing-related property, line 52	\$0.00	
61. Part 7: Total other property not listed, line 54	+ \$0.00	
62. Total personal property. Add lines 56 through 61.....	\$28,534.26	Copy personal property total → + <span style="border: 1px solid black; text-align: right;">\$28,534.26</span>
63. Total of all property on Schedule A/B. Add line 55 + line 62.....		\$658,534.26



Debtor 1 Jesus Alfredo Virlar Case number (if known) 21-50753  
First Name Middle Name Last Name

**SCHEDULE A/B: PROPERTY**  
Continuation Page

17. Deposits of money	
Checking account: <u>Charles Schwab</u>	<u>\$5,276.92</u>

**Fill in this information to identify your case:**

Debtor 1	<u>Jesus</u>	<u>Alfredo</u>	<u>Virlar</u>
	First Name	Middle Name	Last Name
Debtor 2 (Spouse, if filing)	_____	_____	_____
	First Name	Middle Name	Last Name
United States Bankruptcy Court for the:	<u>Western District of Texas</u>		
Case number (if known)	<u>21-50753</u>		

Check if this is an amended filing

Official Form 106C

**Schedule C: The Property You Claim as Exempt**

04/19

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. Using the property you listed on *Schedule A/B: Property* (Official Form 106A/B) as your source, list the property that you claim as exempt. If more space is needed, fill out and attach to this page as many copies of *Part 2: Additional Page* as necessary. On the top of any additional pages, write your name and case number (if known).

For each item of property you claim as exempt, you must specify the amount of the exemption you claim. One way of doing so is to state a specific dollar amount as exempt. Alternatively, you may claim the full fair market value of the property being exempted up to the amount of any applicable statutory limit. Some exemptions—such as those for health aids, rights to receive certain benefits, and tax-exempt retirement funds—may be unlimited in dollar amount. However, if you claim an exemption of 100% of fair market value under a law that limits the exemption to a particular dollar amount and the value of the property is determined to exceed that amount, your exemption would be limited to the applicable statutory amount.

**Part 1: Identify the Property You Claim as Exempt**

- Which set of exemptions are you claiming? *Check one only, even if your spouse is filing with you.*
  - You are claiming state and federal nonbankruptcy exemptions. 11 U.S.C. § 522(b)(3)
  - You are claiming federal exemptions. 11 U.S.C. § 522(b)(2)

2. For any property you list on *Schedule A/B* that you claim as exempt, fill in the information below.

Brief description of the property and line on Schedule A/B that lists this property	Current value of the portion you own <small>Copy the value from Schedule A/B</small>	Amount of the exemption you claim <small>Check only one box for each exemption.</small>	Specific laws that allow exemption
Brief description: <u>17287 Salado Draw San Antonio, TX 78258-1602</u>	<u>\$630,000.00</u>	<input checked="" type="checkbox"/> <u>\$491,920.44</u> <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	<u>Const. art. 16 §§ 50, 51, Texas Prop. Code §§ 41.001-002</u>
Line from Schedule A/B: <u>1.1</u>			
Brief description: <u>kitchen table \$50, chairs \$50, couch \$100, bed \$50, dining table and chairs \$300, guest bed \$100, stove \$50, microwave \$25, oven \$50, refrigerator \$50, dresser \$50, TV stand \$25, recliner chair \$50, office desk \$200, book shelves \$100, china cabinet \$200, end table \$25, linens and towels \$50, Kitchenware \$50, weed eater \$50, hedge trimmer \$25, misc tools \$25, step ladder \$10.</u>	<u>\$1,685.00</u>	<input checked="" type="checkbox"/> <u>\$1,685.00</u> <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	<u>Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)</u>
Line from Schedule A/B: <u>6</u>			

Debtor 1 Jesus Alfredo Vlrlar Case number (if known) 21-50753  
First Name Middle Name Last Name

**Part 2: Additional Page**

3. Are you claiming a homestead exemption of more than \$170,350?

(Subject to adjustment on 4/01/22 and every 3 years after that for cases filed on or after the date of adjustment.)

No

Yes. Did you acquire the property covered by the exemption within 1,215 days before you filed this case?

No

Yes

Debtor 1 Jesus Alfredo Viriar Case number (if known) 21-50753  
 First Name Middle Name Last Name

**Part 2: Additional Page**

Brief description of the property and line on Schedule A/B that lists this property	Current value of the portion you own Copy the value from Schedule A/B	Amount of the exemption you claim Check only one box for each exemption.	Specific laws that allow exemption
Brief description: 2 TVs (\$100) (50 inches or less), Xbox Game Console (\$100), Desk top Mac (\$500), DVD Player (\$25), 1995 Toshiba Camcorder (\$25), Electric Drum Set (\$200)	\$950.00	<input checked="" type="checkbox"/> \$950.00 <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B: <u>7</u>			
Brief description: Foosball Table	\$100.00	<input checked="" type="checkbox"/> \$100.00 <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(8)
Line from Schedule A/B: <u>9</u>			
Brief description: Mens shirts, pants, jackets and undergarments	\$250.00	<input checked="" type="checkbox"/> \$250.00 <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(5)
Line from Schedule A/B: <u>11</u>			
Brief description: Wedding Band	\$400.00	<input checked="" type="checkbox"/> \$400.00 <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(6)
Line from Schedule A/B: <u>12</u>			
Brief description: Piano	\$8,000.00	<input checked="" type="checkbox"/> \$8,000.00 <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B: <u>14</u>			
Brief description: Charles Schwab	\$8,363.46	<input checked="" type="checkbox"/> \$8,363.46 <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code § 42.0021
Line from Schedule A/B: <u>21</u>			
Brief description: Optum Bank HSA (Health Savings Account)	\$50.00	<input checked="" type="checkbox"/> \$50.00 <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code § 42.0021
Line from Schedule A/B: <u>31</u>			

**Fill in this information to identify your case:**

Debtor 1	<u>Jesus</u>	<u>Alfredo</u>	<u>Virlar</u>
	First Name	Middle Name	Last Name
Debtor 2 (Spouse, if filing)	_____	_____	_____
	First Name	Middle Name	Last Name
United States Bankruptcy Court for the:	<u>Western District of Texas</u>		
Case number (if known)	<u>21-50753</u>		

Check if this is an amended filing

Official Form 106D

**Schedule D: Creditors Who Have Claims Secured by Property**

12/15

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, copy the Additional Page, fill it out, number the entries, and attach it to this form. On the top of any additional pages, write your name and case number (if known).

1. Do any creditors have claims secured by your property?

- No. Check this box and submit this form to the court with your other schedules. You have nothing else to report on this form.  
 Yes. Fill in all of the information below.

**Part 1: List All Secured Claims**

2. List all secured claims. If a creditor has more than one secured claim, list the creditor separately for each claim. If more than one creditor has a particular claim, list the other creditors in Part 2. As much as possible, list the claims in alphabetical order according to the creditor's name.	Column A Amount of claim Do not deduct the value of collateral.	Column B Value of collateral that supports this claim	Column C Unsecured portion If any	
<p><b>2.1</b> <u>Bexar County Tax Assessor Collector c/o</u>                      Creditor's Name  <u>ATTN: Don Stecker</u>  <u>Linebarger Googan Blair &amp; Sampson, LLP</u>  <u>112 E Pecan St Ste 2200</u>                      Number Street  <u>San Antonio, TX 78205-1588</u>                      City State ZIP Code</p> <p>Who owes the debt? Check one.  <input checked="" type="checkbox"/> Debtor 1 only  <input type="checkbox"/> Debtor 2 only  <input type="checkbox"/> Debtor 1 and Debtor 2 only  <input type="checkbox"/> At least one of the debtors and another  <input type="checkbox"/> Check if this claim relates to a community debt</p> <p>Date debt was incurred _____</p>	<p><b>Describe the property that secures the claim:</b>  <u>17287 Salado Draw San Antonio, TX 78258-1602</u></p> <p>As of the date you file, the claim is: Check all that apply.  <input type="checkbox"/> Contingent  <input type="checkbox"/> Unliquidated  <input type="checkbox"/> Disputed</p> <p>Nature of lien. Check all that apply.  <input type="checkbox"/> An agreement you made (such as mortgage or secured car loan)  <input type="checkbox"/> Statutory lien (such as tax lien, mechanic's lien)  <input type="checkbox"/> Judgment lien from a lawsuit  <input type="checkbox"/> Other (including a right to offset)</p> <p>Last 4 digits of account number _____</p>	\$2,118.74	\$630,000.00	\$0.00

Add the dollar value of your entries in Column A on this page. Write that number here:

**\$2,118.74**

Debtor 1 Jesus Alfredo Virlar  
 First Name Middle Name Last Name

Case number (if known) 21-50753

Part 1:	Additional Page	Column A	Column B	Column C
	After listing any entries on this page, number them beginning with 2.3, followed by 2.4, and so forth.	Amount of claim Do not deduct the value of collateral.	Value of collateral that supports this claim	Unsecured portion If any
<p><b>2.2</b> Internal Revenue Service</p> <p>Creditor's Name</p> <p>Austin Service Center</p> <p>Attn Aur</p> <p>Number Street</p> <p>Austin, TX 73301-0001</p> <p>City State ZIP Code</p> <p><b>Who owes the debt?</b> Check one.</p> <p><input checked="" type="checkbox"/> Debtor 1 only</p> <p><input type="checkbox"/> Debtor 2 only</p> <p><input type="checkbox"/> Debtor 1 and Debtor 2 only</p> <p><input type="checkbox"/> At least one of the debtors and another</p> <p><input type="checkbox"/> Check if this claim relates to a community debt</p> <p>Date debt was incurred</p> <p>2015</p>	<p><b>Describe the property that secures the claim:</b></p> <p>17287 Salado Draw San Antonio, TX 78258-1602</p> <p><b>As of the date you file, the claim is:</b> Check all that apply.</p> <p><input type="checkbox"/> Contingent</p> <p><input type="checkbox"/> Unliquidated</p> <p><input checked="" type="checkbox"/> Disputed</p> <p><b>Nature of lien.</b> Check all that apply.</p> <p><input type="checkbox"/> An agreement you made (such as mortgage or secured car loan)</p> <p><input checked="" type="checkbox"/> Statutory lien (such as tax lien, mechanic's lien)</p> <p><input type="checkbox"/> Judgment lien from a lawsuit</p> <p><input type="checkbox"/> Other (including a right to offset)</p> <p>Last 4 digits of account number <u>9 2 2 4</u></p>	<p><u>\$135,960.82</u></p>	<p><u>\$630,000.00</u></p>	<p><u>\$0.00</u></p>
<p><b>Add the dollar value of your entries in Column A on this page. Write that number here:</b></p>		<p><u>\$135,960.82</u></p>		
<p><b>If this is the last page of your form, add the dollar value totals from all pages. Write that number here:</b></p>		<p><u>\$138,079.56</u></p>		

Fill in this information to identify your case:

Debtor 1	<u>Jesus</u>	<u>Alfredo</u>	<u>Virlar</u>
	First Name	Middle Name	Last Name
Debtor 2 (Spouse, if filing)	_____	_____	_____
	First Name	Middle Name	Last Name
United States Bankruptcy Court for the:	<u>Western District of Texas</u>		
Case number (if known)	<u>21-50753</u>		

Check if this is an amended filing

Official Form 106E/F

**Schedule E/F: Creditors Who Have Unsecured Claims**

12/15

Be as complete and accurate as possible. Use Part 1 for creditors with PRIORITY claims and Part 2 for creditors with NONPRIORITY claims. List the other party to any executory contracts or unexpired leases that could result in a claim. Also list executory contracts on *Schedule A/B: Property* (Official Form 106A/B) and on *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 106G). Do not include any creditors with partially secured claims that are listed in *Schedule D: Creditors Who Hold Claims Secured by Property*. If more space is needed, copy the Part you need, fill it out, number the entries in the boxes on the left. Attach the Continuation Page to this page. On the top of any additional pages, write your name and case number (if known).

**Part 1: List All of Your PRIORITY Unsecured Claims**

- Do any creditors have priority unsecured claims against you?
  - No. Go to Part 2.
  - Yes.
- List all of your priority unsecured claims. If a creditor has more than one priority unsecured claim, list the creditor separately for each claim. For each claim listed, identify what type of claim it is. If a claim has both priority and nonpriority amounts, list that claim here and show both priority and nonpriority amounts. As much as possible, list the claims in alphabetical order according to the creditor's name. If you have more than two priority unsecured claims, fill out the Continuation Page of Part 1. If more than one creditor holds a particular claim, list the other creditors in Part 3.  
(For an explanation of each type of claim, see the instructions for this form in the instruction booklet.)

	Total claim	Priority amount	Nonpriority amount
<b>2.1 Internal Revenue Service</b> Priority Creditor's Name <u>Po Box 7346</u> Number Street <u>Philadelphia, PA 19101-7346</u> City State ZIP Code Who incurred the debt? Check one. <input checked="" type="checkbox"/> Debtor 1 only <input type="checkbox"/> Debtor 2 only <input type="checkbox"/> Debtor 1 and Debtor 2 only <input type="checkbox"/> At least one of the debtors and another <input type="checkbox"/> Check if this claim is for a community debt Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Last 4 digits of account number <u>922</u> When was the debt incurred? _____ As of the date you file, the claim is: Check all that apply. <input checked="" type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input checked="" type="checkbox"/> Disputed Type of PRIORITY unsecured claim: <input type="checkbox"/> Domestic support obligations <input checked="" type="checkbox"/> Taxes and certain other debts you owe the government <input type="checkbox"/> Claims for death or personal injury while you were intoxicated <input type="checkbox"/> Other. Specify _____	<u>\$74,014.68</u>	<u>\$74,014.68</u>	<u>\$0.00</u>
<b>2.2 Katelyn Golden</b> Priority Creditor's Name <u>116 Cirrus Cove</u> Number Street <u>Cibolo, TX 78108</u> City State ZIP Code Who incurred the debt? Check one. <input checked="" type="checkbox"/> Debtor 1 only <input type="checkbox"/> Debtor 2 only <input type="checkbox"/> Debtor 1 and Debtor 2 only <input type="checkbox"/> At least one of the debtors and another <input type="checkbox"/> Check if this claim is for a community debt Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Last 4 digits of account number _____ When was the debt incurred? _____ As of the date you file, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Type of PRIORITY unsecured claim: <input checked="" type="checkbox"/> Domestic support obligations <input type="checkbox"/> Taxes and certain other debts you owe the government <input type="checkbox"/> Claims for death or personal injury while you were intoxicated <input type="checkbox"/> Other. Specify _____	<u>\$617.88</u>	<u>\$617.88</u>	<u>\$0.00</u>

Debtor 1 Jesus Alfredo Virlar  
 First Name Middle Name Last Name

Case number (if known) 21-50753

**Part 1: Your PRIORITY Unsecured Claims - Continuation Page**

After listing any entries on this page, number them beginning with 2.3, followed by 2.4, and so forth.

Total claim	Priority amount	Nonpriority amount
unknown	unknown	unknown

**2.3** Texas Comptroller of Public Account (Notice)  
 Priority Creditor's Name  
Attn: Bankruptcy  
Po Box 149359  
 Number Street  
Austin, TX 78714-9359  
 City State ZIP Code  
 Who incurred the debt? Check one.  
 Debtor 1 only  
 Debtor 2 only  
 Debtor 1 and Debtor 2 only  
 At least one of the debtors and another  
 Check if this claim is for a community debt  
 Is the claim subject to offset?  
 No  
 Yes

Last 4 digits of account number \_\_\_\_\_  
 When was the debt incurred? \_\_\_\_\_  
 As of the date you file, the claim is: Check all that apply.  
 Contingent  
 Unliquidated  
 Disputed  
 Type of PRIORITY unsecured claim:  
 Domestic support obligations  
 Taxes and certain other debts you owe the government  
 Claims for death or personal injury while you were intoxicated  
 Other. Specify

**2.4** United States  
 Priority Creditor's Name  
U.S. Attorney  
Attn: Bkcy Division  
601 NW Loop 410 600  
 Number Street  
San Antonio, TX 78216  
 City State ZIP Code  
 Who incurred the debt? Check one.  
 Debtor 1 only  
 Debtor 2 only  
 Debtor 1 and Debtor 2 only  
 At least one of the debtors and another  
 Check if this claim is for a community debt  
 Is the claim subject to offset?  
 No  
 Yes

Last 4 digits of account number \_\_\_\_\_  
 When was the debt incurred? \_\_\_\_\_  
 As of the date you file, the claim is: Check all that apply.  
 Contingent  
 Unliquidated  
 Disputed  
 Type of PRIORITY unsecured claim:  
 Domestic support obligations  
 Taxes and certain other debts you owe the government  
 Claims for death or personal injury while you were intoxicated  
 Other. Specify  
Restitution for Health Care Fraud

\$19,500,000.00	\$19,500,000.00	\$0.00
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Debtor 1 Jesus Alfredo Virlar  
 First Name Middle Name Last Name

Case number (if known) 2 15 073

**Part 2: List All of Your NONPRIORITY Unsecured Claims**

**3. Do any creditors have nonpriority unsecured claims against you?**

- No. You have nothing to report in this part. Submit this form to the court with your other schedules.  
 Yes.

**4. List all of your nonpriority unsecured claims in the alphabetical order of the creditor who holds each claim. If a creditor has more than one nonpriority unsecured claim, list the creditor separately for each claim. For each claim listed, identify what type of claim it is. Do not list claims already included in Part 1. If more than one creditor holds a particular claim, list the other creditors in Part 3. If you have more than three nonpriority unsecured claims fill out the Continuation Page of Part 2.**

		Total claim
<p><b>4.1</b></p> <p><u>American Recovery Service Inc</u>                      Nonpriority Creditor's Name  <u>555 Saint Charles Dr Ste 100</u>                      Number Street  <u>Thousand Oaks, CA 91360-3983</u>                      City State ZIP Code</p> <p><b>Who Incurred the debt? Check one.</b>  <input checked="" type="checkbox"/> Debtor 1 only  <input type="checkbox"/> Debtor 2 only  <input type="checkbox"/> Debtor 1 and Debtor 2 only  <input type="checkbox"/> At least one of the debtors and another  <input type="checkbox"/> Check If this claim is for a community debt</p> <p><b>Is the claim subject to offset?</b>  <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes</p>	<p>Last 4 digits of account number <u>2878</u></p> <p>When was the debt incurred? <u>2016</u></p> <p><b>As of the date you file, the claim is:</b> Check all that apply.  <input type="checkbox"/> Contingent  <input type="checkbox"/> Unliquidated  <input type="checkbox"/> Disputed</p> <p><b>Type of NONPRIORITY unsecured claim:</b>  <input type="checkbox"/> Student loans  <input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims  <input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts  <input checked="" type="checkbox"/> Other. Specify                      Credit Card</p>	<p><u>\$25,000.00</u></p>
<p><b>4.2</b></p> <p><u>ARS National Services Inc</u>                      Nonpriority Creditor's Name  <u>Po Box 469046</u>                      Number Street  <u>Escondido, CA 92046-9046</u>                      City State ZIP Code</p> <p><b>Who Incurred the debt? Check one.</b>  <input checked="" type="checkbox"/> Debtor 1 only  <input type="checkbox"/> Debtor 2 only  <input type="checkbox"/> Debtor 1 and Debtor 2 only  <input type="checkbox"/> At least one of the debtors and another  <input type="checkbox"/> Check If this claim is for a community debt</p> <p><b>Is the claim subject to offset?</b>  <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes</p>	<p>Last 4 digits of account number <u>0229</u></p> <p>When was the debt incurred? <u>2018</u></p> <p><b>As of the date you file, the claim is:</b> Check all that apply.  <input type="checkbox"/> Contingent  <input type="checkbox"/> Unliquidated  <input type="checkbox"/> Disputed</p> <p><b>Type of NONPRIORITY unsecured claim:</b>  <input type="checkbox"/> Student loans  <input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims  <input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts  <input checked="" type="checkbox"/> Other. Specify                      Credit Card</p>	<p><u>\$8,809.00</u></p>
<p><b>4.3</b></p> <p><u>Bank of America</u>                      Nonpriority Creditor's Name  <u>Po Box 982284</u>                      Number Street  <u>El Paso, TX 79998-2284</u>                      City State ZIP Code</p> <p><b>Who Incurred the debt? Check one.</b>  <input checked="" type="checkbox"/> Debtor 1 only  <input type="checkbox"/> Debtor 2 only  <input type="checkbox"/> Debtor 1 and Debtor 2 only  <input type="checkbox"/> At least one of the debtors and another  <input type="checkbox"/> Check If this claim is for a community debt</p> <p><b>Is the claim subject to offset?</b>  <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes</p>	<p>Last 4 digits of account number <u>9392</u></p> <p>When was the debt incurred? <u>2016</u></p> <p><b>As of the date you file, the claim is:</b> Check all that apply.  <input type="checkbox"/> Contingent  <input type="checkbox"/> Unliquidated  <input type="checkbox"/> Disputed</p> <p><b>Type of NONPRIORITY unsecured claim:</b>  <input type="checkbox"/> Student loans  <input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims  <input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts  <input checked="" type="checkbox"/> Other. Specify                      Credit Card</p>	<p><u>\$25,000.00</u></p>

Debtor 1 Jesus Alfredo Virlar  
 First Name Middle Name Last Name

Case number (if known) 21-50753

**Part 2: Your NONPRIORITY Unsecured Claims - Continuation Page**

After listing any entries on this page, number them beginning with 4.5, followed by 4.6, and so forth.

Total claim

<b>4.4</b>	<b>Business &amp; Professional Services</b> Nonpriority Creditor's Name <b>Attn: Bankruptcy</b> <b>621 N. Alamo St.</b> Number Street <b>San Antonio, TX 78215</b> City State ZIP Code Who Incurred the debt? Check one. <input checked="" type="checkbox"/> Debtor 1 only <input type="checkbox"/> Debtor 2 only <input type="checkbox"/> Debtor 1 and Debtor 2 only <input type="checkbox"/> At least one of the debtors and another <input type="checkbox"/> Check if this claim is for a community debt Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	Last 4 digits of account number <u>8 05</u> When was the debt incurred? <u>2019</u> As of the date you file, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Type of NONPRIORITY unsecured claim: <input type="checkbox"/> Student loans <input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims <input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts <input checked="" type="checkbox"/> Other. Specify <b>Medical Bill</b>	<b>\$1,624.00</b>
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<b>4.5</b>	<b>Citibank, N.A.</b> Nonpriority Creditor's Name <b>5800 S Corporate Pl</b> Number Street <b>Sioux Falls, SD 57108-5027</b> City State ZIP Code Who Incurred the debt? Check one. <input checked="" type="checkbox"/> Debtor 1 only <input type="checkbox"/> Debtor 2 only <input type="checkbox"/> Debtor 1 and Debtor 2 only <input type="checkbox"/> At least one of the debtors and another <input type="checkbox"/> Check if this claim is for a community debt Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	Last 4 digits of account number <u>959 1</u> When was the debt incurred? _____ As of the date you file, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Type of NONPRIORITY unsecured claim: <input type="checkbox"/> Student loans <input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims <input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts <input checked="" type="checkbox"/> Other. Specify <b>Credit Card</b>	<b>\$14,961.12</b>
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<b>4.6</b>	<b>Client Services Inc</b> Nonpriority Creditor's Name <b>3451 Harry S Truman Blvd</b> Number Street <b>Saint Charles, MO 63301-4047</b> City State ZIP Code Who Incurred the debt? Check one. <input checked="" type="checkbox"/> Debtor 1 only <input type="checkbox"/> Debtor 2 only <input type="checkbox"/> Debtor 1 and Debtor 2 only <input type="checkbox"/> At least one of the debtors and another <input type="checkbox"/> Check if this claim is for a community debt Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	Last 4 digits of account number <u>4494</u> When was the debt incurred? <u>2018</u> As of the date you file, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Type of NONPRIORITY unsecured claim: <input type="checkbox"/> Student loans <input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims <input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts <input checked="" type="checkbox"/> Other. Specify <b>Credit Card</b>	<b>\$8,809.00</b>
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Debtor 1 Jesus Alfredo Virlar  
 First Name Middle Name Last Name

Case number (if known) 21-50753

**Part 2: Your NONPRIORITY Unsecured Claims - Continuation Page**

After listing any entries on this page, number them beginning with 4.5, followed by 4.6, and so forth.

Total claim

4.7	<p><b>Couch Conville &amp; Blitt LLC</b>                  Nonpriority Creditor's Name  <u>3501 N Causeway Blvd Ste 800</u>                  Number Street  <u>Metairie, LA 70002-3625</u>                  City State ZIP Code</p> <p>Who incurred the debt? Check one.  <input checked="" type="checkbox"/> Debtor 1 only  <input type="checkbox"/> Debtor 2 only  <input type="checkbox"/> Debtor 1 and Debtor 2 only  <input type="checkbox"/> At least one of the debtors and another  <input type="checkbox"/> Check If this claim is for a community debt</p> <p>Is the claim subject to offset?  <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes</p>	<p>Last 4 digits of account number <u>1626</u></p> <p>When was the debt incurred? <u>2016</u></p> <p>As of the date you file, the claim is: Check all that apply.  <input type="checkbox"/> Contingent  <input type="checkbox"/> Unliquidated  <input type="checkbox"/> Disputed</p> <p>Type of NONPRIORITY unsecured claim:  <input type="checkbox"/> Student loans  <input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims  <input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts  <input checked="" type="checkbox"/> Other. Specify                  Credit Card</p>	<b>\$25,000.00</b>
4.8	<p><b>Estate of Jo Ann Puente</b>                  Nonpriority Creditor's Name  <u>c/o David S Gragg</u>  <u>Langley &amp; Banack, Inc</u>  <u>745 E Mulberry Ave Ste 700</u>                  Number Street  <u>San Antonio, TX 78212-3172</u>                  City State ZIP Code</p> <p>Who incurred the debt? Check one.  <input checked="" type="checkbox"/> Debtor 1 only  <input type="checkbox"/> Debtor 2 only  <input type="checkbox"/> Debtor 1 and Debtor 2 only  <input type="checkbox"/> At least one of the debtors and another  <input type="checkbox"/> Check If this claim is for a community debt</p> <p>Is the claim subject to offset?  <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes</p>	<p>Last 4 digits of account number _____</p> <p>When was the debt incurred? <u>2017</u></p> <p>As of the date you file, the claim is: Check all that apply.  <input type="checkbox"/> Contingent  <input type="checkbox"/> Unliquidated  <input checked="" type="checkbox"/> Disputed</p> <p>Type of NONPRIORITY unsecured claim:  <input type="checkbox"/> Student loans  <input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims  <input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts  <input checked="" type="checkbox"/> Other. Specify                  Medical Malpractice Suit</p>	<b>\$14,385,000.00</b>
4.9	<p><b>Internal Revenue Service</b>                  Nonpriority Creditor's Name  <u>Po Box 7346</u>                  Number Street  <u>Philadelphia, PA 19101-7346</u>                  City State ZIP Code</p> <p>Who incurred the debt? Check one.  <input checked="" type="checkbox"/> Debtor 1 only  <input type="checkbox"/> Debtor 2 only  <input type="checkbox"/> Debtor 1 and Debtor 2 only  <input type="checkbox"/> At least one of the debtors and another  <input type="checkbox"/> Check If this claim is for a community debt</p> <p>Is the claim subject to offset?  <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes</p>	<p>Last 4 digits of account number _____</p> <p>When was the debt incurred? _____</p> <p>As of the date you file, the claim is: Check all that apply.  <input checked="" type="checkbox"/> Contingent  <input type="checkbox"/> Unliquidated  <input checked="" type="checkbox"/> Disputed</p> <p>Type of NONPRIORITY unsecured claim:  <input type="checkbox"/> Student loans  <input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims  <input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts  <input checked="" type="checkbox"/> Other. Specify</p>	<b>\$29,301.05</b>

Debtor 1 Jesus Alfredo Virjar  
 First Name Middle Name Last Name

Case number (if known) 215 68

**Part 2: Your NONPRIORITY Unsecured Claims - Continuation Page**

After listing any entries on this page, number them beginning with 4.5, followed by 4.6, and so forth. Total claim

<b>4.10</b>	<b>JP Morgan Chase</b> Nonpriority Creditor's Name <u>c/o National Bankruptcy Services, LLC</u> <b>Po Box 9013</b> Number Street <u>Addison, TX 75001-9013</u> City State ZIP Code Who Incurred the debt? Check one. <input checked="" type="checkbox"/> Debtor 1 only <input type="checkbox"/> Debtor 2 only <input type="checkbox"/> Debtor 1 and Debtor 2 only <input type="checkbox"/> At least one of the debtors and another <input type="checkbox"/> Check If this claim is for a community debt Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	Last 4 digits of account number <u>0229</u> When was the debt incurred? <u>2018</u> As of the date you file, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Type of NONPRIORITY unsecured claim: <input type="checkbox"/> Student loans <input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims <input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts <input checked="" type="checkbox"/> Other. Specify <b>Credit Card</b>	<b>\$8,810.00</b>
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<b>4.11</b>	<b>North Central Baptist</b> Nonpriority Creditor's Name <b>Po Box 660873</b> Number Street <u>Dallas, TX 75266-0873</u> City State ZIP Code Who Incurred the debt? Check one. <input checked="" type="checkbox"/> Debtor 1 only <input type="checkbox"/> Debtor 2 only <input type="checkbox"/> Debtor 1 and Debtor 2 only <input type="checkbox"/> At least one of the debtors and another <input type="checkbox"/> Check If this claim is for a community debt Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	Last 4 digits of account number <u>0397</u> When was the debt incurred? <u>2019</u> As of the date you file, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Type of NONPRIORITY unsecured claim: <input type="checkbox"/> Student loans <input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims <input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts <input checked="" type="checkbox"/> Other. Specify <b>Medical Bill</b>	<b>\$6,000.00</b>
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<b>4.12</b>	<b>Shawn R. Redman</b> Nonpriority Creditor's Name <b>6200 Savoy Dr Ste 440</b> Number Street <u>Houston, TX 77036-3324</u> City State ZIP Code Who Incurred the debt? Check one. <input checked="" type="checkbox"/> Debtor 1 only <input type="checkbox"/> Debtor 2 only <input type="checkbox"/> Debtor 1 and Debtor 2 only <input type="checkbox"/> At least one of the debtors and another <input type="checkbox"/> Check If this claim is for a community debt Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	Last 4 digits of account number <u>0031</u> When was the debt incurred? <u>2016</u> As of the date you file, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Type of NONPRIORITY unsecured claim: <input type="checkbox"/> Student loans <input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims <input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts <input checked="" type="checkbox"/> Other. Specify <b>Credit Card</b>	<b>\$24,999.00</b>
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Debtor 1 Jesus Alfredo Virlar  
 First Name Middle Name Last Name

Case number (if known) 21-50753

**Part 2: Your NONPRIORITY Unsecured Claims - Continuation Page**

After listing any entries on this page, number them beginning with 4.5, followed by 4.6, and so forth.

Total claim

<b>4.13</b>	<b>Texas Inpatient Pediatric</b>	Last 4 digits of account number <u>719</u>	<b>\$1,625.00</b>
	Nonpriority Creditor's Name	When was the debt incurred? <u>2019</u>	
	<u>19223 Stonehew Ste 117</u>	As of the date you file, the claim is: Check all that apply.	
	Number Street	<input type="checkbox"/> Contingent	
	<u>San Antonio, TX 78258-3457</u>	<input type="checkbox"/> Unliquidated	
	City State ZIP Code	<input type="checkbox"/> Disputed	
	Who incurred the debt? Check one.	Type of NONPRIORITY unsecured claim:	
	<input checked="" type="checkbox"/> Debtor 1 only	<input type="checkbox"/> Student loans	
	<input type="checkbox"/> Debtor 2 only	<input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims	
	<input type="checkbox"/> Debtor 1 and Debtor 2 only	<input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts	
	<input type="checkbox"/> At least one of the debtors and another	<input checked="" type="checkbox"/> Other, Specify	
	<input type="checkbox"/> Check if this claim is for a community debt	Medical Bill	
	Is the claim subject to offset?		
	<input checked="" type="checkbox"/> No		
	<input type="checkbox"/> Yes		

<b>4.14</b>	<b>Verizon</b>	Last 4 digits of account number <u>0001</u>	<b>\$67.77</b>
	Nonpriority Creditor's Name	When was the debt incurred? _____	
	<u>c/o American InfoSource LP as Agent</u>	As of the date you file, the claim is: Check all that apply.	
	<u>4515 N Santa Fe Ave</u>	<input type="checkbox"/> Contingent	
	Number Street	<input type="checkbox"/> Unliquidated	
	<u>Oklahoma City, OK 73118-7901</u>	<input type="checkbox"/> Disputed	
	City State ZIP Code	Type of NONPRIORITY unsecured claim:	
	Who incurred the debt? Check one.	<input type="checkbox"/> Student loans	
	<input checked="" type="checkbox"/> Debtor 1 only	<input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims	
	<input type="checkbox"/> Debtor 2 only	<input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts	
	<input type="checkbox"/> Debtor 1 and Debtor 2 only	<input checked="" type="checkbox"/> Other, Specify	
	<input type="checkbox"/> At least one of the debtors and another		
	<input type="checkbox"/> Check if this claim is for a community debt		
	Is the claim subject to offset?		
	<input checked="" type="checkbox"/> No		
	<input type="checkbox"/> Yes		

Debtor 1 Jesus Alfredo Virjar  
First Name Middle Name Last Name

Case number (if known) 21-50753

**Part 3: List Others to Be Notified About a Debt That You Already Listed**

5. Use this page only if you have others to be notified about your bankruptcy, for a debt that you already listed in Parts 1 or 2. For example, if a collection agency is trying to collect from you for a debt you owe to someone else, list the original creditor in Parts 1 or 2, then list the collection agency here. Similarly, if you have more than one creditor for any of the debts that you listed in Parts 1 or 2, list the additional creditors here. If you do not have additional persons to be notified for any debts in Parts 1 or 2, do not fill out or submit this page.

Attorney General of the U.S.  
Name  
Department of Justice  
950 Pennsylvania Ave Nw  
Number Street  
Washington, DC 20530-0001  
City State ZIP Code

On which entry in Part 1 or Part 2 did you list the original creditor?  
Line 2.4 of (Check one):  Part 1: Creditors with Priority Unsecured Claims  
 Part 2: Creditors with Nonpriority Unsecured Claims  
Last 4 digits of account number \_\_\_\_\_

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Number Street  
\_\_\_\_\_  
City State ZIP Code

On which entry in Part 1 or Part 2 did you list the original creditor?  
Line \_\_\_\_\_ of (Check one):  Part 1: Creditors with Priority Unsecured Claims  
 Part 2: Creditors with Nonpriority Unsecured Claims  
Last 4 digits of account number \_\_\_\_\_

Debtor 1 Jesus Alfredo Virjar  
 First Name Middle Name Last Name

Case number (if known) 21-50753

**Part 4: Add the Amounts for Each Type of Unsecured Claim**

6. Total the amounts of certain types of unsecured claims. This information is for statistical reporting purposes only, 28 U.S.C. §159. Add the amounts for each type of unsecured claim.

		Total claim	
<b>Total claims from Part 1</b>	6a. Domestic support obligations	6a.	<u>\$617.88</u>
	6b. Taxes and certain other debts you owe the government	6b.	<u>\$74,014.68</u>
	6c. Claims for death or personal injury while you were intoxicated	6c.	<u>\$0.00</u>
	6d. Other. Add all other priority unsecured claims. Write that amount here.	6d. +	<u>\$19,500,000.00</u>
	6e. Total. Add lines 6a through 6d.	6e.	<u>\$19,574,632.56</u>

		Total claim	
<b>Total claims from Part 2</b>	6f. Student loans	6f.	<u>\$0.00</u>
	6g. Obligations arising out of a separation agreement or divorce that you did not report as priority claims	6g.	<u>\$0.00</u>
	6h. Debts to pension or profit-sharing plans, and other similar debts	6h.	<u>\$0.00</u>
	6i. Other. Add all other nonpriority unsecured claims. Write that amount here.	6i. +	<u>\$14,565,005.94</u>
	6j. Total. Add lines 6f through 6i.	6j.	<u>\$14,565,005.94</u>

**Fill in this information to identify your case:**

Debtor 1	<u>Jesus</u>	<u>Alfredo</u>	<u>Viriar</u>
	First Name	Middle Name	Last Name
Debtor 2 (Spouse, if filing)	_____	_____	_____
	First Name	Middle Name	Last Name
United States Bankruptcy Court for the:	<u>Western District of Texas</u>		
Case number (if known)	<u>21-50753</u>		

Check if this is:  
 An amended filing  
 A supplement showing postpetition chapter 13 income as of the following date:  
 \_\_\_\_\_  
 MM / DD / YYYY

Official Form 106I

**Schedule I: Your Income**

12/15

Be as complete and accurate as possible. If two married people are filing together (Debtor 1 and Debtor 2), both are equally responsible for supplying correct information. If you are married and not filing jointly, and your spouse is living with you, include information about your spouse. If you are separated and your spouse is not filing with you, do not include information about your spouse. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

**Part 1: Describe Employment**

1. Fill in your employment information.

If you have more than one job, attach a separate page with information about additional employers.  
 Include part time, seasonal, or self-employed work.  
 Occupation may include student or homemaker, if it applies.

Employment status  
 Occupation  
 Employer's name  
 Employer's address

Debtor 1	Debtor 2 or non-filing spouse
<input checked="" type="checkbox"/> Employed <input type="checkbox"/> Not Employed	<input type="checkbox"/> Employed <input type="checkbox"/> Not Employed
<u>Retail Sales</u>	_____
<u>Viriar Automotive Group LTD</u>	_____
<u>5819 Mcpherson Rd</u> Number Street	_____
_____	_____
_____	_____
<u>Laredo, TX 78041-6842</u> City State Zip Code	_____
_____	_____
How long employed there? <u>2 years</u>	_____

**Part 2: Give Details About Monthly Income**

Estimate monthly income as of the date you file this form. If you have nothing to report for any line, write \$0 in the space. Include your non-filing spouse unless you are separated.  
 If you or your non-filing spouse have more than one employer, combine the information for all employers for that person on the lines below. If you need more space, attach a separate sheet to this form.

	For Debtor 1	For Debtor 2 or non-filing spouse
2. List monthly gross wages, salary, and commissions (before all payroll deductions.) If not paid monthly, calculate what the monthly wage would be.	2. <u>\$2,400.00</u>	<u>\$0.00</u>
3. Estimate and list monthly overtime pay.	3. + <u>\$0.00</u>	+ <u>\$0.00</u>
4. Calculate gross income. Add line 2 + line 3.	4. <u>\$2,400.00</u>	<u>\$0.00</u>



Debtor 1 Jesus Alfredo Vitar Case number (if known) 21-50753  
 First Name Middle Name Last Name

		For Debtor 1	For Debtor 2 or non-filing spouse
Copy line 4 here.....→	4.	\$2,400.00	\$0.00
<b>5. List all payroll deductions:</b>			
5a. Tax, Medicare, and Social Security deductions	5a.	\$305.00	\$0.00
5b. Mandatory contributions for retirement plans	5b.	\$0.00	\$0.00
5c. Voluntary contributions for retirement plans	5c.	\$0.00	\$0.00
5d. Required repayments of retirement fund loans	5d.	\$0.00	\$0.00
5e. Insurance	5e.	\$0.00	\$0.00
5f. Domestic support obligations	5f.	\$734.00	\$0.00
5g. Union dues	5g.	\$0.00	\$0.00
5h. Other deductions. Specify: <u>Medicare</u>	5h.	+ \$35.00	+ \$0.00
6. Add the payroll deductions. Add lines 5a + 5b + 5c + 5d + 5e + 5f + 5g + 5h.	6.	\$1,074.00	\$0.00
7. Calculate total monthly take-home pay. Subtract line 6 from line 4.	7.	\$1,326.00	\$0.00
<b>8. List all other income regularly received:</b>			
8a. Net income from rental property and from operating a business, profession, or farm Attach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income.	8a.	\$0.00	\$0.00
8b. Interest and dividends	8b.	\$0.00	\$0.00
8c. Family support payments that you, a non-filing spouse, or a dependent regularly receive Include alimony, spousal support, child support, maintenance, divorce settlement, and property settlement.	8c.	\$0.00	\$0.00
8d. Unemployment compensation	8d.	\$0.00	\$0.00
8e. Social Security	8e.	\$0.00	\$0.00
8f. Other government assistance that you regularly receive Include cash assistance and the value (if known) of any non-cash assistance that you receive, such as food stamps (benefits under the Supplemental Nutrition Assistance Program) or housing subsidies. Specify: _____	8f.	\$0.00	\$0.00
8g. Pension or retirement income	8g.	\$0.00	\$0.00
8h. Other monthly income. Specify: _____	8h.	+ \$0.00	+ \$0.00
9. Add all other income. Add lines 8a + 8b + 8c + 8d + 8e + 8f + 8g + 8h.	9.	\$0.00	\$0.00
10. Calculate monthly income. Add line 7 + line 9. Add the entries in line 10 for Debtor 1 and Debtor 2 or non-filing spouse	10.	\$1,326.00	\$0.00
		+	=
		\$1,326.00	\$1,326.00
<b>11. State all other regular contributions to the expenses that you list in Schedule J.</b> Include contributions from an unmarried partner, members of your household, your dependents, your roommates, and other friends or relatives. Do not include any amounts already included in lines 2-10 or amounts that are not available to pay expenses listed in Schedule J. Specify: _____	11.	+ \$0.00	
12. Add the amount in the last column of line 10 to the amount in line 11. The result is the combined monthly income. Write that amount on the Summary of Your Assets and Liabilities and Certain Statistical Information, if it applies	12.	\$1,326.00	
		<b>Combined monthly income</b>	
13. Do you expect an increase or decrease within the year after you file this form? <input checked="" type="checkbox"/> No. <input type="checkbox"/> Yes. Explain: _____			

**Fill in this information to identify your case:**

Debtor 1	<u>Jesus</u>	<u>Alfredo</u>	<u>Virlar</u>
	First Name	Middle Name	Last Name
Debtor 2 (Spouse, if filing)	_____	_____	_____
	First Name	Middle Name	Last Name
United States Bankruptcy Court for the:	<u>Western District of Texas</u>		
Case number (if known)	<u>21-50753</u>		

Check if this is:

- An amended filing  
 A supplement showing postpetition chapter 13 income as of the following date:

\_\_\_\_\_  
MM / DD / YYYY

Official Form 106J

**Schedule J: Your Expenses**

12/15

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach another sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

**Part 1: Describe Your Household**

1. Is this a joint case?

- No. Go to line 2.  
 Yes. Does Debtor 2 live in a separate household?  
 No  
 Yes. Debtor 2 must file Official Form 106J-2, *Expenses for Separate Household of Debtor 2*.

2. Do you have dependents?

Do not list Debtor 1 and Debtor 2.  
Do not state the dependents' names.

- No  
 Yes. Fill out this information for each dependent.....

Dependent's relationship to Debtor 1 or Debtor 2	Dependent's age	Does dependent live with you?
<u>Child</u>	<u>2</u>	<input checked="" type="checkbox"/> No. <input type="checkbox"/> Yes.
<u>Child</u>	<u>1</u>	<input checked="" type="checkbox"/> No. <input type="checkbox"/> Yes.
_____	_____	<input type="checkbox"/> No. <input type="checkbox"/> Yes.
_____	_____	<input type="checkbox"/> No. <input type="checkbox"/> Yes.
_____	_____	<input type="checkbox"/> No. <input type="checkbox"/> Yes.

3. Do your expenses include expenses of people other than yourself and your dependents?  
 No  
 Yes

**Part 2: Estimate Your Ongoing Monthly Expenses**

Estimate your expenses as of your bankruptcy filing date unless you are using this form as a supplement in a Chapter 13 case to report expenses as of a date after the bankruptcy is filed. If this is a supplemental *Schedule J*, check the box at the top of the form and fill in the applicable date.

Include expenses paid for with non-cash government assistance if you know the value of such assistance and have included it on *Schedule I: Your Income* (Official Form 106I.)

	Your expenses
4. The rental or home ownership expenses for your residence. Include first mortgage payments and any rent for the ground or lot.	4. <u>\$0.00</u>
<b>If not included in line 4:</b>	
4a. Real estate taxes	4a. <u>\$1,375.00</u>
4b. Property, homeowner's, or renter's insurance	4b. <u>\$504.00</u>
4c. Home maintenance, repair, and upkeep expenses	4c. <u>\$100.00</u>
4d. Homeowner's association or condominium dues	4d. <u>\$55.00</u>

Debtor 1 Jesus Alfredo Virlar  
 First Name Middle Name Last Name

Case number (if known) 21-50753

		Your expenses
5.	<b>Additional mortgage payments for your residence, such as home equity loans</b>	5. <u>\$0.00</u>
6.	<b>Utilities:</b>	
6a.	Electricity, heat, natural gas	6a. <u>\$120.00</u>
6b.	Water, sewer, garbage collection	6b. <u>\$80.00</u>
6c.	Telephone, cell phone, internet, satellite, and cable services	6c. <u>\$55.00</u>
6d.	Other. Specify: _____	6d. <u>\$0.00</u>
7.	<b>Food and housekeeping supplies</b>	7. <u>\$300.00</u>
8.	<b>Childcare and children's education costs</b>	8. <u>\$0.00</u>
9.	<b>Clothing, laundry, and dry cleaning</b>	9. <u>\$25.00</u>
10.	<b>Personal care products and services</b>	10. <u>\$40.00</u>
11.	<b>Medical and dental expenses</b>	11. <u>\$0.00</u>
12.	<b>Transportation.</b> Include gas, maintenance, bus or train fare. Do not include car payments.	12. <u>\$100.00</u>
13.	<b>Entertainment, clubs, recreation, newspapers, magazines, and books</b>	13. <u>\$10.00</u>
14.	<b>Charitable contributions and religious donations</b>	14. <u>\$0.00</u>
15.	<b>Insurance.</b> Do not include insurance deducted from your pay or included in lines 4 or 20.	
15a.	Life insurance	15a. <u>\$0.00</u>
15b.	Health insurance	15b. <u>\$0.00</u>
15c.	Vehicle insurance	15c. <u>\$0.00</u>
15d.	Other insurance. Specify: <u>Dental and Vision</u>	15d. <u>\$32.98</u>
16.	<b>Taxes.</b> Do not include taxes deducted from your pay or included in lines 4 or 20. Specify: _____	16. <u>\$0.00</u>
17.	<b>Installment or lease payments:</b>	
17a.	Car payments for Vehicle 1	17a. <u>\$0.00</u>
17b.	Car payments for Vehicle 2	17b. <u>\$0.00</u>
17c.	Other. Specify: _____	17c. <u>\$0.00</u>
17d.	Other. Specify: _____	17d. <u>\$0.00</u>
18.	<b>Your payments of alimony, maintenance, and support that you did not report as deducted from your pay on line 5, Schedule I, Your Income (Official Form 106I).</b>	18. <u>\$0.00</u>
19.	<b>Other payments you make to support others who do not live with you.</b> Specify: _____	19. <u>\$0.00</u>
20.	<b>Other real property expenses not included in lines 4 or 5 of this form or on Schedule I: Your Income.</b>	
20a.	Mortgages on other property	20a. <u>\$0.00</u>
20b.	Real estate taxes	20b. <u>\$0.00</u>
20c.	Property, homeowner's, or renter's insurance	20c. <u>\$0.00</u>
20d.	Maintenance, repair, and upkeep expenses	20d. <u>\$0.00</u>
20e.	Homeowner's association or condominium dues	20e. <u>\$0.00</u>

Debtor 1 Jesus Alfredo Viriar  
 First Name Middle Name Last Name

Case number (if known) 21-50753

21. Other. Specify: <u>College School Loan</u>	21. + <u>\$100.00</u>
22. Calculate your monthly expenses.	
22a. Add lines 4 through 21.	22a. <u>\$2,896.98</u>
22b. Copy line 22 (monthly expenses for Debtor 2), if any, from Official Form 106J-2	22b. <u>\$0.00</u>
22c. Add line 22a and 22b. The result is your monthly expenses.	22c. <u>\$2,896.98</u>
23. Calculate your monthly net income.	
23a. Copy line 12 (your combined monthly income) from <i>Schedule I</i> .	23a. <u>\$1,326.00</u>
23b. Copy your monthly expenses from line 22c above.	23b. <u>\$2,896.98</u>
23c. Subtract your monthly expenses from your monthly income. The result is your <i>monthly net income</i> .	23c. <u>(\$1,570.98)</u>

24. Do you expect an increase or decrease in your expenses within the year after you file this form?

For example, do you expect to finish paying for your car loan within the year or do you expect your mortgage payment to increase or decrease because of a modification to the terms of your mortgage?

No.

Yes.

Explain here:  
 Expenses to increase to pay federal government 19 Million for healthcare fraud.

Fill in this information to identify your case:

Debtor 1	<u>Jesus</u>	<u>Alfredo</u>	<u>Virlar</u>
	First Name	Middle Name	Last Name
Debtor 2 (Spouse, if filing)	_____	_____	_____
	First Name	Middle Name	Last Name
United States Bankruptcy Court for the:	<u>Western District of Texas</u>		
Case number (if known)	<u>21-50753</u>		

Check if this is an amended filing

Official Form 106Sum

**Summary of Your Assets and Liabilities and Certain Statistical Information**

12/15

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. Fill out all of your schedules first; then complete the information on this form. If you are filing amended schedules after you file your original forms, you must fill out a new Summary and check the box at the top of this page.

**Part 1: Summarize Your Assets**

		Your assets Value of what you own
<b>1. Schedule A/B: Property</b> (Official Form 106A/B)		
1a. Copy line 55, Total real estate, from Schedule A/B.....	_____	\$630,000.00
1b. Copy line 62, Total personal property, from Schedule A/B.....	_____	\$28,534.26
1c. Copy line 63, Total of all property on Schedule A/B.....	_____	<b>\$658,534.26</b>

**Part 2: Summarize Your Liabilities**

		Your liabilities Amount you owe
<b>2. Schedule D: Creditors Who Have Claims Secured by Property</b> (Official Form 106D)		
2a. Copy the total you listed in Column A, Amount of claim, at the bottom of the last page of Part 1 of Schedule D.....	_____	\$138,079.56
<b>3. Schedule E/F: Creditors Who Have Unsecured Claims</b> (Official Form 106E/F)		
3a. Copy the total claims from Part 1 (priority unsecured claims) from line 6e of Schedule E/F.....	_____	<b>\$19,574,632.56</b>
3b. Copy the total claims from Part 2 (nonpriority unsecured claims) from line 6j of Schedule E/F.....	_____	<b>+</b> \$14,565,005.94
<b>Your total liabilities</b>	_____	<b>\$34,277,718.06</b>

**Part 3: Summarize Your Income and Expenses**

<b>4. Schedule I: Your Income</b> (Official Form 106I)		
Copy your combined monthly income from line 12 of Schedule I.....	_____	\$1,326.00
<b>5. Schedule J: Your Expenses</b> (Official Form 106J)		
Copy your monthly expenses from line 22c of Schedule J.....	_____	\$2,896.98

Debtor 1 Jesus Alfredo Virlar  
 First Name Middle Name Last Name

Case number (if known) 21-50753

**Part 4: Answer These Questions for Administrative and Statistical Records**

6. Are you filing for bankruptcy under Chapters 7, 11, or 13?

- No. You have nothing to report on this part of the form. Check this box and submit this form to the court with your other schedules.  
 Yes

7. What kind of debt do you have?

- Your debts are primarily consumer debts. *Consumer debts* are those "incurred by an individual primarily for a personal, family, or household purpose." 11 U.S.C. § 101(8). Fill out lines 8-9g for statistical purposes. 28 U.S.C. § 159.  
 Your debts are not primarily consumer debts. You have nothing to report on this part of the form. Check this box and submit this form to the court with your other schedules.

8. From the *Statement of Your Current Monthly Income*: Copy your total current monthly income from Official Form 122A-1 Line 11; OR, Form 122B Line 11; OR, Form 122C-1 Line 14.

_____
-------

9. Copy the following special categories of claims from Part 4, line 6 of Schedule E/F:

**Total claim**

**From Part 4 on Schedule E/F, copy the following:**

9a. Domestic support obligations (Copy line 6a.)	_____	
9b. Taxes and certain other debts you owe the government. (Copy line 6b.)	_____	
9c. Claims for death or personal injury while you were intoxicated. (Copy line 6c.)	_____	
9d. Student loans. (Copy line 6f.)	_____	
9e. Obligations arising out of a separation agreement or divorce that you did not report as priority claims. (Copy line 6g.)	_____	
9f. Debts to pension or profit-sharing plans, and other similar debts. (Copy line 6h.)	+ _____	
9g. <b>Total.</b> Add lines 9a through 9f.	<table border="1" style="width: 100%; height: 30px;"> <tr> <td style="text-align: center;">_____</td> </tr> </table>	_____
_____		

Fill in this information to identify your case:

Debtor 1	<u>Jesus</u>	<u>Alfredo</u>	<u>Virlar</u>
	First Name	Middle Name	Last Name
Debtor 2 (Spouse, if filing)	_____	_____	_____
	First Name	Middle Name	Last Name
United States Bankruptcy Court for the:	<u>Western District of Texas</u>		
Case number (if known)	<u>21-50753</u>		

Check if this is an amended filing

Official Form 106Dec

**Declaration About an Individual Debtor's Schedules**

12/15

If two married people are filing together, both are equally responsible for supplying correct information.

You must file this form whenever you file bankruptcy schedules or amended schedules. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Sign Below

Did you pay or agree to pay someone who is NOT an attorney to help you fill out bankruptcy forms?

No

Yes. Name of person \_\_\_\_\_ Attach Bankruptcy Petition Preparer's Notice, Declaration, and Signature (Official Form 119).

Under penalty of perjury, I declare that I have read the summary and schedules filed with this declaration and that they are true and correct.

**X** /s/ Jesus Alfredo Virlar  
Jesus Alfredo Virlar, Debtor 1

Date 10/15/2021  
MM/ DD/ YYYY

Fill in this information to identify your case:

Debtor 1	<u>Jesus</u>	<u>Alfredo</u>	<u>Virlar</u>
	First Name	Middle Name	Last Name
Debtor 2 (Spouse, if filing)	_____	_____	_____
	First Name	Middle Name	Last Name
United States Bankruptcy Court for the:	<u>Western District of Texas</u>		
Case number (if known)	<u>21-50753</u>		

Check if this is an amended filing

Official Form 107

**Statement of Financial Affairs for Individuals Filing for Bankruptcy**

04/19

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

**Part 1: Give Details About Your Marital Status and Where You Lived Before**

1. What is your current marital status?

- Married  
 Not married

2. During the last 3 years, have you lived anywhere other than where you live now?

- No  
 Yes. List all of the places you lived in the last 3 years. Do not include where you live now.

Debtor 1:	Dates Debtor 1 lived there	Debtor 2:	Dates Debtor 2 lived there
	<input type="checkbox"/> Same as Debtor 1		<input type="checkbox"/> Same as Debtor 1
_____	From _____	_____	From _____
Number Street	To _____	Number Street	To _____
_____		_____	
City State ZIP Code		City State ZIP Code	
	<input type="checkbox"/> Same as Debtor 1		<input type="checkbox"/> Same as Debtor 1
_____	From _____	_____	From _____
Number Street	To _____	Number Street	To _____
_____		_____	
City State ZIP Code		City State ZIP Code	

3. Within the last 8 years, did you ever live with a spouse or legal equivalent in a community property state or territory? (Community property states and territories include Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, and Wisconsin.)

- No  
 Yes. Make sure you fill out *Schedule H: Your Codebtors* (Official Form 106H).





Debtor 1 Jesus Alfredo Virlar  
 First Name Middle Name Last Name

Case number (if known) 21-50753

**Part 3: List Certain Payments You Made Before You Filed for Bankruptcy**

**6. Are either Debtor 1's or Debtor 2's debts primarily consumer debts?**

No. Neither Debtor 1 nor Debtor 2 has primarily consumer debts. *Consumer debts* are defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."

During the 90 days before you filed for bankruptcy, did you pay any creditor a total of \$6,825\* or more?

No. Go to line 7.

Yes. List below each creditor to whom you paid a total of \$6,825\* or more in one or more payments and the total amount you paid that creditor. Do not include payments for domestic support obligations, such as child support and alimony. Also, do not include payments to an attorney for this bankruptcy case.

\* Subject to adjustment on 4/01/22 and every 3 years after that for cases filed on or after the date of adjustment.

Yes. Debtor 1 or Debtor 2 or both have primarily consumer debts.

During the 90 days before you filed for bankruptcy, did you pay any creditor a total of \$600 or more?

No. Go to line 7.

Yes. List below each creditor to whom you paid a total of \$600 or more and the total amount you paid that creditor. Do not include payments for domestic support obligations, such as child support and alimony. Also, do not include payments to an attorney for this bankruptcy case.

	Dates of payment	Total amount paid	Amount you still owe	Was this payment for...
<u>Knight, Tina</u> Creditor's Name <u>24306 Grace Park</u> Number Street <u>San Antonio, TX 78255</u> City State ZIP Code	<u>02/06/2020</u>	<u>\$60,000.00</u>	<u>\$15,000.00</u>	<input type="checkbox"/> Mortgage <input type="checkbox"/> Car <input type="checkbox"/> Credit card <input type="checkbox"/> Loan repayment <input type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Divorce <input checked="" type="checkbox"/> Other <u>Settlement</u>
<u>Wells Fargo Home Mortgage</u> Creditor's Name <u>Po Box 10335</u> Number Street <u>Des Moines, IA 50306-0335</u> City State ZIP Code	<u>02/11/2020</u>	<u>\$52,652.00</u>	<u>\$0.00</u>	<input checked="" type="checkbox"/> Mortgage <input type="checkbox"/> Car <input type="checkbox"/> Credit card <input type="checkbox"/> Loan repayment <input type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Other _____
<u>Bexar County Tax Assessor-Collector</u> Creditor's Name Attn: Bankruptcy Dept. <u>Vista Verde Plaza Bldg.</u> <u>233 N Pecos La Trinidad</u> Number Street <u>San Antonio, TX 78207-3175</u> City State ZIP Code	<u>02/05/2020</u>	<u>\$16,977.00</u>		<input type="checkbox"/> Mortgage <input type="checkbox"/> Car <input type="checkbox"/> Credit card <input type="checkbox"/> Loan repayment <input type="checkbox"/> Suppliers or vendors <input checked="" type="checkbox"/> Other <u>Property Taxes</u>

Debtor 1 Jesus Alfredo Virlar Case number (if known) 21-50753  
 First Name Middle Name Last Name

**7. Within 1 year before you filed for bankruptcy, did you make a payment on a debt you owed anyone who was an Insider?**

*Insiders* include your relatives; any general partners; relatives of any general partners; partnerships of which you are a general partner; corporations of which you are an officer, director, person in control, or owner of 20% or more of their voting securities; and any managing agent, including one for a business you operate as a sole proprietor. 11 U.S.C. § 101. Include payments for domestic support obligations, such as child support and alimony.

No

Yes. List all payments to an insider.

Dates of payment	Total amount paid	Amount you still owe	Reason for this payment
Insider's Name			
Number Street			
City State ZIP Code			

**8. Within 1 year before you filed for bankruptcy, did you make any payments or transfer any property on account of a debt that benefited an Insider?**

Include payments on debts guaranteed or cosigned by an insider.

No

Yes. List all payments that benefited an insider.

Dates of payment	Total amount paid	Amount you still owe	Reason for this payment Include creditor's name
<u>Virlar Automotive Group, Ltd.</u> Insider's Name	<u>02/06/2020</u>	<u>\$150,000.00</u>	Repayment of Debt from undergraduate, medical school and from residency to Jesus A. Virlar and Maria I. Virlar. (Note, Jesus A. Virlar claims \$15,000 is still owed but Debtor is unsure).
<u>5819 McPherson</u> Number Street		<u>\$15,000.00</u>	
<u>Laredo, TX 78041</u> City State ZIP Code			

**Part 4: Identify Legal Actions, Repossessions, and Foreclosures**

**9. Within 1 year before you filed for bankruptcy, were you a party in any lawsuit, court action, or administrative proceeding?**

List all such matters, including personal injury cases, small claims actions, divorces, collection suits, paternity actions, support or custody modifications, and contract disputes.

No

Yes. Fill in the details.

Debtor 1 Jesus Alfredo Virlar Case number (if known) 21-50753  
 First Name Middle Name Last Name

Nature of the case	Court or agency	Status of the case
Case title <u>Bank of America v. Jesus Alfredo Virlar Cadena</u> Case number <u>2021CV00031</u> Consumer Credit Card Debt Lawsuit	<u>County Court 3</u> Court Name <u>Bexar County Courthouse</u> Number Street <u>100 Dolorosa B.21</u> <u>San Antonio, TX 78205-3038</u> City State ZIP Code	<input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input checked="" type="checkbox"/> Concluded
Case title <u>Jesus Virlar MD, GMG Health System dba Gonzaba Medical Group v. Jo Ann Puente</u> Case number _____ Medical Malpractice	<u>Texas Supreme Court</u> Court Name <u>201 W. 14th Street, Room 104</u> Number Street <u>Austin, TX 78701</u> City State ZIP Code	<input type="checkbox"/> Pending <input checked="" type="checkbox"/> On appeal <input type="checkbox"/> Concluded
Case title <u>U.S.A. v Virlar-Cadena</u> Case number <u>1:19-cr-00557</u> Criminal Prosecution	<u>Southern District of Texas</u> Court Name <u>515 Rusk St, Houston</u> Number Street <u>Houston, TX 77002</u> City State ZIP Code	<input checked="" type="checkbox"/> Pending <input type="checkbox"/> On appeal <input type="checkbox"/> Concluded

10. Within 1 year before you filed for bankruptcy, was any of your property repossessed, foreclosed, garnished, attached, seized, or levied? Check all that apply and fill in the details below.

- No. Go to line 11.  
 Yes. Fill in the information below.

Describe the property	Date	Value of the property
<u>Internal Revenue Service</u> Creditor's Name <u>Attn Aur</u> Number Street _____ <u>Austin, TX 73301-0001</u> City State ZIP Code	<u>17827 Salado Draw, San Antonio, TX 78258, \$135,000 tax lien.</u> <u>2020</u>	<u>\$630,000.00</u>
<b>Explain what happened</b> <input type="checkbox"/> Property was repossessed. <input type="checkbox"/> Property was foreclosed. <input type="checkbox"/> Property was garnished. <input checked="" type="checkbox"/> Property was attached, seized, or levied.		

11. Within 90 days before you filed for bankruptcy, did any creditor, including a bank or financial institution, set off any amounts from your accounts or refuse to make a payment because you owed a debt?

- No  
 Yes. Fill in the details.

Debtor 1 Jesus Alfredo Villar Case number (if known) 21-50753  
 First Name Middle Name Last Name

Creditor's Name		Describe the action the creditor took	Date action was taken	Amount
Number	Street			
City	State	ZIP Code		
Last 4 digits of account number: XXXX- _ _ _ _				

12. Within 1 year before you filed for bankruptcy, was any of your property in the possession of an assignee for the benefit of creditors, a court-appointed receiver, a custodian, or another official?  
 No  
 Yes

**Part 5: List Certain Gifts and Contributions**

13. Within 2 years before you filed for bankruptcy, did you give any gifts with a total value of more than \$600 per person?  
 No  
 Yes. Fill in the details for each gift.

Gifts with a total value of more than \$600 per person	Describe the gifts	Dates you gave the gifts	Value
Person to Whom You Gave the Gift			
Number Street			
City State ZIP Code			
Person's relationship to you _____			

14. Within 2 years before you filed for bankruptcy, did you give any gifts or contributions with a total value of more than \$600 to any charity?  
 No  
 Yes. Fill in the details for each gift or contribution.

Debtor 1 Jesus Alfredo Villar Case number (if known) 21-50753  
 First Name Middle Name Last Name

Gifts or contributions to charities that total more than \$600	Describe what you contributed	Date you contributed	Value
Charity's Name			
Number Street			
City State ZIP Code			

**Part 6: List Certain Losses**

15. Within 1 year before you filed for bankruptcy or since you filed for bankruptcy, did you lose anything because of theft, fire, other disaster, or gambling?

- No  
 Yes. Fill in the details.

Describe the property you lost and how the loss occurred	Describe any insurance coverage for the loss Include the amount that insurance has paid. List pending insurance claims on line 33 of <i>Schedule A/B: Property</i> .	Date of your loss	Value of property lost

**Part 7: List Certain Payments or Transfers**

16. Within 1 year before you filed for bankruptcy, did you or anyone else acting on your behalf pay or transfer any property to anyone you consulted about seeking bankruptcy or preparing a bankruptcy petition?

Include any attorneys, bankruptcy petition preparers, or credit counseling agencies for services required in your bankruptcy.

- No  
 Yes. Fill in the details.

Person Who Was Paid	Description and value of any property transferred	Date payment or transfer was made	Amount of payment
Number Street			
City State ZIP Code			
Email or website address			
Person Who Made the Payment, if Not You			

Debtor 1 Jesus Alfredo Virlar  
 First Name Middle Name Last Name

Case number (if known) 21-50753

17. Within 1 year before you filed for bankruptcy, did you or anyone else acting on your behalf pay or transfer any property to anyone who promised to help you deal with your creditors or to make payments to your creditors?  
 Do not include any payment or transfer that you listed on line 16.

- No  
 Yes. Fill in the details.

Person Who Was Paid	Description and value of any property transferred	Date payment or transfer was made	Amount of payment
Number Street			
City State ZIP Code			

18. Within 2 years before you filed for bankruptcy, did you sell, trade, or otherwise transfer any property to anyone, other than property transferred in the ordinary course of your business or financial affairs?  
 Include both outright transfers and transfers made as security (such as the granting of a security interest or mortgage on your property).  
 Do not include gifts and transfers that you have already listed on this statement.

- No  
 Yes. Fill in the details.

Person Who Received Transfer	Description and value of property transferred	Describe any property or payments received or debts paid in exchange	Date transfer was made
Number Street			
City State ZIP Code			
Person's relationship to you _____			

19. Within 10 years before you filed for bankruptcy, did you transfer any property to a self-settled trust or similar device of which you are a beneficiary? (These are often called *asset-protection devices*.)

- No  
 Yes. Fill in the details.

Description and value of the property transferred	Date transfer was made
Name of trust _____	

Debtor 1 Jesus Alfredo Virlar  
 First Name Middle Name Last Name

Case number (if known) 21-50753

**Part 8: List Certain Financial Accounts, Instruments, Safe Deposit Boxes, and Storage Units**

20. Within 1 year before you filed for bankruptcy, were any financial accounts or instruments held in your name, or for your benefit, closed, sold, moved, or transferred?

Include checking, savings, money market, or other financial accounts; certificates of deposit; shares in banks, credit unions, brokerage houses, pension funds, cooperatives, associations, and other financial institutions.

- No  
 Yes. Fill in the details.

Last 4 digits of account number	Type of account or instrument	Date account was closed, sold, moved, or transferred	Last balance before closing or transfer
---------------------------------	-------------------------------	--	---

Name of Financial Institution

XXXX- \_ \_ \_ \_

- Checking  
 Savings  
 Money market  
 Brokerage  
 Other \_\_\_\_\_

Number Street

City State ZIP Code

21. Do you now have, or did you have within 1 year before you filed for bankruptcy, any safe deposit box or other depository for securities, cash, or other valuables?

- No  
 Yes. Fill in the details.

Who else had access to it?	Describe the contents	Do you still have it?
----------------------------	-----------------------	-----------------------

Name of Financial Institution

Name

- No  
 Yes

Number Street

Number Street

City State ZIP Code

City State ZIP Code

22. Have you stored property in a storage unit or place other than your home within 1 year before you filed for bankruptcy?

- No  
 Yes. Fill in the details.

Who else has or had access to it?	Describe the contents	Do you still have it?
-----------------------------------	-----------------------	-----------------------

Name of Storage Facility

Name

- No  
 Yes

Number Street

Number Street

City State ZIP Code

City State ZIP Code



Debtor 1 Jesus Alfredo Virlar  
 First Name Middle Name Last Name

Case number (if known) 21-50753

**Part 9: Identify Property You Hold or Control for Someone Else**

23. Do you hold or control any property that someone else owns? Include any property you borrowed from, are storing for, or hold in trust for someone.

- No  
 Yes. Fill in the details.

Where is the property?	Describe the property	Value
Knight, Tina Owner's Name _____ Number Street _____ 24306 Grace Park Number Street _____ _____ City State ZIP Code _____ San Antonio, TX 78255 City State ZIP Code	USAA, account number xxxxxx1541 was shared by Debtor	_____
Knight, Tina Owner's Name _____ Number Street _____ 24306 Grace Park Number Street _____ _____ City State ZIP Code _____ San Antonio, TX 78255 City State ZIP Code	USAA, account number xxxxxx4614 had debtor on the account but debtor did deposits funds.	_____
Jesus Antonio Virlar Owner's Name _____ Number Street _____ 5819 Mcpherson Number Street _____ _____ City State ZIP Code _____ Laredo, TX 78041 City State ZIP Code	2017 Tundra owned by Jesus A. Virlar and loaned to Debtor to drive.	_____

**Part 10: Give Details About Environmental Information**

For the purpose of Part 10, the following definitions apply:

- *Environmental law* means any federal, state, or local statute or regulation concerning pollution, contamination, releases of hazardous or toxic substances, wastes, or material into the air, land, soil, surface water, groundwater, or other medium, including statutes or regulations controlling the cleanup of these substances, wastes, or material.
- *Site* means any location, facility, or property as defined under any environmental law, whether you now own, operate, or utilize it or used to own, operate, or utilize it, including disposal sites.
- *Hazardous material* means anything an environmental law defines as a hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, contaminant, or similar term.

Report all notices, releases, and proceedings that you know about, regardless of when they occurred.

24. Has any governmental unit notified you that you may be liable or potentially liable under or in violation of an environmental law?

- No  
 Yes. Fill in the details.

Debtor 1 Jesus Alfredo Virlar Case number (if known) 21-50753  
 First Name Middle Name Last Name

Governmental unit		Environmental law, if you know it		Date of notice
Name of site		Governmental unit		
Number	Street	Number	Street	
		City	State	ZIP Code
City	State	ZIP Code		

25. Have you notified any governmental unit of any release of hazardous material?

- No  
 Yes. Fill in the details.

Governmental unit		Environmental law, if you know it		Date of notice
Name of site		Governmental unit		
Number	Street	Number	Street	
		City	State	ZIP Code
City	State	ZIP Code		

26. Have you been a party in any judicial or administrative proceeding under any environmental law? Include settlements and orders.

- No  
 Yes. Fill in the details.

Court or agency		Nature of the case	Status of the case
Case title			<input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input type="checkbox"/> Concluded
Court Name			
Number	Street		
Case number	City	State	ZIP Code

Debtor 1 Jesus Alfredo Virjar  
 First Name Middle Name Last Name

Case number (if known) 21-50753

**Part 11: Give Details About Your Business or Connections to Any Business**

27. Within 4 years before you filed for bankruptcy, did you own a business or have any of the following connections to any business?

- A sole proprietor or self-employed in a trade, profession, or other activity, either full-time or part-time
- A member of a limited liability company (LLC) or limited liability partnership (LLP)
- A partner in a partnership
- An officer, director, or managing executive of a corporation
- An owner of at least 5% of the voting or equity securities of a corporation

No. None of the above applies. Go to Part 12.

Yes. Check all that apply above and fill in the details below for each business.

<p><u>South Texas Inpatient Consultant PLLC</u> Name</p> <p><u>17827 Salado Draw</u> Number Street</p> <p><u>San Antonio, TX 78258-1602</u> City State ZIP Code</p> <p><u>Clinicas de Medicina, PA</u> Name</p> <p><u>1302 S General McMullen Dr</u> Number Street</p> <p><u>San Antonio, TX 78237-4200</u> City State ZIP Code</p> <p><u>CDM Healthcare Management, LLC</u> Name</p> <p><u>2900 Moss Rock</u> Number Street</p> <p><u>San Antonio, TX 78230</u> City State ZIP Code</p> <p><u>V50e, LLC</u> Name</p> <p><u>5819 Mcpherson</u> Number Street</p> <p><u>Laredo, TX 78041</u> City State ZIP Code</p>	<p><b>Describe the nature of the business</b></p> <p>Physician Examining &amp; Treating Patients</p> <p><b>Name of accountant or bookkeeper</b></p> <p>n/a</p> <p><b>Describe the nature of the business</b></p> <p>Indigent clinic to examine/treat patients</p> <p><b>Name of accountant or bookkeeper</b></p> <p>Rodney Mesquias</p> <p><b>Describe the nature of the business</b></p> <p>Health Care Business (as defined in 11 U.S.C § 101(27A))</p> <p><b>Name of accountant or bookkeeper</b></p>	<p><b>Employer Identification number</b> Do not include Social Security number or ITIN.</p> <p>EIN: <u>4 5 - 0 6 0 8 0 1 7</u></p> <p><b>Dates business existed</b></p> <p>From <u>2011</u> To <u>2018</u></p> <p><b>Employer Identification number</b> Do not include Social Security number or ITIN.</p> <p>EIN: <u>4 7 - 5 2 8 1 0 8 0</u></p> <p><b>Dates business existed</b></p> <p>From <u>2015</u> To <u>2017</u></p> <p><b>Employer Identification number</b> Do not include Social Security number or ITIN.</p> <p>EIN: <u>4 7 - 5 4 3 5 3 1 1</u></p> <p><b>Dates business existed</b></p> <p>From <u>10/20/2015</u> To <u>February 2017</u></p> <p><b>Employer Identification number</b> Do not include Social Security number or ITIN.</p> <p>EIN: <u>    -    -    -    -    -    -    -    -</u></p> <p><b>Dates business existed</b></p> <p>From <u>11/13/2013</u> To <u>2020</u></p>
---	--	---

Debtor 1 Jesus Alfredo Virlar  
First Name Middle Name Last Name

Case number (if known) 21-50753

28. Within 2 years before you filed for bankruptcy, did you give a financial statement to anyone about your business? Include all financial institutions, creditors, or other parties.

No

Yes. Fill in the details below.

Date Issued

Name MM / DD / YYYY

Number Street

City State ZIP Code

**Part 12: Sign Below**

I have read the answers on this *Statement of Financial Affairs* and any attachments, and I declare under penalty of perjury that the answers are true and correct. I understand that making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

X /s/ Jesus Alfredo Virlar  
Signature of Jesus Alfredo Virlar, Debtor 1

Date 10/15/2021

Did you attach additional pages to your *Statement of Financial Affairs for Individuals Filing for Bankruptcy* (Official Form 107)?

No

Yes

Did you pay or agree to pay someone who is not an attorney to help you fill out bankruptcy forms?

No

Yes. Name of person \_\_\_\_\_

Attach the *Bankruptcy Petition Preparer's Notice, Declaration, and Signature* (Official Form 119).

IN THE UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

IN RE: Virlar, Jesus Alfredo

CASE NO 21-50753

CHAPTER 7

AMENDED

VERIFICATION OF CREDITOR MATRIX

The above named Debtor hereby verifies that the attached list of creditors is true and correct to the best of his/her knowledge.

Date 10/15 /2021 Signature /s/ Jesus Alfredo Virlar  
Jesus Alfredo Virlar, Debtor

**Attorney General of the U.S.**

Department of Justice  
950 Pennsylvania Ave Nw  
Washington, DC 20530-0001

**Bank of America**

Po Box 982284  
El Paso, TX 79998-2284

**Bexar County Tax Assessor  
Collector c/o**

ATTN: Don Stecker  
Linebarger Googan Blair & Sampson, LLP  
112 E Pecan St Ste 2200  
San Antonio, TX 78205-1588

**Citibank, N.A.**

5800 S Corporate Pl  
Sioux Falls, SD 57108-5027

**Estate of Jo Ann Puente**

c/o David S Gragg  
Langley & Banack, Inc  
745 E Mulberry Ave Ste 700  
San Antonio, TX 78212-3172

**Internal Revenue Service**

Austin Service Center  
Attn Aur  
Austin, TX 73301-0001

**Internal Revenue Service**

Po Box 7346  
Philadelphia, PA 19101-7346

**JP Morgan Chase**

c/o National Bankruptcy Services, LLC  
Po Box 9013  
Addison, TX 75001-9013

**Katelyn Golden**

116 Cirrus Cove  
Cibolo, TX 78108

**Texas Comptroller of Public  
Account (Notice)**

Attn: Bankruptcy  
Po Box 149359  
Austin, TX 78714-9359

**Texas Inpatient Pediatric**

19223 Stonehue Ste 117  
San Antonio, TX 78258-3457

**The Smeberg Law Firm**

4 Imperial Oaks  
San Antonio, TX 78248-1609

**United States**

U.S. Attorney  
Attn: Bkcy Division  
601 NW Loop 410 600  
San Antonio, TX 78216

**Verizon**

c/o American InfoSource LP as Agent  
4515 N Santa Fe Ave  
Oklahoma City, OK 73118-7901

# TAB C

## Constitutional Authorities

1. TEX. CONST. art I, Section 3
2. TEX. CONST. art. I, Section 13
3. TEX. CONST. art. I, Section 15
4. TEX. CONST. art I, Section 17
5. TEX. CONST. art I, Section 19
6. TEX. CONST. art III, Section 66
7. TEX. CONST. art. V, Section 10
8. U.S. CONST. AM. 14

# TAB C

1. TEX. CONST. art I, Section 3



§ 3. EQUAL RIGHTS.

**THE TEXAS CONSTITUTION**

**Article 1. BILL OF RIGHTS**

*Current through the November 2019 election*

**§ 3. EQUAL RIGHTS**

All free men, when they form a social compact, have equal rights, and no man, or set of men, is entitled to exclusive separate public emoluments, or privileges, but in consideration of public services.

**Cite as Tex. Const. art. 1 § 3**

# TAB C

2. TEX. CONST. art. I, Section 13

§ 13. EXCESSIVE BAIL OR FINES; CRUEL AND UNUSUAL PUNISHMENT; REMEDY BY DUE COURSE OF LAW.

## **THE TEXAS CONSTITUTION**

### **Article 1. BILL OF RIGHTS**

*Current through the November 2019 election*

### **§ 13. EXCESSIVE BAIL OR FINES; CRUEL AND UNUSUAL PUNISHMENT; REMEDY BY DUE COURSE OF LAW**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. All courts shall be open, and every person for an injury done him, in his lands, goods, person or reputation, shall have remedy by due course of law.

**Cite as Tex. Const. art. 1 § 13**

# TAB C

3. TEX. CONST. art. I, Section 15

§ 15. RIGHT OF TRIAL BY JURY.

**THE TEXAS CONSTITUTION**

**Article 1. BILL OF RIGHTS**

*Current through the November 2019 election*

**§ 15. RIGHT OF TRIAL BY JURY**

The right of trial by jury shall remain inviolate. The Legislature shall pass such laws as may be needed to regulate the same, and to maintain its purity and efficiency. Provided, that the Legislature may provide for the temporary commitment, for observation and/or treatment, of mentally ill persons not charged with a criminal offense, for a period of time not to exceed ninety (90) days, by order of the County Court without the necessity of a trial by jury.

**Cite as Tex. Const. art. 1 § 15**

**Source: (Amended Aug. 24, 1935.)**

# TAB C

4. TEX. CONST. art I, Section 17

§ 17. TAKING, DAMAGING, OR DESTROYING PROPERTY FOR PUBLIC USE; POWER OF LEGISLATURE; SPECIAL PRIVILEGES AND IMMUNITIES; CONTROL OF PRIVILEGES AND FRANCHISES.

## THE TEXAS CONSTITUTION

### Article 1. BILL OF RIGHTS

*Current through the November 2019 election*

#### § 17. TAKING, DAMAGING, OR DESTROYING PROPERTY FOR PUBLIC USE; POWER OF LEGISLATURE; SPECIAL PRIVILEGES AND IMMUNITIES; CONTROL OF PRIVILEGES AND FRANCHISES

- (a) No person's property shall be taken, damaged, or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person, and only if the taking, damage, or destruction is for:
  - (1) the ownership, use, and enjoyment of the property, notwithstanding an incidental use, by:
    - (A) the State, a political subdivision of the State, or the public at large; or
    - (B) an entity granted the power of eminent domain under law; or
  - (2) the elimination of urban blight on a particular parcel of property.
- (b) In this section, "public use" does not include the taking of property under Subsection (a) of this section for transfer to a private entity for the primary purpose of economic development or enhancement of tax revenues.
- (c) On or after January 1, 2010, the legislature may enact a general, local, or special law granting the power of eminent domain to an entity only on a two-thirds vote of all the members elected to each house.
- (d) When a person's property is taken under Subsection (a) of this section, except for the use of the State, compensation as described by Subsection (a) shall be first made, or secured by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities shall be made; but all privileges and franchises granted by the Legislature, or created under its authority, shall be subject to the control thereof.

**Cite as Tex. Const. art. 1 § 17**

**History.** Added by Acts 2007, 80th Leg. - Regular Session, HJR 14, Sec. 1.01.

# TAB C

5. TEX. CONST. art I, Section 19



§ 19. DEPRIVATION OF LIFE, LIBERTY, ETC.; DUE COURSE OF LAW.

## **THE TEXAS CONSTITUTION**

### **Article 1. BILL OF RIGHTS**

*Current through the November 2019 election*

#### **§ 19. DEPRIVATION OF LIFE, LIBERTY, ETC.; DUE COURSE OF LAW**

No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.

**Cite as Tex. Const. art. 1 § 19**

# TAB C

6. TEX. CONST. art III, Section 66

§ 66. LIMITATION ON LIABILITY FOR NONECONOMIC DAMAGES.

**THE TEXAS CONSTITUTION**

**Article 3. LEGISLATIVE DEPARTMENT**

*Current through the November 2019 election*

**§ 66. LIMITATION ON LIABILITY FOR NONECONOMIC DAMAGES**

- (a) In this section "economic damages" means compensatory damages for any pecuniary loss or damage. The term does not include any loss or damage, however characterized, for past, present, and future physical pain and suffering, mental anguish and suffering, loss of consortium, loss of companionship and society, disfigurement, or physical impairment.
- (b) Notwithstanding any other provision of this constitution, the legislature by statute may determine the limit of liability for all damages and losses, however characterized, other than economic damages, of a provider of medical or health care with respect to treatment, lack of treatment, or other claimed departure from an accepted standard of medical or health care or safety, however characterized, that is or is claimed to be a cause of, or that contributes or is claimed to contribute to, disease, injury, or death of a person. This subsection applies without regard to whether the claim or cause of action arises under or is derived from common law, a statute, or other law, including any claim or cause of action based or sounding in tort, contract, or any other theory or any combination of theories of liability. The claim or cause of action includes a medical or health care liability claim as defined by the legislature.
- (c) Notwithstanding any other provision of this constitution, after January 1, 2005, the legislature by statute may determine the limit of liability for all damages and losses, however characterized, other than economic damages, in a claim or cause of action not covered by Subsection (b) of this section. This subsection applies without regard to whether the claim or cause of action arises under or is derived from common law, a statute, or other law, including any claim or cause of action based or sounding in tort, contract, or any other theory or any combination of theories of liability.
- (d) Except as provided by Subsection (c) of this section, this section applies to a law enacted by the 78th Legislature, Regular Session, 2003, and to all subsequent regular or special sessions of the legislature.
- (e) A legislative exercise of authority under Subsection (c) of this section requires a three-fifths vote of all the members elected to each house and must include language citing this section.

**Cite as Tex. Const. art. 3 § 66**

**Source: (Added Sept. 13, 2003.)**

# TAB C

7. TEX. CONST. art. V, Section 10

§ 10. TRIAL BY JURY.

**THE TEXAS CONSTITUTION**

**Article 5. JUDICIAL DEPARTMENT**

*Current through the November 2019 election*

**§ 10. TRIAL BY JURY**

In the trial of all causes in the District Courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury; but no jury shall be empaneled in any civil case unless demanded by a party to the case, and a jury fee be paid by the party demanding a jury, for such sum, and with such exceptions as may be prescribed by the Legislature.

**Cite as Tex. Const. art. 5 § 10**

# TAB C

8. U.S. CONST. AM. 14

Amendment XIV. Rights Guaranteed: Privileges and Immunities of Citizenship, Due Process, and Equal Protection.

## **CONSTITUTION OF UNITED STATES**

## **CONSTITUTION OF UNITED STATES**

### **AMENDMENTS**

*Current through 2010*

#### **Amendment XIV. Rights Guaranteed: Privileges and Immunities of Citizenship, Due Process, and Equal Protection**

SECTION. 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SECTION. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

SECTION. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay



any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SECTION. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

**Cite as US. Const. art. AMENDMENTS § Amendment XIV**

### Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below:

Terry Thomas on behalf of William Chriss  
Bar No. 4222100  
tthomas@snapkalaw.com  
Envelope ID: 60321066  
Status as of 12/28/2021 8:34 AM CST

#### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Delonda Dean		ddean@yettercoleman.com	12/27/2021 6:39:27 PM	SENT
Yetter Coleman		efile@yettercoleman.com	12/27/2021 6:39:27 PM	SENT
William Chriss	4222100	wjchrisspc@gmail.com	12/27/2021 6:39:27 PM	SENT
Brendan K. McBride	24008900	brendan.mcbride@att.net	12/27/2021 6:39:27 PM	SENT
Elizabeth Brabb		ebrabb@thompsoncoe.com	12/27/2021 6:39:27 PM	SENT
Linda M. Wariner		linda.wariner@cooperscully.com	12/27/2021 6:39:27 PM	SENT
Terry Thomas		tthomas@snapkalaw.com	12/27/2021 6:39:27 PM	SENT

#### Associated Case Party: Jesus Virlar

Name	BarNumber	Email	TimestampSubmitted	Status
R. Brent Cooper	4783250	brent.cooper@cooperscully.com	12/27/2021 6:39:27 PM	SENT

#### Associated Case Party: GMG Health Systems Associates, P.A., a/k/a and d/b/a Gonzaba Medical Group

Name	BarNumber	Email	TimestampSubmitted	Status
Reagan Simpson	18404700	rsimpson@yettercoleman.com	12/27/2021 6:39:27 PM	SENT
Thomas R. Phillips	22	tom.phillips@bakerbotts.com	12/27/2021 6:39:27 PM	SENT
Diana L. Faust		diana.faust@cooperscully.com	12/27/2021 6:39:27 PM	SENT