

CAUSE NO. 2009-60719

ALFONSO GARZA	§	IN THE DISTRICT COURT OF
	§	
VS.	§	
	§	HARRIS COUNTY, TEXAS
ZAVAL-TEX CONSTRUCTION	§	
COMPANY, MID CONTINENT	§	
MEASUREMENT, INC., EMS USA, INC.	§	
AND OCTAVIO VEGA	§	151 <sup>ST</sup> JUDICIAL DISTRICT

**FINAL JUDGMENT**

On August 16, 2010, the court called this case for trial. Plaintiff, Alfonso Garza, appeared in person and through his attorneys and announced ready for trial. Defendants, Zaval-Tex Construction Company, Mid Continent Measurement, Inc., and EMS USA, Inc., appeared through its representative and through its attorney and announced ready for trial. Defendant, Octavio Vega, appeared in person and through his attorney and announced ready for trial. The court impaneled and swore the jury, which heard the evidence and arguments of counsel. The court submitted questions, definitions, and instructions to the jury. In response, the jury made findings that the court received, filed, and entered of record. The questions submitted to the jury and the jury's findings are attached as Exhibit 1 and incorporated by reference. Plaintiff moved for judgment on the verdict. The court considered the motion and renders judgment for Plaintiff Alfonso Garza and against Octavio Vega.

The jury answered the damage question for Plaintiff Alfonso Garza as follows:

**QUESTION NO. 1**

What sum of money, if paid now in cash, would fairly and reasonably compensate Alfonso Garza for his injuries, if any, that resulted from the occurrence in question?

Consider the elements of damages listed below and none other. Consider each element separately. Do not award any sum of money on any element if you have otherwise, under some other element, awarded a sum of money for the same loss. That is, do not

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 By: Deputy  
 Harris County, Texas

compensate twice for the same loss, if any. Do not include interest on any amount of damages you find.

Do not include any amount for any condition existing before the occurrence in question, except to the extent, if any, that such other condition was aggravated by any injuries that resulted from the occurrence in question.

Answer separately, in dollars and cents, for damages, if any.

1. Medical care expenses incurred in the past.  
Answer: \$ 179,191.73
2. Medical care expenses that, in reasonable probability, Alfonso Garza will sustain in the future.  
Answer: \$ 225,000.00
3. Physical impairment sustained in the past.  
Answer: \$ 40,000.00
4. Physical impairment that, in reasonable probability, Alfonso Garza will sustain in the future.  
Answer: \$ 80,000.00
5. Physical pain and mental anguish sustained in the past.  
Answer: \$ 70,000.00
6. Physical pain and mental anguish that, in reasonable probability, Alfonso Garza will sustain in the future.  
Answer: \$ 140,000.00

Plaintiffs moved for judgment on the jury's findings. At the hearing on the Motion for Judgment Plaintiffs moved pursuant to Rule 141 for the taxable costs to include the costs of the medical and billing records that were obtained by affidavit. The court concludes that Texas law does not permit the award of these items as taxable costs of court under Texas Rules of Civil Procedure

131, 141 or under any other rule or statute. *Hatfield v. Solomon*, 316 S.W.3d 50, 66-67 (Tex. App.—Houston [14<sup>th</sup> Dist.] 2010, no pet. h.). Therefore, the court will not award the requested amount of \$3,109.66 as additional taxable costs of court. However, the Court will award taxable costs, including, but not limited to, those incurred relating to the motion to transfer venue of the case from Jefferson County to Harris County. The Court finds the taxable costs of court to be \$3,854.23.

The court hereby **RENDERS** judgment for Plaintiffs.

1. Therefore, the court orders that Plaintiff Alfonso Garza recover from Defendant Octavio Vega the sum of \$734,191.73 (SEVEN HUNDRED THIRTY FOUR THOUSAND, ONE HUNDRED NINETY ONE DOLLARS AND SEVENTY-THREE CENTS) as actual damages, prejudgment interest on that sum at the annual rate of 5%, in the sum of \$35,059.55 (THIRTY-FIVE THOUSAND FIFTY-NINE DOLLARS AND FIFTY-FIVE CENTS), court costs of \$3,854.23 (THREE THOUSAND EIGHT HUNDRED FIFTY-FOUR DOLLARS AND TWENTY-THREE CENTS), and post judgment interest on the total sum at the annual rate of 5%.

2. This is a suit for personal injury damages and prejudgment interest is governed by Texas Finance Code section 304.101 *et. seq.* Under Section 304.104, prejudgment interest began to accrue on the date the suit was filed against defendant, which was May 23, 2008, ending on October 25, 2010, the day before the date judgment was entered.

3. This judgment is final, disposes of all claims and all parties, and is appealable.

4. The court orders execution to issue for this judgment.

5. The court denies all relief not granted in this judgment

**OCT 27 2010**

Signed this the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

  
JUDGE PRESIDING

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