

CAUSE NO. CC-23-00308-B

**CARMEN ACOSTA, INDIVIDUALLY,
AND AS HEIR TO THE ESTATE OF
JOSE ACOSTA**

Plaintiff,

vs.

PORTILLO REYES CHAVEZ,

Defendant.

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IN THE COUNTY COURT

AT LAW NO. 2

DALLAS COUNTY, TEXAS

PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT

COMES NOW CARMEN ACOSTA, Plaintiff in the above-numbered and styled cause,
and ask the Court to sign a default judgment against Defendant Portillo Reyes Chavez.

I. INTRODUCTION

This is a negligence and wrongful death claim resulting from a multi-vehicle collision. The claim centers on the injuries suffered by Jose Acosta as a result of the negligence of Portillo Chavez. On or about April 05, 2022 the Defendant, Portillo Chavez, passed away.

II. BACKGROUND

On January 12, 2023, Plaintiff filed her original petition. A true and correct copy of the petition is attached as Exhibit A and is incorporated by reference herein.

Previously, the Court signed orders in this case directing the clerk of the Court to issue writs of scire facias which directed the heirs of Defendant Portillo Reyes Chavez to answer on behalf of Defendant. Plaintiff was unable to effectuate personal service on the two heirs, Nixon Gomez and Arcides Chavez, and the Court signed orders granting Plaintiff's motions for substituted service on both individuals.

Pursuant to the Court's orders, subsisted service was effectuated on Nixon Gomez on February 15th, 2024. Attached to this motion as Exhibit B is a true and correct copy of the affidavit of David D. Pace, filed with the Court on February 22, 2024, attesting to this service. Substituted service was effectuated on Arcides Chavez on March 22, 2024. Attached to this motion as Exhibit C is a true and correct copy of the affidavit of David D. Pace, filed with the Court on March 26, 2024, attesting to this service. Neither Nixon Gomez nor Arcides Chaves has answered on behalf of Defendant.

III. ARGUMENTS AND AUTHORITIES

The Court should render a default judgment against Defendant because Defendant was properly served and did not file an answer or any other pleading constituting a proper answer within the prescribed time period. See Tex. R. Civ. P. 239.

The last known address of Nixon Gomez is 5802 Wayview Drive, San Antonio, TX 78220. Attached as Exhibit D is a certificate of Nixon Gomez's last known address. This is the address where he was served with the writ of scire facias and original petition via substituted service.

The last known address of Arcides Chavez is 8438 Quail Creed Drive, apt. 408, San Antonio, TX 78218. Attached as Exhibit E is a certificate of Arcides Chavez's last known address. This is the address where he was served with the writ of scire facias and original petition via substituted service.

Nixon Gomez is not in military service. Attached hereto as Exhibit F and incorporated herein is an affidavit about Nixon Gomez's military services. Arcides Chavez is also not in military service. Attached hereto as Exhibit G and incorporated by reference herein is an affidavit about Arcides Chavez's military service.

IV. DAMAGES

Plaintiff asks the Court to render a default judgment establishing Defendant's liability, and after a hearing, render a final judgment awarding Plaintiff damages in the amount to be determined by the Court as outlined in Plaintiff's Original Petition, along with costs, attorney fees, and prejudgment interest. Plaintiff requests a court reporter to record the proceedings.

V. LEAVE OF THE COURT

Plaintiff seeks leave of the Court to file this Motion for default judgment five days before this case's dismissal hearing, set for April 26, 2024. Plaintiff would show that good cause exists for the delay due to administrative error not conscious indifference, and that no party is prejudiced by this request.

VI. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff asks the Court to sign a default judgment on liability, and after hearing to establish the amount of damages, to sign a default judgment for an amount to include full medical expenses, costs of court, attorney fees, prejudgment interest, and any and further relief determined by the Court to which Plaintiff is justly entitled.

Respectfully submitted,

TED B. LYON & ASSOCIATES, P.C.

By: /s/ Aidan Moffatt

TED B. LYON

tblyon@tedlyon.com

State Bar No. 12741500

RICHARD MANN

rmann@tedlyon.com

State Bar No. 24079640

AIDAN MOFFATT

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amoffatt@tedlyon.com

Town East Tower, Suite 525

18601 LBJ Freeway

Mesquite, Texas 75150

Phone: (972) 279-6571

Fax: (972) 279-3021

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2024, a true and correct copy of the foregoing *Motion for Default Judgment* has been forwarded to all known counsel of record in accordance with Rule 21a of the Texas Rules of Civil Procedure as follows:

/s/ Aidan Moffatt

AIDAN MOFFATT

Exhibit “A”

CC-23-00308-B
CAUSE NO. _____

CARMEN ACOSTA, Individually, and as Heir to the Estate of JOSE ACOSTA Plaintiffs,	§	IN COUNTY COURT
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	§	
	§	
vs.	§	
	§	AT LAW NO. _____
PORTILLO REYES CHAVEZ, Defendants.	§	
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	§	
	§	DALLAS COUNTY, TEXAS
	§	

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, CARMEN ACOSTA, Individually, as Heir to the Estate of JOSE ACOSTA, ("Plaintiff"), Plaintiffs in the above entitled and numbered cause, complaining of and against PORTILLO REYES CHAVES, and for cause of action would respectfully show unto the Court the following:

I.

RULE 47 STATEMENT OF MONETARY RELIEF SOUGHT

Plaintiffs prefer to have the jury determine the fair amount of compensation for Plaintiff's damages.

Pursuant to Rule 47 of the Texas Rules of Civil Procedure, Plaintiffs seek monetary relief over \$1,000,000.00.

II.

DISCOVERY CONTROL PLAN

Pursuant to Texas Rules of Civil Procedure 190.4, discovery in this case is being conducted under Level 3 of Rule 190 of the Texas Rules of Civil Procedure.

III.

PARTIES

Plaintiff Carmen Leticia Acosta, Individually, and as an Heir to the Estate of Jose Acosta, resident of Emory, Texas. Plaintiff may be contacted only through the undersigned counsel of record.

Defendant **Portillo Chavez Reyes** is a resident of the State of Texas; Defendant Reyes can be served at **913 Westbrook Dr. Garland, TX 75043**, or wherever found.

IV. **JURISDICTION AND VENUE**

This Court has jurisdiction over the lawsuit because the amount in controversy exceeds this Court's minimum jurisdictional requirements.

Venue is proper and maintainable in Dallas County, Texas pursuant to § 15.002(a)(1) of the TEXAS CIVIL PRACTICE & REMEDIES CODE because Dallas is the County in which all or a substantial part of the events or omissions giving rise to this claim occurred.

V. **BACKGROUND FACTS**

On or about April 05, 2022, Jose Acosta had been traveling northbound on State Highway 34 in Kaufman County when defendant Reyes's who was driving, dangerously stopped on the shoulder of the road and then backed his vehicle into the northbound lane into oncoming traffic, and opened his door. Mr. Reyes negligence caused a chain reaction involving multiple vehicles that lead to the death of Jose Acosta . Defendant Reyes did not conduct himself as an ordinary prudent person would have done in the same or similar circumstances.

VI. **NEGLIGENCE**

Defendant Reyes did not conduct himself as an ordinary prudent person would have done in the same or similar circumstances. The occurrence made the basis of this suit, and the resulting injuries and damages were proximately caused by the negligent conduct of Defendant Reyes in one or more of the following respects:

- a. Driving dangerously and in an unsafe manner;
- b. Blocking a highway;
- c. Operating the vehicle without due regard for the rights of others.
- d. Failing to operate the vehicle in a safe manner.

Each of these acts and omissions, singularly or in combination with others, constitute negligence, which was the proximate cause of this incident and the death of Jose Acosta and damages to the Plaintiffs.

One or more of the previously mentioned allegations of negligence by the Defendants are in violation of the Texas Transportation Code. Each of these acts and omissions of Defendants, singularly or in combination with others were negligent and were each and all a proximate cause of death of Jose Acosta, and all of Plaintiff's damages made the basis of this lawsuit and of the injuries and damages suffered by Jose Acosta and the Plaintiff.

Plaintiffs would show that nothing that Jose Acosta did, or failed to do, in any way contributed to his death.

Said conduct was with heedless and reckless disregard of the safety of others, which disregard was the result of conscious indifference to the rights, welfare and safety of those persons affected by it in violation of the laws of the State of Texas, including TEX. TRANS. CODE ANN. §545.007.

VIII. WRONGFUL DEATH DAMAGES

Defendant's negligence proximately caused Decedent Jose Acosta's death. Plaintiff Carmen Acosta; suffered the following wrongful death damages:

- a. Actual damages;
- b. Pecuniary loss, both past and future;

- c. Loss of services;
- d. Loss of companionship and society, both past and future;
- e. Pain and mental anguish, both past and future;
- f. Medical bills and expenses;
- g. Funeral expenses;
- h. All other damages allowed by law.

X.

CLAIM FOR PREJUDGMENT AND POST-JUDGMENT INTEREST

Plaintiffs claim all lawful prejudgment and post-judgment interest on the damages suffered by them in any capacity. Plaintiffs will show that all of these damages exceed the minimum jurisdictional limits of this Court.

XII.

DAMAGES CONSIDERED SEPARATELY

Plaintiffs respectfully assert that they be allowed to have the elements of damages considered separately and individually for the purpose of determining the sum of money that will fairly and reasonably compensate Plaintiff for the injuries, losses and damages incurred, and to be incurred, and that each of Plaintiff's damages be considered separately and individually, segregating the past and future losses, so that pre-judgment interest due Plaintiffs may be computed.

XIII.

U.S. LIFE TABLES

Notice is hereby given that Plaintiffs intends to use the U.S. Life Tables as prepared by the United States Department of Health and Human Services.

XIV.

USE OF DOCUMENTS

Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Plaintiffs hereby give notice to Defendants of their intent to use all documents exchanged and produced between the parties (including, but not limited to, correspondence, pleadings, records, documents attached to discovery responses and documents any party obtained through authorization or deposition upon written questions, or attached to an oral deposition) during the trial of this matter.

XV.
JURY DEMAND

Plaintiffs hereby demand a trial by jury to resolve all fact issues in this case.

XVII.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the Defendant be cited to appear and answer herein, and that upon final trial hereof, Plaintiff recovers from said Defendant, jointly and severally, a sum within the jurisdictional limits of the Court, costs of Court, pre-judgment interest and post-judgment interest at the legal rate, and for any and all further relief, both general and special, legal and equitable to which Plaintiffs may be justly entitled.

Respectfully submitted,

TED B. LYON & ASSOCIATES, PC

/s/ *Richard Mann*

TED B. LYON

State Bar No. 12741500

tbylon@tedlyon.com

RICHARD MANN

State Bar No. 2407640

rmann@tedlyon.com

Town East Tower, Suite 525

18601 LBJ Freeway

Mesquite, Texas 75150

Phone: (972) 279-6571

Fax: (972) 279-3021

ATTORNEYS FOR PLAINTIFFS

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. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Jimmy Brashear on behalf of Richard Mann
Bar No. 24079640
jimmy@tedlyon.com
Envelope ID: 71843331
Status as of 1/17/2023 2:29 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Richard AMann		rmann@tedlyon.com	1/17/2023 10:42:57 AM	SENT
Jimmy Brashear		jimmy@tedlyon.com	1/17/2023 10:42:57 AM	SENT

Exhibit “B”

AFFIDAVIT OF SERVICE

State of Texas

County of Dallas

County At Law No. 2 Court

Case Number: CC-23-00308-B

Plaintiff:

Carmen Acosta, Individually, and as Heir to the Estate of Jose Acosta

vs.

Defendant:

Portillo Reyes Chavez

Received by David D. Pace on the 15th day of February, 2024 at 6:26 am to be served on Nixon Gomez, 5802 Wayview Drive, San Antonio, TX 78220.

I, David D. Pace, being duly sworn, depose and say that on the 15th day of February, 2024 at 10:51 am, I:

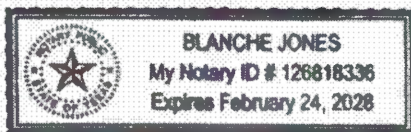
POSTED by securely affixing a true copy of the Scire Facias-Suggestion of Death, (Cover Letter), Plaintiffs' Original Petition, Order on Plaintiff's Substituted Service on Nixon Gomez with the date and hour of service endorsed thereon by me and signed order attached, to the front door of the within named person's RESIDENCE at the address of: 5802 Wayview Drive, San Antonio, TX 78220 per signed order for substitute service.

I am of sound mind. I declare that the foregoing is true and correct. I certify that I am over the age of 18. I have no interest in the above action. I am a Process Server in good standing with the state of Texas.

Sworn to before me on the 15th day of

February 2024

Blanche Jones
NOTARY PUBLIC



A handwritten signature of David D. Pace in black ink.

David D. Pace
PSC-1820 EXP 12/31/2024

Certified Corporate & Process Services LLC
Po Box 496448
Garland, TX 75049
(972) 279-6100

Our Job Serial Number: PLL-2024000209



Form 331 - SCIRE FACIAS TO MAKE PARTIES -SUGGESTION OF DEATH
C/F \$8.00 ATTORNEY

CAUSE NO. CC-23-00308-B

THE STATE OF TEXAS

TO NIXON GOMEZ, THE SON AND THE HEIR OF THE ESTATE OF PORTILLO REYES CHAVEZ, Defendant

WHEREAS, in the County Court of Dallas County, County Court at Law No. 2 Dallas County, Texas, it was suggested in open court, that **PORTILLO REYES CHAVEZ** Defendant in a certain suit pending, wherein **CARMEN ACOSTA, INDIVIDUALLY, AND AS HEIR TO THE ESTATE OF JOSE ACOSTA** was Plaintiff, and the said **PORTILLO REYES CHAVEZ** was Defendant, File No. CC-23-00308-B, has departed this life; and it was ordered by said Court that a Writ of **SCIRE FACIAS** do issue to the representatives of said a **PORTILLO REYES CHAVEZ**; and it appearing that citizen of Dallas County, **NIXON GOMEZ, THE SON AND THE HEIR OF THE ESTATE OF PORTILLO REYES CHAVEZ** is administrator and/or executor and representative of the said Estate of **PORTILLO REYES CHAVEZ** therefore you **NIXON GOMEZ, THE SON AND THE HEIR OF THE ESTATE OF PORTILLO REYES CHAVEZ** are hereby commanded to appear by filing a written answer to plaintiff's petition at or before 10:00 o'clock a.m. of the Monday next after the expiration of twenty (20) days after the date of service hereof before the Dallas County Court of Texas at the Courthouse in the City of Dallas, Dallas County, Texas then and there to defend the said suit as shown by plaintiff's petition a copy of which accompanies this Scire Facias.

If this Scire Facias is not served within ninety (90) days after date of its issue, it shall be returned unserved.

WITNESS, John F. Warren, County Clerk of the County Courts of Dallas County, Texas.

Given under my hand and the Seal of said Court at Office in Dallas, Texas on this the 12th day of February, 2024

ATTEST: JOHN F. WARREN
Clerk of County Courts of Dallas County, Texas



By: Guisla Hernandez Deputy
GUISLA HERNANDEZ

RETURN

Came to hand on the _____ day of _____, 20____ at _____ o'clock __. M. Executed at within the County of _____, at _____ o'clock __. M., on the

day of _____, 20____, by delivering to the within named each, in person, a true copy of this Scire Facias together with the accompanying copy of this petition, having first indorsed on same the date of delivery.

The distance actually traveled by me in serving such process was _____ miles and my fees are as follows:

To certify which witness my hand.

For serving Scire Facias \$

For mileage \$ _____ County

For Notary \$ _____ State of _____

Total Fees \$ _____ By _____ Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said before me this _____ day of _____, 20____, to certify which witness my hand and seal of office.

Notary Public
County _____

ATTORNEY	SCIRE FACIAS-SUGGESTION OF DEATH CC-23-00308-B IN THE COUNTY COURT OF DALLAS COUNTY COURT AT LAW NO. 2 DALLAS COUNTY, TEXAS CARMEN ACOSTA, INDIVIDUALLY, AND AS HEIR TO THE ESTATE OF JOSE ACOSTA, <i>Plaintiff(s)</i> VS PORTILLO REYES CHAVEZ; Portillo Chavez, <i>Defendant(s)</i>	SERVE: NIXON GOMEZ, THE SON AND THE HEIR OF THE ESTATE OF PORTILLO REYES CHAVEZ 5802 WAYVIEW DRIVER SAN ANTONIO, TEXAS 78220 ISSUED THIS 2/12/2024 JOHN F. WARREN, COUNTY CLERK BY: GUISLA HERNANDEZ, DEPUTY CLERK Attorney for Plaintiff	AIDAN ANDREW MOFFATT TED B LYON & ASSOCIATES PC 18601 LBJ FREEWAY SUITE 525 MESQUITE TX 75150 972-279-6571
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NO OFFICER'S FEES HAVE BEEN
COLLECTED BY DALLAS COUNTY CLERK

Exhibit “C”

AFFIDAVIT OF SERVICE

State of Texas

County of Dallas

County at Law No. 2 Court

Case Number: CC-23-00308-B

Plaintiff:

Carmen Acosta, Individually and as Heir to the Estate of Jose Acosta

vs.

Defendant:

Portillo Reyes Chavez

Received by David D. Pace on the 12th day of February, 2024 at 3:30 pm to be served on **Arcides Chavez, 8438 Quail Creek Drive, Apt. 408, San Antonio, Bexar County, TX 78218**

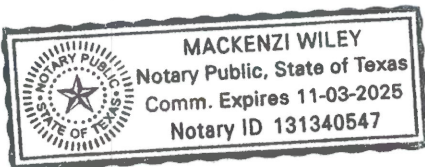
I, David D. Pace, being duly sworn, depose and say that on the **22nd day of March, 2024 at 2:17 pm, I:**

Delivered to: Arcides Chavez a true copy of the **Scire Facias; Plaintiff's Original Petition; Order Directing Clerk of Court to Issue Writ of Scire Facias; Cover Letter** with the date of service endorsed thereon by me, by securely attaching the **Scire Facias; Plaintiff's Original Petition; Order Directing Clerk of Court to Issue Writ of Scire Facias; Cover Letter**, with a copy of the **106 Order to the front door**, at the address of: **8438 Quail Creek Drive, Apt. 408, San Antonio, Bexar County, TX 78218.**

I am over the age of 18; and I am not a party to nor interested in the outcome of the above styled and numbered suit; and I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Before me, a notary public, on this day personally appeared the above named person, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are within his/her personal knowledge and experience to be true and correct. given under my hand and seal of office on the 25th day of March, 2024

Mackenzi Wiley
NOTARY PUBLIC



David D. Pace

David D. Pace
PSC 1820 Exp Date: 12/31/2024

Certified Corp. & Process Services LLC
P.O. Box 496448
Garland, TX 75049
(972) 279-6100

Our Job Serial Number: LGD-2024000530

Form 331 - SCIRE FACIAS TO MAKE PARTIES -SUGGESTION OF DEATH
C/F \$8.00 ATTORNEY

CAUSE NO. CC-23-00308-B

THE STATE OF TEXAS

TO ARCIDES CHAVEZ, THE SON AND THE HEIR OF THE ESTATE OF PORTILLO REYES CHAVEZ Defendant

WHEREAS, in the County Court of Dallas County, **County Court at Law No. 2** Dallas County, Texas, it was suggested in open court, that **PORTILLO REYES CHAVEZ** Defendant in a certain suit pending, wherein **CARMEN ACOSTA, INDIVIDUALLY, AND AS HEIR TO THE ESTATE OF JOSE ACOSTA** was Plaintiff, and the said **PORTILLO REYES CHAVEZ** was Defendant, File No. **CC-23-00308-B**, has departed this life; and it was ordered by said Court that a Writ of **SCIRE FACIAS** do issue to the representatives of said a **PORTILLO REYES CHAVEZ**; and it appearing that citizen of Dallas County, **ARCIDES CHAVEZ, THE SON AND THE HEIR OF THE ESTATE OF PORTILLO REYES CHAVEZ** is administrator and/or executor and representative of the said Estate of **PORTILLO REYES CHAVEZ** therefore you **ARCIDES CHAVEZ, THE SON AND THE HEIR OF THE ESTATE OF PORTILLO REYES CHAVEZ** are hereby commanded to appear by filing a written answer to plaintiff's petition at or before 10:00 o'clock a.m. of the Monday next after the expiration of twenty (20) days after the date of service hereof before the Dallas County Court of Texas at the Courthouse in the City of Dallas, Dallas County, Texas then and there to defend the said suit as shown by plaintiff's petition a copy of which accompanies this Scire Facias.

If this Scire Facias is not served within ninety (90) days after date of its issue, it shall be returned unserved.

WITNESS, John F. Warren, County Clerk of the County Courts of Dallas County, Texas.

Given under my hand and the Seal of said Court at Office in Dallas, Texas on this the 9th day of February, 2024



ATTEST: JOHN F. WARREN
Clerk of County Courts of Dallas County, Texas

By: Guisla Hernandez Deputy
GUISLA HERNANDEZ

RETURN

Came to hand on the _____ day of _____, 20____ at _____ o'clock ____ M. Executed at within the County of _____, at _____ o'clock ____ M., on the

day of _____, 20____, by delivering to the within named each, in person, a true copy of this Scire Facias together with the accompanying copy of this petition, having first indorsed on same the date of delivery.

The distance actually traveled by me in serving such process was _____ miles and my fees are as follows:

To certify which witness my hand.

For serving Scire Facias \$

For mileage \$ _____ County

For Notary \$ _____ State of

Total Fees \$ _____ By _____ Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said before me this _____ day of _____, 20____, to certify which witness my hand and seal of office.

Notary Public
County _____

ATTORNEY	SCIRE FACIAS-SUGGESTION OF DEATH CC-23-00308-B IN THE COUNTY COURT OF DALLAS COUNTY COURT AT LAW NO. 2 DALLAS COUNTY, TEXAS CARMEN ACOSTA, INDIVIDUALLY, AND AS HEIR TO THE ESTATE OF JOSE ACOSTA, <i>Plaintiff(s)</i> VS PORTILLO REYES CHAVEZ,; <i>Defendant(s)</i>	SERVE: ARCIDES CHAVEZ, THE SON AND THE HEIR OF THE ESTATE OF PORTILLO REYES CHAVEZ 8438 QUAIL CREEK DR, APT 408 SAN ANTONIO, TEXAS 78218 ISSUED THIS 2/9/2024 JOHN F. WARREN, COUNTY CLERK BY: GUISLA HERNANDEZ, DEPUTY CLERK Attorney for Plaintiff	AIDAN ANDREW MOFFATT TED B LYON & ASSOCIATES PC 18601 LBJ FREEWAY SUITE 525 MESQUITE TX 75150 972-279-6571
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NO OFFICER'S FEES HAVE BEEN
COLLECTED BY DALLAS COUNTY CLERK

Exhibit “D”

CAUSE NO. CC-23-00308-B

CARMEN ACOSTA, INDIVIDUALLY,
AND AS HEIR TO THE ESTATE OF
JOSE ACOSTA

Plaintiff,

vs.

PORTILLO REYES CHAVEZ,

Defendant.

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IN THE COUNTY COURT

AT LAW NO. 2

DALLAS COUNTY, TEXAS

CERTIFICATE OF LAST KNOWN ADDRESS- NIXON GOMEZ

Plaintiff Carmen Acosta certifies that the last known address of Nixon Gomez, heir to the estate of Portillo Reyes Chavez, is 5802 Wayview Drive, San Antonio, Bexar County, TX 78220.

Respectfully submitted,

TED B. LYON & ASSOCIATES, P.C.

By: /s/ Aidan Moffatt

TED B. LYON

tblyon@tedlyon.com

State Bar No. 12741500

RICHARD MANN

rmann@tedlyon.com

State Bar No. 24079640

AIDAN MOFFATT

State Bar No. #24136001

amoffatt@tedlyon.com

Town East Tower, Suite 525

18601 LBJ Freeway

Mesquite, Texas 75150

Phone: (972) 279-6571

Fax: (972) 279-3021

ATTORNEYS FOR PLAINTIFF

Exhibit “E”

CAUSE NO. CC-23-00308-B

CARMEN ACOSTA, INDIVIDUALLY,
AND AS HEIR TO THE ESTATE OF
JOSE ACOSTA

Plaintiff,

vs.

PORTILLO REYES CHAVEZ,

Defendant.

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IN THE COUNTY COURT

AT LAW NO. 2

DALLAS COUNTY, TEXAS

CERTIFICATE OF LAST KNOWN ADDRESS- ARCIDES CHAVEZ

Plaintiff Carmen Acosta certifies that the last known address of Arcides Chaves, heir to the estate of Portillo Reyes Chavez, is 8438 Quail Creed Drive, apt. 408, San Antonio, Bexar County, TX 78218.

Respectfully submitted,

TED B. LYON & ASSOCIATES, P.C.

By: /s/ Aidan Moffatt

TED B. LYON

tblyon@tedlyon.com

State Bar No. 12741500

RICHARD MANN

rmann@tedlyon.com

State Bar No. 24079640

AIDAN MOFFATT

State Bar No. #24136001

amoffatt@tedlyon.com

Town East Tower, Suite 525

18601 LBJ Freeway

Mesquite, Texas 75150

Phone: (972) 279-6571

Fax: (972) 279-3021

ATTORNEYS FOR PLAINTIFF

Exhibit “F”

CAUSE NO. CC-23-00308-B

CARMEN ACOSTA, INDIVIDUALLY,
AND AS HEIR TO THE ESTATE OF
JOSE ACOSTA

Plaintiff,

vs.

PORTILLO REYES CHAVEZ,

Defendant.

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IN THE COUNTY COURT

AT LAW NO. 2

DALLAS COUNTY, TEXAS

PLAINTIFF'S SERVICE MEMBERS AFFIDAVIT – NIXON GOMEZ

STATE OF TEXAS §

§

COUNTY OF DALLAS §

Before me, the undersigned notary, on this day personally appeared Richard Mann, the affiant, whose identity is known to me. After I administered an oath, affiant testified as follows:

1. "My name is Aidan Moffatt. I am over 18 years of age, of sound mind, and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. "I am the attorney for Plaintiff Carmen Acosta."
3. "Nixon Gomez, heir to the estate of Defendant Portillo Reyes Chavez, is not in military service. Attached as Exhibit 1 is a copy of the Status Report Pursuant to the Servicemembers Civil Relief Act provided by the Department of Defense Manpower Data Center, stating that Nixon Gomez is not, has not in the past 367 days, nor is subject to future call-up to active duty for any branch of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard)."

FURTHER, AFFIANT SAYETH NAUGHT



AIDAN MOFFATT

Sworn to and subscribed before me by Aidan Moffatt on April 22, 2021.

Melanie N. Barragan
NOTARY PUBLIC STATE OF TEXAS

My Commission Expires: 11/10/2027





Status Report
Pursuant to Servicemembers Civil Relief Act

SSN: XXX-XX-5270
Birth Date:
Last Name: GOMEZ
First Name: NIXON
Middle Name:
Status As Of: Apr-22-2024
Certificate ID: BHBX6RS712QBF0X

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, Space Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Sam Yousefzadeh

Sam Yousefzadeh, Director
Department of Defense - Manpower Data Center
4800 Mark Center Drive, Suite 04E25
Alexandria, VA 22350

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 3901 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service. Service contact information can be found on the SCRA website's FAQ page (Q35) via this URL: <https://scra.dmdc.osd.mil/scra/#!/faqs>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 3921(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.

Exhibit “G”

CAUSE NO. CC-23-00308-B

CARMEN ACOSTA, INDIVIDUALLY,
AND AS HEIR TO THE ESTATE OF
JOSE ACOSTA

Plaintiff,

vs.

PORTILLO REYES CHAVEZ,

Defendant.

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§
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§
§
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§
§
§

IN THE COUNTY COURT

AT LAW NO. 2

DALLAS COUNTY, TEXAS

PLAINTIFF'S SERVICE MEMBERS AFFIDAVIT – ARCIDES CHAVEZ

STATE OF TEXAS §

§

COUNTY OF DALLAS §

Before me, the undersigned notary, on this day personally appeared Richard Mann, the affiant, whose identity is known to me. After I administered an oath, affiant testified as follows:

1. "My name is Aidan Moffatt. I am over 18 years of age, of sound mind, and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. "I am the attorney for Plaintiff Carmen Acosta."
3. "Arcides Chaves, heir to the estate of Defendant Portillo Reyes Chavez, is not in military service. Attached as Exhibit 1 is a copy of the Status Report Pursuant to the Servicemembers Civil Relief Act provided by the Department of Defense Manpower Data Center, stating that Arcides Chavez is not, has not in the past 367 days, nor is subject to future call-up to active duty for any branch of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard)."

FURTHER, AFFIANT SAYETH NAUGHT



AIDAN MOFFATT

Sworn to and subscribed before me by Aidan Moffatt on April 22, 2021.

Melanie N. Barragan
NOTARY PUBLIC STATE OF TEXAS

My Commission Expires: 11/10/2027





Status Report
Pursuant to Servicemembers Civil Relief Act

SSN:
Birth Date: Aug-XX-1973
Last Name: CHAVEZ
First Name: ARCIDES
Middle Name:
Status As Of: Apr-22-2024
Certificate ID: YQ9MQ7FJB4VPCD1

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, Space Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty. HOWEVER, WITHOUT A SOCIAL SECURITY NUMBER, THE DEPARTMENT OF DEFENSE MANPOWER DATA CENTER CANNOT AUTHORITATIVELY ASSERT THAT THIS IS THE SAME INDIVIDUAL THAT YOUR QUERY REFERS TO. NAME AND DATE OF BIRTH ALONE DO NOT UNIQUELY IDENTIFY AN INDIVIDUAL.

Sam Yousefzadeh

Sam Yousefzadeh, Director
Department of Defense - Manpower Data Center
4800 Mark Center Drive, Suite 04E25
Alexandria, VA 22350

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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. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Jimmy Brashear on behalf of Aidan Moffatt
Bar No. 24136001
jimmy@tedlyon.com
Envelope ID: 86923128
Filing Code Description: Ody - Motion - Default Judgment
Filing Description:
Status as of 4/23/2024 11:53 AM CST

Associated Case Party: CARMEN ACOSTA, INDIVIDUALLY, AND AS HEIR TO THE ESTATE OF JOSE ACOSTA

Name	BarNumber	Email	TimestampSubmitted	Status
Aidan Moffatt		amoffatt@tedlyon.com	4/22/2024 2:50:51 PM	SENT
Jimmy Brashear		jimmy@tedlyon.com	4/22/2024 2:50:51 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Richard AMann		rmann@tedlyon.com	4/22/2024 2:50:51 PM	SENT
Melanie Barragan		melanie@tedlyon.com	4/22/2024 2:50:51 PM	SENT