

CAUSE NO. \_\_\_\_\_

DENISE MAREZ, INDIVIDUALLY  
AND ON BEHALF OF THE ESTATE  
OF JUAN PEREZ  
*Plaintiff,*

VS.

ISAAC RODRIGUEZ D/B/A I & R  
TRUCKING, REINALDO R. PAIZ, D/B/A  
R & R PAIZ TRUCKS; ROSALINDA  
ROSAS; MICHAEL C. RODRIGUEZ  
D/B/A MICHAEL RODRIGUEZ  
TRUCKING; ISAAC N. RODRIGUEZ,  
JR.; ISAAC RODRIGUEZ; ISAAC C.  
RODRIGUEZ, III; ORALIA OLIVARES  
CABRERA; MIROSLAVA PAIZ; and  
DALIA RODRIGUEZ;  
*Defendants.*

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IN THE DISTRICT COURT OF

SAN PATRICIO COUNTY, TEXAS

San Patricio County - 156th District Court  
\_\_\_\_\_  
JUDICIAL DISTRICT

**PLAINTIFF’S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE**

**TO THE HONORABLE JUDGE OF SAID COURT:**

**NOW COMES** Plaintiff, Denise Marez, Individually and on behalf of the Estate of Juan Perez, deceased, complaining of Defendants Isaac Rodriguez d/b/a “I & R Trucking”; Reinaldo R. Paiz, d/b/a “R & R Paiz Trucks”; Rosalinda Rosas; Michael C. Rodriguez d/b/a “Michael Rodriguez Trucking”; Isaac N. Rodriguez, Jr., Isaac Rodriguez; Isaac C. Rodriguez, III; Oralia Olivares Cabrera; Miroslava Paiz; and Dalia Rodriguez; and for cause of action would respectfully show unto the Court as follows:

**I.**  
**DISCOVERY LEVEL**

1. Pursuant to the provision of Texas Rule of Civil Procedure 190.3, Plaintiff

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Laura M. Miller  
District Clerk  
San Patricio County, Texas

proposes to conduct discovery pursuant to Discovery Control Plan Level III.

## **II.** **PARTIES**

2. Plaintiff, Denise Marez, the surviving spouse of Juan Perez, is an individual residing in San Patricio County, Texas. Plaintiff brings this suit in two capacities: (1) in her individual capacity; and (2) as the Representative of the Estate of Juan Perez.

3. Defendant Isaac Rodriguez (d/b/a "I & R Trucking") is a natural person residing and conducting business at 9692 CR 803, Mathis, Texas 78368, and other "I & R Trucking" locations. Isaac Rodriguez can be served at 9692 CR 803, Mathis, Texas 78368. Service will be by private process server. Service is hereby requested at this time.

4. Defendant Reinaldo R. Paiz (d/b/a "R&R Paiz Trucks") is a natural person residing and conducting business at 9672 CR 803, Mathis, TX 78368, and other "I & R Trucking" locations. Reinaldo R. Paiz (d/b/a "R&R Paiz Trucks") can be served at 9672 CR 803, Mathis, Texas 78368. Service will be by private process server. Service is hereby requested at this time.

5. Defendant Rosalinda Rosas is a natural person residing and conducting business at 9672 CR 803, Mathis, TX 78368, and other "I & R Trucking" locations. Rosalinda Rosas can be served at 9692 CR 803, Mathis, Texas 78368. Service will be by private process server. Service is hereby requested at this time.

6. Defendant Michael C. Rodriguez (d/b/a "Michael Rodriguez Trucking") is a natural person residing and conducting business at 9042 FM 666, Mathis, TX 78368, 1214 King Street, Mathis, TX 78368, and other "I & R Trucking" locations. Michael C. Rodriguez can be served at 9692 CR 803, Mathis, Texas 78368. Service will be by

private process server. Service is hereby requested at this time.

7. Defendant Isaac N. Rodriguez, Jr., is a natural person residing and conducting business at 9042 FM 666, Mathis, TX 78368, and other “I & R Trucking” locations. Isaac N. Rodriguez, Jr., can be served at 9042 FM 666, Mathis, Texas 78368. Service will be by private process server. Service is hereby requested at this time.

8. Defendant Isaac Rodriguez is a natural person residing at 312 Alto, Mathis, TX 78368 and conducting business at “I & R Trucking” locations. Isaac Rodriguez can be served at 312 Alto, Mathis, Texas 78368. Service will be by private process server. Service is hereby requested at this time.

9. Defendant Isaac C. Rodriguez, III, is a natural person residing and conducting business at 9042 FM 666, Mathis, TX 78368, and other “I & R Trucking” locations. Isaac C. Rodriguez, III, can be served at 9042 FM 666, Mathis, Texas 78368. Service will be by private process server. Service is hereby requested at this time.

10. Defendant Oralia Olivares Cabrera is a natural person residing and conducting business at 9022 FM 666, Mathis, TX 78368, and other “I & R Trucking” locations. Oralia Olivares Cabrera can be served at 9022 FM 666, Mathis, Texas 78368. Service will be by private process server. Service is hereby requested at this time.

11. Defendant Miroslava Paiz is a natural person and owner and resident of the subject “I & R Trucking” place of business, residing at 9712 CR 803, Mathis, TX 78368, and other “I & R Trucking” locations. Miroslava Paiz can be served at 9712 CR 803, Mathis, Texas 78368. Service will be by private process server. Service is hereby requested at this time.

12. Defendant Dalia Rodriguez is a natural person, residing at 9672 CR 803, Mathis, TX 78368. Dalia Rodriguez can be served at 9672 CR 803, Mathis, Texas 78368. Service will be by private process server. Service is hereby requested at this time.

13. The Defendants, Isaac Rodriguez (d/b/a "I & R Trucking"); Reinaldo R. Paiz (d/b/a "R&R Paiz Trucks"); Rosalinda Rosas; Michael C. Rodriguez d/b/a Michael Rodriguez Trucking; Isaac N. Rodriguez, Jr., Isaac Rodriguez; Isaac C. Rodriguez, III, Oralia Olivares Cabrera, Miroslava Paiz, and Dalia Rodriguez are not incorporated, but do business as one entity, and are partners, joint ventures, members of a joint enterprise, and/or are legally all the same entity, alter egos, agents, servants and/or apparent agents of each other. Defendants are also liable under the theory of *respondeat superior*. Therefore, all defendants will hereafter be referred to collectively as Defendants "I & R Trucking."

### **III. JURISDICTION**

14. This is a negligence action. Plaintiff seeks monetary relief over \$1,000,000.00. The damages sought herein are within the jurisdictional limits of the court.

15. The Court has jurisdiction over the lawsuit under Texas Civil Practice & Remedies Code § 71.002.

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

17. The Court has jurisdiction over the parties because Defendants I & R Trucking regularly conduct business in the State of Texas.

**IV.**  
**VENUE**

18. Venue is proper in San Patricio County, Texas, pursuant to Texas Civil Practice & Remedies Code section 15.002(a)(3), insofar as Defendants' principal office are in San Patricio County, Texas. Furthermore, venue is proper in San Patricio County, Texas, pursuant to Texas Civil Practice & Remedies Code section 15.002(a)(1) as San Patricio County is the county where all or a substantial part of the events or omissions giving rise to the claim occurred.

**V.**  
**FACTUAL BACKGROUND**

19. On or about March 7, 2015, Mr. Perez was working for Defendants I & R Trucking, where he was employed as a truck driver. On the day in question, Mr. Perez was instructed to work on the roof of one of I & R Trucking's places of business, located at 9692 Country Road 803, in Mathis, Texas. As Mr. Perez climbed onto the roof that he was instructed to repair, he fell through a rotted/damaged part of the roof and landed on the concrete floor and tools lying around below. Mr. Perez suffered severe and ultimately fatal injuries.

20. Defendants, I & R Trucking had failed to inspect or make safe the dangerous conditions on the roof of the Property, including but not limited to the fact that the skylight floor openings, and holes for the skylights, were not guarded by a standard light screen or a fixed standard railing on all exposed sides.

21. Additionally, Defendants I & R Trucking failed to give adequate warning to Mr. Perez.

22. Moreover, Defendants I & R Trucking, had actual knowledge or reasonably should have known of the unsafe conditions presented by the dangerous conditions on the roof of the Property. Furthermore, Defendants I & R Trucking should have hired a skilled roof repairman with the knowledge and skilled required of someone to work on and repair a faulty and dangerous roof as the one located at 9692 Country Road 803, Mathis, Texas 78368.

23. Mr. Perez suffered severe debilitating injuries, severe conscious pain and suffering, significant physical and emotional distress and suffered greatly until he succumbed to his injuries. Defendants I & R Trucking are liable for their acts and omissions, which directly and proximately caused this fall, resulting in the death of and catastrophic injuries sustained by Juan Perez.

**VI.**  
**WRONGFUL DEATH CLAIM OF JUAN PEREZ**

24. Plaintiff incorporates by reference all other paragraphs of this petition as if fully set forth herein.

25. Juan Perez is survived by his wife, the Plaintiff, Denise Marez. Plaintiff brings this wrongful death actions pursuant to Texas Civil Practice and Remedies Code section 71.001, *et seq.*, seeking to recover damages arising from the wrongful, untimely, and tragic death of her husband, Juan Perez, and as predicted upon the facts and legal theories set forth herein. At such time, decedent was in good health.

**VII.**  
**SURVIVAL CLAIM OF JUAN PEREZ**

26. Plaintiff asserts this cause of action pursuant to Texas Civil Practices and Remedies Code section 71.021. Plaintiff, as the Representative of the Estate of Juan

Perez, seeks damages for the physical pain and mental anguish and other damages suffered by Juan Perez until his death. Despite having suffered a horrific and fatal injury from Defendants I & R Trucking's negligent and grossly negligent conduct, Juan Perez did not die instantly. As a direct and proximate result of Defendants I & R Trucking's negligence, carelessness, and reckless conduct, Juan Perez suffered bodily injuries and mental anguish up until his death.

27. Decedent would have been entitled to bring these causes of action against the Defendants I & R Trucking had he lived.

28. At the time of his injuries and subsequent death, Juan Perez was in reasonably good health with a normal life expectancy. Juan Perez suffered tremendous harm and injuries for which damages are hereby sought under the applicable Survival Statute. Such damages were proximately caused by Defendants I & R Trucking's negligence and gross negligence, as described herein.

## **VIII.**

### **CAUSES OF ACTION AGAINST DEFENDANTS I & R TRUCKING**

#### **A. NEGLIGENCE**

29. Plaintiff incorporates each and every allegation of the aforementioned paragraphs as if set forth herein.

30. The Defendants I & R Trucking were negligent. Plaintiff would show that Defendants I & R Trucking are liable for negligence in one or more of the following respects, and that Defendants I & R Trucking owed a legal duty to Juan Perez, and breached that duty due to Defendants' actions, and/or inactions.

31. Plaintiff would show that Defendant owed Juan Perez a duty, and is liable for negligence by committing one of the following acts and/or omissions:

- a. Requiring its driver to perform a dangerous task on which he was not trained, warned, or properly equipped;
- b. Creating a known dangerous and unsafe condition on the premises;
- c. Allowing a known dangerous and unsafe condition to exist on the premises;
- d. Knowingly failing to repair and/or cure the dangerous and unsafe condition;
- e. Failing to properly maintain the premises;
- f. Failing to provide proper guarding of the skylights;
- g. Failing to provide proper railing on exposed sides of the skylights;
- h. Failing to warn of hazards;
- i. Failing to inspect the premises;
- j. Failing to provide for the safety of Juan Perez;
- k. Failing to cover the rotted/damaged portions of the roof;
- l. Failing to put guards on and/or around the rotted/damaged portions of the roof;
- m. Failing to place screens over the rotted/damaged portions of the roof;
- n. Failing to warn of rotted/damaged portions of the roof;
- o. Failing to provide appropriate safety equipment;
- p. Failing to make the premises safe; and
- q. Other negligent acts or omissions.

32. Defendants knew or reasonably should have known of the dangerous condition of the roof. Moreover, due Mr. Perez lack of knowledge, it was not possible for Mr. Perez to see areas of the roof that were unsafe, causing him to fall through the roof to his death.



33. Defendants were negligent in failing to inform the Juan Perez of the dangerous conditions of the roof. The roof was defectively designed, built and maintained by the Defendants. Defendants I & R Trucking, by their actions or inactions, directly and proximately caused life-altering injuries to Juan Perez which resulted in the damages detailed below, and eventually led to his death.

34. Defendants I & R Trucking's breach of duty proximately caused Juan Perez's injuries which resulted in damages detailed below and Juan Perez subsequent death.

**B. PREMISES LIABILITY**

35. Plaintiff incorporates each and every allegation of the aforementioned paragraphs as if set forth herein.

36. Defendants I & R Trucking owed a duty to Plaintiff. Defendants were in possession and/or control of the premises where Juan Perez was fatally injured, i.e. 9692 CR 803, Mathis, Texas 78368.

37. Defendants I & R Trucking failed to properly maintain the roof and its component parts which failed while Juan Perez was on top of the roof at the Property, and therefore posed an unreasonable risk of harm to Juan Perez.

38. Defendants I & R Trucking knew or should have known of this unreasonable and foreseeable risk of harm to Juan Perez and others similarly situated. Defendants I & R Trucking failed to adequately warn Juan Perez of the condition and failed to make the condition reasonably safe. Defendants' failure to warn Juan Perez of the condition and failing to make the condition reasonably safe was the proximate cause of Juan Perez injuries, damages and death.

**C. GROSS NEGLIGENCE**

39. Plaintiff incorporates each and every allegation of the aforementioned paragraphs as if set forth herein.

40. Plaintiff would show the Court and jury that the conduct of Defendants I & R Trucking described herein constitutes gross negligence as defined in Texas Civil Practice & Remedies Code § 41.001(11)(A)-(B). Defendant's actions or inactions and Defendants' actions or inactions directly and proximately caused injury to Plaintiff, which resulted in the damages listed below.

41. The conduct of the Defendants I & R Trucking described above was more than momentary thoughtlessness, inadvertence, or error of judgment and was of such a character as to make the Defendant guilty of gross negligence. The Defendants' acts or omissions involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others of which the Defendants had actual awareness, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of others, and Plaintiff therefore sues for exemplary damages, pursuant to Texas Civil Practice and Remedies Code section 41.003, in the amount determined by the trier of fact.

**IX.  
DAMAGES**

42. Plaintiff seeks unliquidated damages in an amount that is within the jurisdictional limits of the court.

43. Plaintiff seeks all damages in her individual and/or representative capacities which are appropriate under Texas law.

44. As a proximate result of the conduct of the Defendants I & R Trucking, Plaintiff, Individually and as the Representative of the Estate of Juan Perez, is entitled to legal damages, including:

- a. Loss of Consortium in the past and future, including loss of the spousal relationship, loss affection, society, assistance, emotional support, care, comfort, solace, companionship, protection, and services;
- b. Past and future pecuniary losses including earning capacity, advice, counsel, services, care, maintenance, support, contributions that they would, in reasonable probability, have received had her husband lived;
- c. Past and future mental anguish;
- d. Loss of inheritance;
- e. The physical pain and suffering of Decedent up to his untimely death;
- f. The mental anguish that Decedent experienced up to his untimely death; and
- g. All reasonable and necessary expenses for any emergency care and funeral expenses of Decedent.

45. Plaintiff Denise Marez further demands judgment for all other relief to which the Plaintiff deems herself and her deceased husband, justly entitled.

**X.**  
**EXEMPLARY DAMAGES**

46. The conduct of Defendants described above was more than momentary thoughtlessness, inadvertence, or error of judgment and was of such a character as to make Defendants I & R Trucking guilty of gross negligence. The Defendants' acts or omissions involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others of which the Defendants had actual awareness, but nevertheless proceeded with conscious indifference to the rights, safety,

or welfare of others, and Plaintiff therefore sues for exemplary damages, pursuant to Texas Civil Practice and Remedies Code §41.003, in the amount determined by the trier of fact.

**XI.**  
**PRE-JUDGMENT AND POST-JUDGMENT INTEREST**

47. In addition to the damages set out above, Plaintiff asks for judgment against Defendants I & R Trucking herein for court costs, and for pre-judgment and post judgment interest as authorized by law.

**XII.**  
**CONDITION PRECEDENT**

48. All conditions precedent to Plaintiff's right to recover the relief sought herein have occurred or have been performed.

**XIII.**  
**JURY DEMAND**

49. Plaintiff requests a trial by Jury for all issues of fact.

**XIV.**  
**REQUEST FOR DISCLOSURE**

50. Under Texas Rule of Civil Procedure 194, Plaintiff requests that Defendants I & R Trucking disclose, within 50 days of service of this request, the information or material described in Rule 194.2.

**XV.**  
**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the citation be issued, that upon trial before a jury or hearing of this cause that judgment be rendered against Defendants I & R Trucking, that the judgment bear interest as allowed by law, for pre-judgment and post-judgment interest, that costs of Court be taxed against the

Defendants; and for all such and other further relief, at law and in equity, to which Plaintiff may show herself justly entitled.

Respectfully submitted,

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