Affirmed as Modified and Opinion Filed March 26, 2026

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-24-00854-CV

SL NABORS COMMERCIAL/RESIDENTIAL ROOFING, LTD., Appellant
V.
RICO DELMON ALLEN, Appellee

On Appeal from the 101st Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-22-04001

MEMORANDUM OPINION

Before Justices Smith, Barbare, and Rosenberg[1]
Opinion by Justice Barbare

Rico Delmon Allen (Allen) sued SL Nabors Commercial/Residential Roofing, Ltd. (SL Nabors) for negligence after he was injured in an automobile accident. The case proceeded to a jury trial, and at the close of evidence, the court granted a directed verdict on liability against SL Nabors.[2] The jury was charged with determining Allen's damages, and it awarded: (1) $250,000.00 in past physical pain and mental anguish; (2) $100,000.00 in future physical pain and mental anguish; (3)

[1] The Hon. Barbara Rosenberg, Justice, Assigned

[2] After Allen moved for a directed verdict, SL Nabors conceded "that we were unable to present evidence at trial to support the submission of a negligence question."

$200,000.00 in past physical impairment; (4) $115,000.00 in future physical impairment; (5) $188,743.73 in past medical care expenses; (6) $200,000.00 in future medical care expenses; and (7) $25,000.00 in past loss of earning capacity. The trial court also awarded $4,648.85 in costs.

On appeal, SL Nabors argues that the evidence is legally and factually insufficient to support the jury's award for past and future physical pain and mental anguish, past and future physical impairment, and future medical expenses. It also challenges the $4,648.85 awarded in costs.

We conclude that the trial court erred by stating a specific amount of court costs in the judgment. As modified, we affirm the judgment.

Standard of Review

Because SL Nabors did not have the burden of proof at trial, it must show that no evidence supports the adverse findings to succeed on its legal sufficiency challenges. *Graham Cent. Station, Inc. v. Pena*, 442 S.W.3d 261, 263 (Tex. 2014) (per curiam); *Bilal v. Khan*, No. 05-24-00390-CV, 2025 WL 1547741, at *2 (Tex. App.—Dallas May 30, 2025, no pet.) (mem. op.). A challenge to the legal sufficiency of the evidence by a party who did not have the burden of proof on that issue requires the appellant to show that no evidence supports the adverse finding. *Graham*, 442 S.W.3d at 263; *Croucher v. Croucher*, 660 S.W.2d 55, 58 (Tex. 1983). If more than a scintilla of evidence exists to support the finding, the legal sufficiency challenge fails. *Graham*, 442 S.W.3d at 263; *Akin, Strauss, Hauer & Feld, L.L.P. v.*

Nat'l Dev. & Rsch. Corp., 299 S.W.3d 106, 115 (Tex. 2009) (quoting *Merrell Dow Pharms., Inc. v. Havner*, 953 S.W.2d 706, 711 (Tex. 1997)). When conducting a legal sufficiency review, we credit the evidence that supports the verdict if reasonable jurors could have done so and disregard contrary evidence unless reasonable jurors could not have done so. *Akin, Gump, Strauss, Hauer & Feld, L.L.P.*, 299 S.W.3d at 115.

When considering factual sufficiency challenges, we review all of the evidence in a neutral light and will reverse the trial court's judgment only if the evidence supporting the findings is so contrary to the overwhelming weight of the evidence that it renders the judgment clearly wrong and manifestly unjust. *See Maritime Overseas Corp. v. Ellis*, 971 S.W.2d 402, 406–07 (Tex. 1998); *Bilal*, 2025 WL 1547741, at *2. Under this standard, we may not pass upon the credibility of witnesses or substitute our judgment for that of the factfinder, even if the evidence would clearly support a different result. *Maritime Overseas Corp.*, 971 S.W.2d at 407; *Pool v. Ford Motor Co.*, 715 S.W.2d 629, 634 (Tex. 1986).

Non-economic Damages

In its first issue, SL Nabors argues that the evidence is legally and factually insufficient to support the trial court's award for (1) $250,000.00 in past physical pain and mental anguish; (2) $100,000.00 in future physical pain and mental anguish; (3) $200,000.00 in past physical impairment; and (4) $115,000.00 in future physical impairment.

Past and Future Physical Pain and Mental Anguish

The process of awarding damages for an amorphous, discretionary injury such as pain is inherently difficult because the alleged injury is a subjective, unliquidated, nonpecuniary loss. *Emmanuel v. Garcia*, No. 05-23-00805-CV, 2025 WL 1261866, at *2 (Tex. App.—Dallas Apr. 30, 2025, no pet.) (mem. op.). Once the existence of some pain has been established, a great deal of discretion is given to the factfinder in awarding the amount it deems appropriate. *Id.* at *2. Evidence of pain may be proven through a plaintiff's testimony. *Id.*; *see also Telesis/Parkwood Ret. I, Ltd. v. Anderson*, 462 S.W.3d 212, 239 (Tex. App.—El Paso 2015, no pet.).

"Mental anguish" means a relatively high degree of mental pain and distress that exceeds mere disappointment, anger, resentment, or embarrassment, although it may include all of these. *Bilal*, 2025 WL 1547741, at *3 (citing *Parkway Co. v. Woodruff*, 901 S.W.2d 434, 444 (Tex. 1995)); *see also Anderson v. Durant*, 550 S.W.3d 605, 619 (Tex. 2018). To recover mental anguish damages, a plaintiff must provide "evidence of the nature, duration, and severity of his mental anguish." *In re Richardson Motorsports, Ltd.*, 690 S.W.3d 42, 50 (Tex. 2024); *Gregory v. Chohan*, 670 S.W.3d 546, 554 (Tex. 2023). Such evidence is more likely to provide the factfinder with adequate details about the extent of the claimant's mental anguish. *Anderson*, 530 S.W.3d at 619.

To survive a legal-sufficiency challenge to an award of mental anguish damages, the plaintiff bears the burden of demonstrating both (1) the existence of

compensable mental anguish and (2) a rational connection, grounded in the evidence, between the injuries suffered and the amount awarded. *Gregory*, 670 S.W.3d at 550, 562 (plurality op.); *Cannon v. Wilson*, No. 05-23-01185-CV, 2025 WL 1372864, at *6 (Tex. App.—Dallas May 12, 2025, no pet.) (mem. op.).

Just as evidence of the existence of mental anguish damages generally must establish the "nature, duration, and severity" of the anguish suffered, the same kind of evidence—of "nature, duration, and severity"—will naturally also be relevant to the amount awarded. *Gregory*, 670 S.W.3d at 560. There must be a reason given for why the amount sought or obtained is reasonable and just, and that reason must be a rational reason grounded in the evidence. *Id.* If the reason offered in justification of the amount awarded is rational and does not partake of prohibited motives, courts should defer to the factfinder's verdict. *Id.* at 562; *Cannon*, 2025 WL 1372864, at *6.

To recover damages for future mental anguish, the plaintiff must further demonstrate a reasonable probability that compensable mental anguish will persist. *Anderson*, 550 S.W.3d at 619. "Generalized, conclusory descriptions of how an event affected a person are insufficient evidence on which to base mental anguish damages." *Id.*

Individuals experience mental anguish in many ways, so no two cases are the same. *See Cate v. Posey*, No. 05-17-01216-CV, 2018 WL 6322170, at *5 (Tex. App.—Dallas Dec. 4, 2018, no pet.) (mem. op.) (noting that the process of awarding

damages for pain and suffering is inherently difficult, and each case must be judged on its own unique facts). Here, the jury heard the following evidence about Allen's past and future physical pain and mental anguish.

After the car accident on July 19, 2021, Allen immediately suffered from head, shoulder, and back pain. He went to the emergency room a few hours later because the pain continued.

Two days later, Allen saw Dr. Zachary Weaks (Dr. Weaks), a chiropractor, and reported "neck, back, finger, arm, shoulder, left leg, and hip pain" along with "dizziness, headaches, numbness, losing sleep." Despite taking muscle relaxers, Allen rated his pain on a scale of one to ten as follows:

- pain that traveled from his neck down the spine: 8
- back, finger, and arm pain: 10
- shoulder and rib pain: 9
- left leg pain: 6
- hip pain: 7

Allen began physical rehabilitation, but it was not successful. He struggled with completing household chores and opening heavy doors. Allen attended twenty chiropractic visits over approximately eleven months. His final evaluation was on June 9, 2022, and he still reported "severe difficulty putting things over his head, doing household chores, making a bed, carrying an object over ten pounds, severe difficulty washing his back, recreational activities." His assessment of progress was "fair," but he also indicated "no progress" in "established goals." Allen answered a

Neck and Back Index in which he rated his pain level for certain activities on a scale of one to five. He answered the Neck Index as follows:

- The pain is very severe at the moment: 4
- My sleep is completely disturbed (5-7 hours sleeplessness): 5
- I have a great deal of difficulty concentrating when I want: 4
- I cannot do my usual work: 3
- It is painful to look after myself and I am slow and careful: 2
- I cannot lift or carry anything at all: 5
- I am only able to engage in a few of my usual recreation activities because of neck pain: 3
- I have moderate headaches which come frequently: 3

He answered the Back Index as follows:

- The pain comes and goes and is very severe: 4
- Because of pain, my normal sleep is reduced by less than 75%: 4
- Pain prevents me from sitting more than 10 minutes: 4
- I cannot stand for longer than 10 minutes without increasing pain: 4
- I cannot walk more than 1/4 mile without increasing pain: 4
- Washing and dressing increases the pain but I manage not to change my way of doing it: 2
- I can only lift very light weights: 5
- Pain restricts all forms of travel except that done while lying down: 4
- Pain has restricted my social life to my home: 4
- My pain is neither getting better or worse: 3

Dr. Weaks reported the need for future treatment:

> Considering the nature of this patient's injury and the scar tissue that results from tissue damage, the prognosis is fair. It is within reasonable medical probability the patient will likely experience future episodes of pain and decreased range of motion. These intermittent exacerbations will most likely occur during periods of physical and/or mental stress.

During his chiropractic care, Allen had an MRI and followed up with Dr. Zeshan Chaudhry (Dr. Chaudhry). During Allen's initial intake appointment on January 4, 2022, he reported pain in his neck and lower back:

> [T]he pain was quite aching in his neck and low back. The pain would radiate from his neck to his shoulders. He had some reports of numbness and tingling sensation in his hands. Certain activities such as driving, standing, work activities, work duties, lifting all exaggerated or exacerbated his pain.

The MRI revealed an area of disk protrusion at the C-3 and C-4 cervical spine. The disk herniation was potentially causing "narrowing of the spine and spinal canal as well as the holes of the spine where the nerves come out and go down the arms." Dr. Chaudhry diagnosed Allen with cervical facet mediated pain and lumbar facet mediated pain and recommended a facet joint injection in Allen's cervical and lumbar spine to alleviate inflammation.

The procedure was performed using x-ray and fluoroscopy-guided imaging to allow the doctor to inject a steroid into the facet joints of the spine. Allen opted to stay awake for the injections because one of his "biggest fears in life" was going under anesthesia and not waking up, "not waking up to see my kids." He testified that the injections were "not fun." He described it as "the worst thing ever," despite the injections helping for a short time. Allen received three injections between May 2022 and September 2022.

When Dr. Chaudhry released Allen, he was still experiencing mild to moderate pain. Dr. Chaudhry explained to the jury that a herniated or protruding disk will not heal itself and the disk is "forever compromised in terms of its integrity" and weakens the spine in that area.

Dr. Brett Boeke (Dr. Boeke), Allen's chiropractic expert, expected Allen to be susceptible to future injuries as he ages because the disk "is not stable anymore."

Allen also underwent shoulder surgery to repair a tear in the labrum, "a very important part of the shoulder that is essentially the cushion where that shoulder joint glides." Cynthia Allen (Mother) testified that post-surgery, Allen was "in so much pain . . . he couldn't do nothing with that arm." She helped take care of Allen's two young children because the pain medication made him "groggy and sleepy."

Before the accident, Allen was a successful sales representative earning between $4,000 and $7,000 per month depending on commissions. The accident immediately affected his ability to work. He struggled to drive short distances, and he sometimes got dizzy and experienced blurry vision. Carrying his laptop computer hurt his shoulder. Allen was forced to change jobs, leaving field work to answer phones at a call center. His salary dropped to approximately $3,000 a month. He unsuccessfully tried to start his own business. Allen began working "odd jobs, like nothing stable, like, bouncing around different sales jobs." His yearly income dropped from approximately $80,000.00 to $40,000.00.

Allen felt like he lost himself. The accident "drained" him mentally, and he lost his faith in God. Mother noticed "a big change in him" mentally. He was a "proud man" who did not like asking for help.

Allen's relationship with his wife was challenging before the accident, but his injuries "basically shut the door." He distanced himself and did not want to talk to her. Eventually, they divorced.

A family friend and Mother moved into his house to help, but Allen was eventually evicted because he could not afford the payments.

Allen testified that he still wakes up, "depending on how I sleep or lay [sic]," with his shoulder "killing" him. He explained that neither the chiropractic care nor the steroid injections fully alleviated his pain. He simply "fight[s] through it just every day." Allen testified that he worries about his herniated disks and how it will affect his future.

During closing argument, Allen's counsel suggested that the jury should consider "at least $500,000" for the value of lost time for past physical pain and mental anguish. He argued, "That's the memories you don't get back. Those are the times that are lost. Those are things that are sticking with him for the rest of his life." He argued that the jury should consider between $200,000.00 and $250,000.00 for future physical pain and suffering.

Because the charge did not ask the jury to assess damages separately, sufficient evidence of either past physical pain or past mental anguish may support the award. *See, e.g.*, *Figueroa v. Davis*, 318 S.W.3d 53, 63 (Tex. App.—Houston [1st Dist.] 2010, no pet.). Similarly, the charge did not ask for separate damage figures for future physical pain or future mental anguish. *Id.*

The jury's awards were less than the recommended ranges by Allen's attorney in closing argument; therefore, the jury did not "simply pick a number and put it in a blank," as SL Nabors argues. *See Gregory*, 670 S.W.3d at 554 ("Juries cannot simply pick a number and put it in the blank."); *see also Bilal*, 2025 WL 1547741, at *4 (concluding the evidence supporting the jury's award for past mental anguish was factually sufficient, in part, because that the jury's award of $140,000 was far less than the $1.75 million the plaintiff asked the jury to award). Rather, the evidence demonstrates a rational connection, grounded in the evidence, between the physical injuries Allen suffered and the dollar amount awarded for his past and future physical pain. *See Gregory*, 670 S.W.3d at 562; *Cannon*, 2025 WL 1372864, at *6. Moreover, because Allen established the existence of some pain, a great deal of discretion is given to the factfinder in awarding the amount it deems appropriate. *Emmanual*, 2025 WL 1261866, at *2. The evidence likewise establishes the nature, duration, and severity of Allen's past and future mental anguish that was more than mere disappointment, anger, resentment, or embarrassment. *In re Richardson Motorsports, Ltd.*, 690 S.W.3d at 50; *Bilal*, 2025 WL 1547741, at *3; *see also Anderson*, 50 S.W.3d at 619.

Since *Gregory*, two appellate courts have upheld sufficiency challenges to non-economic damages when the plaintiff provided a "simple calculation" for a jury to determine damages. *See, e.g.*, *Garza v. Escamilla*, 712 S.W.3d 718, 727 (Tex. App.—Houston [14th Dist.] 2025, no pet.) (noting that counsel suggested an amount

of damages based on a simple calculation: sixteen dollars per day, or one dollar for every waking hour in the day in which Escamilla experienced loss); *Elizondo v. Reyna*, No. 04-24-00284-CV, 2025 WL 2462764, at *9 (Tex. App.—San Antonio Aug. 27, 2025, no pet.) (mem. op.) (suggesting the jury should award a combined total of $25 a day—an amount that the evidence showed was approximately one hour of National Guard pay—multiplied by the 1,625 days between the date of the crash and the date of the closing argument for past mental anguish and past physical impairment and award a combined total of between $10 and $20 per day, multiplied by the 11,680 days of plaintiff's remaining life expectancy, to compensate for his future mental anguish and future physical impairment). However, to the extent SL Nabors argues that suggested calculations are required to withstand a sufficiency challenge, we do not interpret *Gregory* as changing the law to require such evidence to uphold non-economic damage awards. Rather, these cases illustrate one method by which a plaintiff may assist the jury in calculating damages.

When, as here, the reasons given for the award are rational and grounded in the evidence and do not partake of prohibited motives, we defer to the factfinder's verdict. *Gregory*, 670 S.W.3d at 562; *Cannon*, 2025 WL 1372864, at *8. We therefore conclude that legally and factually sufficient evidence supports the jury's award of $200,000.00 for past physical pain and mental anguish and $100,000.00 for future physical pain and mental anguish.

A. Past and Future Physical Impairment

"Physical impairment, sometimes called loss of enjoyment of life, encompasses the loss of the injured party's former lifestyle." *Figueroa*, 318 S.W.3d at 64. It is an injury distinct from pain and suffering and includes limitations on physical activities. *Garcia v. Nunez*, No. 05-17-00631-CV, 2018 WL 6065254, at *6 (Tex. App.—Dallas Nov. 20, 2018, no pet.) (mem. op.).

To recover for physical impairment, the plaintiff must show that the effect of the physical impairment is substantial and extends beyond any pain, suffering, mental anguish, lost wages, or lost earning capacity. *Golden Eagle Archery, Inc. v. Jackson*, 116 S.W.3d 757, 772 (Tex. 2003). Physical impairment evidence may include evidence of the inability to participate in physical activities previously engaged in and difficulty accomplishing tasks. *Garcia*, 2018 WL 6065254, at *6. Like pain and suffering damages, physical impairment damages "are necessarily speculative and it is particularly within the jury's province to resolve these matters and determine those amounts." *Id.* (quoting *Swearinger v. Guajardo*, No. 05-15-00202-CV, 2016 WL 4162785, at *2 (Tex. App.—Dallas Aug. 5, 2016, no pet.) (mem. op.)).

Mother described Allen as "a great father," who loved his son and daughter "more than anything." Having children made Allen want to be a better man. Before the accident, Allen did not feel limited in his abilities to be a father. He coached his

son's basketball team and enjoyed playing soccer with his daughter. The family went swimming and bowling together.

Allen testified that he now felt weak as a father and was letting down his children. The physical activities they enjoyed as a family are now "on pause." He did not feel like they could take family vacations. He stopped coaching his son's basketball team two years ago. Although he hoped to return as an assistant coach, his involvement would be less.

His daughter always checked on him, and Allen testified that "I don't want them to be worried about me." He felt like he missed out on many memories by not being physically and mentally present for his children. The pain medication Allen took made him have "really crazy thoughts," and he often felt like giving up. Allen testified that he could not help his children with homework because sitting and looking at papers for that long hurt his body and gave him a headache.

Mother testified that severe pain prevented Allen from lifting his son. She had to move in with him to help care for the children because medication made Allen "groggy" and "sleepy." After the accident, Allen no longer went out as often, and he was nervous to drive.

SL Nabors concedes that this evidence supports a finding that Allen experienced both past and future physical impairment but takes issue with the amount awarded ($200,000.00 for past physical impairment and $115,000.00 for future physical impairment). It argues that the evidence is insufficient to justify the

specific amounts, and the jury impermissibly "simply picked a number and put it in the blank." *See Gregory*, 670 S.W.3d at 551, 554.

The charge stated the following:

> You are instructed that physical impairment includes the loss of enjoyment and quality of life and that compensate the individual not only for objective loss of the ability to engage in activities such as recreational or social activities, but also for the subjective knowledge that one can no longer enjoy all of life's pursuits as before the injury. However, the effect of any physical impairment must be substantial and extend beyond any pain, suffering, and mental anguish.

The jury was further instructed to consider each element of damages separately and not to "twice compensate" for the same loss, if any. We assume that the jury followed these instructions. *Seger v. Yorkshire Ins. Co.*, 503 S.W.3d 388, 407 (Tex. 2016); *Golden Eagle Archery, Inc.*, 116 S.W.3d at 771.

Noneconomic damages are not amenable to calculation with "precise mathematical calculation." *Anderson*, 550 S.W.3d at 618. We must afford the jury discretion when deciding on an amount of damages "that a reasonable person could possibly estimate as fair compensation." *Id.* The jury heard evidence from both Allen and Mother regarding his past and future loss of enjoyment and quality of life.

The evidence demonstrates a rational connection, grounded in the evidence, between the injuries suffered and the dollar amount awarded for past and future physical impairment. *See Gregory*, 670 S.W.3d at 551, 562; *Cannon*, 2025 WL 1372864, at *6. Thus, we defer to the jury's discretion in deciding an "estimate as fair compensation." *Anderson*, 550 S.W.3d at 618. Accordingly, we conclude that

the evidence is legally and factually sufficient to support the jury's award of $200,000.00 in past physical impairment and $115,000.00 in future physical impairment. *See, e.g.*, *Goggans v. Ford*, No. 05-14-01239-CV, 2015 WL 8523302, at *5 (Tex. App.—Dallas Dec. 9, 2015, pet. denied) (mem. op.) (concluding evidence was factually sufficient to support physical impairment damages when witnesses testified about plaintiff's lifestyle and her involvement with her family before the accident and how the pain she had suffered after the accident left her unable to engage in the activities she enjoyed before and how it reduced her ability to interact with her children and the rest of her family). SL Nabors' first issue is overruled.

Future Medical Expenses

To recover future medical expenses, a plaintiff must show that there is a reasonable probability that expenses accrued from an injury will be necessary in the future. *Emmanuel*, 2025 WL 1261866, at *3. The only requirement to support an award of future medical expenses is evidence of the reasonable value of past medical treatment and the probable necessity of future medical treatment. *Cate*, 2018 WL 6322170, at *4 (citing *Thate v. Tex. & P. Ry. Co.*, 595 S.W.2d 591, 601 (Tex. App.—Dallas 1980, writ dism'd)).

Although the preferred practice for establishing future medical expenses is through expert medical testimony, such testimony is not required. *State Farm Mut. Auto. Ins. Co. v. Nicastro*, No. 05-23-00362-CV, 2025 WL 399674, at *5 (Tex.

App.—Dallas Feb. 5, 2025, pet. denied) (mem. op.). No particular evidence is required to support a future medical expenses award, which is always speculative to some degree. *Id.*

The jury may base an award on the nature of the plaintiff's injuries, the breadth and scope of medical treatment the plaintiff received in the past, the immediacy of his treatment following the alleged cause of the injury, the success of the treatment, the reasonable cost of the treatment, the plaintiff's incurred medical expenses, his progress toward recovery under the treatment received, and his medical condition at trial. *Id.*; *see also Griggs v. Cohen*, No. 05-19-01174-CV, 2020 WL 6128225, at *2 (Tex. App.—Dallas Oct. 19, 2020, no pet.) (mem. op.).

The determination of what amount, if any, to award in future medical expenses is within the jury's sound discretion. *State Farm Mut. Auto. Ins. Co.*, 2025 WL 399674, at *5. Because issues such as life expectancy, medical advances, and the future costs of products and services are, by their very nature, uncertain, appellate courts are particularly reluctant to disturb a jury's award of these damages. *Id.*

Dr. Chaudhry explained that a herniated or protruding disk will not heal on its own, and that the disk is "forever compromised in terms of its integrity" and weakens the spine in that area. "It's more prone to further injury and degeneration with time." When counsel asked him if "in medical probability," Allen will need future medical care, he answered, "Yes, it's likely."

Dr. Boeke testified that he anticipated that Allen would need future medical care. He explained that this could include adjustments, physical rehabilitation, and follow-ups with other doctors to treat "flare-ups." Because of the injury, the disk "is not stable anymore so it speeds up the aging process." He explained that the injury "actually ages the disks much more and causes more problematic [sic] for pretty much the rest of his life." Dr. Boeke expected Allen to be susceptible to future injuries as he ages and "need pretty constant pain meds." Dr. Weaks' Treatment Narrative Report from August 18, 2022 further explained other problems Allen may experience.

PROGNOSIS PER DIAGNOSIS:

Cervical, Thoracic, Lumbar, Left Shoulder, Left Hip
Considering the nature of this patient's injury and the scar tissue that results from tissue damage, the prognosis is fair. It is within reasonable medical probability the patient will likely experience future episodes of pain and decreased range of motion. These intermittent exacerbations will most likely occur during periods of physical and/or mental stress.

DISCUSSIONS:

Cervical, Thoracic, Lumbar, Left Shoulder, Left Hip
The inflammatory process that accompanies an injury of this nature leads to healing by fibrotic repair. Along with the fibrosis, a re-nervation of this scar tissue occurs by small neural fibrils. These new nerve fibers are hyper-sensitive when compared to healthy nerves. Now, any mild trauma, physical stress, sustained muscular imbalance, or even digital pressure in the affected region will cause hyper-sensitivity and pain. The replacement of normal ligaments tissue by fibrotic tissue sets the stage for a more rigid joint, thus resulting in joint and tissue hypomobility. This alteration of joint function may ultimately lead to impairment, degenerative change and chronic pain.

SL Nabors concedes, and we agree, that this evidence is legally and factually sufficient to conclude that there is a reasonable probability that future medical treatment will be necessary. *See Cate*, 2018 WL 6322170, at *4. It maintains, however, that Allen's evidence is insufficient to establish that he will incur an additional $200,000.00 in future medical expenses.

The evidence shows that Allen's post-accident treatments alleviated some pain, but the pain returned despite physical rehabilitation and steroid injections. Each steroid injection cost $7,950.00, and the three he received in the course of his pre-trial treatment totaled $23,850.00.

Allen testified that despite continued pain, he had not sought additional treatment because he could not afford it. He also said that he would like to address his mental health issues and see a counselor.

Allen will experience chronic pain and further disk degeneration for the rest of his life. In the approximate three years between Allen's injury and trial, he incurred $188,743.73 in medical expenses. SL Nabors has not challenged the reasonableness of this award.

Evidence of the reasonable value of past medical expenses, along with the probable necessity of future medical treatment, has often been held to support an award of future medical expenses. *Cate*, 2018 WL 6322170, at *4 (citing *Thate*, 595 S.W.2d at 601). SL Nabors has not challenged the jury's award of past medical expenses, and it concedes that Allen will need some future medical treatment. The jury was free to consider the nature and extent of Allen's injuries, his progress toward recovery under the treatment he received, his previous medical expenses of $188,743.73, and his current physical condition to determine the reasonable cash value of future treatments. *See, e.g.*, *Bill Miller Bar-B-Q Enters., Ltd. v. Gonzales*, No. 04-04-00747-CV, 2005 WL 2176079, at *3 (Tex. App.—San Antonio Aug. 24,

2005, pet. denied) (mem. op.). Moreover, Allen was forty-four years old at the time of trial, and presumably, has a long life ahead of him. The jury awarded approximately $11,000 more for his future medical expenses than those awarded for the past three years of medical treatment.

Based on the record, we conclude the evidence is legally and factually sufficient to support the jury's award of $200,000.00 for future medical expenses. We overrule SL Nabors' second issue.

Court Costs

In its final issue, SL Nabors argues that the trial court erred by including a specific amount of court costs in the judgment, which states the following:

> IT IS FURTHER ORDERED, ADJUDGED, and DECREED that Plaintiff shall have and recover from and against Defendant all costs allowed to be recoverable pursuant to Texas Rules of Civil Procedure 131 and 140, and Texas Civil Practice and Remedies Code § 31.007. The Plaintiff's court costs are reflected in the Bill of Costs, which are $4,648.85.

Although the trial court determines whether a party is the "successful" party and entitled to costs, the taxing or tabulation of costs is determined by the clerk, not the court. *Bertrand v. Bertrand*, 449 S.W.3d 856, 870 (Tex. App.—Dallas 2014, no pet.). Thus, the court's role is to adjudicate which party or parties is to bear the costs of court, not to determine the correctness of specific items. *Diggs v. VSM Fin., L.L.C.*, 482 S.W.3d 672, 674 (Tex. App.—Houston [1st Dist.] 2015, no pet.); *Wingert v. Devoll*, No. 03-09-00440-CV, 2010 WL 3271744, at *8 n.9 (Tex. App.—Austin Aug. 20, 2010, pet. denied) (mem. op.).

The trial court should state in its judgment which party is to pay costs. *See* TEX. R. CIV. P. 131; *Diggs*, 482 S.W.3d at 674. Here, the judgment correctly indicated that Allen should recover certain costs, bult the trial court erred by stating a specific amount taxed as costs. *Diggs*, 482 S.W.3d at 674; *Wingert*, 2010 WL 3271744, at *8 n.9. Taxing costs, as distinguished from adjudicating those costs, is a ministerial duty of the clerk. *Diggs*, 482 S.W.3d at 674. Accordingly, we sustain SL Nabors' third issue and delete the $4,648.85 in court costs from the judgment.

Conclusion

The trial court erred by stating a specific amount of court costs in the judgment; therefore, we delete the following sentence: "The Plaintiff's court costs are reflected in the filed Bill of Costs, which are $4,648.85." As modified, we affirm the judgment.

/Cynthia Barbare/
CYNTHIA BARBARE
JUSTICE