

SEVENTH JUDICIAL DISTRICT COURT  
COUNTY OF CATRON  
STATE OF NEW MEXICO

JESSE CHILDERS, Individually and on behalf of  
WILD HORSE RANCH LANDOWNER’S ASSOCIATION,  
CHAIRMAN OF THE BOARD,

Plaintiff,

v.

No. D-728-CV-2024-00026

ALAN DUGAN, EX-PRESIDENT;  
JIM FEEHAN, EX-SECRETARY and EX-TREASURER;  
CARMEN BRONOWSKI, EX-TREASURER;  
JERRY FOLWER, EX-DIRECTOR;  
GREG BRONOWSKI, EX-DIRECTOR;  
RON RACICOT, EX-DIRECTOR;  
MITZY LADRON-NICHOLS, EX-DIRECTOR;  
STEVE MALVITZ, EX-DIRECTOR;  
RACHEL PONDER, EX-PONDER, EX-DIRECTOR;  
ANDY RHOMERG, EX-DIRECTOR; AND  
RON RACICOT, EX-DIRECTOR,

Defendants.

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**DEFENDANTS’ RESPONSE TO PLAINTIFF’S MOTION FOR A  
PRELIMINARY INJUNCTION**

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COME NOW, Defendants, ALLEN DUGAN et al., minus MITZY LADRON-NICHOLS, (the “Defendants” and referred to herein as the “Board of Directors” or “Board”), by and through their attorney, MCKADE R. LOE, Rosebrough, Fowles & Foutz P.C. and for their Response to Plaintiffs Motion for a Preliminary Injunction state as follows:

**I. STATEMENT OF THE FACTS**

1. Jesse Childers filed his Motion for a Preliminary Injunction on October 31, 2024 (the “Motion”).

2. Before filing this Motion, Jesse Childers is required to request the concurrence of all parties, and recite as such on the Motion. *See* Rule 1.007.1(C) NMRA.

3. Jesse Childers did not comply with the Rules of Civil Procedure when filing this Motion, and therefore this Motion should be struck, otherwise, what is the purpose of having the Rules of Civil Procedure if they need not be followed?

4. It must be noted that the current members of The Board of Directors (the “Board”) for the Wild Horse Ranch Landowners Association (the “Association”) are the named Defendants, minus Ron Racicot and Mitzy Ladron-Nichols. *See* Documentation filed with Secretary of State, hereto attached as **Exhibit 1**.

5. As such, the current named Defendants, as mentioned above, conduct business for and on behalf of the Association, and have control of all Association assets.

6. Jesse Childers has initiated this litigation attempting to mislead the Court into believing that he represents the Association, by bringing this matter “as Chairman of Wild Horse Ranch Landowners Association.”

7. There is literally no such position of “Chairman” within the Association, but it is a fabricated position made up by Jesse Childers. *See* Bylaws of the Association, hereto attached as **Exhibit 2**.

8. The Board had originally planned and scheduled the annual members meeting to be held on July 5, 2024.

9. Defendant, Allen Dugan, President of the Association, noticed that there was a Sheriff’s Deputy from Catron County in attendance at the meeting, which alone was not a problem.

10. However, it became abundantly clear that there were a few members, including Jesse Childers, in attendance at the meeting that intended to “take over” the meeting and it appeared that the Sherriff’s Deputy was there as their back-up.

11. Once the Board realized the chaotic scene that was about to erupt, they decided it would be best to postpone the annual meeting and conduct the meeting via zoom, to avoid the use of a Sherriff’s deputy all together and in an effort to conduct the meeting in an orderly fashion.

12. As a result, the meeting was never called to order by the Board of the Association, nor the President of the Board, pursuant to the bylaws of the Association. *See Exhibit 2* at Article III Sec. 1; *see also Exhibit 2* at Article V Sec. 6.

13. Many members of the Board then left the meeting to reconvene at another time.

14. Nonetheless, the few members, including Jesse Childers, conducted their own meeting wherein they attempted to call a “vote” to remove the members of the Board and “elect” new members of the Board.

15. Jesse Childers attached his Affidavit to his Motion for a Preliminary Injunction (the “Motion”) as Exhibit 3. *See Motion for a Preliminary Injunction.*

16. In the affidavit, Jesse describes the process that was followed in removing the members of the Board of Directors, he states:

“I made a motion to remove all directors without cause. The motion was seconded by Ms. Lila Zurolo. The motion was voted on 24 for and 8 against. As such, the Motion carried. Mr. Nesbitt then asked for nominations for the new Board of Directors. I nominated Mrs. Eileen Wright as a Director, Mr. Michael Steel seconded the motion. Mrs. Wright was elected on a vote of 24 for and 8 against. I nominated Mr. Michael Steel as a Director, Ms. Lila Zurzolo seconded the motion. Mr. Steel was elected on a vote of 16 for and 8 against. Mr. Nesbit Hagood nominated Ron Allen as a Director, Mr. Steel seconded the motion. Mr. Allen was elected on a vote 23 for and 8 against. Mr. Hagood nominated me as a Director, Mrs. Wright seconded the motion. I was elected on a vote of 24 for and 8 against. In addition, I submitted 25 proxy votes at the Meeting. The Annual Meeting was adjourned at 4:30 p.m.”

17. After they conducted this “vote,” they proceeded to record a Certificate of Election with Catron County. *See* Certificate of Election, hereto attached as **Exhibit 3**.

18. Since then, they have been attempting to take control of the Association’s assets claiming to be in control of the Board, however that is not so.

19. Jesse Childers has stated that the process, as recorded in the governing documents of the Association, that details the steps that must be taken to remove a board member can be found in Amendment 9 of the Bylaws. *See* Jesse Childers Answers to Interrogatories at Interrogatory No. 5, hereto attached as **Exhibit 4**.

20. Amendment 9 was adopted by the Board of Directors on February 6, 2024. *See* Amendment 9 of the Bylaws, hereto attached as **Exhibit 5**.

21. In the Amendment, it states: “Whereas the board of directors recognizes the need to establish procedures with which to comply with the WHRLA bylaws Article IV, Section 5, concerning the removal of directors” *See* **Exhibit 5**.

22. In accordance with Amendment 9, on February 6, 2024, the Board of Directors established procedures for the removal of directors. *See* WHRLA Resolution to Establish Procedures for the Removal of Directors, hereto attached as **Exhibit 6**.

23. The procedure for the removal of members of the board of directors states as follows:

“In order for a director to be removed from the WHRLA board, with or without cause, by a vote of a majority of the total number of votes of all members voting on the issue, as per the WHRLA Bylaws, Article IV, Section 5, the following procedures apply. A landowner must initiate a petition that must be signed by the landowners of 20 or more separate lots to request the removal of a director. The petition must subsequently be presented to the board of directors. The board of directors must have the issue placed on a ballot to be distributed to all landowners. Thirty days after the ballots are distributed, all returned ballots will be tallied by a committee of volunteers selected in a fair manner by the

president. The results will be presented at the next regular board meeting scheduled after the return deadline. An affirmative vote by a majority of the total number of votes of all members voting on the issue will result in immediate termination.” See **Exhibit 6**.

24. According to Jesse Childers own affidavit, none of these steps were followed, even though he admits that the process for removal is detailed in Amendment 9 of the Bylaws, which incorporate the resolution. See **Exhibit 5**; see also **Exhibit 6**.

25. Because the process for the removal of board members was not followed, none of the board of directors were removed at any time and they are therefore in control of the Association.

26. If Jesse Childers, or any other landowner, wishes to remove any member of the board, it is their right to do so, but they must follow the procedures in place.

## **II. THE COURT SHOULD DENY JESSE CHILDERS MOTION FOR A PRELIMINARY INJUNCTION**

The purpose of a preliminary injunction “is to preserve the status quo pending the litigation of the merits.”” *Insure New Mexico, LLC v. McGonigle*, 2000-NMCA-018, ¶ 9, 128 N.M. 611. To obtain a preliminary injunction, a plaintiff must show that (1) the plaintiff will suffer irreparable injury unless the injunction is granted; (2) the threatened injury outweighs any damage the injunction might cause the defendant; (3) issuance of the injunction will not be adverse to the public's interest; and (4) there is a substantial likelihood plaintiff will prevail on the merits. See *LaBalbo v. Hymes*, 1993-NMCA-010, ¶ 11, 115 N.M. 314. As discussed below, each of these Jesse Childers cannot satisfy these requirements. Accordingly, the Court should deny Jesse Childers Motion for a Preliminary Injunction.

### **A. Jesse Childers will not suffer irreparable injury if the Preliminary Injunction is denied because he does not act on behalf of the Association.**

Under the first prong in determining if a Temporary Restraining Order and an Injunction should be issued, a moving party must demonstrate that immediate and irreparable injury, loss, or damage will result unless a court issues the order. *People's Tr. Fed. Credit Union v. Nat'l Credit Union Admin. Bd.*, 350 F. Supp. 3d 1129, 1138–39 (D.N.M. 2018). The harm must be such that compensatory relief would not be adequate. *Tri-State Generation & Transmission Ass'n, Inc. v. Shoshone River Power, Inc.*, 805 F.2d 351, 355 (10th Cir. 1986). Courts have long established that property is considered to be unique, and its loss is always irreparable injury. *Amkco, Ltd., Co. v. Welborn*, 2001-NMSC-012, ¶ 11, 130 N.M. 155. In addition, "[m]onetary damages are inadequate where the harm is continuing in its nature." *Scott v. Jordan*, 1983-NMCA-022, ¶ 33, 99 N.M. 567.

Here, the Jesse Childers will not be harmed by the Court denying the Preliminary Injunction, because, as mentioned, Jesse Childers does not represent the Association and should not be allowed to do so. Additionally, the Association will not be harmed by the denial of this Motion because, denying this Motion will only act as a reminder that the governing documents of the Association are the controlling documents. Granting this Motion would cause great harm to the Association. It would absolutely destroy the credibility of the Association and its ability to manage itself according to its own governing documents. If the Court were to grant a preliminary injunction in favor of Jesse Childers, the Court would be condoning his actions of circumventing the governing documents of the association.

**B. There Is a Substantial Likelihood that the Board Will Prevail on the Merits**

The second factor for courts to consider is the likelihood of success on the merits. *Tri-State Generation*, 805 F.2d at 358. The likelihood-of-success and irreparable-harm factors are “the most critical” in the analysis. *People's Tr. Fed. Credit Union*, 350 F. Supp. 3d at 1139.

Here, as mentioned above, there are procedures in place for both the remove and election of board members for the association. None of those procedures were followed. The Homeowners Association Act (“HAA”) states that “each association and each lot owner and the owner’s tenant, guests and invitees shall comply with Homeowners Association Act and the associations community documents.” *See* NMSA 1978 §47-16-18(A). Thus, the HAA requires that Jesse Childers must comply with the community documents, or the procedures in place for removal and appointment of members of the board.

Here, there is a process, even according to Jesse Childers own statements, for the removal of board members. *See* **Exhibit 5**. The process was adopted and passed by the Board of Directors on February 6, 2024. *See* **Exhibit 6**. According to Jesse Childers’ own affidavit, none of these steps were followed when trying to remove Defendants from the Board of Directors.

Even if the Association was silent with regard to the removal of board members, the Homeowners Association Act (“HAA”) provides a means whereby directors may be removed. HAA states: “unless a process for removal of board members is provided for in the community documents, the lot owners, by a two-thirds’ vote of all lot owners present and entitled to a vote at a lot owner meeting at which a quorum is present, may remove a member of the board.” *See* NMSA 1978 §47-16-8.1. This was also not followed. According to the bylaws, a meeting of the members is determined by the Board of Directors. *See* **Exhibit 2** at Art. III Sec. 1. The meeting held on July 5, 2024, was originally planned by the Board, but ultimately was postponed and never called. The Annual meeting of the members was actually held via zoom on July 20, 2024. *See* Minutes from Annual Members Meeting held on July 20, 2024, hereto attached as **Exhibit 7**. Even if the meeting on July 5, 2024, was held, there was not a quorum present. A quorum is defined as “the presence of members or proxies of members entitled to cast 20% of all votes shall constitute a quorum. If

the required quorum is not present another meeting may be called and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. *See Exhibit 2* at Art. III Sec. 4. Additionally, 25 of the votes cast at the July 5, 2024, meeting were proxy votes. *See Exhibit 3*. In order for proxies to be counted, they “shall be in writing and filed with the Secretary.” *See Exhibit 2* at Art. III Sec. 5. There were no proxies in writing or filed with the Secretary.

Defendants are likely to prevail on the merits because Jesse Childers did not follow either the community documents or HAA for removal of members of the Board or the community documents for appointment of board members. Thus, Jesse Childers Motion for a Preliminary Injunction should be denied.

**C. The Injuries to the Board Outweigh Any Potential Damage to Jesse Childers**

Third, the Jesse Childers must show that his injury outweighs any injury to Defendants. *See Tri-State Generation*, 805 F.2d at 356. Here, Jesse Childers will suffer no injury because he does not have the authority to act on behalf of the Association. The only injuries alleged by Jesse Childers is that Defendants will continue to act on behalf of the Association. This causes no injury to the Association because Defendants are the true members of the Board of Directors. On the other hand, if this Motion was granted, Defendants and the Association would be harmed greatly. Allowing Jesse Childers to take control of the Association by conducting his own meeting and vote, contrary to the governing documents of the Association, would show all landowners that the Association is unable to govern itself. It would allow the next disgruntled landowner to conduct their own meeting, and remove the next board, appointing themselves. It would begin a cycle of anarchy and chaos. The Board has processes in place to create a fair and equitable solution that



allows all members of the Association to weigh in on the topic. Jesse Childers wishes to toss that process out the window and conduct business as it best suits him.

**D. An Injunction Will Not be Adverse to the Public Interest Because Public Interest Favors Adherence to the Associations Governing Documents**

The last issue to consider is whether the TRO and Preliminary Injunction are in line with public interests. *Gardner v. Schumacher*, 547 F. Supp. 3d 995, 1055–56 (D.N.M. 2021). This factor is another way to determine if there are policy considerations that bear on whether the order should be issued. *Id.*

Public interest favors denying Jesse Childers’ Motion for a Preliminary Injunction. The Homeowners Association Act promotes adherence and compliance with the Associations governing documents. *See* NMSA 1978, §47-16-18. Here, Defendants, the Board and the Association only desire that the governing documents and the community documents be followed. If Jesse Childers is allowed to circumvent the bylaws, community documents, and Homeowners Association Act, it will greatly impact the Association’s ability to govern itself with any real authority. This will essentially allow the next disgruntled member of the Association to hold their own meeting and declare themselves “Chairman of the Board,” opening the door to anarchy and a chaotic means of governing, destroying all credibility, trust and integrity in the bylaws, community documents, and the Homeowners Association Act by the members of the Association. Defendants seek only to enforce the bylaws, community documents. Therefore, Jesse Childers Motion for a Preliminary Injunction should be denied.

**III. CONCLUSION**

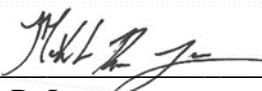
This Court should deny Jesse Childers’ Motion for a Preliminary Injunction because (1) Jesse Childers does not have the authority to act on behalf of the Association; (2) he will suffer no

injury; (3) Defendants are likely to prevail on the merits; and (4) public policy favors adherence to the Associations governing documents.

WHEREFORE, the Board respectfully request that the Court (a) Deny Jesse Childers' Motion for a Preliminary Injunction; (b) award Defendants attorney fees for having to respond to this Motion; and (d) grant such other relief as may be proper.

Respectfully submitted,

ROSEBROUGH, FOWLES & FOUTZ, P.C.

By   
McKade R. Loe  
Attorney for Defendants  
101 West Aztec Ave., Suite A  
P.O. Box 1027  
Gallup, New Mexico 87305-1027  
(505) 722-9121

**CERTIFICATE OF SERVICE**

I hereby certify that on November 15, 2024, a true and correct copy of the foregoing was e-filed through the Court's e-filing system and served upon Plaintiff's counsel of record by email/mail.

  
McKade R. Loe

# **EXHIBIT “1”**

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## Search Information

### Entity Details

Business ID#: **1932391**

Status: **Active**

Entity Name: **WILD HORSE RANCH  
LANDOWNERS'  
ASSOCIATION, INC.**

Standing: **Good Standing**

DBA Name: **Not Applicable**

### Entity Type and State of Domicile

Entity Type: **Domestic Nonprofit  
Corporation**

State of Incorporation: **New Mexico**

Benefit Corporation: **No**

Statute Law Code: **53-8-1 to 53-8-99**

### Formation Dates



### Reporting Information



### Period of Existence and Purpose and Character of Affairs



### Outstanding Items

#### Reports:

No Pending Reports.

#### Registered Agent:

No Records Found.

#### License:

No Records Found.

### Contact Information

Mailing Address: **HC 65, BOX 75, Pie Town, NM 87827**

Principal Place of Business in New  
Mexico: **HC 65, BOX 75, Pie Town, NM 87827**

Secondary Principal Place of  
Business in New Mexico:

Principal Office Outside of New  
Mexico: **Not Applicable**

Registered Office in State of  
Incorporation:

Principal Place of Business in  
Domestic State/ Country: **Not Applicable**

Principal Office Location in NM: **Not Applicable**

### Registered Agent Information

Name: **Steve Malvitz**

Geographical Location  
Address:

Physical Address: **30 Bronco Lane, Pie Town,  
NM 87827**

Mailing Address: **30 Bronco Lane, Pie Town,  
NM 87827**

Date of Appointment: **02/21/2023**

Effective Date of  
Resignation:

### Director Information

Title	Name	Address
Director	James Feehan	75 Cowboy Drive, Pie Town, NM 87827
Director	Jerry Fowler	HC 65 Box 75, Pie Town, NM 87827
Director	Steve Malvitz	HC 65, Box 451, Pie Town, NM 87827
Director	Greg Bronowski	6029 Gorrión NW, Albuquerque, NM 87120
Director	Rachel Ponder	25 Bronco La, Pie Town, NM 87827
Director	Andreas Rhomberg	55 Bronco Lane, Pie Town, NM 87827

### Officer Information

Title	Name	Address
Treasurer	Carmen Bronowski	6029 Gorrión NW, Albuquerque, NM 87120
President	Allen Dugan	51 Asper Dr, Shippensburg, PA 17257
Secretary	James Feehan	75 Cowboy Dr, Pie Town, NM 87827

### Organizer Information

**Not Applicable**

**Incorporator Information**

No Records to View.

**Trustee Information**

**Not Applicable**

**Financial Information**

**Not Applicable**

**Filing History**



**License History**



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# **EXHIBIT “2”**

**BY-LAWS  
OF  
WILD HORSE RANCH  
LANDOWNERS' ASSOCIATION, INC.**

**ARTICLE I**

**NAME AND LOCATION**

The name of the corporation is Wild Horse Ranch Landowners' Association, Inc., hereinafter referred to as the "Association". The principal office of the Association shall be located initially on the York Ranch in Pie Town, New Mexico at the office of The Ranch Associates, Ltd., Co. until such time as the Board of Directors designates such other location as it may deem appropriate for such purposes.

**ARTICLE II**

**DEFINITIONS**

Terms used in these By-laws having initial capital letters but not otherwise defined in these By-laws shall have the meanings specified below.

"Activate", "Activated" and "Activation" shall refer to the recordation in the office of the County Clerk of Catron County, New Mexico of a notice executed by the Declarant to the effect that a particular Phase which has been acquired by the Declarant has been subjected by the Declarant to the Declaration. The real property referred to as "Phase 1" on the Subdivision plat shall be Activated by the recordation of the Declaration.

"Association" shall mean Wild Horse Ranch Landowners' Association, Inc., its successors and assigns.

"Board" shall mean the Board of Directors of the Association.

"Declarant" shall mean Wild Horse Ranch L.L.C. and the successors and assigns of its rights and powers hereunder.

"Declaration" shall mean the Declaration of Covenants, Conditions and Restrictions for the Subdivision, as amended from time to time.

"Default Rate" shall mean a rate of interest equal to the lesser of eighteen percent (18%) per annum or the maximum rate allowed by law.

"Lot" shall mean any numbered lot as shown on the Subdivision plat of a Phase which has been Activated.



"Majority of the Members" means Members owning a majority of the Lots.

"Member" shall mean a member of the Association, including the Declarant so long as the Declarant is the Owner of one or more Lots.

"Owner" shall mean a record holder of beneficial or equitable title and legal title if legal title has merged with the beneficial or equitable title, to the fee simple interest in any Lot. Owner shall not include: (a) a Person having an interest in a Lot merely as security for the performance of an obligation; or (b) a tenant of a Lot.

"Person" shall mean a natural person or a corporation, limited liability company, partnership, joint venture, trust, or any other legal entity.

"Phase" shall mean a portion of the Subdivision indicated as a "phase" on the plat for the Subdivision.

"Property" shall mean the real property comprising the Subdivision.

"Subdivision" shall mean that portion which has been Activated of Wild Horse Ranch Subdivision, a subdivision located in Catron County, New Mexico and developed by Declarant, including the roads and any common areas shown on the Subdivision plat.

### ARTICLE III

#### MEETINGS OF MEMBERS

Section 1.     Annual Meetings: Annual meetings of Members for the election of directors and for such other business as may be stated in the notice of the meeting, or as may properly come before the meeting, shall be held at such places, within or without the State of New Mexico, and at such times and dates as the Board may designate. If the Board fails to so determine the time, date and place of the meeting, the annual meeting of Members shall be held at the principal office of the Association on the first Saturday of May at 2:00 p.m. each year.

Section 2.     Special Meetings: Special meetings of the Members may be called at any time by the Declarant, the President or by a majority of the Board or by a Majority of the Members.

Section 3.     Notice of Meetings: Written notice stating the place, date and time of the meeting and the general nature of the business to be considered shall be given to each Member by mail at his address as it appears on the records of the Association, not less than 10 days nor more than 50 days before the meeting.

Section 4.     Quorum: The presence of Members or proxies of Members entitled to cast 50% of all votes shall constitute a quorum. If the required quorum is not present another meeting may be called and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. Upon the holding of a meeting at which a quorum is present, the quorum for the next succeeding meeting shall be Members or proxies of Members entitled to cast 50% of all votes.

Section 5.     Proxies: At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary.

Section 6.     Delinquent Members: A Member who has not paid up all assessments owing the Association together with interest, if any, and costs of collection of the Association, including attorneys' fees, or who is the subject of an uncured notice from the Declarant to the Association informing the Association that such Member is then in default under his real estate contract with the Declarant, shall not be entitled to vote on any matter. The determination of a Majority of the Members and the existence of a quorum for any meeting of Members shall be made without reference to such a Member or the Lot or Lots owned by him.

#### ARTICLE IV

##### DIRECTORS

Section 1.     Number: The number of Directors shall be no fewer than three and no more than ten. The Directors shall be elected at the annual meeting of Members and each Director shall be elected to serve until his successor shall be elected and is qualified to serve on the Board. Unless otherwise prohibited by law, Directors may also serve as Officers of the Association.

Section 2.     Meetings: Meetings of the Board may be held within or without the state of New Mexico and upon three days notice. A majority of Directors must be present to constitute a quorum at any meeting of the Board. Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if, prior to such action, a written consent thereto is signed by all Members of the Board, and such written consent is filed with the minutes of the proceedings of the Board.

Section 3.     Increase in Number: The number of Directors may be increased within the limits provided in Section 1 of this Article by the affirmative vote of a majority of the Directors or by the affirmative vote of a majority of the total number of votes of all Members voting on the issue at the annual meeting or at a special meeting called for that purpose, and by like vote the additional directors may be chosen at such meeting to hold office until the next annual election or until their successors are elected and qualified, whichever occurs first. The number of Directors may be increased above

ten by amendment of the By-laws.

Section 4.     Compensation: No Director shall receive compensation for any service he may render as such to the Association. Any Director may be reimbursed for his actual expenses incurred in the performance of his duties as Director.

Section 5.     Removal: Any Director may be removed from the Board, with or without cause, by a vote of a majority of the total number of votes of all Members voting on the issue. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Directors and shall serve until their successors are elected and qualified.

Section 6.     Resignation: Any Director, member of a committee or other officer may resign at any time. Such resignation shall be in writing, and shall take effect at the time specified therein, and if no time be specified, at the time of its receipt by the President or Secretary. The acceptance of a resignation shall not be necessary to make it effective.

Section 7.     Vacancies: If the office of any Director, member of a committee or other office becomes vacant, the remaining Directors in office, though less than a quorum, may by majority vote appoint any qualified person to fill such vacancy and to hold office for the unexpired term of his predecessor and until his successor shall be duly chosen.

Section 8.     Powers of the Board: In addition to all powers expressed or implied elsewhere herein, in the Articles of Incorporation of the Association, in the Declaration or by law, the Board shall have the power to:

- A.     Exercise for the Association all powers, duties and authority vested or delegated to the Association.
- B.     Employ a manager, an independent contractor, or such other employees as the Board of Directors deems necessary, and to prescribe their duties.
- C.     Enforce the provisions of the Declaration; provided, however, that nothing herein shall be construed as prohibiting any Owner from pursuing whatever individual independent enforcement actions such Owner may have.

Section 9.     Duties of the Board of Directors: It shall be the duty of the Board of Directors to:

- A.     Cause to be kept a complete record of all its acts and corporate affairs and present a statement thereof to the Members at the annual meeting of the Members.
- B.     Supervise all officers, agents and employees of the Association, and see that their duties are properly performed.

- C. Fix the amount of the regular annual assessment and change such amount if the Board deems such action necessary, and levy special assessments upon the affirmative vote of a majority of the total number of votes of all Members voting on the issue (a regular or special assessment is hereinafter referred to as an "Assessment").
- D. Send written notice of each Assessment to every Member.
- E. Enforce the lien referred to in Article VI against the Lots owned by any Member who owns a Lot for which any Assessment is unpaid and is overdue.
- F. Enforce the provisions of the Declaration; provided, however, that nothing herein shall be construed as prohibiting any Owner from pursuing whatever individual independent enforcement actions such Owner may have.

## ARTICLE V

### OFFICERS AND THEIR DUTIES

- Section 1.     Enumeration of Officers: The Officers of this Association shall be a President, Secretary and Treasurer and such other officers as the Board may from time to time by resolution create. Unless otherwise prohibited by law, Officers may also serve as Directors of the Association.
- Section 2.     Election of Officers: The Officers of this Association shall be elected by the Directors. The election of Officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.
- Section 3.     Term: The Officers of the Association shall be elected annually by the Board and each shall hold office for one year unless such Officer shall resign, be removed or otherwise be disqualified to serve.
- Section 4.     Resignation and Removal: Any Officer may be removed from office, with or without cause, by the Board. Any Officer may resign at any time by giving written notice to the Board, the President or Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.
- Section 5.     Vacancies: A vacancy in any office may be filled by appointment by the Board. The Officer appointed to such vacancy shall serve for the remainder of the term of the Officer he or she replaces.
- Section 6.     Duties: The duties of the Officers are as follows:

President: The President shall preside at all meetings of the Board, shall see that

orders and resolutions of the Board are carried out, shall sign all approved leases, mortgages, deeds and other written instruments and perform such other duties as may be required by the Board.

Vice-President: The Vice-President shall act in the place and stead of the President in the event of the President's absence, inability or refusal to act, and shall exercise and perform such other duties as may be required by the Board.

Secretary: The Secretary shall record the votes and keep the minutes of meetings and proceedings of the Board and of the Association. The Secretary shall also serve notice of meetings of the Board and of the Members, keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as may be required by the Board.

Treasurer: The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association, disburse such funds as directed by resolution of the Board, keep proper books of account, and perform other duties as may be required by the Board.

## ARTICLE VI

### ASSESSMENTS

Each Owner is obligated to pay all Assessments levied with respect to the Lot or Lots of such Owner. All regular Assessments shall be due 30 days, and all special Assessments shall be due 45 days, following the date an Owner is sent notice thereof or at such later date as the Board shall declare. If an Assessment is not paid on the due date, all of the Lots owned by the Owner of the Lot on which such Assessment is unpaid shall be subject to a lien (an "Assessment Lien") against such Lots for the amounts specified below. If any Assessment on any Lot is not paid within 30 days immediately following the due date, the Assessment shall bear interest from the date due until paid at the Default Rate. The Association may, at its option, bring a legal action to foreclose the Assessment Lien against the Member's Lot or Lots in accordance with the then prevailing law of the State of New Mexico for the foreclosure of mortgages. The amount owed, which shall be secured by the Assessment Lien, shall be the delinquent Assessment together with interest at the Default Rate from the due date and all collection costs, including attorneys' fees, relating to such action. Each Member vests in the Association, or its agents, the right and power to bring all actions at law or equity against such Member for the collection of the delinquent Assessments and other sums just specified. The regular annual initial Assessment is to be one hundred twenty-five dollars (\$125.00) per Lot.

## ARTICLE VII

### AMENDMENTS

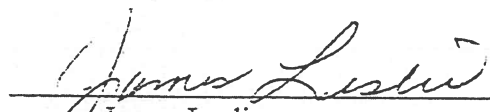
These By-Laws may be amended by action of the Board in accordance with applicable law. In case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall prevail, and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall prevail.

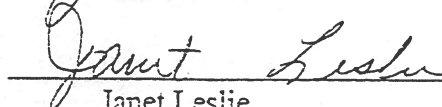
## ARTICLE VIII

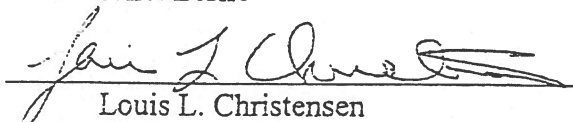
### FISCAL YEAR

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of the incorporation of the Association.

IN WITNESS WHEREOF, we being all of the Directors of Wild Horse Ranch Landowners' Association, Inc. have hereunto set our hands this 15 day of March, 1998.

\_\_\_\_\_, Director and President  
James Leslie

\_\_\_\_\_, Director  
Janet Leslie

\_\_\_\_\_, Director  
Louis L. Christensen

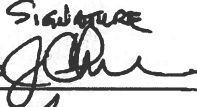
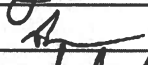

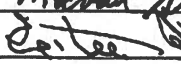
# **EXHIBIT “3”**

# Certificate of Election

## Statement of Ballots Cast

July 5, 2024, Landowners' Meeting

### BOARD CANDIDATES

Candidate Name	Signature	Votes Cast	Proxy Votes
JESSE Childers		24	25
Ron Allen		23	25
Michael Steele		16	25
Eileen Wright		24	25

WE, THE UNDERSIGNED LANDOWNERS OF THE ELECTION RESULTS OF AN ELECTION HELD IN WILD HORSE RANCH LANDOWNERS ASSOCIATION (aka:WHLRA), IN THE STATE OF NEW MEXICO, ON FRIDAY 5<sup>TH</sup> OF JULY, 2024 FOR THE ELECTION OF THE BOARD OF DIRECTORS DO HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS A TRUE AND CORRECT ABSTRACT OF THE VOTES CAST AT SAID ELECTION, AS SHOWN BY THE RETURNS FROM WHLRA IN SAID COUNTY OF CATRON.

  
Landowner Witness

7/5/24  
Date

  
Landowner Witness

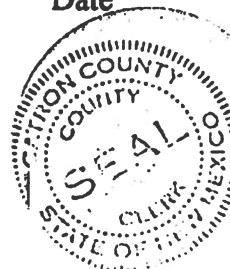
7/5/24  
Date

  
Landowner Witness

7/5/2024  
Date

Signed this 5<sup>th</sup> day of July, 2024

2024-08599 07/05/2024 08:13:15 AM  
Pages: 1 Fees: 25.00  
Sharon Arriaga, County Clerk, Catron County NM  
CERTIFICATION





# **EXHIBIT “4”**

**STATE OF NEW MEXICO  
COUNTY OF CATRON  
SEVENTH JUDICIAL DISTRICT COURT**

JESSE CHILDERS, Individually and on  
Behalf of WILD HORSE RANCH  
LANDOWNER'S ASSOCIATION,  
CHAIRMAN OF THE BOARD,

Plaintiff,

v.

No. D-728-CV-2024-00026  
Judge: Mercedes C. Murphy

ALAN DUGAN, Ex-President, JIM FEEHAN,  
Ex-Secretary and Ex-Director, CARMEN  
BRONOWSKI, Ex-Treasurer, JERRY  
FOWLER, Ex-Director, GREG BRONOWSKI,  
Ex-Director, RON RAICOT, Ex-Director,  
MITZY LADRON-NICHOLS, Ex-Director,  
STEVE MALVITZ, Ex-Director, RACHEL  
PONDER, Ex-Director, and ANDY  
RHOMBERG, Ex-Director,

Defendants.

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**PLAINTIFF'S OBJECTIONS AND ANSWERS TO DEFENDANTS' FIRST SET OF  
INTERROGATORIES TO PLAINTIFF JESSE CHILDERS**

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COMES NOW Plaintiff Jesse Childers ("Mr. Childers" or "Plaintiff"), by and through his attorneys of record, Himes, Petrarca & Fester, Chtd., (Andrew M. Sanchez), and hereby submits his objections and answers to Defendants' First Set of Interrogatories as follows:

**GENERAL OBJECTIONS:**

Plaintiff objects to the Interrogatories to the extent they seek information protected from disclosure by the attorney-client privilege or the work product doctrine. Rules 1-026 and 11-503 NMRA 2000.

In answering these Interrogatories, Plaintiff reserves all evidentiary objections to any responses or documents that may be offered in evidence at trial or in any hearing.

Interrogatories seeking legal arguments on dispositive matters do not require the Plaintiff to set forth a narrative or dispositive motion to be contained in such answers or responses. *See Lucero v. Valdez*, 240 F.R.D. 591, 594–95 (D.N.M. 2007).

### **INTERROGATORIES**

**INTERROGATORY NO. 1:** State the name, address, occupation (including job title and duties), and telephone number of each person who participated or assisted in answering, or supplied information used in answering these interrogatories, and for each such person, identify the interrogatories in which they participated or assisted in answering or for which they supplied information.

**ANSWER:** Jesse Childers, Retired, 25 Victoria Ct., Pie Town, NM 87827, (505) 898-1175, all Interrogatories.

**INTERROGATORY NO. 2:** Please list in specific detail, the names of all members of the Wild Horse Ranch Landowners Association (the “Association”), who were in attendance at the gathering held on July 5, 2024, wherein an attempted vote was cast to remove the Defendants named herein from the Board of Directors for the Association.

**ANSWER:** **Objection.** The discovery request is vague, ambiguous, or subject to multiple interpretations, and therefore not narrowly tailored to produce admissible evidence with regard to the “gathering held on July 5, 2024”. *See* Rule 1-034(B) NMRA 2010 (requiring that all request for production describe each item or category with reasonable particularity).

C.W. Wright, A Miller, and R. Marcus, Federal Practice and Procedure, § 2211 at 412-415 (West 1994). Requests which ask for “any and all” records “of any and all kinds” require Defendants to expend unnecessary time and effort to speculate and decide to what extent it must review “records, document, writing, recordings and physical evidence of any and all kinds” to distinguish what is and what is not responsive. *Pulsecard, Inc v. Discover Card Services, Inc.*, 1995 W.L. 525533 (D.Kan., Aug. 31, 1995). *Archuleta v. Santa Fe Police Dep’t ex rel. City of Santa Fe*, 2005-NMSC-6, ¶ 23, 108 P.3d 1019, 1027 (“a party will not be required to respond to an overly broad discovery request unless adequate guidance exists as to what extent the request is not objectionable.”); Unpublished Opinion: *Lavender v. Amer. Physicians Assur. Corp.*, 2004 Westlaw 2755878 (Ky.App.) (While discussing a question objected to on the basis of being vague or ambiguous, “We begin our analysis by considering the wording of Question 22. It is subjective. It is subjective because it seeks to probe Dr. Lavender’s state of mind in contrast to objective questions calling for information within his knowledge.”); *De Graffenried v. U.S.*, 2 Cl.Ct. 640, 36 Fed.R.Serv.2d 1522 (1983) (“interrogating a patentee on his views of the alleged infringement of his patent claims is vague and ambiguous.”).

Notwithstanding the foregoing and without waiver thereof, please see Childers 00001 attached hereto, providing a list of names of those who attended the Association’s Annual Meeting for the election of Directors held on Friday, July 5, 2024. Plaintiff continues to search for additional responsive information to answer this Interrogatory and will supplement this Answer if additional responsive information is located.

INTERROGATORY NO. 3: Please describe in specific detail your duties as “Chairman of the Board.”

**ANSWER: Objection.** This request is overbroad in that it seeks information which will not reasonably lead to admissible evidence.

*State v. Tackett*, 78 N.M. 450, 432 P.2d 415 (1962) (stating that a party “has no right to go upon a tour of investigation, in the hope that they will find something to aid them, and if it appears that the request for such inspection is merely ‘a fishing expedition to see what may turn up’ it should be denied”); *Cantrell v. W & C Contracting Co.*, 112 N.M. 609, 817 P.2d 1251 (Ct. App. 1991 (“A request for discovery may properly be denied if the request is speculative or if such discovery would amount to a mere fishing expedition.”). *Ruiz v. Southern Pac. Transp. Co.*, 97 N.M. 194, 203, 638 P.2d 406, 415 (Ct. App.) (upholding objection against overly broad discovery asking for irrelevant information), *cert. quashed*, 97 N.M. 242, 638 P.2d 1087 (1981).

The discovery request is not relevant to issues in this case.

*Lara v. City of Albuquerque*, 1999-NMCA-012, 971 P.2d 846 (discovery must be narrowly tailored to avoid irrelevant information); *Ruiz v. Southern Pacific Trans. Co.*, 97 N.M. 194, 203 (“Unless limited to employees on duty at the time and place of the accident complained of, or to employees fired for negligence similar to that complained of, that information is irrelevant.”)

Notwithstanding the foregoing and without waiver thereof, the duties of the Chairman of the Board are specified in the WHRLA By-laws, Article IV, Section 9 (Directors) and in Article V (Officers and Their Duties), which are equally available to Defendants at <https://whrla.com/documents/governing-documents/whrla-bylaw/>.

**INTERROGATORY NO. 4:** Please describe in specific detail the board in which you are the “Chairman” as referenced in the caption of the Application for a TRO which you filed.

**ANSWER: Objection.** The discovery request is vague, ambiguous, or subject to multiple interpretations, and therefore not narrowly tailored to produce admissible evidence with regard to

“the board in which you are the ‘Chairman’”. See Rule 1-034(B) NMRA 2010 (requiring that all request for production describe each item or category with reasonable particularity).

C.W. Wright, A Miller, and R. Marcus, Federal Practice and Procedure, § 2211 at 412-415 (West 1994). Requests which ask for “any and all” records “of any and all kinds” require Defendants to expend unnecessary time and effort to speculate and decide to what extent it must review “records, document, writing, recordings and physical evidence of any and all kinds” to distinguish what is and what is not responsive. *Pulsecard, Inc v. Discover Card Services, Inc.*, 1995 W.L. 525533 (D.Kan., Aug. 31, 1995). *Archuleta v. Santa Fe Police Dep’t ex rel. City of Santa Fe*, 2005-NMSC-6, ¶ 23, 108 P.3d 1019, 1027 (“a party will not be required to respond to an overly broad discovery request unless adequate guidance exists as to what extent the request is not objectionable.”); Unpublished Opinion: *Lavender v. Amer. Physicians Assur. Corp.*, 2004 Westlaw 2755878 (Ky.App.) (While discussing a question objected to on the basis of being vague or ambiguous, “We begin our analysis by considering the wording of Question 22. It is subjective. It is subjective because it seeks to probe Dr. Lavender’s state of mind in contrast to objective questions calling for information within his knowledge.”); *De Graffenried v. U.S.*, 2 Cl.Ct. 640, 36 Fed.R.Serv.2d 1522 (1983) (“interrogating a patentee on his views of the alleged infringement of his patent claims is vague and ambiguous.”).

This request is overbroad in that it seeks information which will not reasonably lead to admissible evidence.

*State v. Tackett*, 78 N.M. 450, 432 P.2d 415 (1962) (stating that a party “has no right to go upon a tour of investigation, in the hope that they will find something to aid them, and if it appears that the request for such inspection is merely ‘a fishing expedition to see what may turn up’ it should be denied”); *Cantrell v. W & C Contracting Co.*, 112 N.M. 609, 817 P.2d 1251 (Ct. App. 1991 (“A request for discovery may properly be denied if the request is speculative or if such

discovery would amount to a mere fishing expedition.”). *Ruiz v. Southern Pac. Transp. Co.*, 97 N.M. 194, 203, 638 P.2d 406, 415 (Ct. App.) (upholding objection against overly broad discovery asking for irrelevant information), *cert. quashed*, 97 N.M. 242, 638 P.2d 1087 (1981).

The discovery request is not relevant to issues in this case.

*Lara v. City of Albuquerque*, 1999-NMCA-012, 971 P.2d 846 (discovery must be narrowly tailored to avoid irrelevant information); *Ruiz v. Southern Pacific Trans. Co.*, 97 N.M. 194, 203 (“Unless limited to employees on duty at the time and place of the accident complained of, or to employees fired for negligence similar to that complained of, that information is irrelevant.”)

Notwithstanding the foregoing and without waiver thereof, the Board is defined in the WHRLA By-laws, Article II (Definitions and subsection “Board”), which are equally available to Defendants at <https://whrla.com/documents/governing-documents/whrla-bylaw/>.

**INTERROGATORY NO. 5:** Please describe in specific detail the steps and/or processes you took while attempting to remove the herein named Defendants (minus Mitzy Ladron-Nichols) from their positions as members of the board.

**ANSWER:** **Objection.** The discovery request is vague, ambiguous, or subject to multiple interpretations, and therefore not narrowly tailored to produce admissible evidence with regard to “while attempting to remove”. *See* Rule 1-034(B) NMRA 2010 (requiring that all request for production describe each item or category with reasonable particularity).

C.W. Wright, A Miller, and R. Marcus, *Federal Practice and Procedure*, § 2211 at 412-415 (West 1994). Requests which ask for “any and all” records “of any and all kinds” require Defendants to expend unnecessary time and effort to speculate and decide to what extent it must review “records, document, writing, recordings and physical evidence of any and all kinds” to distinguish what is and what is not responsive. *Pulsecard, Inc v. Discover Card Services, Inc.*,

1995 W.L. 525533 (D.Kan., Aug. 31, 1995). *Archuleta v. Santa Fe Police Dep't ex rel. City of Santa Fe*, 2005-NMSC-6, ¶ 23, 108 P.3d 1019, 1027 (“a party will not be required to respond to an overly broad discovery request unless adequate guidance exists as to what extent the request is not objectionable.”); Unpublished Opinion: *Lavender v. Amer. Physicians Assur. Corp.*, 2004 Westlaw 2755878 (Ky.App.) (While discussing a question objected to on the basis of being vague or ambiguous, “We begin our analysis by considering the wording of Question 22. It is subjective. It is subjective because it seeks to probe Dr. Lavender’s state of mind in contrast to objective questions calling for information within his knowledge.”); *De Graffenried v. U.S.*, 2 Cl.Ct. 640, 36 Fed.R.Serv.2d 1522 (1983) (“interrogating a patentee on his views of the alleged infringement of his patent claims is vague and ambiguous.”).

Notwithstanding the foregoing and without waiver thereof, the process for removal of directors is detailed in Amendment 9 to the Bylaws of the Wild Horse Ranch Landowners’ Association, Inc., which is equally available to Defendants at <https://whrla.com/documents/governing-documents/whrla-bylaw/>.

**INTERROGATORY NO. 6:** Please describe in specific detail the names of all individuals who casts votes on July 5, 2024, as recorded on the Certificate of Election recorded with Catron County, New Mexico.

**ANSWER:** **Objection.** The discovery request is vague, ambiguous, or subject to multiple interpretations, and therefore not narrowly tailored to produce admissible evidence with regard to the “all individuals who casts[sic] votes on July 5, 2024”. *See* Rule 1-034(B) NMRA 2010 (requiring that all request for production describe each item or category with reasonable particularity).



C.W. Wright, A Miller, and R. Marcus, Federal Practice and Procedure, § 2211 at 412-415 (West 1994). Requests which ask for “any and all” records “of any and all kinds” require Defendants to expend unnecessary time and effort to speculate and decide to what extent it must review “records, document, writing, recordings and physical evidence of any and all kinds” to distinguish what is and what is not responsive. *Pulsecard, Inc v. Discover Card Services, Inc.*, 1995 W.L. 525533 (D.Kan., Aug. 31, 1995). *Archuleta v. Santa Fe Police Dep’t ex rel. City of Santa Fe*, 2005-NMSC-6, ¶ 23, 108 P.3d 1019, 1027 (“a party will not be required to respond to an overly broad discovery request unless adequate guidance exists as to what extent the request is not objectionable.”); Unpublished Opinion: *Lavender v. Amer. Physicians Assur. Corp.*, 2004 Westlaw 2755878 (Ky.App.) (While discussing a question objected to on the basis of being vague or ambiguous, “We begin our analysis by considering the wording of Question 22. It is subjective. It is subjective because it seeks to probe Dr. Lavender’s state of mind in contrast to objective questions calling for information within his knowledge.”); *De Graffenried v. U.S.*, 2 Cl.Ct. 640, 36 Fed.R.Serv.2d 1522 (1983) (“interrogating a patentee on his views of the alleged infringement of his patent claims is vague and ambiguous.”).

Notwithstanding the foregoing and without waiver thereof, please see Childers 00001, providing a list of names of those who attended the Association’s Annual Meeting for the election of Directors held on Friday, July 5, 2024 in conjunction with the Certificate of Election attached as Exhibit 2 to the Verified Complaint and Application for Temporary Restraining order and Equitable Relief filed on July 17, 2024.

INTERROGATORY NO. 7: Please describe in specific detail the name of the individual(s) who participated in drafting and recording the Certificate of Election.

ANSWER: **Objection.** The discovery request is not relevant to issues in this case.

*Lara v. City of Albuquerque*, 1999-NMCA-012, 971 P.2d 846 (discovery must be narrowly tailored to avoid irrelevant information); *Ruiz v. Southern Pacific Trans. Co.*, 97 N.M. 194, 203 (“Unless limited to employees on duty at the time and place of the accident complained of, or to employees fired for negligence similar to that complained of, that information is irrelevant.”)

Notwithstanding the foregoing and without waiver thereof, Jesse Childers, Eileen Wright and Michael Steele participated in the drafting and recording of the Certificate of Election.

**INTERROGATORY NO. 8:** Please describe in specific detail all business dealings you have conducted, purportedly on behalf of the association, since July 5, 2024

**ANSWER:** **Objection.** The discovery request is vague, ambiguous, or subject to multiple interpretations, and therefore not narrowly tailored to produce admissible evidence with regard to the “all individuals who casts[sic] votes on July 5, 2024”. *See* Rule 1-034(B) NMRA 2010 (requiring that all request for production describe each item or category with reasonable particularity).

C.W. Wright, A Miller, and R. Marcus, *Federal Practice and Procedure*, § 2211 at 412-415 (West 1994). Requests which ask for “any and all” records “of any and all kinds” require Defendants to expend unnecessary time and effort to speculate and decide to what extent it must review “records, document, writing, recordings and physical evidence of any and all kinds” to distinguish what is and what is not responsive. *Pulsecard, Inc v. Discover Card Services, Inc.*, 1995 W.L. 525533 (D.Kan., Aug. 31, 1995). *Archuleta v. Santa Fe Police Dep’t ex rel. City of Santa Fe*, 2005-NMSC-6, ¶ 23, 108 P.3d 1019, 1027 (“a party will not be required to respond to an overly broad discovery request unless adequate guidance exists as to what extent the request is not objectionable.”); Unpublished Opinion: *Lavender v. Amer. Physicians Assur. Corp.*, 2004

Westlaw 2755878 (Ky.App.) (While discussing a question objected to on the basis of being vague or ambiguous, “We begin our analysis by considering the wording of Question 22. It is subjective. It is subjective because it seeks to probe Dr. Lavender’s state of mind in contrast to objective questions calling for information within his knowledge.”); *De Graffenried v. U.S.*, 2 Cl.Ct. 640, 36 Fed.R.Serv.2d 1522 (1983) (“interrogating a patentee on his views of the alleged infringement of his patent claims is vague and ambiguous.”).

Notwithstanding the foregoing and without waiver thereof, please *see* Childers 00002—00003 attached hereto.

INTERROGATORY NO. 9: Please describe in specific detail the name of the individual(s) the process you followed when you were previously elected to be a member of the board of directors in 2023.

ANSWER: **Objection.** The discovery request is vague, ambiguous, or subject to multiple interpretations, and therefore not narrowly tailored to produce admissible evidence with regard to “the name of the individuals(s) the process you followed”. *See* Rule 1-034(B) NMRA 2010 (requiring that all request for production describe each item or category with reasonable particularity).

C.W. Wright, A Miller, and R. Marcus, Federal Practice and Procedure, § 2211 at 412-415 (West 1994). Requests which ask for “any and all” records “of any and all kinds” require Defendants to expend unnecessary time and effort to speculate and decide to what extent it must review “records, document, writing, recordings and physical evidence of any and all kinds” to distinguish what is and what is not responsive. *Pulsecard, Inc v. Discover Card Services, Inc.*, 1995 W.L. 525533 (D.Kan., Aug. 31, 1995). *Archuleta v. Santa Fe Police Dep’t ex rel. City of Santa Fe*, 2005-NMSC-6, ¶ 23, 108 P.3d 1019, 1027 (“a party will not be required to respond to

an overly broad discovery request unless adequate guidance exists as to what extent the request is not objectionable.”); Unpublished Opinion: *Lavender v. Amer. Physicians Assur. Corp.*, 2004 Westlaw 2755878 (Ky.App.) (While discussing a question objected to on the basis of being vague or ambiguous, “We begin our analysis by considering the wording of Question 22. It is subjective. It is subjective because it seeks to probe Dr. Lavender’s state of mind in contrast to objective questions calling for information within his knowledge.”); *De Graffenried v. U.S.*, 2 Cl.Ct. 640, 36 Fed.R.Serv.2d 1522 (1983) (“interrogating a patentee on his views of the alleged infringement of his patent claims is vague and ambiguous.”).

This request is overbroad in that it seeks information which will not reasonably lead to admissible evidence.

*State v. Tackett*, 78 N.M. 450, 432 P.2d 415 (1962) (stating that a party “has no right to go upon a tour of investigation, in the hope that they will find something to aid them, and if it appears that the request for such inspection is merely ‘a fishing expedition to see what may turn up’ it should be denied”); *Cantrell v. W & C Contracting Co.*, 112 N.M. 609, 817 P.2d 1251 (Ct. App. 1991 (“A request for discovery may properly be denied if the request is speculative or if such discovery would amount to a mere fishing expedition.”). *Ruiz v. Southern Pac. Transp. Co.*, 97 N.M. 194, 203, 638 P.2d 406, 415 (Ct. App.) (upholding objection against overly broad discovery asking for irrelevant information), *cert. quashed*, 97 N.M. 242, 638 P.2d 1087 (1981).

The discovery request is not relevant to issues in this case.

*Lara v. City of Albuquerque*, 1999-NMCA-012, 971 P.2d 846 (discovery must be narrowly tailored to avoid irrelevant information); *Ruiz v. Southern Pacific Trans. Co.*, 97 N.M. 194, 203 (“Unless limited to employees on duty at the time and place of the accident complained of, or to employees fired for negligence similar to that complained of, that information is irrelevant.”)

Request not limited to the relevant time period of the action.

*Kallus v. General Host Corp.*, 1988 U.S. Dist. LEXIS 16750, \*9 (D. Conn. 1988) (Denying a motion to compel because documents sought from the time prior to the class period would not lead to relevant evidence).

**INTERROGATORY NO. 10:** Please describe in specific detail the name of the individual(s) who interfered with the Association’s security cameras at the community office and pavilion on September 10, 2024.

**ANSWER:** **Objection.** The discovery request is vague, ambiguous, or subject to multiple interpretations, and therefore not narrowly tailored to produce admissible evidence with regard to “interfered with”. *See* Rule 1-034(B) NMRA 2010 (requiring that all request for production describe each item or category with reasonable particularity).

C.W. Wright, A Miller, and R. Marcus, *Federal Practice and Procedure*, § 2211 at 412-415 (West 1994). Requests which ask for “any and all” records “of any and all kinds” require Defendants to expend unnecessary time and effort to speculate and decide to what extent it must review “records, document, writing, recordings and physical evidence of any and all kinds” to distinguish what is and what is not responsive. *Pulsecard, Inc v. Discover Card Services, Inc.*, 1995 W.L. 525533 (D.Kan., Aug. 31, 1995). *Archuleta v. Santa Fe Police Dep’t ex rel. City of Santa Fe*, 2005-NMSC-6, ¶ 23, 108 P.3d 1019, 1027 (“a party will not be required to respond to an overly broad discovery request unless adequate guidance exists as to what extent the request is not objectionable.”); Unpublished Opinion: *Lavender v. Amer. Physicians Assur. Corp.*, 2004 Westlaw 2755878 (Ky.App.) (While discussing a question objected to on the basis of being vague or ambiguous, “We begin our analysis by considering the wording of Question 22. It is subjective. It is subjective because it seeks to probe Dr. Lavender’s state of mind in contrast to objective questions calling for information within his knowledge.”); *De Graffenried v. U.S.*, 2 Cl.Ct. 640,

36 Fed.R.Serv.2d 1522 (1983) (“interrogating a patentee on his views of the alleged infringement of his patent claims is vague and ambiguous.”).

This request is overbroad in that it seeks information which will not reasonably lead to admissible evidence.

*State v. Tackett*, 78 N.M. 450, 432 P.2d 415 (1962) (stating that a party “has no right to go upon a tour of investigation, in the hope that they will find something to aid them, and if it appears that the request for such inspection is merely ‘a fishing expedition to see what may turn up’ it should be denied”); *Cantrell v. W & C Contracting Co.*, 112 N.M. 609, 817 P.2d 1251 (Ct. App. 1991 (“A request for discovery may properly be denied if the request is speculative or if such discovery would amount to a mere fishing expedition.”). *Ruiz v. Southern Pac. Transp. Co.*, 97 N.M. 194, 203, 638 P.2d 406, 415 (Ct. App.) (upholding objection against overly broad discovery asking for irrelevant information), *cert. quashed*, 97 N.M. 242, 638 P.2d 1087 (1981).

The discovery request is not relevant to issues in this case.

*Lara v. City of Albuquerque*, 1999-NMCA-012, 971 P.2d 846 (discovery must be narrowly tailored to avoid irrelevant information); *Ruiz v. Southern Pacific Trans. Co.*, 97 N.M. 194, 203 (“Unless limited to employees on duty at the time and place of the accident complained of, or to employees fired for negligence similar to that complained of, that information is irrelevant.”)

**INTERROGATORY NO. 11:** Please describe in specific detail the name of the individual(s) who have posted “announcements” throughout the community, and specifically the “announcement” hereto attached as **Exhibit 1**. See Announcement of “paying for our own attorney.”

**ANSWER:** **Objection.** The discovery request is vague, ambiguous, or subject to multiple interpretations, and therefore not narrowly tailored to produce admissible evidence with regard to

“posted ‘announcements’ throughout the community”. See Rule 1-034(B) NMRA 2010 (requiring that all request for production describe each item or category with reasonable particularity).

C.W. Wright, A Miller, and R. Marcus, Federal Practice and Procedure, § 2211 at 412-415 (West 1994). Requests which ask for “any and all” records “of any and all kinds” require Defendants to expend unnecessary time and effort to speculate and decide to what extent it must review “records, document, writing, recordings and physical evidence of any and all kinds” to distinguish what is and what is not responsive. *Pulsecard, Inc v. Discover Card Services, Inc.*, 1995 W.L. 525533 (D.Kan., Aug. 31, 1995). *Archuleta v. Santa Fe Police Dep’t ex rel. City of Santa Fe*, 2005-NMSC-6, ¶ 23, 108 P.3d 1019, 1027 (“a party will not be required to respond to an overly broad discovery request unless adequate guidance exists as to what extent the request is not objectionable.”); Unpublished Opinion: *Lavender v. Amer. Physicians Assur. Corp.*, 2004 Westlaw 2755878 (Ky.App.) (While discussing a question objected to on the basis of being vague or ambiguous, “We begin our analysis by considering the wording of Question 22. It is subjective. It is subjective because it seeks to probe Dr. Lavender’s state of mind in contrast to objective questions calling for information within his knowledge.”); *De Graffenried v. U.S.*, 2 Cl.Ct. 640, 36 Fed.R.Serv.2d 1522 (1983) (“interrogating a patentee on his views of the alleged infringement of his patent claims is vague and ambiguous.”).

This request is overbroad in that it seeks information which will not reasonably lead to admissible evidence.

*State v. Tackett*, 78 N.M. 450, 432 P.2d 415 (1962) (stating that a party “has no right to go upon a tour of investigation, in the hope that they will find something to aid them, and if it appears that the request for such inspection is merely ‘a fishing expedition to see what may turn up’ it should be denied”); *Cantrell v. W & C Contracting Co.*, 112 N.M. 609, 817 P.2d 1251 (Ct. App. 1991 (“A request for discovery may properly be denied if the request is speculative or if such

discovery would amount to a mere fishing expedition.”). *Ruiz v. Southern Pac. Transp. Co.*, 97 N.M. 194, 203, 638 P.2d 406, 415 (Ct. App.) (upholding objection against overly broad discovery asking for irrelevant information), *cert. quashed*, 97 N.M. 242, 638 P.2d 1087 (1981).

The discovery request is not relevant to issues in this case.

*Lara v. City of Albuquerque*, 1999-NMCA-012, 971 P.2d 846 (discovery must be narrowly tailored to avoid irrelevant information); *Ruiz v. Southern Pacific Trans. Co.*, 97 N.M. 194, 203 (“Unless limited to employees on duty at the time and place of the accident complained of, or to employees fired for negligence similar to that complained of, that information is irrelevant.”)

Notwithstanding said objections and without waiver thereof, there was no Exhibit 1 attached to the Defendants’ Interrogatories.

INTERROGATORY NO. 12: Please describe in specific detail the date wherein you retained counsel to represent you in this matter.

ANSWER: **Objection.** The discovery request is not relevant to issues in this case.

*Lara v. City of Albuquerque*, 1999-NMCA-012, 971 P.2d 846 (discovery must be narrowly tailored to avoid irrelevant information); *Ruiz v. Southern Pacific Trans. Co.*, 97 N.M. 194, 203 (“Unless limited to employees on duty at the time and place of the accident complained of, or to employees fired for negligence similar to that complained of, that information is irrelevant.”)

Notwithstanding said objections and without waiver thereof, Andrew M. Sanchez was retained to represent Plaintiff on August 28, 2024.

INTERROGATORY NO. 13: Please describe in specific detail how many members of the Association were excluded from the members meeting on July 5, 2024, including their names, phone numbers, email addresses and physical addresses.



**ANSWER: Objection.** The discovery request is vague, ambiguous, or subject to multiple interpretations, and therefore not narrowly tailored to produce admissible evidence with regard to the “members meeting on July 5, 2024”. See Rule 1-034(B) NMRA 2010 (requiring that all request for production describe each item or category with reasonable particularity).

C.W. Wright, A Miller, and R. Marcus, Federal Practice and Procedure, § 2211 at 412-415 (West 1994). Requests which ask for “any and all” records “of any and all kinds” require Defendants to expend unnecessary time and effort to speculate and decide to what extent it must review “records, document, writing, recordings and physical evidence of any and all kinds” to distinguish what is and what is not responsive. *Pulsecard, Inc v. Discover Card Services, Inc.*, 1995 W.L. 525533 (D.Kan., Aug. 31, 1995). *Archuleta v. Santa Fe Police Dep’t ex rel. City of Santa Fe*, 2005-NMSC-6, ¶ 23, 108 P.3d 1019, 1027 (“a party will not be required to respond to an overly broad discovery request unless adequate guidance exists as to what extent the request is not objectionable.”); Unpublished Opinion: *Lavender v. Amer. Physicians Assur. Corp.*, 2004 Westlaw 2755878 (Ky.App.) (While discussing a question objected to on the basis of being vague or ambiguous, “We begin our analysis by considering the wording of Question 22. It is subjective. It is subjective because it seeks to probe Dr. Lavender’s state of mind in contrast to objective questions calling for information within his knowledge.”); *De Graffenried v. U.S.*, 2 Cl.Ct. 640, 36 Fed.R.Serv.2d 1522 (1983) (“interrogating a patentee on his views of the alleged infringement of his patent claims is vague and ambiguous.”).

Notwithstanding the foregoing and without waiver thereof, no members were excluded from the Association’s Annual Meeting for the election of Directors held on Friday, July 5, 2024.

INTERROGATORY NO. 14: Please describe in specific detail the steps and/or processes you took while attempting to elect new members of the board of directors for the Association on or about July 5, 2024.

ANSWER: **Objection.** The discovery request is vague, ambiguous, or subject to multiple interpretations, and therefore not narrowly tailored to produce admissible evidence with regard to “while attempting to elect”. See Rule 1-034(B) NMRA 2010 (requiring that all request for production describe each item or category with reasonable particularity).

C.W. Wright, A Miller, and R. Marcus, Federal Practice and Procedure, § 2211 at 412-415 (West 1994). Requests which ask for “any and all” records “of any and all kinds” require Defendants to expend unnecessary time and effort to speculate and decide to what extent it must review “records, document, writing, recordings and physical evidence of any and all kinds” to distinguish what is and what is not responsive. *Pulsecard, Inc v. Discover Card Services, Inc.*, 1995 W.L. 525533 (D.Kan., Aug. 31, 1995). *Archuleta v. Santa Fe Police Dep’t ex rel. City of Santa Fe*, 2005-NMSC-6, ¶ 23, 108 P.3d 1019, 1027 (“a party will not be required to respond to an overly broad discovery request unless adequate guidance exists as to what extent the request is not objectionable.”); Unpublished Opinion: *Lavender v. Amer. Physicians Assur. Corp.*, 2004 Westlaw 2755878 (Ky.App.) (While discussing a question objected to on the basis of being vague or ambiguous, “We begin our analysis by considering the wording of Question 22. It is subjective. It is subjective because it seeks to probe Dr. Lavender’s state of mind in contrast to objective questions calling for information within his knowledge.”); *De Graffenried v. U.S.*, 2 Cl.Ct. 640, 36 Fed.R.Serv.2d 1522 (1983) (“interrogating a patentee on his views of the alleged infringement of his patent claims is vague and ambiguous.”).

Notwithstanding the foregoing and without waiver thereof, the process for removal of directors is detailed in Amendment 7, Section III, Section 1 (Annual Meetings) to the Bylaws and

in Article IV, (Directors) and Article V (Officers and their Duties), Section 2 (Election of Officers) of the Bylaws of the Wild Horse Ranch Landowners' Association, Inc., and which are equally available to Defendants at <https://whrla.com/documents/governing-documents/whrla-bylaw/>.

**INTERROGATORY NO. 15:** Please describe in specific detail the names of all individuals who you believe are serving as members of the board of directors for the Association and the date when they were appointed to their positions.

**ANSWER: Objection.** The discovery request is vague, ambiguous, or subject to multiple interpretations, and therefore not narrowly tailored to produce admissible evidence with regard to "all individuals who you believe are serving as members of the board of directors". See Rule 1-034(B) NMRA 2010 (requiring that all request for production describe each item or category with reasonable particularity).

C.W. Wright, A Miller, and R. Marcus, Federal Practice and Procedure, § 2211 at 412-415 (West 1994). Requests which ask for "any and all" records "of any and all kinds" require Defendants to expend unnecessary time and effort to speculate and decide to what extent it must review "records, document, writing, recordings and physical evidence of any and all kinds" to distinguish what is and what is not responsive. *Pulsecard, Inc v. Discover Card Services, Inc.*, 1995 W.L. 525533 (D.Kan., Aug. 31, 1995). *Archuleta v. Santa Fe Police Dep't ex rel. City of Santa Fe*, 2005-NMSC-6, ¶ 23, 108 P.3d 1019, 1027 ("a party will not be required to respond to an overly broad discovery request unless adequate guidance exists as to what extent the request is not objectionable."); Unpublished Opinion: *Lavender v. Amer. Physicians Assur. Corp.*, 2004 Westlaw 2755878 (Ky.App.) (While discussing a question objected to on the basis of being vague or ambiguous, "We begin our analysis by considering the wording of Question 22. It is subjective. It is subjective because it seeks to probe Dr. Lavender's state of mind in contrast to objective

questions calling for information within his knowledge.”); *De Graffenried v. U.S.*, 2 Cl.Ct. 640, 36 Fed.R.Serv.2d 1522 (1983) (“interrogating a patentee on his views of the alleged infringement of his patent claims is vague and ambiguous.”).

Notwithstanding said objections and without waiver thereof, Jesse Childers, Eileen Wright michael Steele and Ron Allen were all elected as Directors the Association’s Annual Meeting for the election of Directors held on Friday, July 5, 2024.

**INTERROGATORY NO. 16:** Please describe in specific detail the your alleged position on the board of directors.

**ANSWER:** **Objection.** The discovery request is vague, ambiguous, or subject to multiple interpretations, and therefore not narrowly tailored to produce admissible evidence with regard to “the[sic] your alleged position on the board of directors”. *See* Rule 1-034(B) NMRA 2010 (requiring that all request for production describe each item or category with reasonable particularity).

C.W. Wright, A Miller, and R. Marcus, *Federal Practice and Procedure*, § 2211 at 412-415 (West 1994). Requests which ask for “any and all” records “of any and all kinds” require Defendants to expend unnecessary time and effort to speculate and decide to what extent it must review “records, document, writing, recordings and physical evidence of any and all kinds” to distinguish what is and what is not responsive. *Pulsecard, Inc v. Discover Card Services, Inc.*, 1995 W.L. 525533 (D.Kan., Aug. 31, 1995). *Archuleta v. Santa Fe Police Dep’t ex rel. City of Santa Fe*, 2005-NMSC-6, ¶ 23, 108 P.3d 1019, 1027 (“a party will not be required to respond to an overly broad discovery request unless adequate guidance exists as to what extent the request is not objectionable.”); Unpublished Opinion: *Lavender v. Amer. Physicians Assur. Corp.*, 2004 Westlaw 2755878 (Ky.App.) (While discussing a question objected to on the basis of being vague

or ambiguous, “We begin our analysis by considering the wording of Question 22. It is subjective. It is subjective because it seeks to probe Dr. Lavender’s state of mind in contrast to objective questions calling for information within his knowledge.”); *De Graffenried v. U.S.*, 2 Cl.Ct. 640, 36 Fed.R.Serv.2d 1522 (1983) (“interrogating a patentee on his views of the alleged infringement of his patent claims is vague and ambiguous.”).

INTERROGATORY NO. 17: Please describe in specific detail the duties of the “Chairman of the Board” of directors.

ANSWER: **Objection.** The discovery request is vague, ambiguous, or subject to multiple interpretations, and therefore not narrowly tailored to produce admissible evidence with regard to “the duties”. *See* Rule 1-034(B) NMRA 2010 (requiring that all request for production describe each item or category with reasonable particularity).

C.W. Wright, A Miller, and R. Marcus, *Federal Practice and Procedure*, § 2211 at 412-415 (West 1994). Requests which ask for “any and all” records “of any and all kinds” require Defendants to expend unnecessary time and effort to speculate and decide to what extent it must review “records, document, writing, recordings and physical evidence of any and all kinds” to distinguish what is and what is not responsive. *Pulsecard, Inc v. Discover Card Services, Inc.*, 1995 W.L. 525533 (D.Kan., Aug. 31, 1995). *Archuleta v. Santa Fe Police Dep’t ex rel. City of Santa Fe*, 2005-NMSC-6, ¶ 23, 108 P.3d 1019, 1027 (“a party will not be required to respond to an overly broad discovery request unless adequate guidance exists as to what extent the request is not objectionable.”); Unpublished Opinion: *Lavender v. Amer. Physicians Assur. Corp.*, 2004 Westlaw 2755878 (Ky.App.) (While discussing a question objected to on the basis of being vague or ambiguous, “We begin our analysis by considering the wording of Question 22. It is subjective. It is subjective because it seeks to probe Dr. Lavender’s state of mind in contrast to objective

questions calling for information within his knowledge.”); *De Graffenried v. U.S.*, 2 Cl.Ct. 640, 36 Fed.R.Serv.2d 1522 (1983) (“interrogating a patentee on his views of the alleged infringement of his patent claims is vague and ambiguous.”).

Notwithstanding the foregoing and without waiver thereof, the duties of the Chairman of the Board are specified in the WHRLA By-laws, Article IV, Section 9 (Directors) and in Article V (Officers and Their Duties), which are equally available to Defendants at <https://whrla.com/documents/governing-documents/whrla-bylaw/>.

**INTERROGATORY NO. 18:** Please describe in specific detail where the bylaw of the Association detail the duties of the “Chairman of the Board” of directors.

**ANSWER:** See Answer to Interrogatory Nos. 3 and 17.

**INTERROGATORY NO. 19:** Please describe in specific detail all times wherein you have served as a member of the board of directors.

**ANSWER:** **Objection.** The discovery request is vague, ambiguous, or subject to multiple interpretations, and therefore not narrowly tailored to produce admissible evidence with regard to “the name of the individuals(s) the process you followed”. See Rule 1-034(B) NMRA 2010 (requiring that all request for production describe each item or category with reasonable particularity).

C.W. Wright, A Miller, and R. Marcus, Federal Practice and Procedure, § 2211 at 412-415 (West 1994). Requests which ask for “any and all” records “of any and all kinds” require Defendants to expend unnecessary time and effort to speculate and decide to what extent it must review “records, document, writing, recordings and physical evidence of any and all kinds” to distinguish what is and what is not responsive. *Pulsecard, Inc v. Discover Card Services, Inc.*,

1995 W.L. 525533 (D.Kan., Aug. 31, 1995). *Archuleta v. Santa Fe Police Dep't ex rel. City of Santa Fe*, 2005-NMSC-6, ¶ 23, 108 P.3d 1019, 1027 (“a party will not be required to respond to an overly broad discovery request unless adequate guidance exists as to what extent the request is not objectionable.”); Unpublished Opinion: *Lavender v. Amer. Physicians Assur. Corp.*, 2004 Westlaw 2755878 (Ky.App.) (While discussing a question objected to on the basis of being vague or ambiguous, “We begin our analysis by considering the wording of Question 22. It is subjective. It is subjective because it seeks to probe Dr. Lavender’s state of mind in contrast to objective questions calling for information within his knowledge.”); *De Graffenried v. U.S.*, 2 Cl.Ct. 640, 36 Fed.R.Serv.2d 1522 (1983) (“interrogating a patentee on his views of the alleged infringement of his patent claims is vague and ambiguous.”).

This request is overbroad in that it seeks information which will not reasonably lead to admissible evidence.

*State v. Tackett*, 78 N.M. 450, 432 P.2d 415 (1962) (stating that a party “has no right to go upon a tour of investigation, in the hope that they will find something to aid them, and if it appears that the request for such inspection is merely ‘a fishing expedition to see what may turn up’ it should be denied”); *Cantrell v. W & C Contracting Co.*, 112 N.M. 609, 817 P.2d 1251 (Ct. App. 1991 (“A request for discovery may properly be denied if the request is speculative or if such discovery would amount to a mere fishing expedition.”). *Ruiz v. Southern Pac. Transp. Co.*, 97 N.M. 194, 203, 638 P.2d 406, 415 (Ct. App.) (upholding objection against overly broad discovery asking for irrelevant information), *cert. quashed*, 97 N.M. 242, 638 P.2d 1087 (1981).

The discovery request is not relevant to issues in this case.

*Lara v. City of Albuquerque*, 1999-NMCA-012, 971 P.2d 846 (discovery must be narrowly tailored to avoid irrelevant information); *Ruiz v. Southern Pacific Trans. Co.*, 97 N.M. 194, 203

(“Unless limited to employees on duty at the time and place of the accident complained of, or to employees fired for negligence similar to that complained of, that information is irrelevant.”)

Request not limited to the relevant time period of the action.

*Kallus v. General Host Corp.*, 1988 U.S. Dist. LEXIS 16750, \*9 (D. Conn. 1988) (Denying a motion to compel because documents sought from the time prior to the class period would not lead to relevant evidence).

INTERROGATORY NO. 20: Please describe in specific detail why you decided to resign from your position as a member of the board of directors in 2023.

ANSWER: **Objection.** The discovery request is vague, ambiguous, or subject to multiple interpretations, and therefore not narrowly tailored to produce admissible evidence with regard to “the name of the individuals(s) the process you followed”. See Rule 1-034(B) NMRA 2010 (requiring that all request for production describe each item or category with reasonable particularity).

C.W. Wright, A Miller, and R. Marcus, *Federal Practice and Procedure*, § 2211 at 412-415 (West 1994). Requests which ask for “any and all” records “of any and all kinds” require Defendants to expend unnecessary time and effort to speculate and decide to what extent it must review “records, document, writing, recordings and physical evidence of any and all kinds” to distinguish what is and what is not responsive. *Pulsecard, Inc v. Discover Card Services, Inc.*, 1995 W.L. 525533 (D.Kan., Aug. 31, 1995). *Archuleta v. Santa Fe Police Dep’t ex rel. City of Santa Fe*, 2005-NMSC-6, ¶ 23, 108 P.3d 1019, 1027 (“a party will not be required to respond to an overly broad discovery request unless adequate guidance exists as to what extent the request is not objectionable.”); Unpublished Opinion: *Lavender v. Amer. Physicians Assur. Corp.*, 2004 Westlaw 2755878 (Ky.App.) (While discussing a question objected to on the basis of being vague



or ambiguous, “We begin our analysis by considering the wording of Question 22. It is subjective. It is subjective because it seeks to probe Dr. Lavender’s state of mind in contrast to objective questions calling for information within his knowledge.”); *De Graffenried v. U.S.*, 2 Cl.Ct. 640, 36 Fed.R.Serv.2d 1522 (1983) (“interrogating a patentee on his views of the alleged infringement of his patent claims is vague and ambiguous.”).

This request is overbroad in that it seeks information which will not reasonably lead to admissible evidence.

*State v. Tackett*, 78 N.M. 450, 432 P.2d 415 (1962) (stating that a party “has no right to go upon a tour of investigation, in the hope that they will find something to aid them, and if it appears that the request for such inspection is merely ‘a fishing expedition to see what may turn up’ it should be denied”); *Cantrell v. W & C Contracting Co.*, 112 N.M. 609, 817 P.2d 1251 (Ct. App. 1991 (“A request for discovery may properly be denied if the request is speculative or if such discovery would amount to a mere fishing expedition.”). *Ruiz v. Southern Pac. Transp. Co.*, 97 N.M. 194, 203, 638 P.2d 406, 415 (Ct. App.) (upholding objection against overly broad discovery asking for irrelevant information), *cert. quashed*, 97 N.M. 242, 638 P.2d 1087 (1981).

The discovery request is not relevant to issues in this case.

*Lara v. City of Albuquerque*, 1999-NMCA-012, 971 P.2d 846 (discovery must be narrowly tailored to avoid irrelevant information); *Ruiz v. Southern Pacific Trans. Co.*, 97 N.M. 194, 203 (“Unless limited to employees on duty at the time and place of the accident complained of, or to employees fired for negligence similar to that complained of, that information is irrelevant.”)

Request not limited to the relevant time period of the action.

*Kallus v. General Host Corp.*, 1988 U.S. Dist. LEXIS 16750, \*9 (D. Conn. 1988) (Denying a motion to compel because documents sought from the time prior to the class period would not lead to relevant evidence).

INTERROGATORY NO. 21: Please describe in specific detail what steps were taken to inform all members of the Association of the plan to vote and remove members of the Board of Directors on July 5, 2024.

ANSWER: **Objection.** The discovery request is vague, ambiguous, or subject to multiple interpretations, and therefore not narrowly tailored to produce admissible evidence with regard to “plan to vote”. *See* Rule 1-034(B) NMRA 2010 (requiring that all request for production describe each item or category with reasonable particularity).

C.W. Wright, A Miller, and R. Marcus, *Federal Practice and Procedure*, § 2211 at 412-415 (West 1994). Requests which ask for “any and all” records “of any and all kinds” require Defendants to expend unnecessary time and effort to speculate and decide to what extent it must review “records, document, writing, recordings and physical evidence of any and all kinds” to distinguish what is and what is not responsive. *Pulsecard, Inc v. Discover Card Services, Inc.*, 1995 W.L. 525533 (D.Kan., Aug. 31, 1995). *Archuleta v. Santa Fe Police Dep’t ex rel. City of Santa Fe*, 2005-NMSC-6, ¶ 23, 108 P.3d 1019, 1027 (“a party will not be required to respond to an overly broad discovery request unless adequate guidance exists as to what extent the request is not objectionable.”); Unpublished Opinion: *Lavender v. Amer. Physicians Assur. Corp.*, 2004 Westlaw 2755878 (Ky.App.) (While discussing a question objected to on the basis of being vague or ambiguous, “We begin our analysis by considering the wording of Question 22. It is subjective. It is subjective because it seeks to probe Dr. Lavender’s state of mind in contrast to objective questions calling for information within his knowledge.”); *De Graffenried v. U.S.*, 2 Cl.Ct. 640, 36 Fed.R.Serv.2d 1522 (1983) (“interrogating a patentee on his views of the alleged infringement of his patent claims is vague and ambiguous.”).

This request is overbroad in that it seeks information which will not reasonably lead to admissible evidence.

*State v. Tackett*, 78 N.M. 450, 432 P.2d 415 (1962) (stating that a party “has no right to go upon a tour of investigation, in the hope that they will find something to aid them, and if it appears that the request for such inspection is merely ‘a fishing expedition to see what may turn up’ it should be denied”); *Cantrell v. W & C Contracting Co.*, 112 N.M. 609, 817 P.2d 1251 (Ct. App. 1991 (“A request for discovery may properly be denied if the request is speculative or if such discovery would amount to a mere fishing expedition.”). *Ruiz v. Southern Pac. Transp. Co.*, 97 N.M. 194, 203, 638 P.2d 406, 415 (Ct. App.) (upholding objection against overly broad discovery asking for irrelevant information), *cert. quashed*, 97 N.M. 242, 638 P.2d 1087 (1981).

The discovery request is not relevant to issues in this case.

*Lara v. City of Albuquerque*, 1999-NMCA-012, 971 P.2d 846 (discovery must be narrowly tailored to avoid irrelevant information); *Ruiz v. Southern Pacific Trans. Co.*, 97 N.M. 194, 203 (“Unless limited to employees on duty at the time and place of the accident complained of, or to employees fired for negligence similar to that complained of, that information is irrelevant.”)

Request not limited to the relevant time period of the action.

*Kallus v. General Host Corp.*, 1988 U.S. Dist. LEXIS 16750, \*9 (D. Conn. 1988) (Denying a motion to compel because documents sought from the time prior to the class period would not lead to relevant evidence).

Notwithstanding the foregoing and without waiver thereof, Annual meetings of Members for the election of Directors are required pursuant to Amendment 7, Section III, Section 1 (Annual Meetings) to the Bylaws and in Article IV, (Directors) of the Bylaws of the Wild Horse Ranch Landowners’ Association, Inc., and which are equally available to Defendants at <https://whrla.com/documents/governing-documents/whrla-bylaw/>.

**INTERROGATORY NO. 22:** Please describe in specific detail, to your knowledge, the names and positions of Board Members of the Association that have trespassed on private property within the Association's boundaries and when confronted stated they were allowed to be on private property because they were on the Board.

**ANSWER:** **Objection.** The discovery request is vague, ambiguous, or subject to multiple interpretations, and therefore not narrowly tailored to produce admissible evidence with regard to "Board Members of the Association that have trespassed". See Rule 1-034(B) NMRA 2010 (requiring that all request for production describe each item or category with reasonable particularity).

C.W. Wright, A Miller, and R. Marcus, Federal Practice and Procedure, § 2211 at 412-415 (West 1994). Requests which ask for "any and all" records "of any and all kinds" require Defendants to expend unnecessary time and effort to speculate and decide to what extent it must review "records, document, writing, recordings and physical evidence of any and all kinds" to distinguish what is and what is not responsive. *Pulsecard, Inc v. Discover Card Services, Inc.*, 1995 W.L. 525533 (D.Kan., Aug. 31, 1995). *Archuleta v. Santa Fe Police Dep't ex rel. City of Santa Fe*, 2005-NMSC-6, ¶ 23, 108 P.3d 1019, 1027 ("a party will not be required to respond to an overly broad discovery request unless adequate guidance exists as to what extent the request is not objectionable."); Unpublished Opinion: *Lavender v. Amer. Physicians Assur. Corp.*, 2004 Westlaw 2755878 (Ky.App.) (While discussing a question objected to on the basis of being vague or ambiguous, "We begin our analysis by considering the wording of Question 22. It is subjective. It is subjective because it seeks to probe Dr. Lavender's state of mind in contrast to objective questions calling for information within his knowledge."); *De Graffenried v. U.S.*, 2 Cl.Ct. 640,

36 Fed.R.Serv.2d 1522 (1983) (“interrogating a patentee on his views of the alleged infringement of his patent claims is vague and ambiguous.”).

This request is overbroad in that it seeks information which will not reasonably lead to admissible evidence.

*State v. Tackett*, 78 N.M. 450, 432 P.2d 415 (1962) (stating that a party “has no right to go upon a tour of investigation, in the hope that they will find something to aid them, and if it appears that the request for such inspection is merely ‘a fishing expedition to see what may turn up’ it should be denied”); *Cantrell v. W & C Contracting Co.*, 112 N.M. 609, 817 P.2d 1251 (Ct. App. 1991 (“A request for discovery may properly be denied if the request is speculative or if such discovery would amount to a mere fishing expedition.”). *Ruiz v. Southern Pac. Transp. Co.*, 97 N.M. 194, 203, 638 P.2d 406, 415 (Ct. App.) (upholding objection against overly broad discovery asking for irrelevant information), *cert. quashed*, 97 N.M. 242, 638 P.2d 1087 (1981).

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*Lara v. City of Albuquerque*, 1999-NMCA-012, 971 P.2d 846 (discovery must be narrowly tailored to avoid irrelevant information); *Ruiz v. Southern Pacific Trans. Co.*, 97 N.M. 194, 203 (“Unless limited to employees on duty at the time and place of the accident complained of, or to employees fired for negligence similar to that complained of, that information is irrelevant.”)

Request not limited to the relevant time period of the action.

*Kallus v. General Host Corp.*, 1988 U.S. Dist. LEXIS 16750, \*9 (D. Conn. 1988) (Denying a motion to compel because documents sought from the time prior to the class period would not lead to relevant evidence).

Notwithstanding the foregoing and without waiver thereof, no Board Members of the Association elected at the Association’s Annual Meeting for the election of Directors held on Friday, July 5, 2024 have trespassed on private property within the Association’s boundaries.

INTERROGATORY NO. 23: Please describe in specific detail your personal knowledge that it costs \$600.00 per month per camera to operate the security camera's in use for the Association.

ANSWER: **Objection.** The discovery request is vague, ambiguous, or subject to multiple interpretations, and therefore not narrowly tailored to produce admissible evidence with regard to "to operate". See Rule 1-034(B) NMRA 2010 (requiring that all request for production describe each item or category with reasonable particularity).

C.W. Wright, A Miller, and R. Marcus, Federal Practice and Procedure, § 2211 at 412-415 (West 1994). Requests which ask for "any and all" records "of any and all kinds" require Defendants to expend unnecessary time and effort to speculate and decide to what extent it must review "records, document, writing, recordings and physical evidence of any and all kinds" to distinguish what is and what is not responsive. *Pulsecard, Inc v. Discover Card Services, Inc.*, 1995 W.L. 525533 (D.Kan., Aug. 31, 1995). *Archuleta v. Santa Fe Police Dep't ex rel. City of Santa Fe*, 2005-NMSC-6, ¶ 23, 108 P.3d 1019, 1027 ("a party will not be required to respond to an overly broad discovery request unless adequate guidance exists as to what extent the request is not objectionable."); Unpublished Opinion: *Lavender v. Amer. Physicians Assur. Corp.*, 2004 Westlaw 2755878 (Ky.App.) (While discussing a question objected to on the basis of being vague or ambiguous, "We begin our analysis by considering the wording of Question 22. It is subjective. It is subjective because it seeks to probe Dr. Lavender's state of mind in contrast to objective questions calling for information within his knowledge."); *De Graffenried v. U.S.*, 2 Cl.Ct. 640, 36 Fed.R.Serv.2d 1522 (1983) ("interrogating a patentee on his views of the alleged infringement of his patent claims is vague and ambiguous.").

This request is overbroad in that it seeks information which will not reasonably lead to admissible evidence.

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*Lara v. City of Albuquerque*, 1999-NMCA-012, 971 P.2d 846 (discovery must be narrowly tailored to avoid irrelevant information); *Ruiz v. Southern Pacific Trans. Co.*, 97 N.M. 194, 203 (“Unless limited to employees on duty at the time and place of the accident complained of, or to employees fired for negligence similar to that complained of, that information is irrelevant.”)

Request not limited to the relevant time period of the action.

*Kallus v. General Host Corp.*, 1988 U.S. Dist. LEXIS 16750, \*9 (D. Conn. 1988) (Denying a motion to compel because documents sought from the time prior to the class period would not lead to relevant evidence).

**INTERROGATORY NO. 24:** Please describe in specific detail your personal knowledge of the claim that Jim Feehan was ejected from the July 5<sup>th</sup>, 2024, members meeting by a Sheriff’s Deputy. Please state the name of the Deputy that removed Jim Feehan.

**ANSWER: Objection.** The discovery request is vague, ambiguous, or subject to multiple interpretations, and therefore not narrowly tailored to produce admissible evidence with regard to “claim that Jim Feehan was ejected”. See Rule 1-034(B) NMRA 2010 (requiring that all request for production describe each item or category with reasonable particularity).

C.W. Wright, A Miller, and R. Marcus, Federal Practice and Procedure, § 2211 at 412-415 (West 1994). Requests which ask for “any and all” records “of any and all kinds” require Defendants to expend unnecessary time and effort to speculate and decide to what extent it must review “records, document, writing, recordings and physical evidence of any and all kinds” to distinguish what is and what is not responsive. *Pulsecard, Inc v. Discover Card Services, Inc.*, 1995 W.L. 525533 (D.Kan., Aug. 31, 1995). *Archuleta v. Santa Fe Police Dep’t ex rel. City of Santa Fe*, 2005-NMSC-6, ¶ 23, 108 P.3d 1019, 1027 (“a party will not be required to respond to an overly broad discovery request unless adequate guidance exists as to what extent the request is not objectionable.”); Unpublished Opinion: *Lavender v. Amer. Physicians Assur. Corp.*, 2004 Westlaw 2755878 (Ky.App.) (While discussing a question objected to on the basis of being vague or ambiguous, “We begin our analysis by considering the wording of Question 22. It is subjective. It is subjective because it seeks to probe Dr. Lavender’s state of mind in contrast to objective questions calling for information within his knowledge.”); *De Graffenried v. U.S.*, 2 Cl.Ct. 640, 36 Fed.R.Serv.2d 1522 (1983) (“interrogating a patentee on his views of the alleged infringement of his patent claims is vague and ambiguous.”).

This request is overbroad in that it seeks information which will not reasonably lead to admissible evidence.

*State v. Tackett*, 78 N.M. 450, 432 P.2d 415 (1962) (stating that a party “has no right to go upon a tour of investigation, in the hope that they will find something to aid them, and if it appears that the request for such inspection is merely ‘a fishing expedition to see what may turn up’ it



should be denied”); *Cantrell v. W & C Contracting Co.*, 112 N.M. 609, 817 P.2d 1251 (Ct. App. 1991 (“A request for discovery may properly be denied if the request is speculative or if such discovery would amount to a mere fishing expedition.”). *Ruiz v. Southern Pac. Transp. Co.*, 97 N.M. 194, 203, 638 P.2d 406, 415 (Ct. App.) (upholding objection against overly broad discovery asking for irrelevant information), *cert. quashed*, 97 N.M. 242, 638 P.2d 1087 (1981).

The discovery request is not relevant to issues in this case.

*Lara v. City of Albuquerque*, 1999-NMCA-012, 971 P.2d 846 (discovery must be narrowly tailored to avoid irrelevant information); *Ruiz v. Southern Pacific Trans. Co.*, 97 N.M. 194, 203 (“Unless limited to employees on duty at the time and place of the accident complained of, or to employees fired for negligence similar to that complained of, that information is irrelevant.”)

Request not limited to the relevant time period of the action.

*Kallus v. General Host Corp.*, 1988 U.S. Dist. LEXIS 16750, \*9 (D. Conn. 1988) (Denying a motion to compel because documents sought from the time prior to the class period would not lead to relevant evidence).

INTERROGATORY NO. 25: Please describe in specific detail the date wherein you retained counsel to represent you in this matter.

ANSWER: Please *see* the Answer to Interrogatory 12.

HIMES, PETRARCA & FESTER, CHTD.

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**ATTORNEYS FOR THE PLAINTIFF JESSE  
CHILDERS AND THE WILD HORSE RANCH  
LANDOWNERS' ASSOCIATION**

# **EXHIBIT “5”**

**Amendment 9 to the Bylaws  
of the  
Wild Horse Ranch Landowners' Association, Inc.**

**This Amendment 9 to the Bylaws of Wild Horse Ranch Landowners' Association, Inc. is made this 6<sup>th</sup> day of February 2024.**

**Whereas the board of directors recognizes the need to establish procedures with which to comply with the WHRLA bylaws Article IV, Section 5, concerning the removal of directors,**

**Whereas the board of directors recognizes the need to establish procedures with which to comply with the removal clause in standing Code of Ethics,**

**Therefore be it enacted by the Wild Horse Ranch Landowners' Association, Inc. Board of Directors, the addition of amendment 9 in accordance with the New Mexico Nonprofit Corporation Act, 53-8-18d and 53-8-12, as well as the New Mexico HOA Act 47-16-8.1,**

**Article IV, Section 5, shall read as follows:**

Any director may be removed from the board, with or without cause, by a vote of a majority of the total number of votes of all members voting on the issue. If any director is found by the board of directors to be in violation of the Code of Ethics, the board of directors may remove said director with a 2/3 vote of directors present, providing there is a quorum. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining directors and shall serve until their successor is elected and qualified.

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Director

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Director

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Director

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Director

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Director

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Director

# **EXHIBIT “6”**

## WHRLA Resolution to Establish Procedures for the Removal of Directors

WHEREAS the board of directors recognizes the need to establish procedures with which to comply with the WHRLA bylaws Article IV, Section 5, concerning the removal of directors,

WHEREAS the board of directors recognizes the need to establish procedures to comply with the standing Code of Ethics,

RESOLVED, the WHRLA board of directors approves the procedures for the removal of directors as found on page two of this document.

We, the undersigned, hereby certify that WHRLA is comprised of seven members, of whom 6 were present at a meeting duly and regularly called, noticed, convened and held this day Tuesday February 6th 2014 and that the foregoing Resolution was duly adopted at said meeting by the affirmative vote of 5 members, and opposed by 1 members, and that said resolution has been duly recorded in the Minutes and is in full force and effect.

Director

Director

Director

Director

Director

Director

Director

## **WHRLA Rules for the Removal of Directors**

In order for a director to be removed from the WHRLA board, with or without cause, by a vote of a majority of the total number of votes of all members voting on the issue, as per the WHRLA Bylaws, Article IV, Section 5, the following procedures apply. A landowner must initiate a petition that must be signed by the landowners of 20 or more separate lots to request the removal of a director. The petition must subsequently be presented to the board of directors. The board of directors must have the issue placed on a ballot to be distributed to all landowners. Thirty days after the ballots are distributed, all returned ballots will be tallied by a committee of volunteers selected in a fair manner by the president. The results will be presented at the next regular board meeting scheduled after the return deadline. An affirmative vote by a majority of the total number of votes of all members voting on the issue will result in immediate termination.

In order for a director to be removed from the board if accused of violating of the Code of Ethics, as per the WHRLA Bylaws, Article IV, Section 5, the following procedures apply: The president of the association shall be notified via email of the intent to motion for the removal of a director, along with a short synopsis of the alleged infraction(s). The director in question shall be notified by the president via email explaining the alleged infraction(s) and indicating the intent to place the removal of the said director on the agenda for the next board meeting. Once placed on the agenda, during the next board meeting, a board member will motion that the said director be removed, followed by a five minute, uninterrupted presentation justifying the removal. Five minutes is allowed for questions from board members followed by five minutes for an uninterrupted rebuttal from the director being considered for removal. A vote by the board of directors is then taken by secret ballot and the president will announce the results. An affirmative vote by 2/3 of the directors present, providing there is a quorum, results in immediate removal.

# **EXHIBIT “7”**



# Wild Horse Ranch Landowners' Association Annual Member's Meeting Minutes

Saturday, July 20th, 2024

**Meeting called to order by President Allen Dugan at 08:00 am**

**Roll Call:** Jim Feehan, Steve Malvitz, Greg Bronowski, Jerry Fowler, Ron Racicot, Rachel Ponder, Andy Rhomberg, Allen Dugan, Carmen Bronowski, McKade Loe in attendance.

Landowners present; C Reed, Charles Kircher, fred2, Becky Shepherd

**Treasurer's Report** – Carmen Bronowski: Current balance sheet and income statement were sent out and posted. Liability insurance is in order.

**Secretary's Report** – Jim Feehan: Secretary's computer has been fixed and is in use. Updating website as time permits.

## **Committee Reports**

- **Maintenance Committee** - Jim Feehan: Over the last year; repairs to office building have been made. Two new mailboxes have been installed, still waiting for USPS to commission them. The Buck Well has been repaired once. Lower package locker has been repaired once. Security cameras at the LOA office and the Fire Station well have had equipment either stolen, sabotaged or rendered inoperable. Equipment at both locations has been repaired or replaced and is now operable. Wells – There were internal discussions ongoing about the status of the Association-owned wells. An unauthorized person contacted the New Mexico OSE (Office of the State Engineer) and alerted them to the fact our wells were not properly permitted. Permits have since been modified in compliance with OSE regulations and meters have been installed. These are totalizing meters and we must make quarterly reports to the OSE. No individual landowner metering or tracking is in place, and no gallon restrictions have been implemented. Flow restrictions and operating hours will be adjusted as necessary to ensure water is available throughout the year and that we do not exceed State allotments of water. Any overuse in gallons must be doubled and subtracted from the next year's allotment.
- **Roads Committee** – Steve Malvitz – Snow removal was performed twice this winter. Attempts have been made to find a new road maintenance contractor. These attempts have been unsuccessful as of this meeting. Multiple calls to the current contractor, Summers Reed, have gone unanswered and he has not responded to messages to return calls.

## Election

- Allen Dugan – The previous secretary (Scott Caldwell) contacted the nominees for director positions. Most declined. There were three confirmed candidates and three positions available. Therefore, during the May 2<sup>nd</sup>, 2024 Regular Board Meeting, a motion was made to save the postage and printing costs by certifying the election. The motion passed 4 to 2. Steve Malvitz, Greg Bronowski, and Mitzy Nichols were elected pending acceptance and signing of the required State Certification Form. There have been claims that people were left off the ballot and we are not sure everyone was contacted, however, no one notified the board between May 2<sup>nd</sup> and the Annual Member's Meeting about not being contacted or not being allowed to run.

**Public Comment - three minutes per person:** Becky had questions about the agenda for the Member's meeting. The agenda she was referring to was not for the Member's meeting.

**Adjournment: 8:16 am**

Submitted by

Jim Feehan