

SEVENTH JUDICIAL DISTRICT COURT
COUNTY OF CATRON
STATE OF NEW MEXICO

FILED
7th JUDICIAL DISTRICT COURT
Catron County
11/27/2024 12:13 PM
RACHEL GONZALES
CLERK OF THE COURT
/s/ Jerome Adam

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.

**DEFENDANTS’ RESPONSE TO PLAINTIFF’S MOTION FOR
PRESENTMENT OF ORDER**

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
Plaintiff’s Motion for Presentment Order state as follows:

I. STATEMENT OF THE FACTS

1. Jesse Childers filed his Verified Complaint and Application for Temporary
Restraining Order and Equitable Relief on July 17, 2024 (the “Application”).

2. The Application is based on Jesse Childers belief that Defendants were removed as Board of Directors for the Wild Horse Ranch Land Owners Association and a gathering of members on July 5, 2024.

3. The governing documents provide a process for the removal of Board members, this process was not followed when attempting to remove Defendants as members of the Board of Directors.

4. The governing documents provide a process for the election of Board members, that process was not followed when “electing” Jesse Childers.

5. Additionally, Jesse Childers is action as “Chairman of the Board” even though no such position exists within the Wild Horse Ranch Land Owners Association (the “Association”).

6. A Hearing was scheduled for August 1, 2024.

7. At the hearing, the Court required Jesse Childers to obtain counsel.

8. The issue was brought up on who would pay for Jesse Childers’ counsel.

9. Jesse Childers suggested that the Court force Defendants to give Jesse Childers the funds to obtain counsel.

10. Defendants argued that forcing Defendants to provide funds to Jesse Childers to obtain counsel would essentially be granting the Application without first requiring a hearing.

11. The Court, to the best of my recollection stated to Jesse Childers at approximately 1:51:09 PM: “I am not going to grant your request.”

12. For that reason, Jesse Childers should be required to pay his own fees until a hearing on the issue of who controls the board can be set.

13. I do not recall the “Court [holding] that it would not let the Association be without reimbursement of fees and costs, to be paid by the party that did not prevail in the lawsuit.” Nor

do I recall the “Court order[ing] that the Association was to pay all associate fees and costs for its legal representation” by Jesse Childers.

14. Defendants are not withholding funds from Jesse Childers in bad faith, but rather they have fiduciary duties to the landowners of the Association to preserve and protect the asserts of the Association.

15. Defendants are eagerly awaiting the opportunity to have this matter heard and resolved.

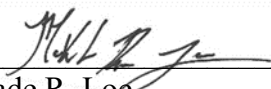
16. This Court should deny Jesse Childers’ Motion for Presentment Order because (1) Jesse Childers does not have the authority to act on behalf of the Association; (2) and the Court did not grant his Application for a Temporary Restraining Order, requiring Defendants to turn over Association assets.

17. Jesse Childers did not seek the position of counsel prior to filing this Motion, pursuant to NMRA Rule 1-007.1(C), thus his Motion should be struck for failure to comply with the Rules of Civil Procedure.

WHEREFORE, the Board respectfully request that the Court (a) Deny Jesse Childers’ Motion for Presentment Order; (b) award Defendants attorney fees for having to respond to this Motion; (c) schedule a hearing so this matter may be resolved; and (d) grant such other relief as may be proper.

Respectfully submitted,

ROSEBROUGH, FOWLES & FOUTZ, P.C.

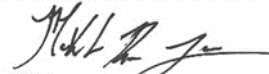
By 

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CERTIFICATE OF SERVICE

I hereby certify that on November 27, 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