

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

JESSE CHILDERS,
Plaintiff,

v.

No. D-728-CV-2024-00026

WILD HORSE RANCH LANDOWNERS ASSOCIATION,
Defendant.

**PLAINTIFF'S REPLY IN SUPPORT OF MOTION TO CLARIFY LEGAL
STATUS OF BOARD, VOTING RIGHTS, AND TO ADDRESS
CONTRADICTIONARY COMMUNICATIONS FROM DEFENDANTS**

COMES NOW Plaintiff, Jesse W. Childers, pro se, and respectfully submits this Reply in response to Defendant's opposition to Plaintiff's Motion to Clarify Legal Status of Board, Voting Rights, and to Address Contradictory Communications from Defendants. In support thereof, Plaintiff states as follows:

I. INTRODUCTION

Defendant's Response is replete with conclusory statements, unsupported denials, and personal attacks that fail to rebut the central issues raised in Plaintiff's Motion—namely, whether the WHRLA Board is legally constituted; whether the Defendant has been issuing contradictory communications regarding dues and voting rights; and whether disenfranchisement of members based on inconsistent or selectively enforced criteria violates New Mexico statutory and common law.

II. CLARIFICATION IS NOT AN ADVISORY OPINION

Defendant contends that the Motion seeks an impermissible "advisory opinion." However, Plaintiff's Motion is properly grounded in the ongoing live controversy: the validity of Board

actions, the enforcement of member rights, and the inconsistent communications affecting legal rights of owners. These are justiciable questions. See *State ex rel. Children, Youth & Families Dep't v. George F.*, 1998-NMCA-119, ¶ 12 (“Courts do not issue advisory opinions, but may resolve legal questions presented in a live controversy.”).

The Motion seeks clarification to prevent ongoing harm to members—such as loss of voting rights—based on shifting, unpublished standards. Such clarification is proper and consistent with declaratory relief. See NMSA 1978, § 44-6-2.

III. DEFENDANT’S RELIANCE ON “RES JUDICATA” IS MISPLACED

Defendant asserts res judicata based on the premise that the Court has “already ruled” on the issues raised. However, no final judgment has been issued on the legal constitution of the Board or the validity of current voting restrictions. At most, the Court has issued preliminary procedural orders. “For res judicata to apply, there must be a final judgment on the merits.” See *Three Rivers Land Co. v. Maddoux*, 1982-NMSC-111, ¶ 6, 98 N.M. 690, 652 P.2d 240.

IV. DEFENDANT’S ACCUSATION OF AI USAGE IS IRRELEVANT AND UNFOUNDED

Defendant's claim that the Motion “appears to be drafted by artificial intelligence” is speculative and irrelevant. The Rules of Civil Procedure do not prohibit assistance in drafting filings, whether by legal software, a paralegal, or a licensed attorney. What matters is the substance and legal merit of the arguments presented.

V. PLAINTIFF HAS SHOWN FACTUAL AND LEGAL BASIS FOR RELIEF

Plaintiff's Motion does cite legal authority and states factual grounds for the relief sought.

Defendant's assertion that there is no authority cited is demonstrably false.

The requested relief is firmly rooted in statutory and equitable principles:

NMSA 1978, § 47-16-5(A) grants members the right to records.

NMSA 1978, § 47-16-7 prohibits arbitrary or discriminatory enforcement.

Common law fiduciary duty bars self-serving conduct by the Board.

Contrary to Defendant's claim, Plaintiff's requested injunctions are not new issues but part of the ongoing dispute concerning the legitimacy and conduct of the Board.

VI. DUES ENFORCEMENT AND VOTING DISQUALIFICATIONS ARE IN DISPUTE

Defendant admits that voting rights are denied based on dues yet fails to acknowledge that such practice has not been uniformly enforced in prior elections—an issue central to Plaintiff's claims of selective enforcement and discrimination.

Further, Defendant admits contradictory communications have been issued to members. The legal implications of these contradictions require judicial review, not dismissal under a baseless claim of "no controversy."

VII. DEFENDANT'S PROCEDURAL ARGUMENTS ARE UNAVAILING

Defendant accuses Plaintiff of violating Rule 1-007.1 NMRA by failing to seek concurrence.

However, pro se litigants are not held to the same standard of formality as attorneys. See *Bruce v. Lester*, 1999-NMCA-051, ¶ 4 ("Although pro se litigants are held to the same rules as attorneys, courts should allow reasonable leeway.")

Plaintiff did sign the original motion. Any clerical omission in the e-filed version is not grounds for striking the entire pleading, especially in the absence of prejudice. See Rule 1-011 NMRA (requiring that pleadings be signed, but not prescribing striking as the sole remedy).

VIII. DEFENDANT'S REQUEST FOR ATTORNEY FEES IS IMPROPER

Defendant's demand for attorney fees under NMSA 1978, § 47-16-14 is unwarranted. That statute allows fee-shifting only when a party prevails in an action to enforce the HOA Act or governing documents. Plaintiff's Motion is a procedural request for clarification in ongoing litigation—it is not an independent enforcement action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

1. Deny Defendant's Response in its entirety;
2. Grant Plaintiff's Motion to Clarify Legal Status of Board, Voting Rights, and to Address Contradictory Communications;
3. Enjoin further arbitrary enforcement of voting rights;
4. Declare the Defendant's selective disenfranchisement of members to be improper and unenforceable;
5. Require the Defendant to comply with its statutory obligations under the HOA Act and Nonprofit Corporation Act;
6. Deny Defendant's request for attorney fees.

Respectfully submitted,

/s/ Jesse W. Childers

Plaintiff, Pro Se

25 Victoria Ct.

Pie Town, NM 87827

(505) 898-1175

jwchild007@hotmail.com

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of July, 2025, I caused a true and correct copy of the foregoing Motion to be served via email to:

McKade R. Loe

101 West Aztec Ave., Suite A

P.O. Box 1027

Gallup, NM 87305-1027

mckade@rf-lawfirm.com

/s/ Jesse W. Childers