

SEVENTH JUDICIAL DISTRICT COURT  
COUNTY OF CATRON  
STATE OF NEW MEXICO

FILED  
7th JUDICIAL DISTRICT COURT  
Catron County  
6/30/2025 4:40 PM  
RACHEL GONZALES  
CLERK OF THE COURT  
/s/ Micaela Zamora

JESSE CHILDERS,

Plaintiff,

v.

No. D-728-CV-2024-00026

WILD HORSE RANCH LANDOWNER'S ASSOCIATION,

Defendant.

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

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COMES NOW, Defendant, by and through its undersigned counsel, and for its Response to Plaintiff's Motion to Clarify Legal Status of Board, Voting Rights, and to Address Contradictory Communications from Defendants states as follows:

1. Defendants deny the allegations contained in Plaintiff's Motion to Clarify Legal Status of Board, Voting Rights, and to Address Contradictory Communications from Defendants (the "Motion") in paragraphs no. 1 through 4.

2. This Motion, which appears to be drafted by some sort of artificial intelligence, is difficult to respond to as it requests relief from the court that is unsupported.

3. The rules of civil procedure require that each motion shall be in writing and state with particularity the grounds and the relief sought. *See* Rule 1-007.1 NMRA.

4. This Motion appears to be requesting that the Court offer "guidance" to the "landowners" of the Association without raising any sort of controversy to be litigated.

5. The Court lack justiciability to issue an advisory opinion when there is no case in controversy. *See Insure New Mexico, LLC v. McGonigle*, 2000-NMCA-018, ¶ 27, 128 N.M. 611, 618, 995 P.2d 1053, 1060.

6. Paragraphs 1 through 3 of Plaintiff's Motion is seemingly attempting to re-litigate matters that have already been ruled on by this Court, and thus the claims are barred by *res judicata*, thus should not be re-litigated. *See Potter v. Pierce*, 2015-NMSC-002, ¶ 10, 342 P.3d 54, 57

7. Paragraph number 4 is an allegation that the Court made a "finding," yet Plaintiff has not shown any order that would support his contention, because none exists.

8. The Motion then goes on to state a legal analysis which is impossible to respond to as it is unclear what Plaintiff is attempting to argue.

9. Plaintiff has a section wherein he cites legal authorities but does not indicate how those legal authorities are supportive of his Motion.

10. Plaintiff is asking the Court to reaffirm its previous order. Such a request is unsupported and utterly unnecessary.

11. Plaintiff then asks the court to: (1) clarify that any actions not recorded with the County are unenforceable; (2) enjoin Defendants from disenfranchising members; (3) Declare that selective enforcement of voting and candidacy rights based on dues status is discrimination and invalid; (4) Direct the Association to comply with all statutory obligations for transparency and record access.

12. At no point in the Motion, does Plaintiff offer any sort of facts, legal authority, or arguments to support the requested relief. When a party does not cite any legal authority to support its position, it is presumed there is none. *See McNeill v. Rice Eng'g & Operating, Inc.*, 2010-NMSC-015, ¶ 11, 148 N.M. 16, 20, 229 P.3d 489, 493.

13. Nonetheless, in the conclusion section, Plaintiff states he seeks guidance, which, as mentioned above is not a case in controversy and the court lacks jurisdiction. *See Insure New Mexico, LLC v. McGonigle*, 2000-NMCA-018, ¶ 27, 128 N.M. 611, 618, 995 P.2d 1053, 1060.

14. As a result, the Motion should be denied.

15. Further, to the extent Plaintiff is concerned that individuals have lost their ability to vote in any election, as stated in the CC&R's of the Association, and previously discussed by the Court, that is only the result of failing to pay the required dues.

16. Jesse Childers, while pretending to act as the "Chairman" (even though no such position exists) sent a letter to all landowners informing them not to pay their dues. Unfortunately, a few members adhered to Jesse Childers' advice. Nonetheless, the Court has already stated that "was their decision" in refusing to pay their dues as required. *See* Audio Log at 11:09:42.

17. The Association has been consistent in adherence to the CC&R's which requires that dues must be paid in order to be eligible to vote.

18. Jesse Childers, at the previous hearing while under oath, declared that he was aware of the CC&R's but he simply did not agree with them. This is yet again, another attempt to take control of the Association without any legal authority to do so.

19. Lastly, the rules of civil procedure (the "Rules") require that the movant shall request the concurrence of the opposing party and determine if the motion will be opposed. *See* Rule 1-007.1.

20. Here, Plaintiff did not comply with this rule as he did not reach out to Counsel for Defendants prior to filing this Motion.

21. The Rules also require that each pleading be signed by the party. *See* Rule 1-011.

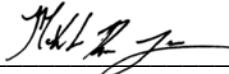
22. This Motion is not including the signature of Jesse Childers, and thus he has violated this rule. For this reason, this Motion should be stricken. *See Bruce v. Lester*, 1999-NMCA-051, ¶ 4, 127 N.M. 301, 302, 980 P.2d 84, 85 (stating that pro se litigant is not entitled to special privileges because of his pro se status).

23. Defendants should be awarded attorney fees pursuant to NMSA 1978, §47-16-14.

WHEREFORE, Plaintiff respectfully requests the Court to Deny Plaintiff's Motion to Clarify Legal Status of Board, Voting Rights, and to Address Contradictory Communications from Defendants and award attorney fees pursuant to NMSA 1978, §47-16-14.

Respectfully submitted,

ROSEBROUGH, FOWLES, & FOUTZ P.C.

By   
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**CERTIFICATE OF SERVICE**

I certify that on June 30, 2025, a true and correct copy of the foregoing was electronically filed through the Odyssey File & Serve system and served on the Plaintiff by mail.

  
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McKade R. Loe