

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.

**RESPONSE TO PLAINTIFF'S MOTION TO SHOW CONFLICT OF INTEREST AND
TO OPPOSE SUBSTITUTION OF PARTY**

COMES NOW, Defendant, by and through its undersigned counsel, and for its Response to Plaintiff's Motion to Show Conflict of Interest and to Oppose Substitution of Party states as follows:

1. Defendant denies the allegations contained in Plaintiff's Motion to Show Conflict of Interest and to Oppose Substitution of Party (the "Motion") in paragraphs no. 1 through 8.

2. This Motion, which appears to be drafted by some sort of artificial intelligence, is difficult to respond to and is also argued in two subsequent motions: (1) *Plaintiff's Motion to Set Aside Order Due to Late Receipt of Motion and Lack of Opportunity to Respond* filed on June 30, 2025; and , (2) *Plaintiff's Motion to Set Aside Order of Substitution and Related Order Denying Preliminary Injunction* filed on June 30, 2025.

3. Additionally, it appears that Jesse Childers may have attempted to withdraw this Motion through his filing on June 24, 2025, wherein he states he withdraws "Plaintiff's Amended Motion to Show Conflict of interest and to Oppose Substitution of Party filed on June 18, 2025." Counsel for Defendants has never received an Amended Motion filed on June 18, 2025, so assumes such a withdrawal may be in reference to this Motion. To the extent this Motion is withdrawn, Defendants to not oppose withdrawing this Motion.

4. In paragraph no. 1, Jesse Childers maintains that he “brought this action on behalf of the Wild Horse Ranch Landowners Association.” This statement is based on Jesse Childers’ failed argument that he successfully removed the Board of Directors for the Wild Horse Ranch Landowners Association (the “Association”) and he was elected as the “Chairman.” These questions have been intensively litigated by the parties resulting in two Orders from this Court finding that Jesse Childers’ arguments fail because the Board of Directors were never removed and Jesse Childers was never elected. *See Record Generally*. Nonetheless, Jesse Childers maintains his failed arguments.

5. In paragraphs no. 2 and 3, Jesse discusses the reasons, in his opinion, why his Counsel was removed. This matter has already been discussed, extensively, and needs not to be re-litigated or discussed.

6. In paragraphs no. 4 and 5, Jesse Childers attempts to draw a conflict of interest to disqualify counsel for Defendant. This is not the case. Again, Jesse Childers maintains that he brought this action on behalf of the Association because he was the “chairman.” *See record generally*. This has already been litigated and the conclusion is that Jim Feehan, Andy Romberg, Jerry Fowler, and Rachel Ponder (“Board of Directors”) were never removed as from their positions. Thus, only the Board of Directors represent the Association. *See* NMSA 1978, §53-8-25.1; *see also* NMSA 1978, §53-8-5; *see also* NMSA 1978, §53-8-17; *see also* Bylaws of the Association. Pursuant to NMSA 1978, §53-8-17 and the Bylaws of the Association, only the Board of Directors can bring and maintain a legal action for the Association. Because this action was not brought by any board members, the Association never brought this action. Accepting Jesse Childers’ argument would be a dangerous precedent. It would essentially allow anyone, with absolutely zero authority, to claim they represent a corporation and start legal action and then subsequently force the corporation to litigate against itself. That is absolutely idiotic.

7. In paragraph no. 6, Jesse Childers argues that he was “misled.” After the Court entered its order denying Jesse Childers’ Motion for Preliminary Injunction, it became necessary to organize this mess that was caused when Jesse Childers filed this action for the Association with zero authority to do so. As mentioned above, only the Board of Directors can bring an action for the

Association. Counsel for Defendant informed Jesse Childers of the intention to file a motion to dismiss altogether, because of the many flaws in Jesse Childers complaint. Nonetheless, in an effort to organize the litigation in a coherent manner, and show good faith in working towards a resolution, allowing the parties to proceed without the need for unnecessary litigation, Defendants agreed that the Motion for Substitution of Parties could be filed. Counsel for Defendant only agreed to file the Motion for Substitution of Parties because it was unopposed. If it had been opposed, Defendants would have taken a drastically different approach. An approach with which Jesse Childers was aware of. Apparently, Jesse Childers agreed to the Motion so Defendants would refrain from filing a motion to dismiss, all while knowing he was going to oppose the Motion and Order. Jesse Childers actions are utterly ridiculous and should be sanctioned.

8. In paragraph no. 7, Jesse Childers asks for more time to get counsel. Neither the Court nor Defendants are inhibiting Jesse Childers ability to get counsel. Further, he has already requested an extension of time, to which the court denied. It is clear, Jesse Childers disagrees with the Court, but rather than moving on, he finds other ways to abuse the judicial process to get more time.

9. 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.

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

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

12. 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).

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

WHEREFORE, Defendant respectfully requests the Court to Deny Plaintiff's Motion to Show Conflict of Interest and to Oppose Substitution of Party from Defendants and award attorney fees pursuant to NMSA 1978, §47-16-14.

Respectfully submitted,

ROSEBROUGH, FOWLES, & FOUTZ P.C.

By 

McKade R. Loe
Attorneys for Defendant
101 West Aztec Ave., Suite A
P. O. Box 1027
Gallup, New Mexico 87305-1027
(505) 722-9121
mckade@rf-lawfirm.com

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.



McKade R. Loe