

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

JESSE W. CHILDERS, Pro Se,
Plaintiff,

v. Case No. D-728-CV-2024-00026

WILD HORSE RANCH LANDOWNERS' ASSOCIATION, et al.,
Defendants.

**PLAINTIFF'S OBJECTION TO DEFENDANTS' PROPOSED ORDER AND MOTION
TO RECONSIDER AND SET ASIDE ORDER GRANTING MOTION FOR SANCTIONS**
(Pursuant to Rule 1-060(B) NMRA and Rule 1-059(E) NMRA)

I. INTRODUCTION

COMES NOW Plaintiff, Jesse W. Childers, pro se, and respectfully objects to the Proposed Order submitted by Defendants and moves this Court to reconsider and set aside its oral and written rulings of August 12, 2025, granting Defendants' Motion for Sanctions.

The Court's August 12 rulings rest upon factual misstatements, internal inconsistencies with prior orders, and errors of law. Unless corrected, they will result in manifest injustice. Relief is therefore proper under Rule 1-060(B) NMRA (mistake, inadvertence, surprise, misrepresentation, or other reason justifying relief) and Rule 1-059(E) NMRA (motion to alter or amend). New Mexico courts recognize that manifest injustice means "clear, direct, and substantial prejudice" (*State v. Pieri*, 2009-NMSC-019, ¶ 20, 146 N.M. 155, 207 P.3d 1132), amounting to "an obvious unfairness or a result that is shocking to the conscience" (*State v. Jensen*, 1998-NMCA-034, ¶ 10, 124 N.M. 726, 955 P.2d 195), and requiring intervention when an error "would undermine confidence in the fairness or integrity of the proceedings" (*State v. Garcia*, 2011-NMSC-003, ¶ 58, 149 N.M. 185, 246 P.3d 1057). Federal courts have applied the

same principle: *Ackermann v. United States*, 340 U.S. 193, 199 (1950) (Rule 60(b) exists to prevent manifest injustice where a judgment rests on mistake or misrepresentation); *Phelps v. Hamilton*, 122 F.3d 1309, 1324 (10th Cir. 1997) (relief appropriate where denying reconsideration would result in manifest injustice).

II. BACKGROUND

1. On March 4, 2025, this Court entered its **Order on Interim Costs and Fees**, expressly providing that:
 - The Association must pay all reasonable costs and attorney’s fees associated with the legal representation of the Association by attorney Andrew R. Sánchez, brought through Plaintiff as Chairman.
 - Plaintiff is only responsible for his own individual attorneys’ fees and costs.
 2. On May 14, 2025, the Court issued its **Preliminary Injunction Order**, again directing that the Association bear responsibility for Sánchez’s attorney’s fees relating to Association representation.
 3. On August 12, 2025, during the Order to Show Cause hearing, the Court imposed sanctions, dismissed Plaintiff’s claims with prejudice, and stated that Plaintiff “has to reimburse for [Sánchez’s] costs.” This oral statement conflicts with both the March 4 and May 14 orders and improperly shifts liability to Plaintiff.
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III. ARGUMENT

A. Factual Misstatements

The Court’s August 12 order and remarks contain multiple factual errors, including findings that Plaintiff filed frivolous motions or violated orders when, in fact, Plaintiff’s filings were made in

good faith, timely, and supported by authority. For example, Plaintiff's Reply in Support of Motion to Clarify was filed prior to receipt of the July 1, 2025 denial order, consistent with Rule 1-007.1(D) NMRA. See *Chavez v. Regents of Univ. of N.M.*, 1985-NMCA-084, ¶ 6, 103 N.M. 606, 711 P.2d 883 (replies serve to narrow issues).

B. Disproportionate Sanctions

Even if Rule 1-011 concerns existed, dismissal with prejudice and an open-ended fee award are excessive. Sanctions must be "limited to what is sufficient to deter repetition." Rule 1-011 NMRA; *Doña Ana Sav. & Loan Ass'n v. Dofflemeyer*, 1981-NMSC-129, ¶ 10, 97 N.M. 256, 639 P.2d 745. Lesser remedies (warning, striking filings, or limited costs) would adequately deter without barring Plaintiff's claims permanently.

C. Lack of Findings on Attorney's Fees

The August 12 ruling directed Plaintiff to pay attorney's fees without requiring itemized billing or findings of reasonableness. Fee-shifting requires a documented basis. *In re Estate of Keeney*, 1995-NMCA-102, ¶ 11, 120 N.M. 578, 903 P.2d 229 (fee awards must rest on findings of reasonableness and statutory authority). Defendants presented no evidence of fees paid, further rendering the award improper.

D. Inconsistency with Prior Orders

Most critically, the August 12 ruling contradicts the Court's March 4 and May 14 orders concerning Mr. Sánchez's fees. Written orders must be internally consistent and enforceable. *State ex rel. N.M. State Highway & Transp. Dep't v. Baca*, 1995-NMSC-033, ¶ 11, 120 N.M. 1, 896 P.2d 1148.

IV. RELIEF REQUESTED

Plaintiff respectfully requests that this Court:

1. Sustain Plaintiff's Objection to Defendants' Proposed Order;
2. Reconsider and set aside the August 12, 2025 Order Granting Motion for Sanctions;
3. Vacate dismissal with prejudice and substitute lesser sanctions, if any;
4. Limit any award of attorney's fees to post-May 13, 2025, costs, supported by itemized unreacted documentation;
5. Reaffirm that responsibility for Mr. Sánchez's Association-related fees lies with the Association, not Plaintiff.

ITEM 2: PLAINTIFF'S MOTION FOR CLARIFICATION OF FEE RESPONSIBILITY

I. INTRODUCTION

Plaintiff separately moves for clarification of this Court's August 12, 2025 oral remarks concerning fee responsibility. The Court's statement appears inconsistent with its March 4, 2025 and May 14, 2025 orders, requiring clarification to prevent conflicting obligations.

II. ARGUMENT

Internal Inconsistency: The March 4 Order on Interim Costs and Fees expressly provided that the Association shall pay Sánchez's fees for Association representation, while Plaintiff remains responsible only for his individual costs. The August 12 oral remark suggesting otherwise is inconsistent.

Prejudice: Plaintiff faces duplicative liability absent clarification, risking financial harm contrary to prior rulings.

Procedure: Modification of prior orders requires motion, notice, and findings — not oral remarks during a sanctions hearing. *Reeves v. Wimberly*, 1988-NMCA-038, ¶ 12, 107 N.M. 231, 755 P.2d 75.

Written Orders Control: Written orders govern when inconsistent with oral statements. *State v. Diaz*, 1983-NMSC-090, ¶ 6, 100 N.M. 210, 668 P.2d 326.

Limitation on Fees: Any award must be limited to fees incurred **after May 13, 2025**. Pre-injunction fees are governed by prior orders and cannot be retroactively imposed without findings of misconduct. *In re Estate of Keeney*, 1995-NMCA-102, ¶ 11.

CONCLUSION

For the reasons set forth above, Plaintiff respectfully requests that the Court sustain this objection, reconsider and set aside the sanctions order, and clarify fee responsibility consistent with its March 4 and May 14 orders.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of August, 2025, I caused a true and correct copy of the foregoing to be served via email on:

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