

SEVENTH JUDICIAL DISTRICT COURT
COUNTY OF CATRON
STATE OF NEW MEXICO

FILED
7th JUDICIAL DISTRICT COURT
Catron County
7/30/2025 4:57 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.

REPLY IN SUPPORT OF MOTION FOR SANCTIONS

COMES NOW, Defendant WILD HORSE RANCH LANDOWNER'S ASSOCIATION by and through undersigned counsel, McKade R. Loe, Rosebrough, Fowles & Foutz, P.C., and hereby moves this Court to sanction Plaintiff Jesse Childers pursuant to the Court's inherent powers and Rule 1-011 NMRA and as grounds therefore states as follows:

1. Jesse Childers claims that the Motion for Sanctions is procedurally deficient but does not provide any authority to support his statement.
2. 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.
3. Jesse Childers also claims that he had good grounds to support all the motions which were maliciously filed by him, however, every single motion has been denied.
4. Jesse Childers does not offer any sort of reason as to why he failed to abide by the Rules of Civil Procedure when filing his various motions.

5. Jesse Childers claims that he engaged in conversations with Counsel for Defendant in an attempt to reach a resolution and avoid filing his various motions, however, that never occurred. Counsel for Defendant was surprised by the filing of all motions by Jesse Childers. No discussions regarding the motions ever occurred prior to their filing, nor did Jesse Childers ever indicate that he would be filing motions.

6. Jesse Childers' motions were excessive and unduly burdensome on Defendant. Many of the motions sought the same relief from the court.

7. Jesse Childers states that he acted with the intention of protecting members of the Association and due process. *See Response* at ¶4. He also seemingly believes that the Court has not determined if he was elected to serve on the Board of Directors for the Association. *See Response* at ¶7. Apparently, he is still attempting to act on behalf of the Association and/or its members, even though the Court has already made it abundantly clear that he cannot. *See Order* dated May 14, 2025; *see also Order* dated June 6, 2025.

8. Jesse Childers also claims that there is no evidence that he attempted to engage in *ex parte* communications. However, attached to his Response is the *Notice of Intent to Contact Chambers* which he filed wherein he states that he attempted to contact chambers requesting immediate court relief in his favor. *See Notice of Attempt to Contact Chambers*. This type of behavior cannot be condoned as it is completely unacceptable.

9. Granting this Motion for Sanctions is appropriate.

10. Jesse Childers would not be prejudiced if the Court were to grant the relief sought and dismiss Jesse Childers' claims with prejudice.

11. In looking at Jesse Childers' original Application and then Amended Complaint, he rests his entire case on two facts: (1) the Board of Directors were removed at the July 5, 2024,

picnic; and, (2) he was voted onto the board of directors at the July 5, 2024, picnic. *See Record Generally.*

12. Contrary to the statement made by Jesse in his Response, these questions have been fiercely litigated, and the court has already made findings concerning them.

13. In the Order dated May 14, 2025, following the hearing held of February 17, 2025, the Court found that the “vote [to remove board members] was not in harmony with the removal process as detailed in the governing documents of the Association for the removal of Board Members, as such, the vote failed and *no board members were removed by vote on July 5, 2024*” (emphasis added). *See Order* date May 14, 2025.

14. The Court further Ordered that “Jim Feehan, Andy Romberg, Jerry Fowler, and Rachel Ponder were not removed in their positions as Board Members for the Association and shall continue to act in their capacity as Board Members of the Association.” *See Id.*

15. Further, after the hearing held on May 9, 2025, and in the Order dated June 6, 2025, the Court found: “At the July 5, 2024, picnic meeting an attempted vote was conducted to elect new Board Members for the Board of Directors for the Association. This vote did not follow the process for the election of new Board Members of the Association as outlined in the governing documents of the Association. Further, no member of the Board of Directors called the July 5, 2024, picnic meeting to order. There was no quorum present at the July 5, 2024, picnic meeting. There were no proxies filed with the Secretary of the Association for the July 5, 2024, picnic meeting. As a result, the vote conducted at the July 5, 2024, picnic meeting to elect new board members did not meet the requirements as established by the governing documents of the Association, therefore, *the vote was not valid and is void*” (emphasis added). *See Order* dated June 6, 2025.

16. The Court further ordered that the Vote was invalid and void. *See Id.*

17. Because the Court has already made findings on the two facts Jesse Childers relies on to support this action, which are contrary to his assertion, and because Jesse Childers' actions are sanctionable, the Court should grant the Motion for Sanctions and dismiss Jesse Childers claims with prejudice.

18. Further, because Jesse Childers never had the authority to act on behalf of the Association, he alone should be responsible for the fees incurred by Mr. Andrew Sanchez in this matter. *See* NMSA 1978, 53-8-98; *see also Order* dated March 4, 2025.

19. Lastly, Jesse Childers should be responsible for the legal fees incurred by the Association. The Association would have never incurred these legal fees if Jesse Childers had not begun this litigation. Further, the Association has incurred additional, unnecessary legal fees in response to the various malicious motions filed by Jesse Childers. The award of attorney fees is supported by the Homeowners Association act. *See* NMSA 1978, §47-16-14.

20. As stated in the Motion for Sanctions, trial courts have inherent power to impose a variety of sanctions on both litigants and attorneys in order to regulate their docket, promote judicial efficiency, and deter frivolous filings. *See State ex rel. New Mexico State Highway & Transp. Dept. v. Baca*, 1995-NMSC-033, ¶ 11, 120 N.M. 1, 4, 896 P.2d 1148, 1151.

21. The principle of inherent power protects the integrity of the judicial process by concerning itself with the proper functioning of the court system. *See Seipert v. Johnson*, 2003-NMCA-119, ¶ 11, 134 N.M. 394, 134, 77 P.3d 298, 302.

22. The Rules require that all pleadings, motions, and other papers shall be signed by the party certifying that the pleading, motion or other paper is supported by good grounds, and not interposed for delay. *See* Rule 1-011(A). Rule 1-011 NMRA was designed to encourage honesty in the bar when bringing and defending actions. *See Rivera v. Brazos Lodge Corp.*, 1991-NMSC-030, ¶ 13, 111 N.M. 670, 674, 808 P.2d 955, 959. Jesse Childers did not abide by this rule. Rule 1-

011 NMRA further provided that an attorney or a party may be subject to appropriate disciplinary or other actions for willful violations. *See* Rule 1-011 NMRA.

23. District courts may exercise discretion to impose sanctions when a pleading or other paper signed by an attorney is not well grounded in fact. *See Benavidez v. Benavidez*, 2006-NMCA-138, ¶ 14, 140 N.M. 637, 641, 145 P.3d 117, 121. None of the Motions filed by Jesse Childers are well grounded in fact.

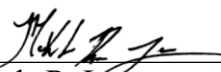
24. Lastly, Plaintiff's email to Association members on July 2, 2025, falsely claiming authority to act on behalf of the Association, directly violated a court order. This conduct remains un rebutted and exemplifies Plaintiff's disregard for court directives.

25. Jesse Childers continuously asks for the Courts leniency because he is *pro se*, but such leniency should not be granted, given the totality of the circumstances. *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).

26. Jesse Childers, acting alone, has caused unnecessary delay, litigation costs, confusion, and strain on the Court by his filing of his various frivolous motions and should therefore be sanctioned.

WHEREFORE, Defendant respectfully requests the Court grant this Motion and order sanctions which should include: (1) dismissing Jesse Childers' Complaint altogether with prejudice; (2) award Defendant's attorney's fees and costs; (3) award punitive damages; and , (4) any other award the Court deems just and proper.

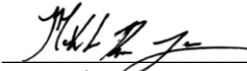
ROSEBROUGH, FOWLES, & FOUTZ P.C.

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CERTIFICATE OF SERVICE

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



McKade R. Loe