

CAUSE NO. 8292

SOUTHWESTERN HOLDINGS, INC.,
dba CIBOLO CREEK RANCH,
Plaintiff,

v.

HUNTER JRW HOLDINGS, L.L.C.,
Defendant.

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THE DISTRICT COURT

_____ JUDICIAL DISTRICT

PRESIDIO COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION AND
APPLICATION FOR TEMPORARY INJUNCTION AND PERMANENT INJUNCTION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Plaintiff Southwestern Holdings, Inc. ("SHI") dba Cibolo Creek Ranch ("Cibolo") (hereinafter, "Plaintiff" or "Cibolo"), and files this Original Petition and Application for Temporary Injunction and Permanent Injunction against Defendant Hunter JRW Holdings, L.L.C. In support thereof, Plaintiff respectfully shows the Court as follows:

I.

DISCOVERY CONTROL PLAN, JURISDICTION & VENUE

1. Plaintiff intends to conduct discovery under Level 3 pursuant to Texas Rule of Civil Procedure 190.4.
2. Plaintiff seeks non-monetary relief, and monetary relief of \$250,000 or less, excluding interest statutory or punitive damages and penalties, and attorney fees and costs.
3. Plaintiff seeks punitive damages and attorney fees.
4. Venue is mandatory in this Court under § 15.011 of the Texas Civil Practice and Remedies Code because this suit involves interest in real property which is wholly located in Presidio County, Texas.
5. Plaintiff asserts claims for damages within the jurisdictional limits of the Court and for all other relief to which it is entitled, at law or in equity.

II. **PARTIES**

6. Plaintiff Southwestern Holding, Inc. (“SHI”) is a Texas corporation with an address of 600 Travis, Suite 400, Houston, Texas 77002. John B. Poindexter is the Chairman of the Board and Director of SHI. SHI owns property in Presidio County, commonly known as La Morita, La Cienega, and Harper Ranch. These three ranches are generally located southeast of Shafter, Texas and are contiguous, as depicted on the maps attached hereto as “Exhibit A-1” and “Exhibit A-2”.¹ La Morita, La Cienega, and Harper Ranch are hereafter collectively referred to as “the Property.” The Property is further described in the legal descriptions contained in the deeds to SHI attached hereto as “Exhibit B-1” and “Exhibit B-2.”²

7. SHI conducts business on the Property under the assumed name, Cibolo Creek Ranch (“Cibolo”), filed with the Texas Secretary of State. Cibolo operates, manages, maintains, and conducts business on the Property as a working livestock, agricultural and resort ranch in Presidio County.

8. Defendant Hunter JRW Holdings, L.L.C. is a Texas limited liability company with registered agent and managing member John R. Weisman. John R. Weisman may be served with process at 4501 Hunter Road, San Marcos, Texas 78666 or wherever he may be found. Defendant owns property in Presidio County, known as Flying W. Ranch, which is adjacent to the Property (hereinafter “Flying W. Ranch”). An existing road, Morita Road, crosses both Plaintiff’s and Defendant’s respective properties. Morita Road is depicted on the attached map exhibits³ and further described in a survey attached hereto as “Exhibit C.”⁴ Plaintiff has historically accessed

¹ See Exhibit A-1 (zoomed in map) and Exhibit A-2 (zoomed out map).

² See Exhibit B-1 (1992 Greenwood Deed) and Exhibit B-2 (2000 Harper Deed).

³ See Exhibits A-1 and A-2.

⁴ See Exhibit C (Survey of Morita Road dated March 14, 2025).

Morita Road across Flying W. Ranch, until Defendant's recent interference and blocking of access, which is the basis of this action.

III. BACKGROUND FACTS

9. Plaintiff purchased La Cienega and La Morita in 1992.⁵ Plaintiff purchased Harper Ranch in 2000. These three ranches, which collectively comprise Plaintiff's Property at issue, have been accessible via Morita Road through Flying W. Ranch (formerly, "Lely Ranch") for over one hundred years.⁶ In fact, the prior landowners, the Greenwoods and the Harpers, had all rights of access to the Property from Shafter, including over Flying W. Ranch, and no one ever challenged their access for over one hundred years.⁷

10. As depicted on the attached map exhibits,⁸ Morita Road starts in Shafter and then traverses several properties until it eventually crosses Flying W. Ranch into Plaintiff's Property and ultimately terminates at Harper Ranch. On information and belief, Defendant purchased Flying W. Ranch in August 2024. Plaintiff never had issues accessing Morita Road over Flying W. Ranch prior to Defendant's ownership. Morita Road is the only way that Plaintiff can access Harper Ranch and historical means of access to La Morita and La Cienega, which is why Plaintiff and its predecessors have historically used Morita Road to access all three tracts until Plaintiff was recently denied access.⁹

11. As detailed in affidavits attached hereto from Cibolo employees and representatives, Cibolo's members, employees, representatives, and invitees freely traversed Morita Road to access the Property, including across Flying W. Ranch, without objection; this has

⁵ See Exhibit D-1 (Affidavit of John Poindexter).

⁶ *Id.*

⁷ *Id.*

⁸ See Exhibit A-1 and A-2.

⁹ See Exhibit D-1.

been the case for decades.¹⁰ This historical access was always visible, open, and notorious, as described in affidavit testimony.¹¹ In addition, this historical access has always been continuous and exclusive to Plaintiff since Plaintiff's ownership.¹² Furthermore, this historical access was done without express permission from the prior landowner of Flying W. Ranch and adverse to their interests.¹³

12. The first time that Plaintiff was blocked from accessing Morita Road through Flying W. Ranch was after Defendant locked a gate on Morita Road in late 2024, which followed with cease-and-desist correspondence from Defendant to Plaintiff on October 2, 2024, attached hereto as "Exhibit E."¹⁴ Up until this cease-and-desist correspondence, Plaintiff has enjoyed access.¹⁵ However, now that Defendant is blocking access, Plaintiff is unable to inspect, maintain, operate, and enjoy its Property.¹⁶ More specifically, this lack of access puts Plaintiff's livestock at risk of starvation and injury, which are situated on Harper Ranch.¹⁷ Plaintiff does not have a feasible alternative to access Harper Ranch to check on the well-being of its livestock.¹⁸ Plaintiff's lack of access will result in immediate and irreparable injury, loss, or damage.¹⁹ Since receiving the October 2, 2024 cease-and-desist correspondence, Plaintiff has contacted Defendant numerous times, requesting permission to access and offering to negotiate agreed access terms, as recently as April 15, 2025.²⁰ Without explanation, Defendant has refused, necessitating this action.²¹

¹⁰ See Exhibit D-1 (Affidavit of John Poindexter), Exhibit D-2 (Affidavit of Cesar Armendariz), Exhibit D-3 (Affidavit of Eduardo Martin, Sr.), Exhibit D-4 (Affidavit of Tom Davis) and Exhibit D-5 (Affidavit of Trent Whitesell).

¹¹ See *id.*

¹² See *id.*

¹³ See *id.*

¹⁴ See Exhibit E (Defendant's Cease-and-Desist Correspondence).

¹⁵ See Exhibit D-1 (Affidavit of John Poindexter), Exhibit D-2 (Affidavit of Cesar Armendariz), Exhibit D-3 (Affidavit of Eduardo Martin, Sr.), Exhibit D-4 (Affidavit of Tom Davis) and Exhibit D-5 (Affidavit of Trent Whitesell).

¹⁶ See *id.*

¹⁷ See *id.*

¹⁸ See *id.*

¹⁹ See *id.*

²⁰ See Exhibit D-1 (Affidavit of John Poindexter).

²¹ See *id.*

13. Without the Morita Road access, Plaintiff is unable to manage and freely enjoy its Property and conduct its normal ranching operations, risking catastrophic loss, as the Property and its assets decrease in value without access.

IV.
DEFENDANT'S INTENTIONAL TORTIOUS INTERFERENCE
WITH PLAINTIFF'S PROPERTY RIGHTS

14. Plaintiff incorporates the allegations set forth above as though fully set forth herein.

15. Defendant has recently blocked access to Morita Road, thus denying Plaintiff access to the Property without just cause or excuse, interfering with Plaintiff's property rights to use and enjoy its land, causing injury. Texas law is well settled that "[a]ny intentional invasion of, or interference with property, property rights, personal rights or personal liberties causing injury without just cause or excuse is an actionable tort."²² Texas law recognizes a cause of action for tortious interference with property rights.²³

16. Defendant has no legitimate reason or legal basis to obstruct its neighbor's ability to use its own property. Due to Defendant's interference, Plaintiff is unable to enjoy its property rights and benefit from its land, causing Plaintiff to suffer ongoing harm as a result.

V.
PRESCRIPTIVE EASEMENT

17. Plaintiff incorporates the allegations set forth above as though fully set forth herein.

²² *Surprise v. DeKock*, 84 S.W.3d 378,380 (Tex. App.—Corpus Christi 2002) (citing *King v. Acker*, 725 S.W.2d 750, 754 (Tex. App.—Houston [1st Dist.] 1987, no writ) (citing *Cooper v. Steen*, 318 S.W.2d 750, 757 (Tex. Civ. App.—Dallas 1958, no writ)); see also *Cole v. Hall*, 864 S.W.2d 563, 571 (Tex. App.—Dallas 1993, writ dismissed w.o.j.); *International Union United Auto. Aerospace & Agric. Implement Workers v. Johnson Controls, Inc.*, 813 S.W.2d 558, 567 (Tex. App.—Dallas 1991, writ denied)).

²³ *Newton v. Williams*, No. 03-18-00234-CV, 2018 WL 335671 1, at *6 (Tex. App.—Austin, July 10, 2018) (unpublished) (reversing portion of trial court's judgment denying Plaintiffs request for declaratory and injunctive relief and remanding to trial court to provide the appropriate declaratory and injunctive relief and possible attorney's fees to Plaintiff).

18. Plaintiff is entitled to use Morita Road through Flying W. Ranch as a prescriptive easement, which is acquired by the open, notorious, continuous, exclusive, and adverse use to access the Property.²⁴ The attached affidavit testimony demonstrates that Plaintiff has met all elements to acquire an easement by prescription on Morita Road through Flying W. Ranch. More specifically, the affidavit testimony shows that Plaintiff's use of the road has been adverse to Defendant and Defendant's predecessors-in-title well in excess of ten years. This use has never been permissive and Plaintiff has always accessed Morita Road openly and visibly on a continuous basis, under a use that has been exclusive to Plaintiff.

19. It is important to note that Plaintiff established a prescriptive easement over a segment of Morita Road in 2010 across another property. In *Boerschig v. Southwestern Holdings, Inc.*, 322 S.W.3d 752 (Tex. App—El Paso 2010), the Eighth District Court of Appeals ruled that Plaintiff SHI had met its burden of proof to establish that it enjoyed a prescriptive easement over a segment of Morita Road crossing property known as the "McCraken Ranch," owned by John Boerschig.²⁵ McCraken Ranch is situated to the north of La Morita, La Cienega, and Harper Ranch and abuts Plaintiff's property.²⁶ The facts in that case are very similar here and the historical use of Morita Road is nearly identical.²⁷ Applying the same reasoning in the *Boerschig* case, the Court should rule that Plaintiff has established a prescriptive easement on Morita Road through Defendant's property.²⁸

VI. INTENTIONAL CONDUCT CAUSING NUISANCE INJURY

20. Plaintiff incorporates the allegations set forth above as though fully set forth herein.

²⁴ *Johnson v. Dale*, 835 S.W.2d 216, 218-219 (Tex. App. -Waco 1992, no writ).

²⁵ *Boerschig v. Southwestern Holdings, Inc.*, 322 S.W.3d 752, 766 (Tex. App—El Paso 2010).

²⁶ *See id.*

²⁷ *See id.*

²⁸ *See id.*

21. Defendant has created a condition that has substantially interfered with Plaintiff's interests in the use and enjoyment of its Property, causing Plaintiff unreasonable discomfort and annoyance. There was no explanation as to the sudden blocking and Defendant has refused to discuss possible workable solutions outside of litigation. The damage to the Property is ongoing and includes, but is not limited to: (a) market-value damages caused by permanent nuisance, including loss of future rents and business related to the use of the Property, (b) damages for loss of use and enjoyment caused by temporary nuisance of restricting use and enjoyment, (c) personal property damages, and (d) damages to livestock.

VII.
DECLARATORY JUDGMENT

22. Plaintiff incorporates the allegations set forth above as though fully set forth herein.

23. There exists a genuine controversy between the parties herein that would be terminated by granting of a declaratory judgment. Pursuant to TEX. CIV. PRAC. & REM. CODE § 37.001, *et seq.*, Plaintiff requests that the court declare the relative rights of the parties before this Court, and Plaintiffs seek a declaratory judgment to be entered as follows:

- (1) Judgment that Plaintiff and its agents and invitees are entitled to use Morita Road for ingress and egress to and from the Property, including through Defendant's property.
- (2) Determination that Plaintiff is entitled to costs and reasonable attorneys' fees for bringing this action pursuant to TEX. CIV. PRAC. & REM. CODE § 37.009.

VIII.
CLOUD ON TITLE

24. Plaintiff incorporates the allegations set forth above as though fully set forth herein.

25. Defendant's denial of Plaintiff's access to its Property via Morita Road has caused the perpetuation of a cloud on the title to Plaintiff's Property.

26. Plaintiff is entitled to damages for Defendant's past and future maintenance of the clouds on title and the prevention of Plaintiff from having good and marketable title to its Property due to lack of access to same.

IX.

APPLICATION FOR TEMPORARY INJUNCTION AND PERMANENT INJUNCTION

27. Plaintiff incorporates each of the foregoing paragraphs herein by reference.

28. Plaintiff seeks a temporary injunction and a permanent injunction restraining Defendant from blocking or otherwise interfering with Plaintiff's use, enjoyment, and access to its Property. Plaintiff will post a bond set by the Court.²⁹ Plaintiff faces probable, imminent, and irreparable injury if injunctive relief is not granted.

29. A temporary injunction's purpose is to preserve the status quo of the litigation's subject matter pending a trial on the merits.³⁰ "A writ of injunction may be granted, if: (1) the applicant is entitled to the relief demanded and all or part of the relief requires the restraint of some act prejudicial to the applicant; [or] (2) a party performs or is about to perform ... an act relating to the subject of pending litigation, in violation of the rights of the applicant, and the act would tend to render the judgment in that litigation ineffectual; [or] (3) the applicant is entitled to a writ of injunction under the principles of equity and the statutes of this state relating to injunctions; ... [or] (5) irreparable injury to real or personal property is threatened, irrespective of any remedy at law."³¹ Further, Texas courts may grant a party injunctive relief: (a) as supplemental relief in

²⁹ TRCP 684.

³⁰ See *Walling v. Metcalfe*, 863 S.W.2d 56 (Tex. 1993).

³¹ Tex. Civ. Prac. & Rem. Code § 65.011.

connection with a declaratory judgment or decree as is necessary or proper; and (b) as a remedy for an actionable trespass.³²

30. To obtain injunctive relief, an applicant must plead and prove three specific elements: (1) a cause of action against the defendant; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim.³³ An injury is irreparable if the injured party cannot be adequately compensated in damages or if the damages cannot be measured by any certain pecuniary standard.³⁴ The applicant must also plead that there is no adequate remedy at law unless the applicant is seeking to prevent a cloud on the title to real property or irreparable injury to real or personal property.³⁵

31. In this lawsuit, Plaintiff has asserted several causes of action against Defendant, as set forth above, and seeks declarations from the Court, statutory damages and other damages, injunctive relief, attorneys' fees, costs of court, exemplary or punitive damages, prejudgment interest, and post-judgment interest.

32. Sufficient grounds exist for the injunctive relief sought herein because: (a) Plaintiff is entitled to the relief sought herein and all or part of such relief requires the restraint of the above-described acts by Defendant, all of which are prejudicial to Plaintiff; (b) Defendant has performed the above-described unlawful acts and continues to restrict access in violation of Plaintiff's rights; (c) Plaintiff is entitled to a writ of injunction under the principles of equity and the statutes of this state relating to injunctions; and (d) irreparable injury to the Property and Plaintiff's personal property imminent. Additional grounds also exist for granting the injunctive relief pursuant to §

³² Tex. Civ. Prac. & Rem. Code § 37.011; *Beathard Jt.V. v. West Houston Airport Corp.*, 72 S.W.3d 426, 432 (Tex.App.—Texarkana 2002, no pet.).

³³ See *Butmaru v. Ford Motor Co.*, 84 S.W.3d 198 (Tex. 2002).

³⁴ *Id.*

³⁵ *Pike v. Texas EMC Mgmt.*, 610 S.W.3d, 763, 792 (Tex.2020); Tex. Civ. Prac. & Rem. Code §§ 65.011(4), (5).

37.011, Tex. Civ. Prac. & Rem. Code, as relief supplemental to the declaratory judgment requested hereinabove.

33. Plaintiff has a probable right to the relief sought herein because Plaintiff has standing to bring the claims asserted herein and is likely to succeed on the merits of this lawsuit.

34. If the Court does not grant the injunctive relief as requested herein, harm is probable and imminent because Defendant is actively preventing Plaintiff's access to its Property and thereby, interfering with Plaintiff's use and enjoyment, and putting Plaintiff's Property, including Plaintiff's livestock, at risk of damage.

35. Further, the harm which Plaintiff would suffer absent such injunctive relief would be irreparable because damages cannot adequately compensate Plaintiff for the injuries caused by Defendant's interference.³⁶ In the alternative, the damages recoverable under the above causes of action cannot be measured by any certain pecuniary standard. Plaintiff's Property and its rights of access thereto are unique and irreplaceable, so that it will be impossible to accurately measure, in monetary terms, the damages caused by Defendant's conduct.

36. There is no adequate remedy at law to provide Plaintiff complete, final, and equal relief.³⁷ Alternatively, to the extent the Court determines that an adequate remedy at law does exist, Plaintiff is not required to plead or prove that no adequate remedy at law exists because Plaintiff is seeking to prevent irreparable injury to real property and a cloud on title to the Property.³⁸

37. Accordingly, Plaintiff seeks a temporary injunction restraining Defendant from engaging in the wrongful acts because Plaintiff will suffer irreparable injury, loss, or damage if the temporary injunction is not granted and Defendant is not restrained from further interfering

³⁶ *Beathard Jt.V.*, 72 S.W.3d at 432.

³⁷ *Id.*

³⁸ Tex. Civ. Prac. & Rem. Code §§ 65.011(4), (5).

with Plaintiff's access via Morita Road. Plaintiff asks the Court to set this application for temporary injunction for a hearing and, after the hearing, issue a temporary injunction against Defendant.

38. Plaintiff also seeks a permanent injunction restraining Defendant from further interfering with Plaintiff's access via Morita Road. Plaintiff asks the Court to set its application for permanent injunction for a full trial on the merits and, after the trial issue a permanent injunction against Defendant.

39. Plaintiff also seeks recovery of court costs and reasonable and necessary attorneys' fees as are equitable and just, to the extent permitted under applicable Texas law.

X.

ATTORNEY'S FEES, COURT COSTS, AND INTEREST

40. Plaintiff incorporates each of the foregoing paragraphs herein by reference.

41. As a result of Defendant's wrongful acts described above, Plaintiff found it necessary to retain the law firm of Braun & Gresham, PLLC as counsel and to incur reasonable and necessary legal fees and costs of court. Thus, Plaintiff is entitled to and hereby seeks to recover its reasonable and necessary attorneys' fees and court costs from Defendant under Tex. Civ. Prac. & Rem. Code § 37.009 or other applicable Texas law. Further, under applicable Texas law, Plaintiff is entitled to and hereby seeks to recover pre-judgment and post-judgment interest on any amounts awarded to Plaintiff in this lawsuit.

XI.

EXEMPLARY DAMAGES

42. Plaintiff incorporate by reference the preceding paragraphs.

43. Plaintiff seeks damages that were proximately caused by Defendant's wrongful actions described herein. Defendant's actions were committed intentionally and willfully, with malice in denying Plaintiff access to its Property. Plaintiff therefore seeks exemplary damages.

XII.
JURY DEMAND

44. Plaintiff hereby demands a jury trial in this case and tenders the appropriate fee contemporaneously with the filing of this Original Petition and Application.

XIII.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that Defendant be cited to appear and answer and that, on final hearing, Plaintiff have:

- a. Declaratory Judgment that Plaintiff and its agents and invitees are entitled to use Morita Road for ingress and egress and access to Plaintiff's Property through Defendant's property;
- b. An Order ruling that Plaintiff has established a prescriptive easement on Morita Road through Flying W. Ranch and is entitled to enjoy said easement without restriction;
- c. Judgment for all damages sought herein in an amount within the jurisdictional limits of this Court, plus pre-judgment and post-judgment interest as provided by law;
- d. Judgment for exemplary damages as found by the trier of fact;
- e. Attorneys' fees and costs as allowed by law;
- f. Order for temporary injunction, after notice to Defendants and an evidentiary hearing, restraining Defendant and its agents, servants, and employees, directly or indirectly from denying Plaintiff access to its Property via Morita Road during the pendency of this action;
- g. Order for permanent injunction, on final trial of this cause, enjoining Defendant, and its agents, servants, and employees, directly or indirectly from denying Plaintiff access to its Property via Morita Road.

- h. Any and all other relief deemed to be proper and to which Plaintiff shows itself to be justly entitled.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF

NOTICE OF INTENT TO USE DISCOVERY

Pursuant to Texas Rule of Civil Procedure 193.7, Plaintiff hereby gives notice to Defendant of Plaintiff's intent to use all discovery instruments and information produced in this case, both at any pretrial hearings and at trial. Such discovery instruments and information include, but are not limited to, all documents and discovery responses which Defendant has produced or does produce in response to any discovery request by Plaintiff or any other current or future party to this lawsuit.

{VERIFICATION IS ON THE FOLLOWING PAGE}

VERIFICATION

STATE OF TEXAS

COUNTY OF HARRIS

Before me, the undersigned notary public, on this day personally appeared John B. Poindexter, known to me (or proved to me on the oath of or through his Texas Driver's License, who after being duly sworn, on his oath stated that he, in his capacity as chairman of the board of Southwestern Holdings, Inc., is the Plaintiff in the above-captioned cause; that he has read the foregoing *Plaintiff's Original Petition and Application for Temporary Injunction and Permanent Injunction*; and that every statement contained therein is true and correct within his personal knowledge, except as to those statements contained herein that are stated on information and belief, which he believes to be true.

John Poindexter

SUBSCRIBED AND SWORN TO before me on this 28 day of May, 2025
to which I place my signature and official seal.

Signature:

Nici Cowan

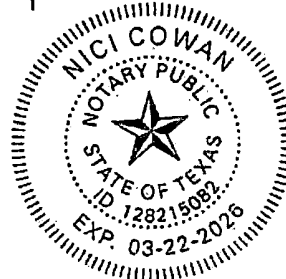
Printed Name:

NICI COWAN

Notary Public for the State of TEXAS

My Commission
Expires:

MARCH 22, 2026



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Deborah Borden on behalf of Samuel Ballard

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Filing Description: Plaintiff's Original Petition and Application for Temporary Injunction and Permanent Injunction

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