

CAUSE NO. 8292

SOUTHWESTERN HOLDINGS, INC., § **IN THE DISTRICT COURT**
dba CIBOLO CREEK RANCH, §
Plaintiff, §
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VS. § **394TH JUDICIAL DISTRICT**

HUNTER JRW HOLDINGS, LLC, §
Defendant. §
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§
PRESIDIO COUNTY, TEXAS

**DEFENDANTS' OBJECTIONS TO EXHIBITS IN PLAINTIFFS' ORIGINAL
PETITION AND APPLICATION FOR, TEMPORARY INJUNCTION, AND
PERMANENT INJUNCTION**

1. Objections to the Affidavit of John Poindexter.

The affidavit of John Poindexter is obviously self serving, from the Owner of SHI. Defendants object to any statements made by Poindexter regarding statements or representations made by Hart Greenwood and wife, and Ted Harper and wife. All those parties are deceased, such statements are rank hearsay. The deeds to SHI from the Greenwoods and Harpers to SHI make no mention of any easement from Shafter to Morita. Poindexter fought the easement issue extensively with John Boerschig in 2008-2010, and made no mention in such litigation that "Morita Road is the only way that Cibolo can access Harper Ranch". For the past 15 years, Cibolo Creek Ranch accessed Harper via the Boerschig easement road, and that was the means of access when SHI purchased Harper Ranch. Thus, the Poindexter affidavit is either not accurate, or false.

Mr. Poindexter fails to mention in his affidavit that Cibolo Creek Ranch used the Boerschig easement road to access Harper Ranch until stopped in 2024 by John Boerschig, due to such usage violating the 8th Court of Appeals ruling. Until such usage of the Boerschig easement road was halted, there was no usage of the Morita Road by SHI, started in late 2023, early 2024. Both Lely Ranch managers and employees, and later, FWR agents, locked gates on the Morita Road, barring access to CCR. The statement that “The use of Morita Road by Cibolo employees... through the

Flying W property has been open and notorious, continuous and uninterrupted for over ten years" is simply false.

The statement that "The inability to access Morita Road by Cibolo employees...has materially impaired their ability to ...enjoy La Morita, Cienega, and Harper Ranches" is false. Access by Cibolo Creek Ranch to Cienega and Morita is guaranteed by the 8th Court ruling. Access to Harper via Morita is barred by the same 8th Court ruling, since the Morita- Cienega road traverses 2200 feet of Boerschig easement in Morita canyon.

Defendants object to the John Poindexter affidavit as self-serving, hearsay, and false. The entire Affidavit of John Poindexter contains statements that are not clear, positive, direct, credible, or free from contradiction and cannot be readily refuted. The affidavit should not be considered evidence in support of Plaintiffs' Petition and Application for Temporary Injunction, and Permanent Injunction ("the Application"). (*Casso v. Brand*, 776 S.W.2d 551,558 (Tex. 1989).

The affidavit contains statements that are not based on personal knowledge and, thus, cannot serve as competent evidence and would be inadmissible at trial. (*United Blood Servs. v. Longoria*, 938 S.W.2d 29, 30 (Tex. 1997)). Mr. Poindexter speaks of use of the road for over 100 years, when his personal knowledge obviously does not extend to WW1 Era.

The Poindexter Affidavit should not be considered as evidence in support of the Application. Plaintiff injunctive relief must be denied without evidence to establish entitlement to the relief.

2. Objections to the Affidavit of Eduardo Martin.

The entire Affidavit of Eduardo Martin is that of an interested witness and is self-serving in all respects. It contains statements that are not clear, positive, direct, credible, or free from contradiction and cannot be readily refuted. The affidavit should not be considered evidence in

support of the Application (*Casso*, 776 S.W.2d at 558; see also Tex.R.Civ.P. 166a(c) (“summary judgment may be based on testimonial evidence of an interested witness...if clear, positive and direct, otherwise credible and free from contradictions and inconsistencies, and could have been readily controverted.”). . Eduardo Martin is an employee of Cibolo Creek Ranch. He would be fired if he did not sign his employer’s affidavit.

Paragraph 8 and 9, Affidavit of Eduardo Martin, contains legal conclusions. Mr. Martin states: “I was under the impression that SHI/Cibolo and its invitees had exclusive use of Morita Road over Flying W tract.” This statement is based on hearsay; any factual contention is Mr. Martin’s legal conclusion and is not competent evidence. See *Anderson v. Snider*, 808 S.W.2d 54, 55 (Tex. 1991) (“explaining an improper legal conclusion is one that does not provide underlying facts to support the conclusion.”). In the alternative, the statement is merely Mr. Martin’s unsubstantiated opinion. *Harley Davidson Motor Co. v. Young*, 720 S.W.2d 211, 213 (Tex. App.-Houston [14th Dist.] 1986, no writ).

The Affidavit of Edward Martin, contains legal conclusions, and is not competent evidence.

The Edward Martin Affidavit should not be considered as evidence in support of the Application. The relief must be denied without evidence to establish entitlement to the relief.

3. Objections to the Affidavit of Tom Davis.

The affidavit of Tom Davis contains legal conclusions. Tom Davis is a ranch employee. Therefore the affidavit is obviously self serving; Tom Davis and is beholden to John Poindexter for his employment. Thus there is no credibility or independent veracity to Davis statements. When Davis states that SHI’s use of Morita Road has been “open and notorious, continuous and uninterrupted for over ten years”, such is both a legal conclusion and based on hearsay. Davis has only been at CCR for 7 years. Such a mere legal conclusion is not competent

evidence. (*Anderson*, 808 S.W.2d at 55). In the alternative, the statement is merely Davis's unsubstantiated opinion.

The Affidavit of Tom Davis contains merely the unsubstantiated opinion of the affiant. (*Harley Davidson Motor Co.*, 720 S.W.2d at 213.) Moreover, the statements are self-serving, not clear, positive, direct, credible, or free from contradiction and cannot be readily controverted. (*Casso*, 776 S.W.2d at 558). The Davis affidavit contains statements that are merely factual conclusions with no underlying facts to support the conclusions. (*Anderson*, 808 S.W.2d at 55)

The Tom Davis Affidavit should not be considered as evidence in support of the Application. The affidavit should be struck. The relief must be denied without evidence to establish entitlement to the relief.

4. Objections to the Affidavit of Trent Whitesell.

Paragraph 6, Affidavit of Trent Whitesell, should not be considered evidence in support of Application. He is a ranch employee, only since 2021, and obviously beholden to John Poindexter for his job. His knowledge since 2021 is irrelevant, and certainly does not span ten years. Whitesell has no area historical knowledge, his affidavit contains legal conclusions. Trent Whitesell statement: "I was under the impression that SHI/Cibolo and its invitees had exclusive use of Morita Road over Flying W tract", is based on hearsay, and is speculation. Mr. Whitesell's statement is a legal conclusion and is not competent evidence. In the alternative, the statement is merely Trent Whitesell's unsubstantiated opinion.

The Affidavit of Trent Whitesell, contains merely the unsubstantiated opinion of the affiant. (*Harley Davidson Motor Co.*, 720 S.W.2d at 213.) Moreover, the statements are self-serving, not clear, positive, direct, credible, or free from contradiction and cannot be readily controverted. (*Casso*, 776 S.W.2d at 558). The affidavit contains statements that are merely factual

conclusions with no underlying facts to support the conclusions. (*Anderson*, 808 S.W.2d at 55)

The affidavit should be struck. The relief should be denied without evidence to establish entitlement to the relief.

5. Objections to the Affidavit of Cesar Armendariz.

The affidavit of Cesar Armendariz, should not be considered. He is a ranch employee, only since 2020, and obviously beholden to John Poindexter for his job. His knowledge since 2020 is irrelevant, and certainly does not span ten years. Armendariz has no area historical knowledge, his affidavit contains legal conclusions. Cesar Armendariz statement: "I was under the impression that SHI/Cibolo and its invitees had exclusive use of Morita Road over Flying W tract", is based on hearsay, and is speculation. Mr. Armendariz's statement is a legal conclusion and is not competent evidence. In the alternative, the statement is merely Cesar Armendariz unsubstantiated opinion.

The Affidavit of Cesar Armendariz, contains merely the unsubstantiated opinion of the affiant. (*Harley Davidson Motor Co.*, 720 S.W.2d at 213.) Moreover, the statements are self-serving, not clear, positive, direct, credible, or free from contradiction and cannot be readily controverted. (*Casso*, 776 S.W.2d at 558). The affidavit contains statements that are merely factual conclusions with no underlying facts to support the conclusions. (*Anderson*, 808 S.W.2d at 55).

The affidavit should be struck.

The relief should be denied without evidence to establish entitlement to the relief.

Respectfully submitted,

LAW OFFICE OF ROD PONTON

By: /s/ Rod Ponton

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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of July 2025, a true and correct copy of the foregoing document was served on counsel of record for all parties entitled to service in this matter in accordance with the Texas Rules of Civil Procedure via EFile services.

/s/ Rod Ponton
Rod Ponton
Attorney for Hunter
JRW Holdings, LLC

Automated Certificate of eService

This automated certificate of service was created by the efilng system. The filer served this document via email generated by the efilng system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

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Filing Code Description: No Fee Documents
Filing Description: Defendant Objections to Plaintiff Affidavits
Status as of 7/15/2025 10:48 AM CST

Associated Case Party: Hunter JRW Holdings, LLC

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Associated Case Party: Southwestern Holdings, Inc. dba Cibolo Creek Ranch

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