

CAUSE NO. C-5049-19-I

**NORTH AMERICAN BUTTERFLY
 ASSOCIATION d/b/a THE
 NATIONAL BUTTERFLY CENTER,
 AND MARIANNA TREVINO
 WRIGHT,
*Plaintiffs,***

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IN THE DISTRICT COURT

v.

____ JUDICIAL DISTRICT

**NEUHAUS & SONS, LLC, BRIAN
 KOLFAGE, AND WE BUILD THE
 WALL INC.
*Defendants.***

HIDALGO COUNTY, TEXAS

TEMPORARY RESTRAINING ORDER AND ORDER SETTING HEARING

Came on this day, North American Butterfly Association (Applicant) Application for Temporary Restraining Order, and the Court, having considered the Application, finds as follows:

1. Plaintiff has demonstrated that they will probably prevail on the merits.
2. Plaintiff has demonstrated that imminent and irreparable harm will occur if this Temporary Restraining Order is not granted for which there is no adequate remedy at law. The injuries and losses are continuing. The property and rights involved are unique and irreplaceable, so that it will be impossible to accurately measure, in monetary terms, the damages caused by the Defendants' conduct.
3. The Defendants' conduct has demonstrated irreparable harm to Plaintiff since Defendants have committed willfully, maliciously and with an actual and subjective intent to commit great harm to Plaintiff. The negligence, intentional and reckless acts and omissions of Defendants constitutes malice/gross negligence in that there was (a) a specific intent by the Defendants to cause substantial injury to Plaintiff or (b) that there was an act

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or omission: (i) which when viewed objectively from the standpoint of the Defendants at the time of its occurrence involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others; and (ii) of which the Defendants had actual, subjective awareness of the risk involved, and nevertheless proceeded with conscious indifference to the rights, safety, and welfare of others, including Plaintiffs.

4. This Temporary Restraining Order will preserve the status quo.

5. There is insufficient time to serve notice on Defendants and to hold a hearing on this application.

6. IT IS THEREFORE ORDERED that the clerk of this Court issue a Temporary Restraining Order restraining Defendants and/or their agents, servants, employees, attorneys and/or those acting in concert therewith are immediately restrained, from:

(a) Constructing any structure or wall on Defendants' property within the flood zone South of Mission Texas, more specifically :

i. **Legal Description:** PORCION 53 POR 53-FDE LA GARZA & O
OCHOA 541.21AC

Address: S LOS EBANOS RD ON RIVER TX; and

ii. **Legal Description:** BANCO NO. 65 TORTUGA 97.40AC

Address: ON THE RIVER S LOS EBANOS RD TX

7. This Temporary Restraining Order shall preserve the status quo because the property whose destruction Plaintiff seek to enjoin currently belongs to identifiable individuals and/or entities. Destruction of the property would alter the status quo and make difficult, if not impossible, a determination of the nature, extent, and location of property in which Plaintiff possess an interest.

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8. IT IS FURTHER ORDERED that this Temporary Restraining Order shall be valid for fourteen (14) days and that a hearing shall be had on the Plaintiff National Butterfly Association's Application for Temporary Injunction to determine whether the temporary restraining order should be made into a temporary injunction. Accordingly, Defendants Neuhaus and Sons LLC, We Build the Wall Inc. and Brian Kolfage shall appear on December 17, 2019, at 8:00 a .m., in the Courtroom of the 398th Judicial District Court, located at 100 N. Closner Blvd. Edinburg, Texas 78539 to then and there show cause why the requested temporary injunction should not be granted.

9. IT IS FURTHER ORDERED that this Order shall not be effective unless and until Applicants execute and file with the Clerk a bond, or a deposit of cash in lieu thereof, into the registry of the court in conformity with the law, in the amount of \$ 1,000.00 CASH.

SIGNED on 12/3/2019 2:35 PM.





HONORABLE JUDGE PRESIDING

cc: Javier Pena, Rebecca Vela, **Pena and Vela, PLLC**, 203 S. 10th Ave., Edinburg, Texas 78539; javier@penalawfirm.com, office@penavelalaw.com, rvela@rvelalaw.com