

STATE OF NEW MEXICO
THIRTEENTH JUDICIAL DISTRICT
COUNTY OF VALENCIA

SOCORRO ELECTRIC COOPERATIVE, INC.,

Plaintiff,

v.

CHARLENE WEST, et al.,

Defendants.

No. D1314-CV-2010-0849

Judge: Mitchell

And

CHARLES WAGNER, et al.,

Cross Claim Plaintiff,

v.

SOCORRO ELECTRIC COOPERATIVE, INC.,

Cross Claim Defendants.

DEFENDANTS' & CROSS CLAIM PLAINTIFFS'
RESPONSE TO MOTION FOR PROTECTIVE ORDER

COMES NOW the Defendants and Cross Claim Plaintiffs by and through the undersigned attorneys of record and for their response to Plaintiff's Motion for Protective Order (which appears to be both Plaintiff's and Cross Claim Defendants' Motion) and state:

1. Counsel has been absolutely unaware of Mr. Wagner's requests.
2. Counsel has received no information or documents from Mr. Wagner as a result of Mr. Wagner's requests.

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3. Counsel anticipates that an amended complaint on the class action portion of this litigation (the Cross Claim) will be filed shortly removing Mr. Wagner as proposed class action representative and thus as Cross Claim Plaintiff.

4. It appears from the "Undisputed Statement of Facts" and from Exhibit A to the Motion, that Mr. Wagner has been merely exercising his rights as a Trustee to inform himself on matters affecting the financial well being of the cooperative: a responsibility clearly within his fiduciary obligations to the membership, in which he may be remiss if he doesn't.

WHEREFORE Defendants and Cross-Claim Plaintiffs pray for an Order of this Court as follows:

A. Denying Plaintiff / Cross Claim Defendant's Motion for a Protective Order as moot in light of the pending amended complaint; or

B. Denying Plaintiff / Cross Claim Defendant's Motion for a Protective Order and unduly broad and impermissibly infringing upon Mr. Wagner's obligations as Trustee, together with

C. Entering a limited order which provides that the information received by Mr. Wagner, in his capacity as Trustee of the Socorro Electric Cooperative, Inc., not be shared with counsel for Defendants /Cross Claim Plaintiffs (perhaps through a numbering system with identifies separately documents furnished to Mr. Wagner, as

Trustee, from documents furnished to counsel through discovery) by way of a limited protective order or temporary injunction; and .

D. Reaffirming Mr. Wagner's right to access such information in his capacity as Trustee and for the limited purpose of exercising Mr. Wagner's fiduciary responsibility to the members of the co-op;

E. Awarding attorney's fees for responding to this motion; and

F. For such other relief as is consistent with equity and good conscience.

Respectfully submitted this 16th day of February, 2011.

—“Electronically Filed” /s/ Stephen K. Kortemeier—

Stephen Karl Kortemeier

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Attorney for Defendants and Cross Claim Plaintiffs

CERTIFICATE OF SERVICE

A true and complete copy of this Response was served to the undersigned via the Court's electronic filing system as of the date of filing:

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____/s/ Shiloh M. Pallante_____