

No. 2021 – DCL – 04695

Manuel J. Montemayor,	§	In the District Court of
<i>Plaintiff</i>	§	
v.	§	Cameron County, Texas
	§	
Texas State Board of Professional	§	
Engineers and Land Surveyors,	§	
<i>Defendant</i>	§	138 th Judicial District

Temporary Injunction *Pendente Lite*

On the 7th day of September, 2021, the Plaintiff’s application for a temporary injunction in the above numbered and entitled action came on to be heard before the 138th Judicial District Court with the Hon. Gabriela Garcia presiding. Plaintiff appeared in person and by and through his attorney in charge, Mr. Hugo Xavier de los Santos. Defendant appeared by and through its attorney, Ms. Sarah Wolfe. The Court found that the Extended Temporary Restraining Order of August 24, 2021 should be made a temporary injunction and that a temporary injunction *pendente lite* should be rendered and issued in the case at bar until final judgment is rendered or further order of the court.

The Court finds that this action was filed on August 13, 2021, and the Court further finds that the rights and interests of the parties will be protected and best served by granting a temporary injunction *pendente lite*, with no further bond being required.

The court, having taken and heard evidence, examined the Plaintiff’s verified petition and supplemental verified petition, both heretofore filed with the clerk of this court, finds that the evidence adduced in open court today and the said verified petition and supplemental verified petition filed by Plaintiff show Plaintiff to be entitled to a temporary injunction *pendente lite*, pending the entry of final judgment herein, for the reasons set forth in the Plaintiff’s petition and Supplemental Petition, to provide and assure justice and equity and to maintain the *status quo*. It clearly appears from the facts and evidence adduced today and those facts set forth in Plaintiff’s verified petition filed on August 13, 2021 and Plaintiff Manuel J. Montemayor’s First Verified Supplemental Petition and Application for Temporary and Permanent Injunctive Relief filed on August 21, 2021, that there is a justiciable controversy that entitles the Plaintiff to injunctive relief in order to preserve the *status quo*, that unless Defendant and its director, president, officers, board members, representatives, directors, servants, agents and employees, are restrained from (a) enforcing, considering, discussing, entertaining, acting upon, adopting, voting on, making or rendering an adverse order concerning Mr. Montemayor’s professional engineer’s license and/or otherwise taking action against Mr. Montemayor per the June 30, 2021 Final Board Order in Case No. D-30672 or in any way related to the SOAH ALJ’s recommendation in Case No. 460-18-4641, and/or (b) conducting or otherwise proceeding with, or consummating the aforesaid proposed adverse action and revocation of Mr. Montemayor’s professional engineering license, until a hearing is had on Plaintiff’s application for temporary injunction, Defendant will commit the foregoing act(s) before the final trial and a hearing is had on Plaintiff’s request for a permanent injunction and entry of final judgment in the case at

bar, and that if the commission of these act(s) is not restrained immediately, Plaintiff will suffer irreparable injury because Plaintiff will be unconstitutionally or unlawfully deprived of his property rights and the equity in his professional engineering license and practice, and his professional reputation will be irreparably defamed and his ability to earn a living virtually eliminated. Defendants will thereby alter the *status quo* and tend to make ineffectual a judgment in favor of MANUEL J. MONTEMAYOR, in that Plaintiff will thereby lose his professional engineering license and reputation, especially at the Plaintiff's age, is something for which there is no legal remedy. The calculation and determination of damages for these types of injuries is difficult at best.

The Court further finds that the bond heretofore filed by Plaintiff in the amount of \$5,000.00 in the form of a cash deposit with the Cameron County District Clerk will fully and adequately protect the rights and interests of the Defendant until the hearing on the Plaintiff's Application for Permanent Injunction, and that no new or further bond is required, and that the said bond filed in connection with the August 24, 2021 Extended Temporary Restraining Order is hereby extended and the same shall remain in full force and effect as a bond for the temporary injunction for so long as the temporary injunction is in effect.

It is further ORDERED that as a further condition, Plaintiff shall carry errors and omissions, general negligence liability insurance in the amount of at least \$1,000,000.00, and shall file in the case at bar a copy of a receipt verifying Plaintiff's said insurance.

It is further ORDERED that Plaintiff shall inform his current and prospective clients of the pendency of this action, the TDI grievance before the TBPE for the revocation of his professional engineering license, and this temporary injunction.

It is therefore **ORDERED** that a temporary injunction is issued and shall remain in full force and effect through and until the entry of final judgment or until further order of the court.

IT IS THEREFORE HEREBY FURTHER ORDERED that until the entry of final judgment herein, defendant **TEXAS STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS [TBPELS]** and its director, president, officers, board members, representatives, directors, servants, agents and employees, are **HEREBY ENJOINED and RESTRAINED FROM:**

- (a) enforcing, considering, discussing, entertaining, acting upon, adopting, voting on, making or rendering an adverse order concerning Mr. Montemayor's professional engineer's license and/or otherwise taking action against Mr. Montemayor per the June 30, 2021 Final Board Order in Case No. D-30672 or in any way related to the SOAH ALJ's recommendation in Case No. 460-18-4641, and/or
- (b) conducting or otherwise proceeding with, or consummating the aforesaid proposed adverse action or revocation of Mr. Montemayor's professional engineering license,

from the date and time of the entry of this order until a final trial and hearing are had on Plaintiff's application for a temporary injunction and Plaintiff's case, and a final judgment is entered in the case at bar, or until further order of the Court.

Notwithstanding the foregoing, defendant TBPE may report on its website, that there is litigation pending and that TBPE's order revoking Mr. Montemayor's license is suspended and abated pending the entry of final judgment in the case at bar and in such event, provide a link to a copy of this Temporary Injunction; however, TBPE may not report the grievance or its June 30, 2021 order to the National Council of Examiners for Engineering and Surveying [NCEES] or any such other reporting entity or association.

This case is set for trial announcement at 9:00 o'clock a.m. on January 6, 2022 and for trial at 9:00 o'clock a.m. on January 10, 2022. The parties are ordered to mediate with Mr. Luis Hernandez at least thirty (30) days prior to trial and are to submit a proposed docket control order/discovery plan within ten (10) days. Dispositive motions shall be filed no later than forty-five (45) days prior to trial or by November 30, 2021.

This injunction was rendered in open court on September 7, 2021 and it is hereby declared to be in effect since September 7, 2021.

SIGNED and DELIVERED FOR ENTRY on this 1st day of November 2021.



11/1/2021 3:09:04 PM

HONORABLE GABRIELA GARCIA
DISTRICT JUDGE PRESIDING

11/10/2021

Copies to:

- cc: Hon. Hugo Xavier de los Santos
- cc: Hon. Sarah Wolfe
- cc: Hon. Glen Richard Imes

FILED
 2021-DCL-04695
 November 10, 2021 2:05pm
LAURA PEREZ-REYES
 CAMERON COUNTY DISTRICT CLERK
 BY: Anzaldua, Susana

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling 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.

Hugo de los Santos on behalf of Hugo de los Santos
Bar No. 05653300
HXDLSATTY@aol.com
Envelope ID: 58438293
Status as of 10/22/2021 9:11 AM CST

Associated Case Party: Manuel Montemayor

Name	BarNumber	Email	TimestampSubmitted	Status
Hugo Xavierde los Santos		dlS.Law.Firm@aol.com	10/22/2021 8:45:33 AM	SENT
Hugo Xavierde los Santos		HXDLSATTY@aol.com	10/22/2021 8:45:33 AM	SENT
Michele de los Santos		MPDLS@aol.com	10/22/2021 8:45:33 AM	SENT

Associated Case Party: Texas State Board of Professional Engineers & Land Surveyors

Name	BarNumber	Email	TimestampSubmitted	Status
Nancy Villarreal		nancy.villarreal@oag.texas.gov	10/22/2021 8:45:33 AM	SENT
Sarah C.Wolfe		sarah.wolfe@oag.texas.gov	10/22/2021 8:45:33 AM	SENT
Jessica Yvarra		jessica.yvarra@oag.texas.gov	10/22/2021 8:45:33 AM	SENT
Glen imes		glen.imes@oag.texas.gov	10/22/2021 8:45:33 AM	SENT
Jennifer Foster		Jennifer.Foster@oag.texas.gov	10/22/2021 8:45:33 AM	SENT