

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
McALLEN DIVISION

HILDA GONZALEZ GARZA AND  
ROSBELL BARRERA,  
*Plaintiffs,*

V.

CIVIL ACTION NO. 7:18-CV-00046

STARR COUNTY, TEXAS;  
OMAR ESCOBAR, in his official capacity  
as District Attorney for the 229th Judicial  
District; VICTOR CANALES JR.,  
in his official capacity as County Attorney  
for Starr County; ELOY VERA, in his  
official capacity as County Judge for  
Starr County; JAIME ALVAREZ, in his  
official capacity as Starr County  
Commissioner for Precinct 1; RAUL PEÑA,  
III, in his official capacity as Starr County  
Commissioner for Precinct 2; ELOY GARZA,  
in his official capacity as Starr County  
Commissioner for Precinct 3; RUBEN D.  
SAENZ, in his official capacity for Starr  
County Commissioner for Precinct 4;  
RENE “ORTA” FUENTES, in his official  
capacity as Sheriff for Starr County.

*Defendants.*

**DEFENDANTS' SURREPLY IN SUPPORT OF THEIR INITIAL RESPONSE TO  
PLAINTIFFS' SECOND EMERGENCY APPLICATION FOR TEMPORARY  
RESTRAINING ORDER CONCERNING MEMORIAL DAY ACTIVITIES**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

COME NOW, Defendants, STARR COUNTY, TEXAS; OMAR ESCOBAR, in his official capacity as District Attorney for the 229th Judicial District; VICTOR CANALES JR., in his official capacity as County Attorney for Starr County; ELOY VERA, in his official capacity as County Judge for Starr County; JAIME ALVAREZ, in his official capacity as Starr County Commissioner for Precinct 1; RAUL PEÑA, III, in his official capacity as Starr County Commissioner for Precinct 2; ELOY GARZA, in his official capacity as Starr County Commissioner for Precinct 3; RUBEN D. SAENZ, in his official capacity for Starr County Commissioner for Precinct 4; RENE “ORTA” FUENTES, in his official capacity as Sheriff for Starr County, and, would respectfully show unto

the Court as follows:

The Court requested in its May 22, 2018 Minute Entry that Defendants specifically respond to “Plaintiff Barrera’s intended use of the Starr County Cemetery to hold a public gathering honoring veterans on [Memorial Day],” and “encourage[d] the parties to reach an amicable resolution of the proposed Memorial Day gathering honoring veterans.” (Doc. 38). Defendants’ response affirmatively states that such gatherings are not and will not be prohibited, and goes so far as to encourage *all* citizens to participate in public gatherings to commemorate Memorial Day. Defendants are agreeing to Plaintiff Barrera’s intended use of the Starr County Cemetery and any gathering on public spaces for Memorial Day, there is nothing more that Defendants can do short of a formal act by Commissioners Court—which cannot be accomplished in such a short amount of time.

Defendants object to the proposed “Agreed Order” because it is not limited to the issue raised by the Court in its May 22, 2018 Minute Entry; it would permanently enjoin a section of the Use Policy. Defendants trust the Court will issue an appropriate order until Defendants can file a complete response to Plaintiffs’ Second Emergency Application for Temporary Restraining Order and have the opportunity to be heard.

Respectfully submitted,

By: /s/ Ysmael D. Fonseca

Eileen M. Leeds  
State Bar No. 00791093  
USDC Adm. No. 16799  
Email: [eleeds@guerraleeds.com](mailto:eleeds@guerraleeds.com)  
*Attorney In Charge*  
Ysmael D. Fonseca  
State Bar No. 240697926  
USDC Adm. No. 1139283  
Email: [yfonseca@guerraleeds.com](mailto:yfonseca@guerraleeds.com)  
*Of Counsel*

Guerra, Leeds, Sabo & Hernandez, P.L.L.C.  
1534 East 6<sup>th</sup> Street, Suite 200  
Brownsville, Texas 78520  
Telephone: 956-541-1846  
Facsimile: 956-541-1893  
*Of Counsel*

**ATTORNEYS FOR DEFENDANTS**  
STARR COUNTY, TEXAS;  
OMAR ESCOBAR, in his official capacity

as District Attorney for the 229th Judicial District; VICTOR CANALES JR., in his official capacity as County Attorney for Starr County; ELOY VERA, in his official capacity as County Judge for Starr County; JAIME ALVAREZ, in his official capacity as Starr County Commissioner for Precinct 1; RAUL PEÑA, III, in his official capacity as Starr County Commissioner for Precinct 2; ELOY GARZA, in his official capacity as Starr County Commissioner for Precinct 3; RUBEN D. SAENZ, in his official capacity for Starr County Commissioner for Precinct 4; RENE "ORTA" FUENTES, in his official capacity as Sheriff for Starr County

**CERTIFICATE OF SERVICE**

I hereby certify that on the 23rd day of May, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Via CM/ECF

Ms. Nina Perez  
Ms. Celina Moreno  
Ms. Alejandra Avila  
Mexican American Legal Defense  
and Educational Fund  
110 Broadway, Suite 300  
San Antonio, TX 78205

Via CM/ECF

Mr. Efren C. Olivares  
Ms. Rebecca Harrison Stevens  
Texas Civil Rights Project  
1017 W. Hackberry Ave.  
Alamo, Texas 78516

Via CM/ECF

Mr. J.M. Alvarez  
Alvarez Law Firm  
50 N. Britton Ave.  
Rio Grande City, Texas 78582

/s/ Ysmael D. Fonseca

Ysmael D. Fonseca