

CAUSE NO. 2019-33415

ABEL AND NANCY VERA, et al.	§	IN THE DISTRICT COURT OF
Plaintiffs,	§	
	§	
vs.	§	HARRIS COUNTY, TEXAS
	§	
FIGURE FOUR PARTNERS, LTD. PSWA, INC.,	§	
and REBEL CONTRACTORS, INC.	§	
Defendants.	§	234 th JUDICIAL DISTRICT

CONSOLIDATED WITH

CAUSE NO. 2019-34366

JEFFREY ATWOOD, et al.	§	IN THE DISTRICT COURT OF
Plaintiffs,	§	
	§	
vs.	§	HARRIS COUNTY, TEXAS
	§	
FIGURE FOUR PARTNERS, LTD. PSWA, INC.,	§	
and REBEL CONTRACTORS, INC.	§	
Defendants.	§	11 th JUDICIAL DISTRICT

CONSOLIDATED WITH

CAUSE NO. 2019-36139

JENNIFER BECKER, et al.	§	IN THE DISTRICT COURT OF
Plaintiffs,	§	
	§	
vs.	§	HARRIS COUNTY, TEXAS
	§	
FIGURE FOUR PARTNERS, LTD. PSWA, INC.,	§	
and REBEL CONTRACTORS, INC.	§	
Defendants.	§	164 th JUDICIAL DISTRICT

**DEFENDANT, DOUBLE OAK CONSTRUCTION, INC.'S CROSS-CLAIM AGAINST
DEFENDANT, CONCOURSE DEVELOPMENT LLC**

TO HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant/Cross-complainant, DOUBLE OAK CONSTRUCTION,

INC. (hereinafter “Double Oak”), makes and files this Cross-claim against Defendant/Cross-defendant, CONCOURSE DEVELOPMENT, LLC (hereinafter “Concourse”), and would show the Court the following:

**I.
DISCOVERY**

1.1 Discovery will be conducted under level three (3) of Tex. R. Civ. P. 190.4.

**II.
PARTIES**

2.1 PLAINTIFFS are residents in Kingwood, Harris County, Texas (hereinafter “Plaintiffs”) and filed their Sixth Amended Petition on June 16, 2020.

2.2 Defendant FIGURE FOUR PARTNERS, LTD. (“Figure Four”), has been served and made an appearance herein, subject to a motion to transfer venue.

2.3 Defendant, PSWA, INC. (“PSWA”), has been served and made an appearance herein, subject to a motion to transfer venue.

2.4 Defendant, REBEL CONTRACTORS, INC. (“Rebel”), has been served and appeared herein, subject to a motion to transfer venue.

2.5 Defendant, DOUBLE OAK CONSTRUCTION, INC. (“Double Oak”), has been served and appeared herein, subject to a motion to transfer venue.

2.6 Defendant, TEXASITE LLC (“Texasite”), has been served and appeared herein.

2.7 Defendant, LJA ENGINEERING, INC. (“LJA”) has been served and appeared herein.

2.8 Defendant, PERRY HOMES, LLC (“Perry Homes”) has been served and appeared herein.

2.9 Defendant, CONCOURSE DEVELOPMENT LLC (“Concourse”) has been served and appeared herein.

III. FACTS

- 3.1 Plaintiffs sued Figure Four, PSWA, Perry Homes, and Concourse (collectively referred to as the “Developer Defendants”) for strict liability under Section 11.086 of the Texas Water Code, negligence, negligent retention, negligent supervision, negligence *per se*, gross negligence and nuisance for property damage due to flooding in and around the Elm Grove subdivision during extreme weather events on May 7, 2019 and September 19, 2019 which flooding the Plaintiffs claim is directly and causally related to the development of an adjacent tract of land (known as the Woodridge Village development, herein after referred to as the “Development”) as a residential subdivision to the North of the Elm Grove subdivision. Plaintiffs’ allegations are contained in Plaintiffs most recent Petition.
- 3.2 Plaintiffs sued LJA, the engineer for the Development, for negligence, negligence *per se* and gross negligence for property damage as described above in paragraph 3.1 and contained in Plaintiffs most recent Petition.
- 3.3 Plaintiffs sued Rebel, Double Oak, and Texasite (collectively referred to as the “Contractor Defendants”) for negligence, negligence *per se*, gross negligence and nuisance for property damage which the Plaintiffs claim is directly and causally related to clearing, grading, drainage, and other real estate development activities taking place by the Contractor Defendants in conjunction with the Development. Plaintiffs’ allegations are contained in Plaintiffs most recent Petition.
- 3.4 In Plaintiffs’ Sixth Amended Petition, Plaintiffs allege that the Developer Defendants hired Concourse on May 8, 2019, the day after the extreme weather event on May 7, 2019, to inspect the Development and the existing detention on the Development.

Plaintiffs further allege, that on information and belief, Concourse did not advise the Developer Defendants to make any changes to the detention. Plaintiffs' allegations are contained in its most recent Petition.

3.5 Similarly, Concourse and/or the Developer Defendants did not advise the Contractor Defendants to make any changes to their work after Concourse's inspection of the Development and the existing detention on the Development.

IV. CAUSES OF ACTION

A. Contribution

4.1 Double Oak incorporates by reference all the foregoing paragraphs as if fully stated herein.

4.2 Although Double Oak denies any liability to Plaintiffs, in the unlikely event that Plaintiffs' Complaint is valid, in whole or in part, then Double Oak would show that Concourse is liable to it for contribution for the damages, if any, and/or are directly liable to Plaintiffs for such damages, if any, it allegedly has sustained. Therefore, Double Oak seeks contribution from Concourse under Chapter 32 and 33 of the Texas Civil Practice and Remedies Code.

4.3 Further, Double Oak asserts that, pursuant to Section 33.003 of the Texas Civil Practices & Remedies Code, Concourse is a responsible Defendant who is or may be liable for all or part of the alleged damages claimed in this matter. Thus, each of Concourse's percentage of responsibility should be submitted to the jury in the general jury charge.

4.4 Double Oak reserves its rights to amend its allegations in its Cross-claim concerning the facts and/or liability of Concourse and damages in order to conform to the evidence that is discovered prior to trial and that may be used at trial of this case.

V.
PRAYER FOR RELIEF

WHEREFORE, DOUBLE OAK CONSTRUCTION, INC. prays the proportionate fault of Defendant/Cross-defendant, CONCOURSE, be assessed, and that Defendant/Cross-complainant, DOUBLE OAK, only be responsible for payment of Plaintiffs' damages to their proportionate fault, if any, found by the jury, and such other and further relief, at law and in equity, to which DOUBLE OAK may be justly entitled.

Respectfully submitted,

PIPKIN FERGUSON PLLC



By: _____

John E. Pipkin
TBN 16026300
Amanda Duncan
TBN 24069643
13430 Northwest Freeway, Suite 1250
Houston, Texas 77040
Tele. (713) 961-3730
Fax. (713) 961-5438
eservice@pipkinferguson.com
**ATTORNEYS FOR DEFENDANT,
DOUBLE OAK CONSTRUCTION, INC.**

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing instrument has been served upon all known counsel of record known to the undersigned pursuant to Rules 21 and 21a of the Texas Rules of Civil Procedure on the 6th day of August, 2020.



Amanda C. Duncan