

**CAUSE NO. 2019-33415**

<b>ABEL AND NANCY VERA, ET AL.,</b>	§	<b>IN THE DISTRICT COURT OF</b>
<i>Plaintiffs,</i>	§	
	§	
<b>v.</b>	§	
	§	
<b>FIGURE FOUR PARTNERS, LTD., PSWA, INC.,</b>	§	<b>HARRIS COUNTY, TEXAS</b>
<b>and REBEL CONTRACTORS, INC.,</b>	§	
	§	
<i>Defendants.</i>	§	<b>234th JUDICIAL DISTRICT</b>

**DEFENDANT FIGURE FOUR PARTNERS, LTD.’S  
OBJECTIONS TO TAYLOR GUNN SUBPOENA DUCES TECUM**

Defendant Figure Four Partners, Ltd. (“Defendant”) hereby objects to the Exhibit A titled “Subpoena Duces Tecum” attached to Plaintiffs’ First Amended Notice of Intention to Take the Oral and Videotaped Deposition of Taylor Gunn and Subpoena Duces Tecum (“Notice”) and, in support thereof, respectfully shows the Court as follows:

1) On August 26, 2020, Plaintiffs served the Notice on Defendant’s counsel. *See* Exhibit A, the Notice. Mr. Gunn is not a party to this lawsuit. Despite using the term “subpoena duces tecum” in the title of the Notice, it is not a subpoena. Rather, the Notice includes an “Exhibit A” titled “Subpoena Duces Tecum” that identifies two categories of documents Plaintiffs request the deponent produce seven days before the noticed deposition. The Notice is not a subpoena, contains none of the requirements of a subpoena, and was not served on the deponent as required to effectuate a subpoena. *See* Tex. R. Civ. P. 176.5(a), 199.2(b)(5). Therefore, Figure Four objects to the “subpoena duces tecum” portion of the Notice for its failure to comply with Texas Rule of Civil Procedure 176.<sup>1</sup>

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<sup>1</sup> Because the “subpoena duces tecum” portion of the Notice was not properly served, Mr. Gunn has no obligation to respond to that portion of the Notice.

2) Notwithstanding the deficiencies of Plaintiffs' purported "subpoena," Figure Four makes additional objections to the documents requests therein. The first requested document is the deponent's "current curriculum vitae or resume." Mr. Gunn is not an expert witness and has not been designated as such. Mr. Gunn's current CV or resume is not relevant because it does not have any tendency to make a fact of consequence more or less probable. *See* TEX. R. EVID. 401. Thus, the request seeks documents that are not relevant, and it is not reasonably calculated to lead to the discovery of admissible evidence. Moreover, Mr. Gunn's experience and education may be deduced from his testimony and, therefore, such request is inefficient, unnecessary, duplicative, and intended only for the purpose of harassment.

3) Figure Four further objects and asserts its attorney work-product privilege to category no. 2 of the subpoena: "[a]ll documents that the witness has reviewed in preparation for the deposition." By asking for each document used to prepare for the deposition, Plaintiffs may deduce which documents Figure Four's counsel prioritized, deemed important, or otherwise strategically utilized for purposes of preparing for the deposition. This falls squarely within the purview of the attorney work-product privilege as the attorneys' mental processes, mental impressions, opinions, conclusions, or legal theories. *See* TEX. R. CIV. P. 192.5. Furthermore, disclosure of such documents would also invade the attorney-client privilege.

### **PRAYER**

For the foregoing reasons, Figure Four respectfully requests the Court sustain Figure Four's objections to the subpoena duces tecum attached to the Notice, along with any such other and further relief to which Figure Four may be justly entitled.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was duly furnished to the following counsel of record (1) electronically through the electronic filing manager ([www.efiletexas.gov](http://www.efiletexas.gov)), and (2) via e-mail on this 20th day of October, 2020 as follows:

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