

CAUSE NO. 2019-33415

ABEL AND NANCY VERA, ET AL., § IN THE DISTRICT COURT OF
Plaintiffs, §
v. §
FIGURE FOUR PARTNERS, LTD., PSWA, INC., § HARRIS COUNTY, TEXAS
and REBEL CONTRACTORS, INC., §
Defendants. § 11th JUDICIAL DISTRICT

**CONSOLIDATED WITH
CAUSE NO. 2019-34366**

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

**CONSOLIDATED WITH
CAUSE NO. 2019-36139**

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

**Defendant Rebel Contractors, Inc.’s
Response in Opposition to Plaintiffs’ Motion to Compel
Execution of the [Proposed] Master Settlement Agreement**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Rebel Contractors, Inc., a Defendant in the above-entitled and numbered cause, and files this its Response in Opposition to Plaintiffs’ Motion to Compel [Defendants’]

Execution of the [Proposed] Master Settlement Agreement, and would respectfully show unto the Court as follows:

I.

REBEL CONTRACTORS, INC.'S APPROVAL OF THE MASTER SETTLEMENT AGREEMENT IS A CONDITION PRECEDENT TO ITS PARTICIPATION IN A GLOBAL SETTLEMENT

At this time, Rebel Contractors, Inc. is not a party to any global settlement of Plaintiffs' claims. Rebel Contractors' only written and signed agreement is with Defendants, Figure Four Partners, Ltd., PSWA, Inc., and Perry Homes, LLC (collectively referred to as the "Figure Four Defendants"), which agreement makes the approval of the form and content of the final Master Settlement Agreement a condition precedent to participation by Rebel Contractors, Inc. and its insurance carrier(s) in the proposed global settlement between Plaintiffs and the Figure Four Defendants.

Rebel Contractors, Inc. has been an active participant in interim good faith negotiations of the form and content of the proposed Master Settlement Agreement as such negotiations progressed. Some of Rebel Contractors, Inc.'s requested revisions to the content of the Master Settlement Agreement have been incorporated into the latest draft of the Agreement, but other necessary modifications have been rejected. Rebel Contractors, Inc. has never accepted or approved a final form of the Master Settlement Agreement, including but not limited to the version unilaterally signed by Plaintiffs' counsel, Jason Webster on August 26, 2021 and first distributed to counsel for the Defendants on that date. Rebel Contractors, Inc. is willing to continue good faith negotiations of the terms and conditions of the Master Settlement Agreement in an effort to arrive at a form of Master Settlement Agreement that would allow Rebel Contractors, Inc. to be a participant in the global settlement contemplated by the draft Master Settlement Agreement; however, Rebel Contractors, Inc. cannot be compelled to execute a

Master Settlement Agreement which contains certain material terms and conditions to which Rebel Contractors, Inc. did not agree or which omits certain material terms and conditions deemed essential by Rebel Contractors, Inc. to which provision(s) Plaintiffs are opposed.

II. ARGUMENT AND AUTHORITIES

To be enforceable, a settlement agreement must be in writing, signed, and filed with the papers as part of the record, or it must be made in open court and entered of record. *See*, TEX. R. CIV. P. 11; *Padilla v. LaFrance*, 907 S.W.2d 454, 460 (Tex. 1995). The agreement must contain all essential terms of the settlement, including but not limited to the amount of compensation and the liability to be released. *Disney v. Gollan*, 233 S.W.3d 591, 595 (Tex. App. – Dallas 2007, no pet.); *Padilla v. LaFrance*, at 460.

Here, no enforceable settlement agreement exists as between Plaintiffs and Defendant, Rebel Contractors, Inc. Further, the agreement between Rebel Contractors, Inc. and the Figure Four Defendants is not enforceable because one or more conditions precedent to that agreement has not been met – namely Rebel Contractors, Inc.’s approval of the terms and conditions of the final version of the Master Settlement Agreement as to Plaintiffs’ claims. If a party wants a settlement agreement to include a contractual obligation not to sue in the future such that any suit by one party would entitle the other party to damages for breach of the agreement, the settlement agreement or the release must specifically include language to that effect. *See, National Property Holdings, L.P. v. Westergren*, 453 S.W.3d 419, 428-29 (Tex. 2015).

Plaintiffs request that the Court compel Rebel Contractors, Inc. to sign a Master Settlement Agreement with material terms and conditions which have not been agreed to by Rebel Contractors is misguided and untenable. Rebel Contractors remains ready and willing to sign a Master Settlement Agreement containing the material terms and conditions essential to

approval of such Agreement by and on behalf of Rebel Contractors, Inc., and to continue good faith negotiations to arrive at a form of Master Settlement Agreement that is acceptable to all parties, if that goal is achievable.

**III.
PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendant, Rebel Contractors, Inc., prays that the Court deny Plaintiffs' Motion to Compel Execution of the [proposed] Master Settlement Agreement with respect to settlement of the Plaintiffs' claims. Defendant also prays for such other and further relief, whether general or special, legal or equitable, to which this Defendant may show itself to be justly entitled.

Respectfully submitted,

BROTHERS, ALVARADO, PIAZZA & COZORT, P.C.

By: /s/ William J. Cozort, Jr.
William J. Cozort, Jr.
State Bar No. 04967550
wcozort@brothers-law.com
Matthew R. Maddox
State Bar No. 24060206
mmaddox@brothers-law.com
10333 Richmond, Suite 900
Houston, Texas 77042
(713) 337-0750 - Telephone
(713) 337-0760 - Facsimile

**Attorneys for Defendant,
Rebel Contractors, Inc.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of *Defendant Rebel Contractors, Inc.'s Response in Opposition to Plaintiffs' Motion to Compel Execution of the Master Settlement Agreement* was served upon the following counsel of record in compliance with Rule 21a of the Texas Rules of Civil Procedure on this the 26th day of August, 2021, as follows:

VIA E-SERVE

Mr. Jason C. Webster
Ms. Heidi O. Vicknair
Mr. Omar R. Chawdhary
THE WEBSTER LAW FIRM
6200 Savoy Drive, Suite 150
Houston, Texas 77036

VIA E-SERVE

Mr. J. Cary Gray
Mr. Gabe T. Vick
Mr. Brian E. Waters
GRAY REED & MCGRAW, LLP
1300 Post Oak Blvd., Suite 2000
Houston, Texas 77056

VIA E-SERVE

Mr. John E. Pipkin
Ms. Amanda Duncan
PIPKIN FERGUSON PLLC
13430 Northwest Freeway, Suite 1250
Houston, Texas 77040

VIA E-SERVE

Ms. Melissa Vest
Mr. Eddy de los Santos
BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.
1301 McKinney Street, Suite 3700
Houston, Texas 77010

VIA E-SERVE

Ms. Kimberly M. Spurlock
SPURLOCK & ASSOCIATES, P.C.
17280 West Lake Houston Pkwy.
Humble, Texas 77346

VIA E-SERVE

Mr. Andrew K. York
Mr. Greg White
GRAY REED & MCGRAW, LLP
1601 Elm Street, Suite 4600
Dallas, Texas 75201

VIA E-SERVE

Mr. Kyle Weynand
MEHAFFY WEBER, P.C.
500 Dallas, Suite 2800
Houston, Texas 77002

VIA E-SERVE

Mr. William K. Luyties
Mr. Paul J. Goldenberg
LORANCE THOMPSON
2900 North Loop West, Suite 500
Houston, Texas 77092-8826

BROTHERS, ALVARADO, PIAZZA & COZORT, P.C.

By: /s/ William J. Cozort, Jr.
William J. Cozort, Jr.

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.

Erin Kershaw on behalf of William Cozort
Bar No. 04967550
ekershaw@brothers-law.com
Envelope ID: 56698211
Status as of 8/26/2021 3:19 PM CST

Case Contacts

Name
Jason C. Webster
Heidi O.Vicknair
Omar R.Chawdhary
Maxwell T.Brown
J. CaryGray
Gabe T.Vick
Matthew R.Maddox
William J.Coziert, Jr.
Kim Spurlock
Paul JGoldenberg
Paul J.Goldenberg
William KLuyties
Brian E.Waters
Andrew K.York
Paul Judson Goldenberg
William K. Luyties
Valerie Henderson
Erin Farmer
Brian C.Lopez
Melissa Vest
Susan Langley
Jackie Kish
Chris Donaldson
Andrew K.York

Automated Certificate of eService

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

Erin Kershaw on behalf of William Cozort
 Bar No. 04967550
 ekershaw@brothers-law.com
 Envelope ID: 56698211
 Status as of 8/26/2021 3:19 PM CST

Case Contacts

Brian E.Waters		bwaters@grayreed.com	8/26/2021 3:14:29 PM	SENT
Gabe T.Vick		gvick@grayreed.com	8/26/2021 3:14:29 PM	SENT
J. CaryGray		cgray@grayreed.com	8/26/2021 3:14:29 PM	SENT
Greg White		gwhite@grayreed.com	8/26/2021 3:14:29 PM	SENT
Vicki Hunt		huntv@pipkinferguson.com	8/26/2021 3:14:29 PM	SENT
Bobby Witcher		bobby@lopezlit.com	8/26/2021 3:14:29 PM	SENT
Caleb White		cwhite@grayreed.com	8/26/2021 3:14:29 PM	ERROR
Marc Martin		Martinm@pipkinferguson.com	8/26/2021 3:14:29 PM	ERROR
John Pipkin		eservice@pipkinferguson.com	8/26/2021 3:14:29 PM	SENT
John Pipkin		eservice@pipkinferguson.com	8/26/2021 3:14:29 PM	SENT
Preston Heard		pheard@grayreed.com	8/26/2021 3:14:29 PM	SENT
Clarence Risin		crisin@bakerdonelson.com	8/26/2021 3:14:29 PM	SENT
Melissa Vest		mvest@bakerdonelson.com	8/26/2021 3:14:29 PM	SENT
Carmen Garcia		edocket@mehaffyweber.com	8/26/2021 3:14:29 PM	SENT
Matthew R.Maddox		mmaddox@brothers-law.com	8/26/2021 3:14:29 PM	SENT
David Keltner		david.keltner@kellyhart.com	8/26/2021 3:14:29 PM	SENT
Jody Sanders		jody.sanders@kellyhart.com	8/26/2021 3:14:29 PM	SENT
Stacy Blanchette		stacy.blanchette@kellyhart.com	8/26/2021 3:14:29 PM	SENT
Melissa Mota		melissa.mota@kellyhart.com	8/26/2021 3:14:29 PM	SENT
Kyle Weynand		kyleweynand@mehaffyweber.com	8/26/2021 3:14:29 PM	SENT
William JCozort		wcozort@brothers-law.com	8/26/2021 3:14:29 PM	SENT
Sarai SNauman		sneuman@brothers-law.com	8/26/2021 3:14:29 PM	SENT
Brandi Woodard		BrandiWoodard@mehaffyweber.com	8/26/2021 3:14:29 PM	SENT
Nick Cornor		Nick@lopezlit.com	8/26/2021 3:14:29 PM	SENT
Adriana Marinez		adriana@lopezlit.com	8/26/2021 3:14:29 PM	SENT



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this September 10, 2021

Certified Document Number: 97570573 Total Pages: 7

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com