

CAUSE NO. 2018-42734

ABG General Construction, Plaintiff,	§	IN THE DISTRICT COURT
	§	
	§	
v.	§	OF HARRIS COUNTY, TEXAS
	§	
3S Real Estate Investments, LLC – Series 3 Defendant.	§	
	§	
	§	269th JUDICIAL DISTRICT

**DEFENDANT’S SPECIAL EXCEPTIONS TO
PLAINTIFF’S ORIGINAL PETITION**

Defendant, 3S Real Estate Investments, LLC – Series 3, specially excepts to Plaintiff ABG General Construction’s Original Petition and asks the Court to order Plaintiff to replead and cure its pleading defects.

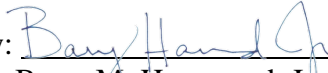
SPECIAL EXCEPTIONS

1. Defendant specially excepts to paragraph 7 because Plaintiff’s pleading does not give fair notice of Plaintiff’s claim. Plaintiff does not explain whether the damages claimed are authorized by statute, capped by statute, or economic damages.
2. Defendant specially excepts to paragraph 18 because Plaintiff’s pleading does not give fair notice of Plaintiff’s claim. Plaintiff refers to “Agreements” but neither incorporates any exhibits nor describes the terms of the “Agreements”.
3. Defendant specially excepts to paragraph 22 because Plaintiff’s pleading does not give fair notice of Plaintiff’s claim. Plaintiff files a claim for a constitutional lien but does not explain how Plaintiff has standing to claim a constitutional lien as a subcontractor.
4. Defendant specially excepts to paragraph 26 because Plaintiff did not plead all elements of its cause of action. Specifically, the pleading for unjust enrichment did not include the element of “fraud, duress, or the taking of an undue advantage.” *See Ahmad v. Shah*, No. 01-13-00995-CV (Tex. App. - Houston [1st Dist.] 2015).
5. Defendant specially excepts to Plaintiff’s pleading because Plaintiff did not verify it.
6. Defendant specially excepts to paragraph 22 because Plaintiff’s suit is precluded by law. Subcontractors do not have a cause of action for a constitutional lien.
7. Defendant specially excepts to paragraph 13 because the pleading incorporates by reference the “Lien Affidavits,” which is prohibited by Texas Rule of Civil Procedure 59.

PRAYER

For these reasons, Defendant asks the Court to set its special exceptions for hearing and, after the hearing, sustain its special exceptions and order Plaintiff to replead and cure its pleading defects and, if Plaintiff does not cure its defects, strike the defective portions of Plaintiff's pleading.

Respectfully submitted,

By: 
Barry M. Hammond, Jr.
Texas State Bar No. 24059883
barry@ruralroute3holdings.com
1302 Waugh Drive #539
Houston, Texas 77019
Tel. (832) 819-1020
Fax (832) 827-4280

ATTORNEY FOR DEFENDANT
3S Real Estate Investments, LLC

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been served upon the following as outlined below on this 21st day of August 2018.

Javier Marcos, Jr.

228 Westheimer Road

Houston, Texas 77006

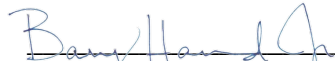
(713) 528-7711 Telephone

(713) 528-7710 Facsimile

Email: jmarcos@marcoslaw.com

Attorney for Plaintiff

Via e-file



Barry M. Hammond, Jr.