

**IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA**

NORMAN MUNICIPAL AUTHORITY, a public trust, and CITY OF NORMAN, OKLAHOMA, a municipal corporation,

Plaintiff,

v.

FLINTCO, LLC, an Oklahoma limited liability company; MEYER, SCHERER & ROCKCASTLE, LTD., a Minnesota corporation, ADG, P.C., an Oklahoma professional corporation; and John Does 1-20,

Defendants.

Case No. CJ-2024-1343

STATE OF OKLAHOMA } S.S.
CLEVELAND COUNTY }
FILED

OCT 02 2024

In the office of the
Court Clerk MARILYN WILLIAMS

PETITION

COME NOW Plaintiffs, Norman Municipal Authority, a public trust, and the City of Norman, Oklahoma (collectively, "Plaintiffs"), and for their causes of action against Defendants Meyer, Scherer & Rockcastle, Ltd. ("MSR"), Flintco, LLC ("Flintco"), ADG, P.C. ("ADG"), and John Does 1-20 (collectively, "Defendants"), allege and state as follows:

PARTIES, JURISDICTION AND VENUE

1. This matter pertains to the design and construction of an approximate 82,000 square foot public library facility located in Cleveland County, Oklahoma.

2. Plaintiff Norman Municipal Authority is a public trust having as its sole beneficiary the Plaintiff City of Norman, Oklahoma, a municipal corporation, both located in Cleveland County, Oklahoma.

3. Defendant Flintco is an Oklahoma limited liability company with its principal place of business in Oklahoma County, Oklahoma, and does business in Cleveland County, Oklahoma.

4. Defendant MSR is a Minnesota limited liability company with its principal place of business in Minneapolis, Minnesota, that performed services in Cleveland County, Oklahoma

as alleged herein, MSR has previously registered to do business as a foreign corporation in the State of Oklahoma but presently has a suspended status with the Oklahoma Secretary of State.

5. Defendant ADG is an Oklahoma professional corporation with its principal place of business in Oklahoma City, Oklahoma, and does business in Cleveland County, Oklahoma.

6. John Does 1-20 are individuals or entities, the names of which are not yet known to Plaintiff, who may have supplied materials or equipment, furnished labor or services, or performed construction work on the public library facility that is the subject of this litigation, resulting in damage to Plaintiffs as alleged herein.

7. Accordingly, this Court has jurisdiction over the parties and the subject matter of this action, and venue is proper in this Court.

FIRST CAUSE OF ACTION – BREACH OF CONTRACT AGAINST DEFENDANT MSR

Plaintiffs adopt and incorporate the preceding paragraphs of the Petition as if fully set forth herein and further allege and state as follows:

8. Plaintiff City of Norman, Oklahoma and MSR entered into an agreement in or about November 2015, utilizing an *AIA Document B101-2007 Standard Form of Agreement Between Owner and Architect*, as modified therein by the parties (the “MSR Contract”).

9. Pursuant to the terms of the MSR Contract, MSR agreed to perform certain architectural/engineering-related services in relation to the design, development, oversight, consultation, and other services relating to the construction of a new Norman Central Branch Library and related parking and other site improvements on land owned by Plaintiffs located generally at 103 W. Acres Street, Norman, Cleveland County, Oklahoma (the “Project”), all in accordance with and as specified by the MSR Contract and various construction drawings, plans and specifications created and implemented in connection therewith (the “Project”).

10. MSR also expressly agreed, among other things, that it would perform its services “consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances.”

11. MSR breached the MSR Contract by, among other things, failing to ensure that its design, development, oversight of construction of the Project, and other services rendered pursuant to the MSR Contract would, at a minimum, safeguard against and/or prevent the intrusion of water into the library facility and otherwise be performed in accordance with industry standards, in a good and workmanlike manner, and free from defects.

12. As a result of MSR’s breaches, the library has experienced significant water intrusion in the interior and other elements of the library facility, and such water intrusion has required and/or will continue to require Plaintiffs to incur costs and expense associated with mitigation, repair, and/or remediation, has resulted in a diminution in value of the Project, and has necessitated the indefinite closure of the library facility for use by the general public due to public health concerns. Accordingly, Plaintiffs have sustained damages in amount to be determined at trial, but which exceeds \$75,000.00.

WHEREFORE, Plaintiffs pray this Court enter judgment against Defendant MSR on their First Cause of Action for Breach of Contract, including damages for all losses sustained by Plaintiffs as a result of MSR’s breach of the MSR Contract, in an amount to be determined at trial; for pre- and post-judgment interest on all sums which may be awarded by the Court; for an award of Plaintiffs’ reasonable attorney’s fees and costs incurred in pursuit of this action, and such other and further relief the Court deems Plaintiffs entitled in the premises.

SECOND CAUSE OF ACTION – BREACH OF CONTRACT
AGAINST DEFENDANT FLINTCO

Plaintiffs adopt and incorporate the preceding paragraphs of the Petition as if fully set forth

herein and further allege and state as follows:

13. Plaintiff Norman Municipal Authority and Flintco entered into an agreement in or around April 2017 pertaining to the construction of the Project (the "Flintco Contract"). The value of the Flintco Contract was in excess of \$25,000,000.00.

14. Pursuant to the terms of the Flintco Contract, Flintco agreed to perform, supervise, direct, and complete the construction of the library and other site improvements associated with the Project, all in accordance with the Flintco Contract and plans and specifications referred to therein.

15. Flintco expressly agreed that its work would conform to and with the requirements of the Flintco Contract, would be free from defects, and that work, materials, or equipment not conforming to these requirements may be considered defective.

16. Flintco breached the Flintco Contract by, among other things, failing to ensure its own personnel and/or subcontractors constructed the Project in accordance with the requirements of the Contract, in a good and workmanlike manner, and free from defects.

17. Specifically, the Project has suffered from significant water intrusion and leaks due to work that is non-conforming to the plans and specifications for the Project, not performed in a good and workmanlike manner and/or in accordance with industry standards, and/or defective.

18. Flintco's breaches have resulted in, among other things, Plaintiff incurring costs and expense associated with mitigation, repair, and/or remediation associated with such water intrusion and resulting mold, a diminution in value of the Project, and the indefinite closure of the library facility for use by the general public due to public health concerns. Accordingly, Plaintiffs have sustained damages in amount to be determined at trial, but which exceeds \$75,000.00.

19. As a result of Flintco's breaches, Plaintiffs have sustained damages in an amount

amount to be determined at trial; for pre- and post-judgment interest on all sums which may be awarded by the Court; for an award of Plaintiffs' reasonable attorney's fees and costs incurred in pursuit of this action, and such other and further relief the Court deems Plaintiffs entitled in the premises.

FOURTH CAUSE OF ACTION – BREACH OF CONTRACT
AGAINST DEFENDANT ADG

Plaintiffs adopt and incorporate the preceding paragraphs of the Petition as if fully set forth herein and further allege and state as follows:

23. Plaintiff City of Norman, OK and ADG entered into a Contract for Program Management Services in or around February 2016 (the "ADG Contract").

24. Pursuant to the terms of the ADG Contract, ADG agreed, among other things, to perform program management services on behalf of Plaintiffs in connection with most, if not all, facets pertaining to the construction of the Project.

25. ADG expressly agreed, among other things, that its services would be performed "with a reasonable standard of care, skill, diligence and professional competency normally employed by professionals performing the same or similar services...[and] further agree[d] to furnish its professional skill and judgment with due care and in accordance with any specific requirements of [the ADG] Contract."

26. ADG breached the ADG Contract by, among other things, failing to furnish its program management services in relation to the Project in a manner that would, at a minimum, safeguard against and/or prevent the intrusion of water into the library facility and otherwise be completed in accordance with industry standards, in a good and workmanlike manner, and free from defects. As a result of ADG's breaches, Plaintiffs have sustained damages in amount to be determined at trial, but which exceeds \$75,000.00.

WHEREFORE, Plaintiffs pray this Court enter judgment against ADG on its Fourth Cause of Action for Breach of Contract, including damages for all losses sustained by Plaintiffs as a result of ADG's breaches, in an amount to be determined at trial; for pre- and post-judgment interest on all sums which may be awarded by the Court; for an award of Plaintiffs' reasonable attorney's fees and costs incurred in pursuit of this action, and such other and further relief the Court deems Plaintiffs entitled in the premises.

FIFTH CAUSE OF ACTION – NEGLIGENCE (ALL DEFENDANTS)

Plaintiffs adopt and incorporate the preceding paragraphs of the Petition as if fully set forth herein and further alleges and states as follows:

27. Each of the Defendants owed Plaintiffs a duty to complete their respective work and services on the Project using the ordinary skill, care and diligence of, as the case may be, a reasonably prudent architect, contractor, program services manager, consultant, and/or subcontractor and further owed Plaintiffs a duty that their respective work and services would be performed accordance with industry standards and that the Project would be designed, developed, managed, and constructed in a good and workmanlike manner and free of defects.

28. Defendants, and each of them, were negligent in failing to perform their respective work on the Project using the ordinary skill, care and diligence of, as the case may be, a reasonably prudent architect, contractor, program services manager, consultant, and/or subcontractor and that their respective work and services on the Project would be performed in accordance with industry standards, and that the Project would be designed, developed, managed, and constructed in a good and workmanlike manner and free of defects. in accordance with industry standards, reasonable and workmanlike manner and in accordance with industry standards.

29. As a direct and proximate result of Defendants' actions or omissions in the

to be determined at trial, but which exceeds \$75,000.00.

WHEREFORE, Plaintiffs pray this Court enter judgment against Flintco on its Second Cause of Action for Breach of Contract, including damages for all losses sustained by Plaintiffs' as a result of Flintco's breach of the Flintco Contract, in an amount to be determined at trial; for pre- and post-judgment interest on all sums which may be awarded by the Court; for an award of Plaintiffs' reasonable attorney's fees and costs incurred in pursuit of this action, and such other and further relief the Court deems Plaintiffs entitled in the premises.

**THIRD CAUSE OF ACTION – BREACH OF EXPRESS AND IMPLIED WARRANTIES
AGAINST DEFENDANT FLINTCO**

Plaintiffs adopt and incorporate the preceding paragraphs of the Petition as if fully set forth herein and further allege and state as follows:

20. Flintco made both express and implied warranties to Plaintiffs in connection with its work on the Project, including, but not limited to, that "materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents."

21. Flintco failed to complete the Project utilizing materials of good quality and/or construct the Project in a good and workmanlike manner and free from defects, thereby breaching its warranties, both express and implied.

22. As a result of Flintco's breaches of warranty, Plaintiffs have suffered damages in amount to be determined at trial, but which exceeds \$75,000.00.

WHEREFORE, Plaintiffs pray this Court enter judgment against Flintco on its Third Cause of Action for Breach of Express and Implied Warranties, including damages for all losses sustained by Plaintiffs as a result of Flintco's breach of express and implied warranties, in an

performance of their respective work and services on the Project, Plaintiffs have had to close the library for use by the general public due to public health concerns and have otherwise suffered actual and consequential damages in an amount to be determined at trial, but which exceeds \$75,000.00.

30. Each of the Defendants acted in reckless disregard of the rights of Plaintiffs for which Defendants should be punished.

WHEREFORE, Plaintiffs pray this Court enter judgment against Defendants, and each of them, on their Fifth Cause of Action for Negligence, including damages for all losses sustained by Plaintiffs as a result of the Defendants' respective negligent conduct described herein, including actual, compensatory, consequential, special, and/or punitive damages in an amount to be determined at trial; for pre- and post-judgment interest on all sums which may be awarded by the Court; for an award of Plaintiffs' reasonable attorney's fees and costs incurred in pursuit of this action, and such other and further relief the Court deems Plaintiffs entitled in the premises.

Respectfully submitted,



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