

COURT OF APPEALS OF TEXAS, EIGHTH DISTRICT, EL PASO

David Nelson, Individually and d/b/a Collective Contracting, a Sole Proprietorship; Collective Contracting, Inc.; and E.E. Hood & Sons, Inc. v. Vernco Construction, Inc.

No. 08-10-00222-CV, Court of Appeals of Texas, Eighth District, El Paso (June 22, 2018)

OPINION

David Nelson, Individually and D/B/A Collective Contracting, a Sole Proprietorship Collective Contracting, Inc. E. E. Hood & Sons, Inc. v. Vernco Construction, Inc.

PER CURIAM.

COURT OF APPEALS

EIGHTH DISTRICT OF TEXAS

EL PASO, TEXAS

DAVID NELSON, Individually and d/b/a §

COLLECTIVE CONTRACTING, A No. 08-10-00222-CV

SOLE PROPRIETORSHIP; §

COLLECTIVE CONTRACTING, INC.; Appeal from the and E.E. HOOD & SONS, INC., § 45th District Court Appellants, § of Bexar County, Texas v. §

(TC# 2006-CI-18807)

VERNCO CONSTRUCTION, INC., §

Appellee.

JUDGMENT

We vacate our judgment dated May 31, 2018. We modify the trial court's judgment to (1) reflect that Appellant E.E. Hood is liable for knowing participation in Appellant David Nelson's breach of fiduciary duty, rather than breach of contract; (2) delete the award of attorney's fees; and (3) reflect an award of actual damages against Hood individually in the amount of \$1,702,758.00 and \$150,000.00 in exemplary damages for a total of \$1,852,758.00. We affirm the remainder of the trial court's judgment as modified. We further order that Appellants and their sureties, if any, see TEX.R.APP.P. 43.5, and Appellee each pay one-half (1/2) the costs of this appeal. This decision shall be certified below for observance. IT IS SO ORDERED THIS 22ND DAY OF JUNE, 2018. YVONNE T. RODRIGUEZ, Justice Before McClure, C.J., Rodriguez, and Hughes, JJ. Hughes, J. (Not Participating)