

IN THE SUPREME COURT OF THE STATE OF NEVADA

SPANISH HEIGHTS ACQUISITION
COMPANY, LLC; SJC VENTURES
HOLDING COMPANY, LLC,

Appellants

vs.

CBC PARTNERS I, LLC; CBC
PARTNERS, LLC; 5148 SPANISH
HEIGHTS, LLC; KENNETH ANTOS
AND SHEILA NEUMAN-ANTOS;
DACIA, LLC

Respondents.

Case No. 82868

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Elizabeth A. Brown
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APPEAL

from a decision in favor of Respondent
entered by the Eighth Judicial District Court, Clark County, Nevada
The Honorable Elizabeth Gonzalez, District Court Judge
District Court Case No. A-20-813439-B

APPELLANTS' APPENDIX VOLUME XVI

DATE	DESCRIPTION	VOLUME	PAGES
10/19/2020	Appendix of Exhibits to Defendants/Counterclaimants' Opposition to Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction	III/IV/V/VI	AA0525-1282
12/24/2020	Appendix of Exhibits to Defendants/Counterclaimants' Opposition to Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for	X/XI/XII/XIII/XIV	AA2178-3213

	Preliminary Injunction on Order Shortening Time		
04/29/2021	Case Appeal Statement	XVIII	AA4238-4243
04/09/2020	Complaint	I	AA0001-0010
05/04/2021	Cost Bond on Appeal	XVIII	AA4244-4247
06/04/2021	Court Minutes for Motion to Reconsider	XIX	AA4432
01/11/2021	Court Minutes for Renewed Motion to Dismiss First Amended Complaint as to Dacia, LLC or in the Alternative Motion for Summary Judgment	XVI	AA3589
12/24/2020	Declaration of Alan Hallberg in Support of Defendants/Counterclaimants' Opposition to Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction on Order Shortening Time	X	AA2169-2171
11/09/2020	Declaration of Kenneth M. Antos in Support of Defendants/Counterclaimants' Opposition to Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction	VI	AA1300-1327
12/24/2020	Declaration of Kenneth M. Antos in Support of Defendants/Counterclaimants' Opposition to Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction on Order Shortening Time	X	AA2172-2177
04/27/2020	Defendant CBC Partners I, LLC's Answer to Complaint and	I	AA0022-0045

	Counterclaimants' 5148 Spanish Heights, LLC and CBC Partners I, LLC Counterclaim Against Spanish Heights Acquisition Company, LLC, SJC Ventures, LLC, SJC Ventures Holding Company, LLC, and Jay Bloom		
06/10/2020	Defendants CBC Partners I, LLC, CBC Partners, LLC, and 5148 Spanish Heights, LLC Answer to First Amended Complaint	I	AA0099-0116
09/03/2020	Defendants Sheila Antos and Kenneth Antos, as Trustees for the Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila M. Neumann-Antos Trust Answer to First Amended Complaint and Counterclaim	I	AA0136-0160
10/19/2020	Defendants/Counterclaimants' Opposition to Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction	III	AA0513-0524
12/24/2020	Defendants/Counterclaimants' Opposition to Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction on Order Shortening Time	X	AA2145-2168
12/15/2020	Exhibits in Support of Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction on an Order Shortening Time	VIII/IX/X	AA1834-2144
12/10/2020	Exhibits to Renewed Motion to Dismiss First Amended Complaint as to Dacia, LLC or in the Alternative Motion for Summary Judgment	VI/VII/VIII	AA1338-1804

04/06/2021	Findings of Fact and Conclusions of Law	XVIII	AA4165-4185
05/15/2020	First Amended Complaint	I	AA0046-0065
04/29/2021	Notice of Appeal	XVIII	AA4210-4237
04/10/2020	Notice of Entry of Order	I	AA0015-0021
05/29/2020	Notice of Entry of Order	I	AA0085-0090
10/02/2020	Notice of Entry of Order	I	AA0177-0184
11/03/2020	Notice of Entry of Order	VI	AA129-1299
04/20/2021	Notice of Entry of Order	XVIII	AA4186-4209
08/06/2021	Notice of the Bankruptcy Court Finding That Defendants Violated the Stay of Litigation Resulting in Void FFCL	XIX	AA4433-4442
05/18/2021	Opposition to Plaintiffs' Motion to Amend the Court's Findings of Fact, Conclusions of Law, and Order, or Alternatively for Reconsideration	XIX	AA4325-4402
11/03/2020	Order Denying CBC Partners I, LLC and 5148 Spanish Heights, LLC's Motion for Partial Summary Judgment and Denying CBC Partners I, LLC and 5148 Spanish Heights, LLC's Motion for Appointment of Receiver	VI	AA1289-1292
09/29/2020	Order Granting in Part and Denying in Part Motion to Dismiss as to Dacia, LLC	I	AA0172-0176
05/29/2020	Order Granting Plaintiffs' Motion for Preliminary Injunction on a Limited Basis	I	AA0082-0084
05/04/2021	Plaintiffs' Motion to Amend the Court's Findings of Fact, Conclusions of Law, and Order or Alternatively for Reconsideration	XVIII/XIX	AA4248-4324

12/24/2020	Plaintiffs' Opposition to Renewed Motion to Dismiss First Amended Complaint as to Dacia, LLC or in the Alternative Motion for Summary Judgment	XIV/XV/XVI	AA3214-3551
10/07/2020	Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction	I/II/III	AA0185-0512
12/14/2020	Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction on an Order Shortening Time	VIII	AA1805-1833
05/28/2021	Plaintiffs' Reply in Support of Motion to Amend the Court's Findings of Fact, Conclusions of Law, and Order, or Alternatively for Reconsideration	XIX	AA4427-4431
11/02/2020	Plaintiffs' Reply in Support of Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction	VI	AA1283-1288
01/01/2021	Plaintiffs' Reply in Support of Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction on an Order Shortening Time	XVI	AA3552-3580
02/01/2021	Preliminary Injunction Hearing and Trial – Day 1	XVI	AA3592-3701
02/01/2021	Preliminary Injunction Hearing and Trial – Day 2	XVI/XVII	AA3702-3967
02/01/2021	Preliminary Injunction Hearing and Trial – Day 3	XVII	AA3968-3981
03/15/2021	Preliminary Injunction Hearing and Trial – Day 4 (Volume I)	XVII/XVIII	AA3982-4054
03/15/2021	Preliminary Injunction Hearing and Trial – Day 4 (Volume II)	XVIII	AA4055-4152
12/10/2020	Renewed Motion to Dismiss First Amended Complaint as to Dacia,	VI	AA1328-1337

	LLC or in the Alternative Motion for Summary Judgment		
01/05/2021	Reply in Support of Renewed Motion to Dismiss First Amended Complaint as to Dacia, LLC or in the Alternative Motion for Summary Judgment	XVI	AA3586-3588
09/28/2020	SJC Ventures Holding Company, LLC, d/b/a SJC Ventures, LLC's Answer to Counterclaim Filed By Kenneth Antos and Sheila Neumann-Antos, as Trustees of the Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila M. Neumann-Antos Trust	I	AA0161-0171
07/10/2020	Spanish Heights Acquisition Company, LLC, SJC Ventures, LLC, SJC Ventures Holding Company, LLC, and Jay Bloom's Answer to Counterclaim	I	AA0117-0135
01/12/2021	Stipulation Regarding Legal Issues to Be Decided by the Court at Bifurcated Trial Continuance	XVI	AA3590-3591
05/26/2020	Summons	I	AA0066-0069
05/26/2020	Summons	I	AA0070-0073
05/26/2020	Summons	I	AA0074-0077
05/26/2020	Summons	I	AA0078-0081
06/04/2020	Summons	I	AA0091-0094
06/04/2020	Summons	I	AA0095-0098
04/09/2020	Temporary Restraining Order	I	AA0011-0014
01/05/2021	Temporary Restraining Order	XVI	AA3581-3585
03/22/2021	Transcript of Oral Ruling Re: First Motion to Dismiss Case with Certificate of Service Filed By	XVIII	AA4153-4164

	Michael R. Mushkin on Behalf of 5148 Spanish Heights, LLC		
05/18/2021	Transcript of Oral Ruling Re: Motion for Sanctions for Violation of the Automatic Stay and Related Relief Filed By James D. Greene on Behalf of Spanish Heights Acquisition Company, LLC	XIX	AA4403-4426

CERTIFICATE OF SERVICE

I certify that on the 10th day of November, 2021, this document was electronically filed with the Nevada Supreme Court. Electronic service of the foregoing: **APPELLANTS' OPENING BRIEF** and **VOLUMES I – XIX** of the **APPENDIX** shall be made in accordance with the Master Service List as follows:

Michael R. Mushkin, Esq.
MUSHKIN & COPPEDGE
6070 S. Eastern Avenue, Suite 270
Las Vegas, Nevada 89119
Attorney for Respondents

DATED this 10th day of November, 2021.

/s/ Natalie Vazquez

An Employee of MAIER GUTIERREZ & ASSOCITES

1 then lead to the extermination of the leases.

2 Q Thank you.

3 A To be clear.

4 Q And that right to terminate appears -- well, before
5 we get there, on page 9, you recognize that SJC Ventures has
6 signed this document; is that correct?

7 A Yes.

8 Q And you relied upon their representation that their
9 stock was pledged; correct?

10 A Yes, I did.

11 Q Mr. Hallberg, you've seen the answer and counterclaim
12 in this case where 5148 now takes on a position in this case;
13 is that correct?

14 A Yes.

15 Q And they are successor in interest to CBC 1 as the
16 note; is that correct?

17 A Yes.

18 Q And the assignment of interest of SHAC in fact went
19 to CBC Partners, not CBC I, and Mr. Otter is the managing
20 member of CBC Partners; correct?

21 A Yes.

22 Q And it is his intention to assign those rights to
23 whomever he is directed to by 5148; is that correct?

24 A That's correct.

25 Q But as of today, Mr. Otter, on behalf of CBC Partners

1 is the holder of the Antos interest in SHAC; is that correct?

2 A Yes.

3 Q One last question: The group of documents that
4 represent the closing package in the main are in Exhibit 1.
5 And I just want to go through these again, not individually but
6 collectively. These documents were collectively delivered at
7 the closing; correct?

8 A Yes.

9 Q So there was always intended to be a pledge agreement
10 for a hundred percent of the units of SHAC; is that true?

11 A Yes.

12 Q And there was always intended to be a security
13 agreement in Mr. Bloom's judgment as additional collateral for
14 performance under the forbearance agreement; is that correct?

15 A Yes. From -- and to clarify, from a lender's
16 perspective, the assignment of the judgment was to help repay
17 the obligation. The pledge agreement was a remedy in case the
18 first part did not come through. So those two work together,
19 but they're apples and oranges.

20 Q And the testimony that Mr. Bloom gave was not
21 truthful, was it?

22 A That's my belief, yes.

23 MR. GUTIERREZ: Thank you, Your Honor. No further
24 questions.

25 THE COURT: Any redirect, Mr. Gutierrez?

REDIRECT EXAMINATION

BY MR. GUTIERREZ:

Q Mr. Hallberg, you stated that 5148 Spanish Heights LLC is a party to this case. Is that what you said?

A Yes, that's my belief.

Q Did they file a motion to intervene at any point on this case?

A Sir, I don't know. You're asking me a legal question. I'm here to talk about CBC's position up until the point we sold the note.

Q Well, is CBC a related entity to 5148 Spanish Heights?

A No.

Q Okay. And the lawsuit initially was between SJC Ventures and SHAC versus CBC Partners; correct?

A To my knowledge, yes.

Q Okay. Now, you sold the note on April 1st, 2020. Why is it that your counsel on April 3rd, 2020, in Exhibit N is still sending letters out on behalf of CBC to vacate the property for SJC?

A I don't know.

Q Turn to Exhibit N. You've seen this letter on Exhibit N; correct?

A Okay. I see the exhibit.

Q And you authorized your counsel to send this letter

1 out; correct?

2 A We did not talk about the letter before it went out.

3 Q Okay. So you didn't authorize this letter to be sent
4 out on behalf of CBC Partners; is that what your testimony is?

5 A I did not authorize every letter. I'm not saying
6 it's not correct. I was allowing the attorney to work on our
7 behalf.

8 Q Go to Exhibit X.

9 A Right. Hold on.

10 I'm sorry. I'm not seeing Exhibit X. Can you
11 describe it to me.

12 Q It's an April 8th, 2020, letter from Mr. Mushkin to
13 my office that is stating that the default notice will not be
14 withdrawn, and the foreclosure process will continue. My
15 question to you is why was default notices still being sent on
16 behalf of CBC if it sold the note the week before?

17 A I don't know. You know, I don't know.

18 Q Did you authorize this letter to go out?

19 A Not specifically, no.

20 Q Let's go to Exhibit C as in cat, page 7. Okay. And
21 on Section B1, the last sentence of this paragraph says:

22 The parties acknowledge that the
23 conditions to which CJCVC options were subject
24 have been satisfied and that the SJCVC options
25 have been exercised.

1 Do you see that?

2 A Yes.

3 Q And you've signed off on behalf of CBC for this
4 agreement; correct?

5 A My partner did, John Otter.

6 Q Okay. And why would you sign off on this agreement
7 if you believed that there was a breach for not funding the
8 security agreement?

9 MR. MUSHKIN: Objection to the form of the --

10 THE WITNESS: We were --

11 THE COURT: Overruled.

12 MR. MUSHKIN: I don't understand the question, Judge.
13 Vague and ambiguous.

14 THE COURT: Overruled.

15 You can answer.

16 THE WITNESS: Well, we were working with Mr. Bloom as
17 much as we possibly could because we were under the impression
18 that he was within a few weeks of liquidity. Again, we were
19 giving as much as we could to be cooperative, and then here we
20 are.

21 Q But again you've agreed to all the terms in the
22 forbearance agreement that you signed off on; correct?

23 A Yes.

24 Q Okay. And at no point did you ever notify Mr. Bloom
25 in writing that failure to fund the security agreement, the

1 150,000, was a breach; correct?

2 A Correct.

3 MR. MUSHKIN: Oh, Your Honor, I have to object. I'll
4 straighten it out.

5 THE COURT: Would you straighten it out now on your
6 redirect, your recross.

7 RECROSS-EXAMINATION

8 BY MR. MUSHKIN:

9 Q Mr. Hallberg, he kept saying security agreement.
10 That's not correct, is it? He meant reserve account, didn't
11 he?

12 A That was -- yes. I was understanding him to mean the
13 reserve account.

14 MR. MUSHKIN: That's all.

15 THE COURT: Anything else?

16 MR. GUTIERREZ: Thank you. That's it.

17 MR. MUSHKIN: Just real quickly.

18 THE COURT: Okay.

19 BY MR. MUSHKIN:

20 Q On B1, it says at the top, Option to extend if
21 terminated; correct?

22 A Yes.

23 Q And you understood that to mean that the lease had --
24 the additional two years had been terminated; correct?

25 A To be clear, my understanding was they are in place.

1 My expectation regarding the leases, that those would be
2 terminated because I knew he did not have the ability to pay
3 what was owed on the maturity date.

4 Q And that's why it says "terminated" right there at
5 the top; right?

6 A Yes.

7 MR. MUSHKIN: I have nothing further, Your Honor.

8 THE COURT: Thank you, sir. We appreciate your time
9 and your patience with us.

10 Mr. Gutierrez, do you have any additional evidence to
11 offer for purposes of this hearing?

12 MR. GUTIERREZ: No, Your Honor.

13 THE COURT: Do you rest for purposes of this hearing?

14 MR. GUTIERREZ: For purposes of this hearing, no.

15 THE COURT: This one.

16 Mr. Mushkin, do you have any additional evidence you
17 would like to present for purposes of this hearing?

18 MR. MUSHKIN: I do, Your Honor, but I would first ask
19 for a directed verdict. They have not established irreparable
20 harm, nor a likelihood of success on the merits. We shouldn't
21 have to go any further.

22 THE COURT: Mr. Gutierrez. Would you like to
23 respond?

24 MR. GUTIERREZ: Absolutely. I don't even know why
25 we're here. They're admitting that they had no basis to oppose

1 any preliminary injunction, no standing. So on our position,
2 we would say directed verdict should be entered on our behalf.

3 THE COURT: All right.

4 MR. GUTIERREZ: Because there's no standing, and
5 there's been admission by Mr. Hallberg that he has no standing,
6 no damages, and he's not even contesting the injunction. He
7 doesn't know why we're here.

8 THE COURT: Okay. We have a real property at issue
9 for which irreparable harm is typically presumed, and we do
10 have notices of breach which have been served, and a notice of
11 vacate which arguably appear to violate the governor's
12 directive 008. So the motion is denied.

13 Did you have any additional evidence you would like
14 to present?

15 MR. MUSHKIN: I do, Your Honor.

16 THE COURT: Okay.

17 MR. MUSHKIN: I would like to now call Mr. Ken Antos.

18 THE COURT: All right.

19 MR. MUSHKIN: Very briefly.

20 THE COURT: How do I call him?

21 MR. MUSHKIN: He will be contacted, and he will hook
22 into the Blue -- blue --

23 THE COURT: BlueJeans.

24 MR. MUSHKIN: BlueJeans. I want to say bluebird all
25 the time.

1 THE COURT: So can we let this gentleman who's been
2 very patient with us all day sign off?

3 MR. MUSHKIN: Yes.

4 Thank you very much, Mr. Hallberg.

5 THE COURT: Have a nice day, sir. Remain well.

6 MR. HALLBERG: Thank you. You as well, Your Honor.

7 (Pause in the proceedings.)

8 THE COURT: Are you calling?

9 MR. MUSHKIN: Yes.

10 (Pause in the proceedings.)

11 THE COURT: Good afternoon, sir. How are you today?

12 THE WITNESS: Yes. Very well. Thank you. Yourself?

13 THE COURT: Very well. It's my understanding you've
14 consented to be on our video line and to be sworn under oath by
15 my court clerk over the video?

16 THE WITNESS: Yes, ma'am.

17 THE COURT: If you'd raise your right hand, please.

18 **DAVID HODGMAN**

19 [having been called as a witness and being first duly sworn,
20 testified as follows:]

21 THE CLERK: Thank you. Please state and spell your
22 name for the record.

23 THE WITNESS: My name is David Hodgman,
24 H-o-d-g-m-a-n.

25 THE CLERK: Thank you.

1 THE COURT: Thank you, sir.

2 Mr. Mushkin, you may continue.

3 DIRECT EXAMINATION

4 BY MR. MUSHKIN:

5 Q Mr. Hodgman, are you a resident in Spanish Hills?

6 A Yes, sir.

7 Q And do you live next door to Mr. Bloom?

8 A Yes, sir.

9 Q You've signed a declaration in this matter; is that
10 correct?

11 A Yes, sir.

12 Q And that declaration says that on July 3rd, 4th,
13 5th and 6th I observed fireworks at 5148 Spanish Heights Drive.
14 Is that an accurate statement?

15 A Yes, sir.

16 Q And 5148 Spanish Heights Drive is the house that
17 Mr. Bloom lives in; correct?

18 A I believe so, yes.

19 Q And on September 21st, 2019, there was another
20 party held at that house; is that correct?

21 A I believe that was the date -- most of those dates
22 are on the videos that I rendered. Or I believe that was the
23 date.

24 Q And, in fact, there was a party at that date, and the
25 flamethrower was again used on that date for the enjoyment of

1 Mr. Bloom's guests; is that correct?

2 A I thought it was some sort of a bomb explosion, but
3 they stated that it was a flamethrower. I'm not certain
4 exactly what it was, but the ball of fire was about 40, 50 feet
5 in diameter.

6 Q Thank you. And have you on numerous occasions
7 observed Shawn Bloom driving at a high rate of speed within the
8 neighborhood?

9 A Yes, sir.

10 Q And have you ever seen him accompanied by another
11 driver when he was doing such driving?

12 A Well, I didn't -- I couldn't see. Like the windows
13 are tinted, but I could tell you that when they park -- when he
14 parked, he got out of the car himself. But generally speaking,
15 once in a while I've seen him with other people, but generally
16 probably 90 to 99 percent of the time he was driving alone.

17 MR. MUSHKIN: No further questions, Your Honor.

18 THE COURT: Thank you.

19 Cross-examination.

20 Mr. Mushkin, you've got to take your mask. Other
21 people can't touch your mask.

22 Sorry, sir. We had a slight delay.

23 Mr. Gutierrez, cross-examination.

24 MR. GUTIERREZ: Thank you. Thank you, Your Honor.

25 / / /

CROSS-EXAMINATION

BY MR. GUTIERREZ:

Q Mr. Hodgman, you said you saw Shawn Bloom driving at a high rate of speed. What is a high rate of speed?

A Well, basically in the community there's a 20-mile an hour limit, and you can tell when people are going 20 miles an hour if you drive around the community. And there are numerous occasions when he's been going at least double that or more. He almost hit a couple of people. That's why he was called to a hearing with the board.

Q Are you on the board for the Spanish Hills HOA?

A I am now. I didn't used to be, but I am currently, yes.

Q Okay. And you talked about a flamethrower. You said it sounded like a bomb explosion. Where was that flamethrower ignited at?

A Well, the first time I saw the explosion or the ball of fire that was 50 or 40, 50 feet in diameter was on the 4th of July. That particular firework incident was not from the Bloom residence. That ball of fire came from the Rhodes residence. They had the party together. There was a couple, 300 people that were walking back and forth between their two residences. Those are all on those security cameras. And the ball of fire on the 4th was then.

The second time that I saw it was across the street

1 from my house. It actually lit up the entire neighborhood, and
2 the ball of fire was about, like I said, about 50 feet. I
3 could feel the heat from a couple hundred feet away.

4 And they told me later that it was a flamethrower. I
5 thought it was some sort of an explosion.

6 Q Did you see who was using the flamethrower?

7 A No, I did not.

8 Q Okay. So your testimony is that the first time you
9 saw this go off it was at the Rhodes residence; correct?

10 A That's correct. They've had the party together, the
11 Rhodes and the Blooms. People were going back and forth
12 between the residences, and the ball of fire from this bomb
13 flamethrower was at the Rhodes residence and just other
14 fireworks were going off from the Bloom residence.

15 Q And then the other time you saw this ball of fire, it
16 was across the street in a vacant lot; correct?

17 A When I saw it the second time, I was in my office,
18 which is in a separate house from my main house, and it lit up
19 my whole yard. And I went outside to see what was going on. I
20 thought it was some sort of a fire or explosion because I heard
21 the noise, and I saw the ball of fire which was across the
22 street.

23 And, yes, it's a vacant lot, but it was like about
24 20 feet from a brand-new house that's under construction, wood
25 construction, maybe 20, 30 feet from that. And I went to my

1 video cameras, and then I saw the whole thing lit up the whole
2 entire neighborhood, and I could see the ball of fire with the
3 size and everything.

4 Q And it --

5 A It lasted --

6 Q I'm sorry. Go ahead.

7 A I think it exploded or went off about five or six
8 times. But it is on video, and they do have that on video.

9 Q Sorry to interrupt. And again, Mr. Hodgman, you
10 never saw who was operating that flamethrower; correct?

11 A No, sir.

12 Q Thank you.

13 A One of the 300 people.

14 THE COURT: Any more, Mr. Gutierrez?

15 MR. GUTIERREZ: No further questions, Your Honor.

16 THE COURT: Mr. Mushkin, anything further?

17 MR. MUSHKIN: Nothing further, Your Honor.

18 THE COURT: Sir, thank you very much for your
19 patience with us today. Have a very nice afternoon. Be well.

20 THE WITNESS: Thank you, ma'am. You too.

21 THE COURT: Next witness.

22 MR. MUSHKIN: Can we get Mr. Antos on the phone?

23 THE COURT: I don't know. Can you?

24 MR. MUSHKIN: I mean on the --

25 Is he on the cue?

1 THE WITNESS: Hello.

2 THE COURT: Mr. Antos?

3 THE WITNESS: Yes.

4 THE COURT: Can you see us?

5 THE WITNESS: No. I don't have visual, but I have
6 voice.

7 THE COURT: All right. Is everyone okay with
8 proceeding just with the voice?

9 MR. GUTIERREZ: Yes, Your Honor.

10 MR. MUSHKIN: I am.

11 THE COURT: All right. So, sir, it's my
12 understanding you've agreed to be sworn over our telephone
13 line; is that correct?

14 THE WITNESS: Yes.

15 THE COURT: Would you please raise your right hand.
16 All right.

17 THE WITNESS: It is raised.

18 **KENNETH M. ANTOS**

19 [having been called as a witness and being first duly sworn,
20 testified as follows:]

21 MR. MUSHKIN: Mr. Antos --

22 THE CLERK: Please state and spell --

23 MR. MUSHKIN: I'm sorry.

24 THE CLERK: Please state and spell your name for the
25 record.

1 THE WITNESS: My name is Kenneth M. Antos.

2 THE COURT: All right. Mr. Mushkin, you may proceed.

3 DIRECT EXAMINATION

4 BY MR. MUSHKIN:

5 Q Mr. Antos, do you live in Spanish Hills?

6 A Yes, I do.

7 Q And were you the original party to the promissory
8 note with CBC -- CBC I?

9 A Yes.

10 Q And are you a party to the forbearance agreements?

11 A Yes, but not the amendment.

12 Q And --

13 A I did not sign the amendment.

14 Q Was it your understanding that a hundred percent of
15 the interest of SHAC was pledged as performance under the
16 forbearance agreement?

17 A Yes.

18 Q Both your interest and Mr. Bloom's interest from
19 SVCJ; correct?

20 A Yes.

21 Q Have you ever seen the 150,000 Mr. Bloom was to
22 provide pursuant to the operating agreement?

23 A No.

24 Q Have you ever seen the hundred thousand in repairs
25 that Mr. Bloom was supposed to provide?

1 A No.

2 Q Have you ever had a meeting of the members of Spanish
3 Heights Acquisition Company?

4 A No.

5 Q Have you ever been consulted by Mr. Bloom in any way?

6 A No.

7 Q Do you believe Mr. Bloom was honest in his
8 declaration that he provided to this Court?

9 A I don't know what he provided.

10 Q Mr.--

11 THE COURT: That's okay. Skip ahead.

12 BY MR. MUSHKIN:

13 Q Are you aware that Mr. Bloom contends that he did not
14 pledge his shares of SHAC?

15 A I'm not aware of that.

16 Q Would it be true if Mr. Bloom claimed that he did not
17 pledge his shares in SHAC?

18 A No.

19 MR. MUSHKIN: No further questions, Your Honor.

20 THE COURT: Cross-examination, Mr. Gutierrez?

21 CROSS-EXAMINATION

22 BY MR. GUTIERREZ:

23 Q Mr. Antos, why was SJC removed as a signatory to the
24 pledge agreement?

25 A Can you repeat that?

1 Q Sure. Why was SJC Ventures removed and not a
2 signatory to the pledge agreement that --

3 MR. MUSHKIN: Objection, Your Honor. Assumes facts
4 not in evidence --

5 THE COURT: Overruled.

6 MR. MUSHKIN: -- there is no evidence that they were
7 ever removed.

8 THE COURT: Overruled, Mr. Mushkin.

9 You can answer if you understand --

10 THE WITNESS: I have no idea.

11 BY MR. GUTIERREZ:

12 Q Mr. Antos, did you transfer your ownership in SHAC to
13 CBC Partners on April 1st, 2020?

14 A Party to -- I'm sorry. Repeat it again.

15 Q Yes. Did you transfer your ownership interest in
16 SHAC to CBC Partners on April 1st, 2020?

17 A Effectively I'm not aware that it was transferred,
18 but I did transfer it as collateral for the note. I
19 transferred whatever there was. I'm not sure what the
20 document.

21 Q What is your understanding as to what you transferred
22 on April 1st, 2020 to CBC?

23 A I'm not aware of anything in 2020.

24 Q So you're not aware of any transfer that you made on
25 behalf of the Antos trust to CBC Partners in 2020?

1 A Correct.

2 Q Mr. Antos, do you have a series of exhibits in front
3 of you?

4 A I have some exhibits, but I'm not sure which one you
5 want.

6 Q Okay. And just to be clear, you don't recall
7 transferring anything on behalf of the Antos Trust to CBC
8 Partners in April of this year?

9 A No.

10 Q Do you still believe that you through your trust have
11 a 49 percent ownership interest in SHAC?

12 A That's what it was originally -- I'm not sure if that
13 ever changed.

14 Q Okay. So as you sit here today, you don't know if
15 that ever changed; is that correct?

16 A Correct.

17 MR. GUTIERREZ: No further questions, Your Honor.

18 THE COURT: Mr. Mushkin, anything else?

19 REDIRECT EXAMINATION

20 BY MR. MUSHKIN:

21 Q Mr. Antos, would you take a look at Exhibit K.

22 THE COURT: Do you have the exhibits, sir?

23 MR. MUSHKIN: He does.

24 THE WITNESS: I'll have to get them here. Hold on a
25 second, please.

1 THE COURT: All right. If you would tell me when
2 you've gotten to Exhibit K, K as in kindergarten.

3 THE WITNESS: Could that be in Book 2 of 2?

4 MR. MUSHKIN: Yes. April 1, 2020. It says K001 in
5 the bottom right-hand corner.

6 THE WITNESS: Hold on, please.

7 Okay. I have it.

8 BY MR. MUSHKIN:

9 Q Do you see that letter?

10 A Hold on, please. Sorry. I need to put my glasses on
11 here. Okay.

12 Q Do you see that letter from my office to Mr. Bloom
13 and to you and your wife, Sheila?

14 A And it's K001 in the right-hand corner, bottom?

15 Q Yes, sir, K001. April 1, 2020 letter. Dear
16 Mr. Bloom and Mr. and Mrs. Antos. Do you see that letter?

17 A No, I do not. It says KK --

18 Q Not a KK. Just single K.

19 A Okay. Hold on. So I'm probably in the wrong book.
20 Hold on. Sorry for that.

21 Okay. My apologies. I do have it. Yes.

22 Q Okay. Do you see that letter?

23 A Yes, I do.

24 Q Does that refresh your recollection about the -- take
25 a look at page 2, the assignment of company or membership

1 interest.

2 A Hold on. For some reason, it goes from page 1 to
3 page 3.

4 Q Well, that's okay. Look to Exhibit L, the next
5 exhibit.

6 A L. Yes, I have Exhibit L.

7 Q And do you see that that is your signature and your
8 wife's signature on the bottom of L1?

9 A Yes.

10 Q And is that the transfer of your interest in Spanish
11 Heights Acquisition Company to CBC Partners LLC?

12 A Yes.

13 Q Does that refresh your recollection as to the
14 transfer that took place on April 1?

15 A I really don't remember it, but it probably happened,
16 but I don't remember it.

17 Q That's quite all right. Any reason to believe that's
18 not a true and correct copy of your signature and your wife's
19 signature?

20 A Not to my awareness. It is a true signature of
21 myself, and I recognize my wife's.

22 Q Thank you. When counsel asked you if you
23 transferred, were you confused in thinking that you transferred
24 property?

25 A Yes.

1 Q But, in fact, you transferred your LLC interest; is
2 that correct?

3 A Yes.

4 MR. MUSHKIN: Thank you.

5 No further questions, Your Honor.

6 THE COURT: Mr. Gutierrez, anything else?

7 MR. GUTIERREZ: Briefly.

8 THE COURT: Just a moment, sir, Mr. Antos.
9 Mr. Gutierrez is coming to the podium.

10 All right. You may continue, Mr. Gutierrez.

11 RECROSS-EXAMINATION

12 BY MR. GUTIERREZ:

13 Q Mr. Antos, with Exhibit L in front of you, what
14 consideration or what did you get on behalf of the trust for
15 signing over this membership interest?

16 A Nothing.

17 Q Okay. So it's your understanding you received
18 nothing for this transfer; is that correct?

19 A Say it one more time.

20 Q It's your understanding that you on behalf of your
21 trust received nothing for assigning over this membership
22 interest; correct?

23 A That is correct.

24 MR. GUTIERREZ: Okay. Thank you, Your Honor. No
25 further questions.

1 THE COURT: Anything else, Mr. Mushkin?

2 MR. MUSHKIN: No, ma'am.

3 THE COURT: Thank you, Mr. Antos, and I appreciate
4 your patience with us today. Have a nice day. Be well.

5 THE WITNESS: Thank you. Bye.

6 THE COURT: All right. Mr. Mushkin, do you have any
7 additional evidence you would like to submit at this time?

8 MR. MUSHKIN: No, ma'am.

9 THE COURT: Do you rest?

10 MR. MUSHKIN: Yes.

11 THE COURT: Mr. Gutierrez, do you have any additional
12 evidence?

13 MR. GUTIERREZ: No, Your Honor.

14 THE COURT: Would you like to make an argument?

15 MR. GUTIERREZ: Yes.

16 THE COURT: Okay.

17 **CLOSING ARGUMENT FOR THE PLAINTIFFS**

18 MR. GUTIERREZ: Your Honor, we are requesting that
19 plaintiffs' motion for preliminary injunction be granted for
20 two reasons: One, the governor's moratorium is clear that
21 there cannot be any notice to vacate or foreclosure proceedings
22 initiated until the state of emergency is lifted. At this
23 stage, we don't know when that will be lifted, but it's clear
24 that CBC Partners, who is a defendant in this case, is not even
25 really opposing the injunction that's being requested. In

1 fact, this whole discussion as to whether there was a breach
2 and what happened with the breach, CBC has no standing to now
3 sit back and say that they can point to one of the exceptions
4 in the governor's directive because they have no standing to
5 oppose the injunction. 5148 Spanish Heights LLC is not a party
6 to this transaction.

7 What we are seeking, Your Honor, is that this
8 injunction be --

9 THE COURT: They're a counterclaimant.

10 MR. GUTIERREZ: Well, that's an interesting dynamic.
11 I guess they are a -- they weren't sued.

12 THE COURT: We'll have a discussion someday.

13 MR. GUTIERREZ: They weren't sued. So I remember
14 filing motions to intervene in another case, but we have to get
15 a court order to come --

16 THE COURT: Really? You had to get court orders to
17 intervene?

18 MR. GUTIERREZ: Yeah. It was a case with the DOT.
19 I'm going to get a court order to come in.

20 THE COURT: No. We'll talk about that tomorrow.

21 MR. GUTIERREZ: I'm sure we'll get in for a while.

22 THE COURT: Not till 9:00 o'clock.

23 MR. GUTIERREZ: So that's, procedurally, we'll have
24 issues with that, but as we sit here today, they're not a
25 party. And just based on the governor's directive, Your Honor,

1 if you look at the clear language of that, there cannot be
2 foreclosure proceedings initiated or a notice to vacate, which
3 both happened in this case.

4 It's our position that there's no damages that CBC
5 has because they've been paid 3.5, 3.4 million on their note.
6 So no bond in furtherance of the thousand dollars that has been
7 posted should be issued.

8 We're requesting that the injunction be granted to
9 the extent to where the governor's moratorium is lifted.

10 As to CBC, it should be granted till trial. They're
11 not a party, no standing.

12 To any successors or assigns that may come here,
13 whether it's 5148 Spanish Heights, if they want to initiate
14 foreclosure proceedings or notice of eviction, they should be
15 bound to the same requirements of the governor's moratorium.

16 None of the exceptions apply. I think the facts that
17 have come out have shown that there is no criminal activity at
18 the property. Any arguments about a flamethrower, it may have
19 happened at Mr. Rhodes's property. No one has testified that
20 this happened on Mr. Bloom's property. Mr. Bloom's testimony
21 is clear that he never authorized it. It wasn't him. It
22 wasn't anyone he knew. The facts, so there's no evidence that
23 there's any -- anything that rises to the level of the
24 exceptions to the governor's moratorium, Your Honor.

25 As to irreparable harm, Mr. Bloom clearly testified

1 that the property is unique and that he has nowhere else to go.
2 He's concerned about the health and safety of his family if
3 there was a notice to evict or a notice to vacate that was
4 carried on.

5 So at this point, Your Honor, we'd ask that the
6 actual injunction be granted, the bond remain at a thousand
7 dollars and the injunction as to CBC be granted until trial and
8 the injunction as to CBC or any successors or assigns be
9 granted to until the life of the moratorium is lifted, Your
10 Honor.

11 And if you have any questions, Your Honor, I can -- I
12 mean, we've also included these arguments in our pleadings on
13 file.

14 THE COURT: Thank you.

15 MR. GUTIERREZ: Thank you.

16 THE COURT: Mr. Mushkin.

17 **CLOSING ARGUMENT FOR THE DEFENSE**

18 MR. MUSHKIN: Your Honor, thank you. Thank you for
19 hearing this.

20 In my 40 years of practicing law, I have never heard
21 more dishonest testimony ever, ever. This is preposterous.
22 There is not a scintilla of evidence that shows that they can
23 win. There is not a scintilla of evidence that shows that an
24 eviction proceeding has been initiated. There is a notice to
25 vacate. And at the bottom of the letter, it acknowledges these

1 difficult times and says let's work this out. No eviction is
2 pending. So to enjoin, there has to be something pending. No
3 foreclosure is pending. As you know, the initiation or
4 foreclosure starts with the recordation of a notice of default
5 and election to sell.

6 THE COURT: And payment of the filing fee to the
7 Clark County Recorder's office.

8 MR. MUSHKIN: That's exactly right.

9 And there are no such thing exists in this case.
10 What does exist is the statutory notice that tells you you've
11 got to go get help and all that other stuff, that you have to
12 submit 30 days in advance of the notice of default and election
13 to sell. So there's no foreclosure to enjoin, and there's no
14 eviction to enjoin because there's no eviction proceeding.

15 I will represent to the Court that there is an
16 unlawful detainer action now pending in front of you. And I
17 will also represent to the Court that we will come before you
18 when the moratorium has been lifted and ask for the return of
19 the property, as is our right, but nothing is out there for you
20 to enjoin.

21 As I made a point in my opening argument, the March
22 16th letter is not subject to the emergency directive. There
23 is no relationship to the emergency directive. It seeks
24 information. It says you're in default of a contract. Those
25 are constitutionally protected rights, Your Honor. The Supreme

1 Court of Wisconsin, I think, yesterday ruled -- I believe it
2 was Wisconsin, not Michigan.

3 But I want to be clear, Judge, there's no proceeding
4 to enjoin. And we've brought 5148 as the successor in interest
5 as we rightfully should. We brought them before this Court.
6 They have standing. And CBC Partners still has standing
7 because CBC Partners is the holder of the Antos interest. They
8 still have standing.

9 Now, on the off chance that you will somehow allow
10 this person to come before you and lie over and over again,
11 Mr. Antos knew that it was a hundred percent of the stock.
12 Mr. Hallberg knew it was a hundred percent of the stock. And
13 Mr. Bloom over and over again signs documents that says he
14 acknowledges that he pledges a hundred percent of his stock.
15 But the only way he can have standing on behalf of SHAC is if
16 he does -- is if he has an interest in SHAC, and he doesn't.

17 He doesn't own it anymore. He chose to sit on his
18 rights and claimed that no default could take place until March
19 31st. We don't have to provide this. We don't have to
20 provide that. It's preposterous, Judge. The document says
21 limited defaults are forbearance, not all of it.

22 And then when I write to counsel and say the
23 information that we requested is in the December 1st, '19
24 extension of the forbearance agreement, all those items are
25 there, you agreed in December of '19. I'm only asking him 60

1 days later. But that's no good. No default. Can't take
2 place. It's just preposterous.

3 Now, on the off chance that you really think an
4 injunction is warranted in this case -- and, Your Honor, it
5 truly is not. This is bad faith litigation from the get-go.
6 And I brought these judicial -- I wanted judicial notice
7 because he did it with Mr. Simon, and he did it with Plasim
8 Homes, the last two houses that he lived in, the same thing.
9 Makes a bunch of promises. When he doesn't get his way, runs
10 to court and then loses. You want to grant an injunction, you
11 have to have a chance to win. He owes this money.

12 Now, they want to come up with "trickeration".
13 That's my favorite word from the Republican administration:
14 Trickeration. Oh, no merger, and it's extinguished. No
15 authority, no cases, no nothing. I want to read you the case
16 on merger.

17 Your Honor, I can just represent to the Court that in
18 no way does merger apply to this case. It's just throwing
19 something up and hoping it'll stick, and it's wrong, and
20 there's no authority for any of this. It's just troubling to
21 me. Every time they don't get their way, they threaten. They
22 threatened me. I reported it to the attorney general.

23 Your Honor, there's \$9 million owed against this
24 house, plus about 8 or \$9 million in judgments. I asked
25 Mr. Bloom why he didn't file the quiet-title action. That's a

1 specific obligation. It wasn't necessary. I've never heard
2 such answers. I'm dumbfounded that he would come to this Court
3 and think that you're going to let him get away with this.
4 It's just terrible.

5 The advance note of approximately one million, three,
6 twenty-six, due.

7 Accrued interest a million, fifty-eight, due.

8 Taxes, 51,937, due.

9 And the monthly obligations are \$60,789.91 a month
10 that he's not paying.

11 THE COURT: And you're holding up D1.

12 MR. GUTIERREZ: And I am holding up my demonstrative
13 exhibit that just adds them up for you, Judge.

14 THE COURT: I understand. I just have to make a
15 record.

16 MR. MUSHKIN: Thank you.

17 Judge, I would respectfully request that you deny the
18 motion for preliminary injunction. There is nothing to enjoin.
19 The unlawful detainer action is now before you. It will not
20 and cannot be heard until you decide that's all there is to it.
21 There is no foreclosure proceeding instituted. There will be
22 one. And at that time, after the 008 expires, or if this Court
23 will determine pursuant to the evidence that there are things
24 going on in the property that allow the exception and allow it
25 to take place now, and I believe that evidence has been

1 presented and unrefuted.

2 It doesn't matter if the flamethrower was on his
3 property or across the street if it's there for his guests.
4 The party was on the 21st. The flamethrower was brought for
5 his guests. Judge, flamethrowers in the county of Clark are
6 felonies. You fire one of those in the county of Clark, it's a
7 felony. Mr. -- unrefuted testimony, a 50-foot firebomb,
8 40-foot firebomb. This is unbelievable conduct.

9 An unlicensed driver speeding in the neighborhood.
10 That's just not right. It's not what was contracted for.

11 And the last item, which is absolutely unrefuted is
12 he contracted for if there's --

13 THE COURT: Mr. Mushkin, your helper has something
14 for you.

15 MR. MUSHKIN: If there's a lien --

16 Ah, there's my case.

17 -- if there is a lien --

18 See, I told you: Without her I'm lost.

19 THE COURT: I know. I just -- I'm trying to help out
20 there.

21 MR. MUSHKIN: Completely lost.

22 I lost my spot.

23 THE COURT: You were arguing about the public safety
24 issues.

25 MR. MUSHKIN: Oh. And there just can't be any doubt,

1 Judge. Come on. Flamethrowers? Come on. They have a party
2 together on July 4th, and they bring a flamethrower. Because
3 they have it at one residence instead of both. It's a joint
4 party. Come on.

5 Oh. The matter I was raising about the lien, Judge,
6 absolutely unrefuted. The lien was filed. They didn't post
7 the one and a half times bond.

8 Judge, what the evidence shows is that Mr. Bloom is
9 not tethered to the truth. He's not tethered to the burdens of
10 his contracts. I ask you to take judicial notice because he
11 did it to Plasim, and he did it to Mr. Simon. And he
12 litigated. And he went to the Supreme Court. And he lost
13 everywhere because he doesn't tell the truth.

14 He makes things up, just like he did today. The
15 security agreement didn't count. The pledge agreement, the
16 security agreement replaced the pledge agreement. How is this
17 possible, Judge? They're both executed on the same day.
18 They're a part of those closing documents. This is pure fraud
19 upon the Court. This is abuse of process from the get-go.
20 It's wrong. It cannot be countenanced. It cannot be rewarded.
21 This conduct must stop.

22 Merger, the case is *Hanneman v. Downer*, 871 P.2d.
23 It's a 1994 case. The doctrine of merger is, in this case,
24 it's about the size of the property and that they claimed that
25 the contract merged into the deed. And they said no. The deed

1 is a written expression of its own. In matters affecting real
2 property, all those items must be in writing.

3 And in this case, there can be no merger. It simply
4 doesn't exist.

5 Last item I wanted to raise, Judge, I attached the
6 attorney general's brief that he filed in a case regarding
7 irreparable harm. I want to say it's Exhibit W.

8 THE COURT: I believe it is Exhibit W, and I was
9 wondering why it was attached.

10 MR. MUSHKIN: I wanted to tell you that I knew you
11 would ask. When you cite something, you have to give your
12 authority. And in my brief, I cited this, and I cited it
13 because the attorney general did such a good job with
14 irreparable harm.

15 THE COURT: And it's clearly an unpublished decision.

16 MR. MUSHKIN: It is. But I -- because I use -- I
17 quoted from it. I didn't want to not attribute.

18 THE COURT: I understand.

19 MR. MUSHKIN: And --

20 THE COURT: But it's not binding on me. It's only
21 informational.

22 MR. MUSHKIN: No. No. It's not binding. But what I
23 did is I quoted their authority. So I wanted to at least
24 include it. And they set out rather well that you must
25 establish that irreparable harm, imminent irreparable harm.

1 And as in that case, the plaintiffs were not likely to succeed
2 on the merits. And they were unable to show an imminent threat
3 of irreparable harm.

4 And the reason I added that is that I used the same
5 language that the AG did in our case. And that's why I
6 attached that for you because they have not and cannot provide
7 a specific set of facts on irreparable harm. They can say that
8 there's eviction, but there is no eviction pending. They can
9 say that they don't want a foreclosure, but there is no
10 foreclosure pending. And thus this Court has nothing to
11 enjoin.

12 They have not met their burden of showing imminent
13 irreparable harm. They have not showed their burden of a
14 likelihood of success on the merits.

15 We acknowledge 008. We believe that we have a
16 defense to its application, both speeding, violations of county
17 code and failure to maintain the property have been
18 uncontroverted. I went straight through them with Mr. Bloom,
19 and all he could say is no, no, no. And many of them he didn't
20 even say no. But I would submit to you, Your Honor, that if
21 you were supposed to spend a hundred thousand in the beginning
22 and maintain the property in top-quality condition, that
23 Mr. Bloom has failed, has continued to fail and as such cannot
24 invoke the protections of the emergency declaration 008 in
25 spite of the fact that we have not initiated an eviction, nor

1 foreclosure proceeding.

2 So for all of those reasons, Judge, and for the lack
3 of honesty, that most of all, you must come to court in seeking
4 extraordinary relief, and you must come to court, and you must
5 do equity to get equity. And Mr. Bloom and SCVJ have not done
6 that. Mr. Bloom lacks any interest in SHAC at this point. The
7 Court should not entertain this sort of extraordinary relief.

8 If and when an eviction is initiated or a foreclosure
9 is initiated, which takes 124 or -6 days, depending on when
10 Sunday's fall, then perhaps there's an issue that could be
11 brought to the Court. But now this is another one of those
12 preemptive strikes by Mr. Bloom that the court is full of.

13 Last comment, Judge. I also ask that you take a look
14 at three other cases for judicial notice.

15 THE COURT: I'm not going to. I can't. I understand
16 you want me to, but I'm not going to.

17 MR. MUSHKIN: Why?

18 THE COURT: If you want to ask for him to be declared
19 a vexatious litigant at a later time or that there's a pattern
20 and practice, there's an entirely different process we've got
21 to go through.

22 MR. MUSHKIN: Oh. No. Absolutely correct, Your
23 Honor.

24 THE COURT: But I am not going to consider those for
25 deciding this very narrow issue related to the application of

1 Directive 008 to this proceeding.

2 MR. MUSHKIN: Your Honor, I respectfully disagree
3 with you, and I want to tell you why.

4 THE COURT: Okay.

5 MR. MUSHKIN: They've got a pleading on file, and the
6 credibility of that pleading and the credibility of their
7 witness is what's called into question.

8 THE COURT: I understand, which is why you got to
9 cross-examine him.

10 MR. MUSHKIN: And it's also why I'm able to look at
11 what he's already done in other cases.

12 THE COURT: And you could have asked him about that
13 as part of it, but I'm not going to take judicial notice of it.

14 MR. MUSHKIN: Your Honor. Thank you for your time
15 again.

16 THE COURT: At least not at this stage. It may be at
17 a later stage you and I have a discussion about it.

18 MR. MUSHKIN: Oh, I'm sure it'll be -- Your Honor,
19 there will be a vexatious litigant motion. There's no question
20 it's coming.

21 THE COURT: I understand.

22 MR. MUSHKIN: But what I want -- what I did for --
23 well, I did it for two purposes, Judge, one for the injunction,
24 and two for the protective order that I filed. It's not
25 germane to today.

1 THE COURT: That's not necessary. I took care of
2 that.

3 MR. MUSHKIN: And you did, Your Honor. And I thank
4 you for doing that.

5 THE COURT: Because subpoenas had to be authorized by
6 the Court before they were issued under the chief judge's
7 current orders.

8 MR. MUSHKIN: Your Honor. My final comment relates
9 to the filing of their opposition in this case. As you may
10 recall --

11 THE COURT: Your opposition? Your opposition or
12 their reply?

13 MR. MUSHKIN: They filed a TRO.

14 THE COURT: They filed an application for TRO,
15 preliminary injunction.

16 MR. MUSHKIN: I filed an opposition.

17 THE COURT: You did. And they got a reply.

18 MR. MUSHKIN: And they filed a reply.

19 THE COURT: Right.

20 MR. MUSHKIN: That reply was untimely by a week. And
21 the reason I point that out is just another example. When the
22 Court ordered the -- their reply brief on the 15th, it meant
23 it. But instead of abiding by that order, they ignored it. I
24 would submit to the Court that that is the pattern here.
25 Mr. Bloom wants the benefit of his bargain, but not the burden.

1 And the only way for Mr. Bloom to have the right to stay in
2 this house by injunction or by contract is to pay for it.

3 And on the off chance that you actually want to grant
4 this injunction, Judge, I would only ask that the bond be set
5 at an amount that protects my client's interest as it is
6 designed to do. And that would require a bond to cover the
7 advances, the accrued interest, the taxes and the payments of
8 \$31,187.50 per month. So if on the off chance you wish to
9 grant this, Mr. Bloom has to make these payments, not just the
10 first and second, but all of the secured obligations. He
11 doesn't get to say, oh, it merged. It evaporated. That has to
12 be found by this Court. There's no such finding. He has to
13 pay it.

14 So on the off chance that you want to grant this
15 injunction, please set the bond at an amount that at least
16 protects my client. There's no way to protect him against the
17 lawlessness. There's no way to protect him against the
18 damages. That's why I don't want you to grant the injunction.
19 That's why I don't believe 008 applies.

20 We did the inspection. We asked for information. We
21 tried to get cooperation from Mr. Bloom, and we tried to give
22 him more time to perform. But what happens when Mr. Bloom
23 doesn't get his way? He does whatever he wants until a Court
24 stops him. And, Judge, it's your job to stop him, and I hope
25 you will.

1 Thank you.

2 THE COURT: Thank you, Mr. Mushkin.

3 Mr. Gutierrez, anything else you'd like to add?

4 MR. GUTIERREZ: Yes.

5 **REBUTTAL ARGUMENT FOR THE PLAINTIFFS**

6 MR. GUTIERREZ: Yes. Mr. Mushkin talked about
7 credibility, and the evidence shows when it comes to
8 credibility CBC stood up and said it sold its note on April
9 1st, 2020, yet continued to send letters to vacate and
10 foreclose after that date. Now they're asking for a bond after
11 they've been paid over 3.5 million. That's -- those are issues
12 of credibility. They didn't even authorize some of those
13 letters to go out, and now those letters are going out saying
14 CBC is telling you to vacate, and then we're going to foreclose
15 on a note that they had already sold. So at no point does CBC
16 have standing to raise any of these issues.

17 When it comes to irreparable harm, Your Honor, the
18 governor's directive couldn't be any more clear. It says that
19 the landlord should neither evict nor began the process of
20 eviction while Nevada is under a state of emergency. We
21 shouldn't have had to come here, Your Honor. We requested in
22 writing specifically that the notices be rescinded and that
23 these foreclosure proceedings stop, and they were not.

24 We had to file an application for TRO and move
25 forward with this. And at, no, point were they saying, well,

1 we sold the note. We don't have standing to be here. Now,
2 they're in here asking this Court to find the exceptions apply
3 when they don't have standing because they sold their note.

4 When we went through Mr. Bloom's testimony, it's
5 clear that none of those exceptions would apply. There's been
6 no criminal activity, no arrests, no damage, no significant
7 damage to the property, no seriously endangering the public
8 that would qualify under these exceptions.

9 So, Your Honor, we ask that the injunction be granted
10 until the governor's directive is lifted and the bond at \$1,000
11 that the Court previously ordered stay in place because there
12 is zero damage to CBC after it sold its note.

13 And Mr. Bloom has already testified that through SHAC
14 they are paying the first and the second on these properties.

15 Thank you, Your Honor.

16 THE COURT: Thank you.

17 The April 3rd, 2020, notice to vacate violates the
18 Governor's Directive 008 because there is not an establishment
19 of a serious endangerment of the public or other residents or
20 serious criminal activity or significant damage to the property
21 which is required under Section 1 for me to ignore Governor's
22 Directive 008, Section 1.

23 For that reason, I am granting the preliminary
24 injunction in a limited way to prevent any further action
25 related to the notice to vacate until after the expiration of

1 the Governor's Directive 008.

2 Let's talk about the bond, Mr. Gutierrez. You said
3 your client is going to continue to pay the first and second,
4 taxes, insurance and HOA dues during the interim?

5 MR. GUTIERREZ: That is correct, Your Honor.

6 THE COURT: Okay. Mr. Mushkin, do you have anything
7 else you want me to consider?

8 MR. MUSHKIN: The third, Your Honor. We've -- we
9 haven't gotten any payments in over 30 months from this
10 individual. We're damaged \$30,000 every month.

11 THE COURT: Okay.

12 MR. MUSHKIN: He's only paying what he chooses to
13 pay. He's obligated to pay the third.

14 THE COURT: Well, the Governor's Directive does
15 recognize that this does not relieve parties of their
16 contractual obligations, and they are required to comply with
17 their contractual obligations, whether that happens or not is
18 an entirely different issue.

19 So, Mr. Gutierrez, as part of the order granting the
20 TRO or the preliminary injunction to the expiration of
21 Directive 008, your client is required to continue to pay the
22 first, second, insurance, taxes and HOA fees. I am not going
23 to require payment of the third. That is something that is
24 going to be an issue we are probably going to discuss in the
25 near future given the new party who has appeared, whether it is

1 through intervention that they appeared or whether it is
2 through the filing of a counterclaim. And I'm sure we're going
3 to address that procedural issue fairly quickly so that we can
4 then get to the meat of the issue as to whether there has been
5 a merger and extinguishment or whether the amounts remain due
6 and owing.

7 MR. MUSHKIN: Your Honor, I would only request that
8 they be required to bond the amount that's due us. There is no
9 defense to the bond. They cannot -- you're enjoying our
10 collection. At the very least, they have to bond it.

11 THE COURT: I'm not enjoining your collection. The
12 governor enjoined your collection. I am -- I am following, as
13 I am in every single one of these commercial cases where
14 someone is trying to resolve the issues related to a failure to
15 pay rent or other issues related to the occupancy strictly in
16 compliance with Directive 008 for the term of 008.

17 I understand your position. I have to follow
18 Directive 008. I don't have a whole lot of choice. You're not
19 the only property owner or noteholder who is unhappy with the
20 results of Directive 008, but I am not in a place where I have
21 a lot of wiggle room related to that.

22 MR. MUSHKIN: I appreciate that, Judge, but you do
23 have the ability to require a bond. There's a \$19,000 HOA
24 lien, that by contract he's supposed to bond. He hasn't bonded
25 it. And now we have no payments for April or May. That's

1 60,000 -- over \$60,000. At the very least, you should pick a
2 date to anticipate the expiration of the directive. I suspect
3 July 1 is probably far enough out for the directive to be
4 withdrawn. We'll be in Phase 3 or 4 by then. But it doesn't
5 matter. But for those months --

6 THE COURT: I sure hope so because I'd love to get
7 out of this mask.

8 MR. MUSHKIN: Yeah, me too.

9 But, Judge, it is completely -- it is completely
10 unfair, and it does not comport with the standards of Rule 65.

11 THE COURT: I know. You and I have --

12 MR. MUSHKIN: To leave the third mortgage hanging --

13 THE COURT: Joan can tell you, you and I and Jean
14 Bacchus had -- or, no. You're not in that case. Jean Bacchus
15 and I had the exact same discussion in another commercial issue
16 with a large amount of money and the situation, and I cannot
17 deviate from Directive 008. I understand your position, and as
18 soon as Directive 008 expires, I will move quickly to adjust
19 those issues that need to be taken care of. Right now my order
20 is strictly based on Directive 008.

21 MR. MUSHKIN: So are you finding that there is a
22 foreclosure proceeding pending?

23 THE COURT: No. I found there was a notice to
24 vacate.

25 MR. MUSHKIN: So only the notice to vacate is

1 enjoined?

2 THE COURT: That is all I said.

3 MR. MUSHKIN: And --

4 THE COURT: You and I both know how long a
5 foreclosure takes to start.

6 MR. MUSHKIN: Okay. So and I can't convince the
7 Court that the bond should be increased from a thousand dollars
8 when they're not paying me 30,000 a month?

9 THE COURT: Not when I --

10 MR. MUSHKIN: And the advance is due?

11 THE COURT: Not when I have Directive 008 in place.

12 MR. MUSHKIN: I'm sorry, Your Honor. I don't mean to
13 be dense, but what does 008 have to do with the contractual
14 rights to pay, which you just said they are not relieved of?

15 THE COURT: Directive 008 says we're going to keep
16 people in their houses until this is over.

17 MR. MUSHKIN: I fully acknowledge that, Judge.

18 THE COURT: That's basically what it says. So by
19 requiring a bond that people can't afford to pay, I would be
20 putting people in a position where the TRO -- or the injunctive
21 relief would not take effect. So I understand your position.

22 My reading of 008 is I'm supposed to prevent the kind
23 of things that are in Section 1 for as long as the governor
24 says Directive 008 is finished. And then I'm going to be
25 really busy in business court when I'm allowed to talk to

1 people about all of their contractual obligations.

2 MR. MUSHKIN: Your Honor, I fully acknowledge -- I
3 understand where you're at. I have to tell you that I
4 completely disagree because the directive says he is not
5 relieved of payment.

6 THE COURT: That is absolutely true. That's
7 Section 3.

8 MR. MUSHKIN: And you said he has to pay the first
9 and the second.

10 THE COURT: I did say that --

11 MR. MUSHKIN: But why not the third?

12 THE COURT: Because the third is what is at issue
13 here as the injunctive relief.

14 MR. MUSHKIN: No. No. No.

15 THE COURT: He volunteered to pay the first and
16 second. So I'm just telling him he's going to do what he
17 volunteered to do, Mr. Mushkin.

18 MR. MUSHKIN: But the third is not the subject of the
19 injunction on the vacate?

20 THE COURT: Yes, it is.

21 MR. MUSHKIN: Oh, no, Your Honor. The vacate is
22 based on the lease, not on the note.

23 THE COURT: I understand what you're saying,
24 Mr. Mushkin, but they're all related.

25 MR. MUSHKIN: Well, Judge, I certainly appreciate

1 that, but I have to tell you that this is a house that's just
2 shy of 16,000 square feet. There's 9 million in debt, and the
3 operating expenses for a month are \$60,000. I'll submit to the
4 Court that a \$1,000 bond is completely inappropriate. This is
5 an individual who just told you that he has a huge wealth, a
6 solar farm and a -- a judgment for billions. And a thousand
7 dollars is just not appropriate, Judge.

8 THE COURT: And, Mr. Mushkin, at the time that
9 Directive 008 expires, you and I will have a discussion about
10 whether the injunctive relief continues. And if it does what
11 the bond should be, a realistic bond. But I am not at that
12 stage given Directive 008.

13 And believe me, I understand, and I understand the
14 issue related to those folks who are at risk with this because
15 of their contracts or their other obligations as landowners,
16 and I understand that. But Directive 008 is really clear. And
17 then I will say the same thing I do as a parent. And by the
18 way, you're still supposed to do all the right things anyway,
19 which is what Section 3 says.

20 MR. MUSHKIN: I --

21 THE COURT: This isn't my first one.

22 MR. MUSHKIN: Your Honor, I'm dumbfounded because I
23 just can't imagine that a thousand dollar bond is appropriate
24 for a house that has 9 million in debt. It's just -- I
25 understand the directive. Perhaps if you inquired of the

1 plaintiff if they could afford a bond of a hundred thousand or
2 200,000, but to just give them a free pass given the nature of
3 this testimony, Judge, is just wrong.

4 THE COURT: I understand your position, Mr. Mushkin.
5 Anything else?

6 Mr. Gutierrez, please prepare the order. Send it to
7 Mr. Mushkin for review.

8 MR. GUTIERREZ: Your Honor, may I approach just to
9 grab the exhibits?

10 THE COURT: You may.

11 MR. GUTIERREZ: Thank you.

12 MR. MUSHKIN: Thank you, Your Honor.

13 THE COURT: Have a nice day. And, oh, by the way, I
14 am not allowed to let you leave the room until I discuss with
15 you the Rule 16 conference.

16 Given the appearance of the new party as a
17 counterclaimant, I am not going to set the Rule 16 conference
18 today. I am going to set a status check on scheduling the
19 Rule 16 conference in three weeks on my chambers calendar, and
20 I am going to suspend the requirements of NRCP 16B2 pursuant to
21 Admin Order 20-01 because I'm not going to have a Rule 16 until
22 after I straighten out who the right parties are and whether
23 they're an intervener or something else.

24 THE CLERK: That's --

25 MR. MUSHKIN: Your Honor, if I can address --

1 THE COURT: Hold on a second.

2 THE CLERK: That's June 5 in chambers, the status
3 check.

4 THE COURT: Okay. Now, Mr. Mushkin.

5 MR. MUSHKIN: Your Honor, we looked at the rule.

6 THE COURT: Which rule?

7 MR. MUSHKIN: The counterclaim rule.

8 THE COURT: Uh-huh.

9 MR. MUSHKIN: And the reading of the rule was, it
10 appeared on the first pleading, that you can add a party. If
11 you believe that to be incorrect, I will immediately file a
12 motion to intervene.

13 THE COURT: I think you're safer filing a motion to
14 intervene. I think it's a really tough call, Mr. Mushkin.

15 MR. MUSHKIN: Not a problem.

16 THE COURT: I've been dealing with intervention a lot
17 in the last year.

18 MR. MUSHKIN: See you tomorrow, Your Honor?

19 THE COURT: See you tomorrow at 9:00 o'clock,
20 Mr. Gutierrez.

21 MR. MUSHKIN: The reason that we did it this way is
22 that we wanted the Court to see the counterclaim.

23 THE COURT: It's okay. I understand. But I think
24 intervention is the cleanest way. I know there are arguments
25 to support the counterclaim where you have a successor in

1 interest issue.

2 Mr. Gutierrez, any objection to an intervention?

3 MR. GUTIERREZ: Your Honor, we'll likely be filing
4 probably an amended complaint and naming them. So I think at
5 this stage they'll be a party.

6 THE COURT: All right. So it's really not going to
7 be much of an issue. I'll stay out of it.

8 MR. GUTIERREZ: Thank you, Your Honor.

9 THE CLERK: Your Honor. Sorry.

10 THE COURT: So in three weeks when I look on the
11 chambers calendar, if everybody is fully engaged with their
12 pleadings, then we'll either set the Rule 16. If I'm allowed
13 to have in-person hearings on a regular basis or if I'm not
14 allowed to, I will continue it again. And Dan is required not
15 to do a scheduling order because of all of this.

16 THE CLERK: Your Honor, will the motions for
17 protective order and to quash subpoenas --

18 THE COURT: They're moot. Those are both moot
19 because I did a minute order yesterday that Mr. Mushkin
20 believes addresses most of those issues, although he may renew
21 his request about the protective order at a later date if it
22 becomes a discovery issue.

23 Right, Mr. Mushkin?

24 MR. MUSHKIN: Yes, Your Honor.

25 THE COURT: Okay.

1 THE CLERK: Should I take those off calendar?
2 THE COURT: They are off calendar.
3 (Colloquy of the record.)
4 (Proceedings concluded at 4:38 p.m.)
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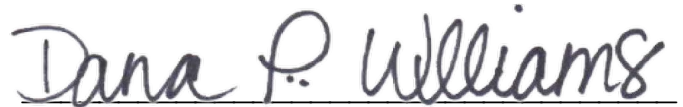
CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

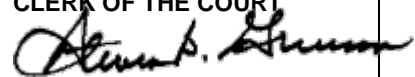
DANA L. WILLIAMS
LAS VEGAS, NEVADA 89183

A handwritten signature in dark ink, reading "Dana L. Williams", is written over a horizontal line.

DANA L. WILLIAMS, TRANSCRIBER

05/19/20

DATE



RPLY

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Nevada Bar No. 9046

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DISTRICT COURT

CLARK COUNTY, NEVADA

SPANISH HEIGHTS ACQUISITION
COMPANY, LLC, a Nevada Limited Liability
Company; SJC VENTURES HOLDING
COMPANY, LLC, d/b/a SJC VENTURES, LLC,
a Delaware Limited Liability Company,

Plaintiffs,

vs.

CBC PARTNERS I, LLC, a foreign Limited
Liability Company; CBC PARTNERS, LLC, a
foreign Limited Liability Company; 5148
SPANISH HEIGHTS, LLC, a Nevada Limited
Liability Company; KENNETH ANTOS AND
SHEILA NEUMANN-ANTOS, as Trustees of
the Kenneth & Sheila Antos Living Trust and
the Kenneth M. Antos & Sheila M. Neumann-
Antos Trust; DACIA, LLC, a foreign Limited
Liability Company; DOES I through X; and
ROE CORPORATIONS I through X, inclusive,

Defendants.

AND RELATED CLAIMS.

Case No.: A-20-813439-B

Dept. No.: 11

**PLAINTIFFS' REPLY IN SUPPORT OF
RENEWED APPLICATION
FOR TEMPORARY RESTRAINING
ORDER AND MOTION FOR
PRELIMINARY INJUNCTION ON AN
ORDER SHORTENING TIME**

Hearing Date: January 4, 2021

Hearing Time: 10:00 a.m.

Plaintiffs Spanish Heights Acquisition Company, LLC ("SHAC") and SJC Ventures Holding
Company, LLC, d/b/a SJC VENTURES, LLC ("SJC") ("Plaintiffs"), by and through their attorney of
record, MAIER GUTIERREZ & ASSOCIATES, hereby file this reply in support of their renewed motion

1 for a temporary restraining order, and, after notice and a hearing, for a preliminary injunction on an
2 order shortening time (the “Motion”).

3 This reply is made and based upon the following memorandum of points and authorities, the
4 exhibits attached hereto, and the papers and pleadings on file in this matter.

5 DATED this 1st day of January, 2021.

6
7 **MAIER GUTIERREZ & ASSOCIATES**

8 /s/ Danielle J. Barraza
9 JOSEPH A. GUTIERREZ, ESQ.
Nevada Bar No. 9046
10 DANIELLE J. BARRAZA, ESQ.
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11 8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
12 *Attorneys for Plaintiffs*
13
14

15 **MEMORANDUM OF POINTS AND AUTHORITIES**

16 **I. INTRODUCTION**

17 Defendants’ opposition was replete with rampant speculation that Plaintiffs’ counsel of record
18 Mr. Gutierrez was Mr. Bloom’s counsel throughout the negotiations of the Forbearance Agreement
19 (he was not). Instead of focusing on legal issues, Defendants have claimed that Mr. Bloom’s “counsel
20 [has] been less than candid with this Court,” which is completely baseless and sanctionable in itself.
21 Opp. at p. 23. Defendants’ obsession with personally attacking Plaintiffs’ counsel is disturbing but
22 predicable at this stage, as Defendants would prefer to deviate from a rational legal analysis.

23 What Defendants did not, and could not, contradict in their opposition was the fact that the
24 Note for the underlying commercial restaurant loan to Kenneth Antos’ company KCI Investments,
25 LLC, which purportedly secured the “third Deed of Trust” against the Property that was owned by the
26 Antos Trust, was never amended to reflect that the Antos Trust was either a debtor or a guarantor
27 under the Note. Not only that, but the Antos Trust undisputedly never received any consideration for
28 attempting to convey a “third Deed of Trust” to CBC Partners, which means the language of the Deed

1 of Trust reflecting that consideration was provided (language that Mr. Bloom relied upon) was a
2 misrepresentation.

3 This lack of consideration went acknowledged by CBC Partners I, LLC itself in its deposition:

4 Q: So was any additional consideration provided separately to the Antos Trust in
5 addition – not in addition, but in exchange for the deed of trust being
6 provided?

6 A: Not to my knowledge.

7 See **Exhibit 1**, Deposition Transcript of Rule 30(b)(6) corporate representative for CBC Partners I,
8 LLC at pp. 33-34. This testimony confirmed that the representation otherwise on the Deed of Trust
9 was not accurate.

10 Defendants also noticeably failed to address that defendant 5148 Spanish Height's attempted
11 non-judicial foreclosure is based upon a Notice of Default which was issued by CBC Partners I, LLC
12 months after it testified that it had sold the Note to a wholly separate entity, 5148 Spanish Heights
13 LLC. The CBC Partners I, LLC Notice of Default is on its face defective, as is the Notice of Breach
14 and election to Sell and Notice of Sale, since they rely upon the defective Notice of Default.

15 Given Plaintiffs' likelihood of success on the merits, it would be improper to allow Defendants
16 to rush a non-judicial foreclosure sale while this matter is being litigated, especially when Defendants
17 have intentionally violated an order compelling discovery responses in an attempt to evade disclosing
18 relevant information which has yet to be produced. If Defendants had a meritorious defense, they
19 would not be trying to sneak a quick foreclosure during the holidays. Instead, Plaintiffs are now facing
20 irreparable harm as a result of Defendants' refusal to simply cooperate with the judicial process.

21 As such, the exigent circumstances present in this case require granting Plaintiffs' application
22 for a temporary restraining order. Further, a preliminary injunction should be ordered until this case
23 can be fully decided on the merits.

24 **II. LEGAL ARGUMENT**

25 **A. THERE IS NO VALID THIRD-POSITION DEED OF TRUST**

26 The Deed of Trust specifically states that "FOR GOOD AND VALUABLE
27 CONSIDERATION," the Antos Trust is providing CBC Partners I, LLC an interest in the Property.
28 Mot at Ex. 7, PLTFS00702. Both CBC Partners I, LLC and Kenneth Antos confirmed that was not

1 really true, as the Antos Trust received no consideration whatsoever. See Ex 1 herein at pp. 33-34
2 and Mot. at Ex. 4 at p. 69.

3 In their opposition, Defendants' only argument for the validity of the third-position "Deed of
4 Trust" is that Kenneth Antos (a non-legal expert who desperately signed whatever CBC Partners, LLC
5 put in front of him that would enable him to obtain more money for his failed restaurant business)
6 believes the Deed of Trust is valid and "believes the money is due." Opp. at pp. 16-18. That is not
7 the test for determining the validity of a Deed of Trust. Not even the after-the-fact declaration that
8 Defendants' counsel drafted for Kenneth Antos can somehow create the appearance of consideration
9 being provided to the Antos Trust. Defendants now insist that "the initial Secured Promissory Note
10 was modified several times. Throughout the modifications, the collateral was changed with the
11 Property ultimately becoming the collateral for the Secured Promissory Note." Opp. at p. 16.

12 But in all of those modifications, not a single one adds the Antos Trust, the *owner* of the
13 Property, as a borrower or guarantor under the KCI commercial loan. The Antos Trust is undisputedly
14 a non-signatory to the underlying Note documents and had zero involvement in that process. Kenneth
15 Antos himself admitted that the Antos Trust did no business with CBC Partners I, LLC. Mot. at Ex.
16 4 at pp. 71-72. So while Kenneth Antos and his companies may have attempted to turn the Property
17 into collateral under the Note, they frankly had no authority to do so because they never owned the
18 Property – the Antos Trust did and had since 2010.

19 This is not the normal case of a bank providing a loan to a prospective home-buyer like most
20 Deeds of Trusts are established. This is a case of a commercial restaurant loan being issued to KCI
21 Investments, LLC, the Antos' agreeing to be guarantors on that note in individual capacities, the
22 company then defaulting on that loan numerous times, and then CBC Partners I, LLC trying to obtain
23 a Deed of Trust over the Antos' residence even though neither KCI Investments, LLC, nor the Antos'
24 individually, owned Property. The Antos Trust, never having been added as a borrower or guarantor
25 under the Note, and more importantly never having received any consideration for attempting to
26 convey the Deed of Trust, has no obligation under the commercial restaurant loan to KCI Investments,
27 LLC. Similarly, Plaintiffs as the successor-in-interest to the Property have no obligation under what
28 we have now discovered is an invalid Deed of Trust.

1 No consideration was ever provided to the Antos Trust for a signed Deed of Trust. Defendants
2 insist that “[t]he balance due from Plaintiffs is approximately \$5,578,459.15 (\$2,935,001.14 for
3 principal, pre-forbearance protection payments of \$1,326,744.55, interest and late charges of
4 \$1,315,105.24 and interest accrued at the rate of 20% in the amount of \$1,608.22 per day from April
5 1, 2020, Exhibit V)”. But that is the balance due by KCI Restaurant Brands as borrower and the
6 Antos’ individually as guarantors. It is not due from the Antos Trust, nor from Plaintiffs.

7 Even if the Court were to somehow find that the Antos Trust, a non-party to the commercial
8 Loan to KCI, somehow was a borrower or guarantor to a commercial loan to which it never signed
9 any amendment to the Note, then the Doctrine of Merger would have extinguished the Note when the
10 Note holder took an equitable position in the collateral at the time the Antos’ transferred their interest
11 to the lender CBC Partners I, LLC.

12 Even further, if the commercial loan to KCI somehow transformed into a debt of the Antos
13 Trust, and the Note was not extinguished under the Doctrine of Merger, then still the One Action Rule
14 would prevent foreclosure as the lender (CBC Partners I, LLC) already elected its remedy in taking
15 possession of an equitable interest.

16 **B. DEFENDANTS’ NOTICING DOCUMENTS ARE INVALID**

17 Notably, the Amended Forbearance Agreement was actually breached by defendant CBC
18 Partners I, LLC almost immediately after its execution, as CBC Partners I, LLC failed to make the
19 required mortgage payments to the holders of the first and second position mortgages (City National
20 Bank and Northern Trust Bank. *See* Mot. at Ex. 20, PLTFS00261-Correspondence from Jonathan
21 Ukeiley of Northern Trust Bank stating that there are past due bills from “January, February, March
22 and April 2020.” Defendant 5148 Spanish Heights, LLC has not fully remedied this breach, as late
23 fees are still due.

24 In other words, Defendants are coming to this Court with unclean hands and seeking relief
25 for alleged breaches under an agreement which Defendants have been in breach of for a year now.
26 Perhaps realizing they will not succeed, Defendants have pivoted to trying to notice their own
27 foreclosure sale, but they have continuously gone about it in a way that violates Nevada’s foreclosure
28 statutes, which went totally unaddressed in Defendants opposition.

1 The July 2, 2020 “Notice of Default” states that “**CBC Partners I, LLC**, at its option, without
2 further demand, may evoke the power of sale and any other remedies permitted by Nevada law.” *See*
3 Mot. at Ex. 18. However, months before that at the May 2020 preliminary injunction hearing, CBC
4 Partners I, LLC claimed that it had sold its Note to 5148 Spanish Heights LLC. CBC Partners I, LLC
5 had no authority to issue a Notice of Default in July 2020, making that document void and
6 unenforceable.

7 Disregarding that, on September 15, 2020, 5148 Spanish Heights, LLC moved forward not
8 with recording its own Notice of Default but by causing a “Notice of Breach and Election to Sell
9 Under Deed of Trust” to be recorded against the Property. Mot. at Ex. 19. This Notice of Breach.
10 Even if Plaintiffs had breached their obligations under the invalid third-position “Deed of Trust,”
11 which they have not, this Notice of Breach is improper since it is based on the void Notice of Default.

12 While Plaintiffs acknowledge that Defendants wanted to rush through with foreclosure
13 proceedings as fast as possible in an attempt to circumvent judicial intervention and did not want to
14 start all over again by having 5148 Spanish Heights, LLC issue its own Notice of Default, their failure
15 to do so means that the subsequently recorded Notice of Breach and Notice of Sale (recorded on
16 December 15, 2020) are also invalid.

17 Defendants repeatedly boast about the authenticity and the clarity of “the Documents.” What
18 they ignore is the substance of those documents, as the documents are clear that Antos Trust was never
19 a borrower or guarantor under the underlying Note; the documents are clear that SJC Ventures was
20 never a signatory to the Pledge Agreement; and the documents are clear that CBC Partners was, and
21 its successor 5148 Spanish Heights LLC is, in default of both the Forbearance Agreement
22 and Amended Forbearance Agreement.

23 Defendants in multiple instances disregard the indisputable instances when certain parties are
24 not signatories to documents, and simply wants obligations to attach to non-parties to agreements,
25 even when those non-parties received no consideration, as is the case with the Antos Trust receiving
26 nothing in exchange for trying to convey a “Deed of Trust” to CBC Partners I, LLC.

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Michael R. Mushkin, Esq.
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*Attorneys for Defendants CBC Partners I, LLC, CBC Partners, LLC,
5148 Spanish Heights, LLC, and Dacia LLC*

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EXHIBIT 1

EXHIBIT 1

Spanish Heights Acquisition Company, LLC, et al.

v.

CBC Partners I, LLC, et al.

Transcript of

Alan Hallberg

Volume I

November 6, 2020



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DISTRICT COURT

CLARK COUNTY, NEVADA

SPANISH HEIGHTS ACQUISITION COMPANY,)
LLC, a Nevada Limited Liability Company;)
SJC VENTURES HOLDING COMPANY, LLC d/b/a)
SJC VENTURES, LLC, a Delaware Limited)
Liability Company,)
)
 Plaintiffs,)
vs.)
 Case No.)
 A-20-813439-B

CBC PARTNERS I, LLC, a foreign Limited)
Liability Company; CBC PARTNERS, LLC, a)
foreign Limited Liability Company; 5148)
SPANISH HEIGHTS, LLC, a Nevada Limited)
Liability Company; KENNETH ANTOS AND)
SHEILA NEUMANN-ANTOS, as Trustees of the)
Kenneth & Sheila Antos Living Trust and)
the Kenneth M. Antos & Sheila M.)
Neumann-Antos Trust; DACIA, LLC, a)
foreign Limited Liability Company; DOES)
I through X; and ROE CORPORATIONS I)
through X, inclusive,)
)
 Defendants.)
_____)

DEPOSITION OF ALAN HALLBERG

NRCP 30(b)(6) FOR CBC PARTNERS I, LLC

Via Videoconference

Taken on Friday, November 6, 2020

By a Certified Stenographer

At 9:30 a.m.

Las Vegas, Nevada

Reported by: HOLLY LARSEN, CCR 680, CA CSR 12170

Job No. 42660A

<p>1 APPEARANCES: 2 For the Plaintiffs: (Via Videoconference)</p> <p>3 4 MAIER GUTIERREZ & ASSOCIATES BY: DANIELLE J. BARRAZA, ESQ. 8816 Spanish Ridge Avenue 5 Las Vegas, Nevada 89148 702.629.7900 6 djb@mgalaw.com</p> <p>7 8 For Defendants CBC Partners I, LLC; CBC Partners, LLC; 5148 Spanish Heights, LLC; and Dacia LLC: (Via Videoconference)</p> <p>9 MUSHKIN & COPPEDGE 10 BY: MICHAEL R. MUSHKIN, ESQ. 6070 South Eastern Avenue Suite 270 12 Las Vegas, Nevada 89119 702.454.3333 13 mmushkin@mccnvlaw.com</p> <p>14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>2</p> <p>4</p> <p>1 P R O C E E D I N G S</p> <p>2</p> <p>3 THE COURT REPORTER: Good morning. My name is</p> <p>4 Holly Larsen. I am a Nevada Certified Court Reporter</p> <p>5 here on behalf of Oasis Reporting Services. My CCR</p> <p>6 number is 680.</p> <p>7 Today's date is Friday, November 6, 2020. The</p> <p>8 time is approximately 9:30 a.m. This is the deposition</p> <p>9 of NRCP 30(b)(6) for CBC Partners I, LLC, Alan</p> <p>10 Hallberg, in the matter of Spanish Heights Acquisition</p> <p>11 Company, LLC, et al., versus CBC Partners I, LLC, et</p> <p>12 al., venued in the District Court of the State of</p> <p>13 Nevada for the County of Clark, Case Number</p> <p>14 A-20-813439-B.</p> <p>15 At this time, I will ask counsel to identify</p> <p>16 themselves, state whom they represent, and agree on the</p> <p>17 record that there is no objection to this deposition</p> <p>18 officer administering a binding oath to the witness</p> <p>19 through remote videoconferencing. If no objection is</p> <p>20 stated, we will proceed forward with the agreement of</p> <p>21 all counsel. We will begin appearances with the</p> <p>22 noticing attorney.</p> <p>23 MS. BARRAZA: Good morning. Danielle</p> <p>24 Barraza on behalf of the plaintiffs. No objection.</p> <p>25 MR. MUSHKIN: Good morning. Mike Mushkin</p>
<p>3</p> <p>1 I N D E X</p> <p>2 WITNESS PAGE</p> <p>3 ALAN HALLBERG</p> <p>4 Examination by Ms. Barraza 5, 70</p> <p>Examination by Mr. Mushkin 67, 72</p> <p>5</p> <p>6</p> <p>7 E X H I B I T S</p> <p>8 NUMBER PAGE</p> <p>9 Exhibit 1 Grant, Bargain, Sale Deed 26</p> <p>10 Exhibit 2 Secured Promissory Note 18</p> <p>11 Exhibit 3 Forbearance Agreement 40</p> <p>12 Exhibit 5 Deed of Trust 28</p> <p>13 Exhibit 7 Note Purchase and Sale Agreement 56</p> <p>14</p> <p>Exhibit 8 April 1, 2020, 58</p> <p>Correspondence</p> <p>15 Exhibit 9 April 3, 2020, 60</p> <p>Correspondence</p> <p>16</p> <p>17</p> <p>Exhibit 12 Correspondence with 47</p> <p>Northern Trust</p> <p>18 Exhibit 13 Notice of Default 61</p> <p>19 Exhibit 14 Notice of Breach and 63</p> <p>Election to Sell Under Deed</p> <p>21 of Trust</p> <p>22 Exhibit 19 Responses to First Set of 53</p> <p>Requests for Production of</p> <p>Documents</p> <p>23</p> <p>24 Exhibit 26 Deposition Notice 8</p> <p>25</p>	<p>5</p> <p>1 on behalf of the defendants. No objection. Thank</p> <p>2 you for recording for us or whatever you're doing.</p> <p>3 Whereupon,</p> <p>4 ALAN HALLBERG,</p> <p>5 having been first duly sworn to testify to the truth,</p> <p>6 was examined, and testified as follows:</p> <p>7</p> <p>8 EXAMINATION</p> <p>9 BY MS. BARRAZA:</p> <p>10 Q. Good morning. Can you please state your</p> <p>11 name and spell your name for the record?</p> <p>12 A. Alan Hallberg. First is A-l-a-n. Last is</p> <p>13 H-a-l-l-b-e-r-g.</p> <p>14 Q. And have you ever had your deposition taken</p> <p>15 before?</p> <p>16 A. No.</p> <p>17 Q. So I'm just going to kind of go through</p> <p>18 really quick. I'm sure your counsel already advised</p> <p>19 you, but a little bit of ground rules for this</p> <p>20 deposition, how it's going to work. The oath you</p> <p>21 just took is the same exact oath that you would take</p> <p>22 in a court of law. Do you understand that?</p> <p>23 A. Yes.</p> <p>24 Q. That means you're subject to the same</p> <p>25 penalties of perjury just as you would in a court of</p>

<p>6</p> <p>1 law. Do you understand that?</p> <p>2 A. Yes.</p> <p>3 Q. Really important in this deposition that we</p> <p>4 do not talk over each other. So please wait for me</p> <p>5 to finish my question before going into your answer,</p> <p>6 and I'm going to try to wait for you to finish your</p> <p>7 complete answer before going into my next question.</p> <p>8 Okay?</p> <p>9 A. Yes.</p> <p>10 Q. There's times where you might say "uh-huh,"</p> <p>11 "uh-uh," shake your head, nod your head. If you do</p> <p>12 that, I'm just going to ask for a verbal response.</p> <p>13 Not trying to be rude, just trying to have a clear</p> <p>14 record. Okay?</p> <p>15 A. Yep.</p> <p>16 Q. There's times that your counsel will be</p> <p>17 lodging objections throughout the course of this</p> <p>18 deposition. So unless you're specifically</p> <p>19 instructed not to answer the question, even if</p> <p>20 there's an objection, we do still expect you to</p> <p>21 answer. Do you understand that?</p> <p>22 A. Yes.</p> <p>23 Q. Is there any reason why you won't be able</p> <p>24 to give me your full, complete, and truthful answers</p> <p>25 to the questions today?</p>	<p>8</p> <p>1 when you have that pulled up.</p> <p>2 (Exhibit 26 marked.)</p> <p>3 BY MS. BARRAZA:</p> <p>4 Q. You're looking at a document, Notice of</p> <p>5 Taking Web-Based Video Deposition of NRCP 30(b)(6)</p> <p>6 Deposition of CBC Partners I, LLC. Is that what</p> <p>7 you're looking at?</p> <p>8 A. Yes.</p> <p>9 Q. So this is what's called the notice for</p> <p>10 this deposition that we're in right now. Have you</p> <p>11 previously reviewed this document?</p> <p>12 A. This morning.</p> <p>13 Q. Was this morning the first time you ever</p> <p>14 saw this?</p> <p>15 A. Yes.</p> <p>16 Q. So I want to turn your attention to page 2</p> <p>17 of Exhibit 26. Do you see where it says "Topics"?</p> <p>18 A. Yes.</p> <p>19 Q. What I want you to do is look through those</p> <p>20 topics. You apparently looked through it this</p> <p>21 morning, but if you would look through, again,</p> <p>22 Topics 1 through 39 and let me know if you are, in</p> <p>23 fact, the person with the ability to testify as to</p> <p>24 all these topics.</p> <p>25 A. Yes.</p>
<p>7</p> <p>1 A. No. No reason.</p> <p>2 Q. Can you give me a description of how you</p> <p>3 are related to CBC Partners I, LLC?</p> <p>4 A. I am the chief credit officer of the</p> <p>5 general partnership CBC Partners, LLC, and we manage</p> <p>6 the loans of the fund CBC Partners I, LLC.</p> <p>7 Q. Okay. How long have you been in that role?</p> <p>8 A. Since its founding in 2007. November 2007.</p> <p>9 Q. And did you go to college?</p> <p>10 A. Yes.</p> <p>11 Q. Where did you go?</p> <p>12 A. Georgetown University.</p> <p>13 Q. What's your degree in?</p> <p>14 A. Bachelor of science.</p> <p>15 Q. Any other post-graduate education?</p> <p>16 A. No.</p> <p>17 Q. Have you ever been convicted of a crime?</p> <p>18 A. No.</p> <p>19 Q. Have you ever been arrested for any crimes</p> <p>20 involving dishonesty?</p> <p>21 A. No.</p> <p>22 Q. When did you first learn about this</p> <p>23 deposition?</p> <p>24 A. I believe it was last week.</p> <p>25 Q. If we could go to Exhibit 26, and tell me</p>	<p>9</p> <p>1 Q. Is there anybody else at CBC Partners I,</p> <p>2 LLC, who would be better equipped to answer any of</p> <p>3 those topics that you just reviewed?</p> <p>4 A. No.</p> <p>5 Q. So would you agree with me that you are the</p> <p>6 person with the most knowledge on behalf of CBC</p> <p>7 Partners I, LLC, to answer these questions or these</p> <p>8 topics?</p> <p>9 A. Yes.</p> <p>10 Q. Have you reviewed any documents in</p> <p>11 preparation for your deposition testimony today?</p> <p>12 A. No.</p> <p>13 Q. Did you actually do anything to prepare</p> <p>14 yourself for answering these topics on Exhibit 26?</p> <p>15 A. No.</p> <p>16 Q. Did you speak with your counsel -- I don't</p> <p>17 want to know the details of any conversation, but</p> <p>18 did you speak with your counsel about this</p> <p>19 deposition today?</p> <p>20 A. Yes.</p> <p>21 Q. Were those conversations all taking place</p> <p>22 this morning?</p> <p>23 A. No.</p> <p>24 Q. When were the other conversations that you</p> <p>25 had?</p>

<p>10</p> <p>1 A. Yesterday and sometime last week. I don't 2 remember the exact day. 3 Q. Yesterday's conversation, how long did that 4 conversation with your counsel last? 5 A. Approximately 15 to 20 minutes. 6 Q. I just want to confirm during that 7 conversation you did not review any documents? 8 A. Correct. 9 MR. MUSHKIN: Excuse me, Counsel. You mean 10 other than the ones that you provided? 11 MS. BARRAZA: We can clarify that actually. 12 BY MS. BARRAZA: 13 Q. Let me ask you this: I assume your counsel 14 forwarded you along the exhibits for this 15 deposition? 16 A. This morning. 17 Q. So this morning, did you review those 18 exhibits? 19 A. No. 20 Q. Now, you also mentioned talking to your 21 counsel a few weeks ago or last week? 22 A. Last week. I don't remember the exact day. 23 Q. That's fine. How long did that 24 conversation last? 25 A. Approximately 15 minutes.</p>	<p>12</p> <p>1 Q. At some point either this week or last 2 week, Kenneth Antos was emailing you and it was 3 mortgage documents. When you say "mortgage 4 documents," are you talking about -- 5 A. Statements. 6 Q. Sorry? 7 A. Statements. 8 Q. Mortgage statements. And are you talking 9 about the first mortgage, the second mortgage, or 10 which mortgage? 11 A. I believe it was the first mortgage that 12 was showing delinquency. 13 Q. Was there any substantive comments that 14 Kenneth left you in that email, or was he just 15 forwarding you those mortgage statements? 16 A. Simply forwarding. 17 Q. Did you respond to that email? 18 A. No. 19 Q. Aside from that email you just mentioned, 20 any other conversations you've had with Kenneth 21 Antos since the one you had in March of 2020 over 22 the phone? 23 A. I don't believe so. Certainly not on the 24 phone. He may have forwarded other emails in the 25 past, but I don't recall. I didn't reply to him.</p>
<p>11</p> <p>1 Q. And did you review any documents during 2 that conversation? 3 A. No. 4 Q. Have you spoken with either Kenneth or 5 Sheila Antos regarding this deposition? 6 A. No. 7 Q. When was the last time you spoke to Kenneth 8 Antos? 9 A. I believe that was in March of this year 10 prior to the sale of our note. 11 Q. So March of 2020 is when you believe is the 12 last time you spoke to Kenneth Antos; correct? 13 A. Yes. 14 Q. Was that conversation over the phone or in 15 person? 16 A. Phone. 17 Q. And have you exchanged any kind of email or 18 text or any other kind of communications with 19 Kenneth Antos since then? 20 A. Yes. I believe I received an email from 21 Antos. I think it was either early this week or 22 last week. He was forwarding mortgage statements on 23 the property, which were -- the payments were 24 falling behind. So he had received copies and 25 forwarded those to me.</p>	<p>13</p> <p>1 Q. Now, aside from your counsel, have you 2 spoken to anybody else about this deposition today? 3 A. Does my wife count? 4 Q. That's fine. Aside from your wife, anybody 5 else? 6 A. No. 7 Q. Now, we're here today -- I'll just state 8 for the record so there's no confusion -- because 9 this litigation involves a property located at 10 5148 Spanish Heights Drive, Las Vegas, Nevada 89148. 11 Throughout this deposition I'm going to be referring 12 to that as the "property." Is that okay with you? 13 A. Yes. 14 Q. Is CBC Partners I, LLC, licensed to conduct 15 business in the state of Nevada? 16 A. No. 17 Q. I want to make sure. Because I believe you 18 testified to the same back at the preliminary 19 injunction hearing. Do you recall that? 20 A. Yes. 21 Q. And since that hearing, has CBC Partners I, 22 LLC, done anything in an effort to become authorized 23 to conduct business in the state of Nevada? 24 A. We have not pursued getting a business 25 license in the state of Nevada.</p>

14	<p>1 Q. Do you recall testifying at that</p> <p>2 preliminary injunction hearing for this litigation</p> <p>3 back in May?</p> <p>4 A. Yes.</p> <p>5 Q. And do you recall testifying that the only</p> <p>6 business that CBC Partners I, LLC, had conducted in</p> <p>7 Nevada was with respect to the origination of the</p> <p>8 loan to Kenneth Antos' company such as Pacific</p> <p>9 Restaurant Brands? Do you recall that?</p> <p>10 A. Yes.</p> <p>11 Q. Now is that still the case as you sit here</p> <p>12 today? Is there any other business that CBC</p> <p>13 Partners I, LLC, has conducted in the state of</p> <p>14 Nevada aside from that loan associated with Kenneth</p> <p>15 Antos?</p> <p>16 A. There was a smaller loan that was</p> <p>17 outstanding for 12 months with a Las Vegas-based</p> <p>18 company. It was repaid on schedule. That, I</p> <p>19 believe, was at least five years ago, if not longer.</p> <p>20 Q. Did that Las Vegas-based company have</p> <p>21 anything to do with Kenneth Antos?</p> <p>22 A. No.</p> <p>23 Q. So I want to get into talking about the</p> <p>24 origination of the loan. And when I'm talking about</p> <p>25 the loan so that we can kind of shorten it to only</p>	16	<p>1 Q. I assume in discussing the concept of</p> <p>2 providing a loan, CBC Partners I, LLC, conducted</p> <p>3 some sort of due diligence into these companies?</p> <p>4 A. Yes.</p> <p>5 MR. MUSHKIN: Objection to the form of the</p> <p>6 question.</p> <p>7 You should answer, please.</p> <p>8 THE WITNESS: Yes. We performed due</p> <p>9 diligence.</p> <p>10 BY MS. BARRAZA:</p> <p>11 Q. And just, in general, what did that kind of</p> <p>12 due diligence entail?</p> <p>13 A. Review of financial statements, historical</p> <p>14 financial statements, review of projections, review</p> <p>15 of assets within those financial statements, review</p> <p>16 of Ken Antos' personal financial condition including</p> <p>17 the property.</p> <p>18 Q. So when you say you also reviewed -- or CBC</p> <p>19 Partners I, LLC, also reviewed Ken Antos' personal</p> <p>20 financial condition including the property, what did</p> <p>21 it review regarding the property?</p> <p>22 A. I believe at the time he had provided us</p> <p>23 what would then be considered a recent appraisal.</p> <p>24 So we looked through that. We pulled comps from the</p> <p>25 neighborhood, so we looked at that.</p>
15	<p>1 "loan," I'm talking about that loan that was</p> <p>2 provided to Kenneth Antos' various restaurant</p> <p>3 companies, Pacific Restaurant Brands. I think</p> <p>4 there's -- do you recall KCB? Is that another</p> <p>5 entity or no?</p> <p>6 A. No. There's KCI.</p> <p>7 Q. That's what I meant. And KCI. So do you</p> <p>8 understand that to be the underlying loan that's at</p> <p>9 issue in this litigation?</p> <p>10 A. Yes.</p> <p>11 Q. So tell me about how that loan first</p> <p>12 originated.</p> <p>13 A. Several years ago it was brought to us by a</p> <p>14 finder. The purpose of the loan was to provide</p> <p>15 growth capital to a franchisee of a restaurant brand</p> <p>16 who was based in Las Vegas. And he was looking at</p> <p>17 growing not only in Las Vegas but in</p> <p>18 Southern California.</p> <p>19 Q. And do you recall who was that finder?</p> <p>20 A. The name is Doug Metz, M-e-t-z.</p> <p>21 Q. And prior to this point had CBC Partners I,</p> <p>22 LLC, ever conducted any kind of business with</p> <p>23 Kenneth Antos or any of his associated companies</p> <p>24 such as KCI Investments?</p> <p>25 A. No.</p>	17	<p>1 Q. Back when this loan was being originated,</p> <p>2 did Kenneth Antos reveal that the owner of the</p> <p>3 property was the Antos trust?</p> <p>4 A. I don't recall.</p> <p>5 Q. And back when this loan was being</p> <p>6 originated, did CBC Partners I, LLC, conduct a title</p> <p>7 check to determine who the property was titled to?</p> <p>8 MR. MUSHKIN: I'd like a clarification if I</p> <p>9 could. You keep referencing when this originated.</p> <p>10 Are you talking about the original note or the lien</p> <p>11 on the property itself?</p> <p>12 MS. BARRAZA: I'm talking about back -- the</p> <p>13 original note. So I'm thinking back in the 2012</p> <p>14 time frame.</p> <p>15 BY MS. BARRAZA:</p> <p>16 Q. Is that the original note, Mr. Hallberg?</p> <p>17 A. Yes.</p> <p>18 Q. So back in this original note time frame in</p> <p>19 2012, did CBC Partners I, LLC, conduct any kind of</p> <p>20 title check regarding the property to determine who</p> <p>21 the owner was?</p> <p>22 A. No. Any title check would have been</p> <p>23 performed by our outside counsel in Seattle at the</p> <p>24 time that we took a security interest in the</p> <p>25 property.</p>

<p>18</p> <p>1 Q. I'm sorry. I missed the last part of what</p> <p>2 you just said.</p> <p>3 A. Any analysis or any title search would have</p> <p>4 been done by our outside counsel at the time that we</p> <p>5 were taking a security interest in the property.</p> <p>6 Q. Understood.</p> <p>7 A. Not by CBC Partners I.</p> <p>8 Q. Understood. If we could turn to Exhibit 2,</p> <p>9 just tell me when you have it pulled up.</p> <p>10 (Exhibit 2 marked.)</p> <p>11 THE WITNESS: Okay.</p> <p>12 BY MS. BARRAZA:</p> <p>13 Q. I just want to make sure, at the top of the</p> <p>14 page does it say "Secured Promissory Note"?</p> <p>15 A. Yes.</p> <p>16 Q. I'll represent to you this Exhibit 2 is a</p> <p>17 series of documents that have been submitted by your</p> <p>18 counsel in this litigation. It consists of the</p> <p>19 secured promissory note, and it also consists of</p> <p>20 various guaranty agreements and various</p> <p>21 modifications to that secured promissory note.</p> <p>22 If you could look at the bottom right-hand</p> <p>23 side of the first page of Exhibit 2, do you see how</p> <p>24 it says 5148SH?</p> <p>25 A. Yes.</p>	<p>20</p> <p>1 A. Yes.</p> <p>2 Q. It looks like Ken Antos signed on behalf of</p> <p>3 KCI Investments. Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. It looks like John Otter signed on behalf</p> <p>6 of CBC Partners I, LLC. Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Tell me who John Otter is.</p> <p>9 A. He's the managing partner of CBC Partners.</p> <p>10 Q. And is he still the managing partner?</p> <p>11 A. Yes.</p> <p>12 Q. Was John Otter the main representative on</p> <p>13 behalf of CBC Partners I, LLC, who was working on</p> <p>14 this loan with the Antos companies and working on</p> <p>15 this note?</p> <p>16 A. No. I was.</p> <p>17 Q. So you were personally involved, including</p> <p>18 back then in 2012?</p> <p>19 A. Yes.</p> <p>20 Q. I do want to go to page 612 on Exhibit 2.</p> <p>21 Tell me whenever you're there.</p> <p>22 A. Okay.</p> <p>23 Q. It looks like this is the first</p> <p>24 modification to the secured promissory note. Is</p> <p>25 that your understanding?</p>
<p>19</p> <p>1 Q. Then it says 000594?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. So throughout this deposition, when</p> <p>4 I talk about page numbers, I'm going to be referring</p> <p>5 to those Bates stamps at the bottom right. Okay?</p> <p>6 A. Uh-huh. Yes.</p> <p>7 Q. And so looking at page 594 on Exhibit 2, is</p> <p>8 this, to your knowledge, a true and accurate copy of</p> <p>9 the original, the first security note?</p> <p>10 A. Yes.</p> <p>11 Q. All right. And this security note was</p> <p>12 between KCI Investments, LLC, as the borrower and</p> <p>13 CBC Partners I, LLC, as the lender; is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. It appears from the face of this document</p> <p>16 the original loan amount was 300,000; is that</p> <p>17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. Now, if we turn to -- actually, I want to</p> <p>20 turn to page 609 on Exhibit 2. Tell me whenever</p> <p>21 you're there.</p> <p>22 A. Okay.</p> <p>23 Q. I want to make sure we're looking at this.</p> <p>24 It appears to be a signature page of that secured</p> <p>25 promissory note. Is that your understanding?</p>	<p>21</p> <p>1 A. Yes.</p> <p>2 Q. And is it your understanding this note went</p> <p>3 through several modifications over the course of</p> <p>4 years?</p> <p>5 MR. MUSHKIN: Objection to the form.</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MS. BARRAZA:</p> <p>8 Q. Now, if we could go to 629 of Exhibit 2.</p> <p>9 Tell me whenever you're there.</p> <p>10 A. Okay.</p> <p>11 Q. This appears to be an acknowledgement and</p> <p>12 agreement of guarantors. What do you understand</p> <p>13 this document to be?</p> <p>14 A. As it clearly states it's an</p> <p>15 acknowledgement by the guarantors there was a loan</p> <p>16 modification.</p> <p>17 Q. Is it CBC Partners I, LLC's understanding</p> <p>18 that the personal guarantors were Kenneth Antos and</p> <p>19 Sheila Antos for this loan?</p> <p>20 A. Yes.</p> <p>21 Q. Were there any other guarantors for this</p> <p>22 loan?</p> <p>23 A. I believe initially there was another</p> <p>24 guarantor, but he did not continue with the loan.</p> <p>25 The primary guarantors were Kenneth and Sheila</p>

<p>22</p> <p>1 Antos.</p> <p>2 Q. So you believe there was another individual</p> <p>3 guarantor?</p> <p>4 A. Yes.</p> <p>5 Q. Now, if you could just tell me in general</p> <p>6 how do these various modifications come about? Was</p> <p>7 this a situation of Mr. Antos approaching CBC</p> <p>8 Partners I, LLC, asking for a modification, or how</p> <p>9 did this come about?</p> <p>10 A. Usually he was asking for additional money</p> <p>11 to fund the growth. And then he would approach us</p> <p>12 and ask for extensions of maturity date because he</p> <p>13 wasn't quite ready to pay the loan.</p> <p>14 Q. I assume throughout the course of the</p> <p>15 years, as further modifications were granted, CBC</p> <p>16 Partners I, LLC, was in agreement with providing</p> <p>17 those additional funds in exchange for these</p> <p>18 additional modifications to the note; is that</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. Now, I'd like to get into at some point in</p> <p>22 time were there discussions about CBC Partners I,</p> <p>23 LLC, obtaining a deed of trust on the property?</p> <p>24 A. Yes.</p> <p>25 Q. Tell me about how those conversations came</p>	<p>24</p> <p>1 Q. Has CBC Partners I, LLC, gone through its</p> <p>2 emails with Kenneth Antos since the commencement of</p> <p>3 this litigation?</p> <p>4 A. No.</p> <p>5 Q. Are there potentially emails out there</p> <p>6 between CBC Partners I and Kenneth Antos regarding</p> <p>7 discussing the possibility of CBC Partners I, LLC,</p> <p>8 obtaining that deed of trust on the property?</p> <p>9 MR. MUSHKIN: Objection to the form of the</p> <p>10 question. Vague and ambiguous.</p> <p>11 Please answer if you can.</p> <p>12 THE WITNESS: I believe most of the</p> <p>13 communication regarding this deed of trust was</p> <p>14 verbal. It was telephonic. There may have been</p> <p>15 some emails, but most of the negotiation was</p> <p>16 telephonic.</p> <p>17 BY MS. BARRAZA:</p> <p>18 Q. And so what we would ask is that CBC</p> <p>19 Partners I, LLC, goes through and looks at its prior</p> <p>20 emails. And if it uncovers any emails with Kenneth</p> <p>21 Antos specifically regarding the deed of trust and</p> <p>22 the discussions about CBC Partners I obtaining a</p> <p>23 deed of trust on the property, we would ask that</p> <p>24 those be produced. Is that something that's doable?</p> <p>25 A. I would defer to counsel on that.</p>
<p>23</p> <p>1 about.</p> <p>2 A. I don't recall all of the details.</p> <p>3 Initially on the loan we had an assignment of a</p> <p>4 stream of payments due Mr. Antos. Those went away.</p> <p>5 They were already settled and we asked for</p> <p>6 replacement collateral, and that replacement</p> <p>7 collateral was a third position on the property.</p> <p>8 Q. What I'm trying to figure out is the</p> <p>9 additional collateral, the property, was that</p> <p>10 something Kenneth Antos had offered up, or was that</p> <p>11 something CBC Partners I brought up on its own as</p> <p>12 wanting to take that additional collateral?</p> <p>13 A. We brought it up. He agreed.</p> <p>14 Q. Okay. And do you recall approximately when</p> <p>15 those conversations took place?</p> <p>16 A. I don't recall.</p> <p>17 Q. Would those conversations have taken place</p> <p>18 in person or over the phone or email?</p> <p>19 A. Most likely over the phone.</p> <p>20 Q. Has CBC Partners I, LLC -- let me start</p> <p>21 with this question: Did you email Kenneth Antos</p> <p>22 back in the time frame of 2012 through 2014</p> <p>23 regarding the note?</p> <p>24 A. Probably. That's eight years ago. I'm</p> <p>25 sure Ken Antos and I had communication back then.</p>	<p>25</p> <p>1 MR. MUSHKIN: I don't see a problem with</p> <p>2 that. I don't need to have this on the record.</p> <p>3 (A discussion was held off the record.)</p> <p>4 BY MS. BARRAZA:</p> <p>5 Q. You mentioned you had various discussions</p> <p>6 with Kenneth Antos regarding CBC Partners I, LLC,</p> <p>7 wanting to take a deed of trust over the property as</p> <p>8 additional collateral. Was anybody else involved in</p> <p>9 these discussions?</p> <p>10 A. The original finder, Doug Metz, may have</p> <p>11 participated telephonically to the best of my</p> <p>12 recollection.</p> <p>13 Q. Do you recall Kenneth Antos having any kind</p> <p>14 of legal counsel during those specific discussions?</p> <p>15 A. Not on the call, no.</p> <p>16 Q. At any point during those discussions?</p> <p>17 A. No. My discussions were with Ken. He did</p> <p>18 not have counsel on the phone with him.</p> <p>19 Q. Going back to this Exhibit 2 and the</p> <p>20 secured promissory note documents and the various</p> <p>21 modifications, who drafted those documents?</p> <p>22 A. The outside counsel for CBC which is Lane</p> <p>23 Powell based in Seattle.</p> <p>24 Q. And does CBC Partners I, LLC, have any</p> <p>25 recollection of Kenneth Antos or any representative</p>

<p>26</p> <p>1 of the borrower making any kind of changes or</p> <p>2 proposing any kind of changes to the security</p> <p>3 promissory note or any of its modifications?</p> <p>4 A. I don't recall.</p> <p>5 Q. I want to turn to Exhibit 5. I do</p> <p>6 apologize. I do want to turn to Exhibit 1. Tell me</p> <p>7 whenever you're there.</p> <p>8 (Exhibit 1 marked.)</p> <p>9 THE WITNESS: Okay.</p> <p>10 BY MS. BARRAZA:</p> <p>11 Q. Exhibit 1 says "Grant Bargain Sale Deed" at</p> <p>12 the top. Do you see that?</p> <p>13 A. Yes.</p> <p>14 MR. MUSHKIN: Bates numbers PLTFS 00642 for</p> <p>15 purposes of identification.</p> <p>16 BY MS. BARRAZA:</p> <p>17 Q. So I'll represent to you this is a recorded</p> <p>18 copy of the grant, bargain, and sale deed with</p> <p>19 respect to the property. It indicates that Kenneth</p> <p>20 Antos and Sheila Antos, as joint tenants, for</p> <p>21 valuable consideration are conveying the property to</p> <p>22 their trust. Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. This was recorded -- you can look at the</p> <p>25 top right-hand corner -- in October of 2010. Do you</p>	<p>28</p> <p>1 dispute that?</p> <p>2 A. Not to my knowledge.</p> <p>3 Q. Going back to Exhibit 2, if you can, the</p> <p>4 secured promissory note, those documents. Tell me</p> <p>5 whenever you're there.</p> <p>6 A. I'm there.</p> <p>7 Q. In either this original secured promissory</p> <p>8 note on page 594 or in any of the modifications</p> <p>9 thereto that follow on these pages, was the Antos</p> <p>10 Trust listed as a borrower on any of those</p> <p>11 documents?</p> <p>12 A. I don't recall.</p> <p>13 Q. And was the Antos Trust listed as -- do you</p> <p>14 have any recollection of the Antos Trust being</p> <p>15 listed as a guarantor on the note?</p> <p>16 A. I don't have a recollection, no.</p> <p>17 Q. I do want to go back to Exhibit 5. Tell me</p> <p>18 whenever you're there.</p> <p>19 (Exhibit 5 marked.)</p> <p>20 THE WITNESS: Okay.</p> <p>21 BY MS. BARRAZA:</p> <p>22 Q. I just want to make sure what we're looking</p> <p>23 at -- it says, Deed of Trust, Assignment of Rents,</p> <p>24 Security Agreement, and Fixture Filing. Is that</p> <p>25 what you're looking at?</p>
<p>27</p> <p>1 see that?</p> <p>2 A. Yes.</p> <p>3 Q. Does CBC Partners I, LLC, have any reason</p> <p>4 to dispute that during the time that it has</p> <p>5 conducted business with Kenneth Antos and his</p> <p>6 companies, the property -- during that time period,</p> <p>7 the property was owned by the Antos Trust and not</p> <p>8 Kenneth Antos and Sheila Antos individually; is that</p> <p>9 correct?</p> <p>10 MR. MUSHKIN: To the extent it calls for a</p> <p>11 legal conclusion, I object.</p> <p>12 Mr. Hallberg, you can answer the question</p> <p>13 if you can.</p> <p>14 THE WITNESS: For documentation, especially</p> <p>15 with respect -- especially with documents pertaining</p> <p>16 to the property, we relied heavily on advice from</p> <p>17 our external counsel in Seattle, Lane Powell. Being</p> <p>18 asked for specific information regarding whether</p> <p>19 these documents are good or not, you know, again,</p> <p>20 I'm not an attorney.</p> <p>21 BY MS. BARRAZA:</p> <p>22 Q. Let me phrase it this way. Does CBC</p> <p>23 Partners I, LLC, have any reason to dispute, as it</p> <p>24 sits here today, that the Antos Trust owned the</p> <p>25 property as of October of 2010? Any reason to</p>	<p>29</p> <p>1 A. Yes.</p> <p>2 Q. Do you recognize this document?</p> <p>3 A. Yes.</p> <p>4 Q. What do you understand this document to be?</p> <p>5 A. A deed of trust drafted by outside counsel.</p> <p>6 Q. When you're talking about outside counsel,</p> <p>7 you're talking about CBC Partners I, LLC's outside</p> <p>8 counsel?</p> <p>9 A. Yes.</p> <p>10 Q. This is the deed of trust that CBC</p> <p>11 understands that it acquired against the property;</p> <p>12 is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. All right. Was there any specific reason</p> <p>15 why CBC Partners I, LLC, did not want to take a deed</p> <p>16 of trust in the first place originally back when</p> <p>17 this note was issued?</p> <p>18 A. As I mentioned earlier, Mr. Antos had</p> <p>19 another piece of collateral we had taken position</p> <p>20 in. That ended up being sold, and the proceeds of</p> <p>21 that collateral were not applied to the loan. So we</p> <p>22 asked for additional collateral or replacement</p> <p>23 collateral which is the house.</p> <p>24 Q. That loan that you're talking about, the</p> <p>25 original loan, it was a commercial business loan for</p>

<p>30</p> <p>1 the purpose of his various restaurant entities?</p> <p>2 A. Yes.</p> <p>3 Q. I just want to make sure we're clear for</p> <p>4 the record. This deed of trust was not for the</p> <p>5 purpose of CBC Partners I, LLC, providing any funds</p> <p>6 to Kenneth Antos or any of his entities so that they</p> <p>7 could purchase the property; is that correct?</p> <p>8 MR. MUSHKIN: Objection to the form of the</p> <p>9 question. Vague and ambiguous. He's wrinkling his</p> <p>10 brow too.</p> <p>11 BY MS. BARRAZA:</p> <p>12 Q. Go ahead.</p> <p>13 A. Can you please repeat the question?</p> <p>14 Q. Sure. Is it correct that the purpose of</p> <p>15 CBC Partners I, LLC, obtaining this deed of trust</p> <p>16 was not for providing -- was not to help facilitate</p> <p>17 Kenneth Antos to purchase the property? Is that</p> <p>18 correct?</p> <p>19 A. Correct.</p> <p>20 Q. Because the Antos Trust had already owned</p> <p>21 the property long before this deed of trust came</p> <p>22 about; is that correct?</p> <p>23 A. That's my understanding.</p> <p>24 Q. Prior to this deed of trust coming about,</p> <p>25 did CBC Partners I, LLC, conduct any due diligence</p>	<p>32</p> <p>1 MS. BARRAZA: Sorry. I'm talking about</p> <p>2 Exhibit 5.</p> <p>3 MR. MUSHKIN: That's not a note. It's a</p> <p>4 deed of trust.</p> <p>5 MS. BARRAZA: I'm sorry. I thought it said</p> <p>6 deed of trust.</p> <p>7 MR. MUSHKIN: That's all right. I</p> <p>8 thought -- you just confused me. I thought you were</p> <p>9 doing it on purpose just to shake me up to make sure</p> <p>10 I'm paying attention.</p> <p>11 BY MS. BARRAZA:</p> <p>12 Q. If you could look at Exhibit 5, that first</p> <p>13 paragraph is actually one very long sentence. If</p> <p>14 you could just read that to yourself where it starts</p> <p>15 saying "This deed of trust, assignment of rent," and</p> <p>16 tell me when you're done reading it.</p> <p>17 A. Okay.</p> <p>18 Q. Do you see how in that first paragraph of</p> <p>19 Exhibit 5 the term "trustor" is a defined term and</p> <p>20 that term means the Kenneth Antos and Sheila</p> <p>21 Neumann-Antos Living Trust dated April 26, 2007? Do</p> <p>22 you understand that the Antos Trust is defined as</p> <p>23 the trustor?</p> <p>24 A. Yes.</p> <p>25 Q. I want to go to the second paragraph of</p>
<p>31</p> <p>1 as to any other deeds of trust that had already been</p> <p>2 recorded against the property?</p> <p>3 A. Yes. That would have been done by outside</p> <p>4 counsel.</p> <p>5 Q. At the time this deed of trust was recorded</p> <p>6 in 2014, did CBC have an understanding and a belief</p> <p>7 that it was obtaining a third position deed of trust</p> <p>8 against the property?</p> <p>9 A. Yes.</p> <p>10 Q. When CBC Partners I, LLC, obtained this</p> <p>11 deed of trust, did it ever go back and amend the</p> <p>12 note to provide that the Antos Trust would be a</p> <p>13 borrower under the note?</p> <p>14 MR. MUSHKIN: Objection to the form of the</p> <p>15 question. Calls for a legal conclusion.</p> <p>16 You may answer.</p> <p>17 THE WITNESS: I don't recall.</p> <p>18 BY MS. BARRAZA:</p> <p>19 Q. Okay. No recollection of that. I do want</p> <p>20 to go through some of the language in this note. If</p> <p>21 you look at the first paragraph, I actually just</p> <p>22 want you to read that first sentence to yourself.</p> <p>23 MR. MUSHKIN: Which exhibit, Counsel?</p> <p>24 MS. BARRAZA: Sorry?</p> <p>25 MR. MUSHKIN: Which exhibit?</p>	<p>33</p> <p>1 Exhibit 5 where it states "For good and valuable</p> <p>2 consideration trustor hereby jointly and severally</p> <p>3 irrevocably grants, bargains, sells, transfers, and</p> <p>4 assigns to trustee," and it goes on. Do you see</p> <p>5 that?</p> <p>6 A. Yes.</p> <p>7 Q. So is it CBC Partners I, LLC's</p> <p>8 understanding that this language is the trustor</p> <p>9 granting CBC Partners I, LLC, a deed of trust with</p> <p>10 the power to sell the property; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. Now, what good and valuable consideration</p> <p>13 did the Antos Trust receive in exchange for</p> <p>14 providing this deed of trust to CBC Partners I, LLC?</p> <p>15 MR. MUSHKIN: Objection. Asked and</p> <p>16 answered.</p> <p>17 BY MS. BARRAZA:</p> <p>18 Q. You can answer it.</p> <p>19 A. As I said before, the original</p> <p>20 consideration was providing a loan to the companies</p> <p>21 controlled by Ken Antos. We asked for a replacement</p> <p>22 collateral, and this was it.</p> <p>23 Q. So was any additional consideration</p> <p>24 provided separately to the Antos Trust in</p> <p>25 addition -- not in addition, but in exchange for</p>

<p>34</p> <p>1 this deed of trust being provided?</p> <p>2 A. Not to my knowledge.</p> <p>3 Q. I do want to go to another page of this</p> <p>4 document. Page 927 on Exhibit 5, tell me whenever</p> <p>5 you're there.</p> <p>6 A. Okay.</p> <p>7 Q. Do you see how it says near the bottom,</p> <p>8 "For the purpose of securing"?</p> <p>9 A. Yes.</p> <p>10 Q. I'm going to read a little bit of this. It</p> <p>11 says, "For the purpose of securing, 1, the payment</p> <p>12 of any and all amounts, collectively the guaranteed</p> <p>13 obligations, due and owing by trustor under that</p> <p>14 certain guaranty from Kenneth Antos and Sheila Antos</p> <p>15 dated June 22, 2012, in favor of beneficiary." Do</p> <p>16 you see that?</p> <p>17 A. Yes.</p> <p>18 Q. So what amounts were actually due and owing</p> <p>19 by the Antos Trust?</p> <p>20 MR. MUSHKIN: Objection. Form of the</p> <p>21 question.</p> <p>22 THE WITNESS: I don't know where to go with</p> <p>23 this.</p> <p>24 MR. MUSHKIN: Do you understand what she's</p> <p>25 asking?</p>	<p>36</p> <p>1 BY MS. BARRAZA:</p> <p>2 Q. Does CBC Partners I, LLC, have any</p> <p>3 knowledge of the guaranty on the security note</p> <p>4 involving the Antos Trust owing any kind of money to</p> <p>5 CBC Partners I, LLC?</p> <p>6 MR. MUSHKIN: Same objection. Objection to</p> <p>7 form of the question.</p> <p>8 Counsel, are you asking if the trust as a</p> <p>9 party is on the note?</p> <p>10 MS. BARRAZA: I was actually asking for --</p> <p>11 MR. MUSHKIN: We'll stipulate that the</p> <p>12 trust is not a maker of the note.</p> <p>13 MS. BARRAZA: So the trust is not a maker</p> <p>14 of the note.</p> <p>15 BY MS. BARRAZA:</p> <p>16 Q. So does CBC Partners I, LLC, have any</p> <p>17 knowledge of the trust being a guarantor under the</p> <p>18 note?</p> <p>19 MR. MUSHKIN: Same thing. Foundation as to</p> <p>20 when?</p> <p>21 MS. BARRAZA: As to any point in time.</p> <p>22 MR. MUSHKIN: Now I know what you're</p> <p>23 talking about. That happens --</p> <p>24 MS. BARRAZA: That's not for you to answer.</p> <p>25 That's for --</p>
<p>35</p> <p>1 THE WITNESS: No.</p> <p>2 BY MS. BARRAZA:</p> <p>3 Q. That's fine. Does CBC Partners I, LLC,</p> <p>4 have any knowledge of the Antos Trust owing any</p> <p>5 money under the guaranty from that promissory note?</p> <p>6 A. I don't recall how the trust was handled in</p> <p>7 the guaranty documents.</p> <p>8 Q. So as CBC Partners I, LLC, sits here today,</p> <p>9 does it have any kind of knowledge of the Antos</p> <p>10 Trust being listed anywhere in the guaranty</p> <p>11 documents?</p> <p>12 A. I do not recall.</p> <p>13 Q. And as CBC Partners I, LLC, sits here</p> <p>14 today, does it have any knowledge of the Antos Trust</p> <p>15 owing any kind of money with respect to the</p> <p>16 guaranty?</p> <p>17 MR. MUSHKIN: Objection. Lacks foundation.</p> <p>18 THE WITNESS: The line of questioning is</p> <p>19 pretty confusing. The guaranty supports the</p> <p>20 borrower which was the restaurant entity.</p> <p>21 BY MS. BARRAZA:</p> <p>22 Q. So the guaranty had nothing to do with the</p> <p>23 Antos Trust; correct?</p> <p>24 MR. MUSHKIN: Same objection. Lacks</p> <p>25 foundation. When?</p>	<p>37</p> <p>1 MR. MUSHKIN: No. I'm just going to the</p> <p>2 document because I saw it in here. That's all.</p> <p>3 THE WITNESS: Pardon me, but you're asking</p> <p>4 me what's on a document that you already possess.</p> <p>5 So, no, I don't recall. As I said in the beginning</p> <p>6 of the deposition, I have not reviewed these</p> <p>7 documents.</p> <p>8 BY MS. BARRAZA:</p> <p>9 Q. Okay. So what I'm entitled to do at this</p> <p>10 deposition is question your recollection</p> <p>11 irrespective of what the documents say. It's okay</p> <p>12 if you don't recall. I just need you to answer that</p> <p>13 if that's the reality --</p> <p>14 A. I don't recall.</p> <p>15 Q. When the time came for discussions about</p> <p>16 this deed of trust, CBC Partners I, LLC's counsel</p> <p>17 would have done a title check on the property; is</p> <p>18 that correct?</p> <p>19 A. Yes.</p> <p>20 Q. Now, were any -- would those documents have</p> <p>21 been saved to any files that CBC Partners I, LLC,</p> <p>22 has regarding that title check?</p> <p>23 A. I don't recall.</p> <p>24 Q. So we just ask, if there were any documents</p> <p>25 saved during that time with respect to a title check</p>

<p style="text-align: right;">38</p> <p>1 and any communications about that title check, that 2 they be produced. 3 MR. MUSHKIN: Counsel, just in an attempt 4 to help in that regard, in these documents, there is 5 the title -- there it is -- at 675 is the loan 6 policy of title insurance. So I think the trail on 7 those documents would lead back to First American 8 Title Insurance Company. It was done through 9 outside counsel. To the extent I can help you, 10 there's where that all goes. That's an Alta loan 11 policy on this. 12 BY MS. BARRAZA: 13 Q. Going back to Exhibit 2, if you can tell me 14 whenever you're there. 15 A. Okay. 16 Q. As CBC Partners I, LLC, sits here today, 17 does it have any recollection of the Antos Trust 18 signing off on any of the modifications to the note? 19 A. I can't recall. 20 Q. Now, at some point was Kenneth Antos and 21 his associated entities, were they at some point 22 defaulting on the note with CBC Partners I, LLC? 23 A. Yes. 24 Q. When did that take place? 25 A. I don't recall.</p>	<p style="text-align: right;">40</p> <p>1 push Kenneth Antos to sell the property? 2 A. I don't recall the exact amount of time. 3 Maybe a year or two. 4 Q. At some point did Kenneth Antos represent 5 that he found a potential purchaser for the 6 property? 7 A. At a couple of points he said there were 8 maybe one or two interested parties in the property. 9 I think it was through a listing agent. 10 Q. At some point did those turn into 11 substantive discussions involving CBC Partners I, 12 LLC, and a potential purchaser? 13 A. No. We stayed out of any purchase and sale 14 discussions. 15 Q. If we could turn to Exhibit 3. Tell me 16 whenever you're there. 17 A. Okay. 18 (Exhibit 3 marked.) 19 BY MS. BARRAZA: 20 Q. Does it say "Forbearance Agreement" at the 21 top? 22 A. Yes. 23 Q. And what do you understand this forbearance 24 agreement to be? 25 A. Essentially enables Jay Bloom to come into</p>
<p style="text-align: right;">39</p> <p>1 Q. Do you recall the approximate year? 2 A. I'm sorry. I don't recall. I would have 3 to look at my files. 4 Q. And what action did CBC Partners I, LLC, 5 take as a result of Kenneth Antos' business entities 6 defaulting on that note? 7 A. We were pushing him to sell the house 8 basically. 9 Q. And did CBC Partners I, LLC, understand 10 that Kenneth Antos and his wife, they lived at that 11 property; is that correct? 12 A. Yes. 13 Q. When you say they were pushing him to sell 14 the house, were letters sent, or how was CBC 15 Partners I, LLC, pushing him to sell the house? 16 A. I believe we had a notice of default sent 17 to him, and there were several telephonic 18 conversations regarding what to do with the house. 19 Q. Was CBC Partners I, LLC, actively involved 20 in attempting to sell the property? 21 A. No. 22 Q. Was CBC Partners I, LLC, involved in trying 23 to find potential buyers for the property or no? 24 A. No. 25 Q. How long was CBC Partners I, LLC, trying to</p>	<p style="text-align: right;">41</p> <p>1 the house, live there, pay us some consideration for 2 that, and we forbear for an agreed period of time. 3 Meanwhile, Mr. Bloom indicated he had 4 sources of liquidity that would most likely retire 5 our note plus the other notes on the property. 6 Q. Now, this is dated September 2017. Does 7 that sound right to you? 8 A. Yes. 9 MR. MUSHKIN: Can you give a Bates number, 10 please? 11 BY MS. BARRAZA: 12 Q. Page 1 of Exhibit 3. Do you see that? 13 A. Yes. 14 Q. Who drafted this forbearance agreement? 15 A. Vernon Nelson. 16 Q. Who is he? 17 A. An attorney in Las Vegas. 18 Q. Did CBC Partners I, LLC, have any 19 involvement in drafting or editing this forbearance 20 agreement? 21 A. I assume we had made some comments, but 22 most of the drafting was done by Vernon. 23 Q. Is CBC Partners I, LLC, contending that it 24 has ever held any other deeds of trust in the state 25 of Nevada aside from this deed of trust from this</p>

<p style="text-align: right;">42</p> <p>1 litigation?</p> <p>2 A. I'm not aware of any other deeds of trust</p> <p>3 in the state of Nevada.</p> <p>4 Q. Did CBC Partners I, LLC, have any</p> <p>5 discussions with Jay Bloom regarding this</p> <p>6 forbearance agreement back when it was being</p> <p>7 drafted?</p> <p>8 A. Yes.</p> <p>9 Q. Tell me about those.</p> <p>10 A. From a high level, it's as I just</p> <p>11 described. He came to us, said he had sources of</p> <p>12 liquidity including a fairly sizable judgment. He</p> <p>13 could live in the house, contribute to some of the</p> <p>14 expenses, and then that liquidity would retire our</p> <p>15 position as well as the other positions of the</p> <p>16 house.</p> <p>17 Q. Does CBC Partners I, LLC, have any</p> <p>18 recollection of the time period that this</p> <p>19 forbearance agreement was being discussed to the</p> <p>20 time that it was actually executed, how much time</p> <p>21 had passed?</p> <p>22 A. Approximately two to three months is my</p> <p>23 recollection.</p> <p>24 Q. Did CBC Partners I, LLC -- during the</p> <p>25 course of its discussions with Jay Bloom, did it</p>	<p style="text-align: right;">44</p> <p>1 question.</p> <p>2 THE WITNESS: I don't understand the</p> <p>3 question.</p> <p>4 BY MS. BARRAZA:</p> <p>5 Q. So why did CBC Partners I, LLC, not seek to</p> <p>6 regain its membership in Spanish Heights Acquisition</p> <p>7 Company after the property had already been</p> <p>8 transferred --</p> <p>9 MR. MUSHKIN: Same objection.</p> <p>10 THE WITNESS: I thought I explained the</p> <p>11 answer clearly before. We're a creditor. We're not</p> <p>12 an attorney.</p> <p>13 MR. MUSHKIN: Mind if I interject one</p> <p>14 question, Danielle?</p> <p>15 MS. BARRAZA: Sure.</p> <p>16 MR. MUSHKIN: Mr. Hallberg, were you ever</p> <p>17 asked -- before you were made a member, did somebody</p> <p>18 say to you, you know, sign this document. I'm going</p> <p>19 to be a member of SHAC?</p> <p>20 THE WITNESS: Can you rephrase the</p> <p>21 question, Mike?</p> <p>22 MR. MUSHKIN: Sure. Anybody tell you they</p> <p>23 were going to make you a member of SHAC?</p> <p>24 THE WITNESS: Yes.</p> <p>25 MR. MUSHKIN: How did that come about?</p>
<p style="text-align: right;">43</p> <p>1 represent that it held a valid deed of trust against</p> <p>2 the property with the power to sell the property?</p> <p>3 MR. MUSHKIN: Calls for a legal conclusion.</p> <p>4 I object.</p> <p>5 You can certainly answer.</p> <p>6 THE WITNESS: My answer would be we</p> <p>7 represented we had a third position on the property.</p> <p>8 BY MS. BARRAZA:</p> <p>9 Q. Now, at some point in this forbearance</p> <p>10 agreement and with its associated documents, was</p> <p>11 there discussion of CBC Partners I, LLC, obtaining a</p> <p>12 share in Spanish Heights Acquisition Company?</p> <p>13 A. Originally, yes.</p> <p>14 Q. Tell me about that.</p> <p>15 A. Mr. Bloom had assumed that he and his</p> <p>16 entities would have a third, Antos would have a</p> <p>17 third, and CBC I would have a third. I explained to</p> <p>18 Mr. Bloom we could not be an owner and a creditor,</p> <p>19 so we resigned.</p> <p>20 Q. Is there a reason why CBC Partners I, LLC,</p> <p>21 did not seek to regain its membership interest in</p> <p>22 Spanish Heights Acquisition Company after the</p> <p>23 property was transferred from the Antos Trust to</p> <p>24 Spanish Heights Acquisition Company?</p> <p>25 MR. MUSHKIN: Objection to the form of the</p>	<p style="text-align: right;">45</p> <p>1 THE WITNESS: I think through the original</p> <p>2 drafting of the documents. I believe Mr. Bloom had</p> <p>3 had some input into the original structuring of the</p> <p>4 deal. You know, once I saw the draft and it listed</p> <p>5 us as having a third of that, I said, No, we can't</p> <p>6 do that. So that was -- I believe -- again, this is</p> <p>7 the best of my recollection -- that Mr. Bloom had</p> <p>8 already formed the LLC and had us as a third owner,</p> <p>9 and that's when I told him, No, no, no. We need to</p> <p>10 resign.</p> <p>11 MR. MUSHKIN: Thank you. What I was trying</p> <p>12 to ask is did anybody ask you in advance before you</p> <p>13 saw it, and I think you answered that.</p> <p>14 THE WITNESS: Correct.</p> <p>15 BY MS. BARRAZA:</p> <p>16 Q. What is CBC Partners I, LLC, understanding</p> <p>17 of why it can't be a lender and an owner?</p> <p>18 A. Lender liability.</p> <p>19 Q. Now, does CBC Partners I, LLC, recall that</p> <p>20 associated with this forbearance agreement there was</p> <p>21 what's called a pledge agreement?</p> <p>22 A. Yes.</p> <p>23 Q. Tell me about what that was.</p> <p>24 A. My understanding is the pledge agreement</p> <p>25 pledges the owner interest in SHAC to CBC. And to</p>

46	48
<p>1 the extent the forbearance agreement is in default,</p> <p>2 that eventual payment is not made to retire our</p> <p>3 note, we call the pledge and take over ownership</p> <p>4 with SHAC.</p> <p>5 Q. Do you recall testifying at the preliminary</p> <p>6 injunction hearing that you did not see that SJC</p> <p>7 Ventures, LLC, was a signatory to that pledge</p> <p>8 agreement?</p> <p>9 A. That's correct.</p> <p>10 Q. And do you have any testimony otherwise</p> <p>11 today as you sit here today?</p> <p>12 A. No.</p> <p>13 MS. BARRAZA: I'm going to take a</p> <p>14 five-minute break if I can, and then we'll come</p> <p>15 back.</p> <p>16 (A break was taken.)</p> <p>17 BY MS. BARRAZA:</p> <p>18 Q. With respect to this forbearance agreement</p> <p>19 on Exhibit 3, what were CBC Partners I, LLC's</p> <p>20 obligations?</p> <p>21 A. I don't remember all of them. I know the</p> <p>22 primary obligations involve the payment to the first</p> <p>23 and second mortgages.</p> <p>24 Q. At some point the forbearance agreement was</p> <p>25 amended. Do you recall that?</p>	<p>1 261, and tell me whenever you're done.</p> <p>2 A. I'm done.</p> <p>3 Q. It looks like this email on 261 is Northern</p> <p>4 Trust claiming that there's an outstanding bill to</p> <p>5 cure the January, February, March, and April 2020</p> <p>6 past due bills. Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Now, does CBC Partners I, LLC, have any</p> <p>9 reason to dispute that those bills did become</p> <p>10 outstanding in those dates referenced?</p> <p>11 A. No reason, no.</p> <p>12 Q. And has CBC Partners I, LLC, since made</p> <p>13 those payments?</p> <p>14 A. We sold the note in early April, and we</p> <p>15 disclosed at the time we sold the note that there</p> <p>16 were payments owing on this mortgage.</p> <p>17 Q. So is it correct that CBC Partners I, LLC,</p> <p>18 did not make those payments for January, February,</p> <p>19 March, April 2020?</p> <p>20 MR. MUSHKIN: Objection to the extent it</p> <p>21 calls for a legal conclusion.</p> <p>22 THE WITNESS: Prior to the sale of the</p> <p>23 note, it was clear that those needed to be paid, and</p> <p>24 that was discussed with the buyer. So it was our</p> <p>25 assumption that the buyer would take care of it.</p>
47	49
<p>1 A. It was extended.</p> <p>2 Q. It looks like -- if you want to turn to</p> <p>3 Exhibit 4, tell me whenever you're there.</p> <p>4 A. Okay.</p> <p>5 Q. Is this what you recognize to be on</p> <p>6 Exhibit 4, the amendments extending the forbearance</p> <p>7 term?</p> <p>8 A. Yes.</p> <p>9 Q. Did CBC Partners I, LLC, perform all of its</p> <p>10 obligations with respect to making those payments to</p> <p>11 the first and second mortgage?</p> <p>12 A. Yes, we did.</p> <p>13 Q. If we could turn to Exhibit 12 and tell me</p> <p>14 whenever you're there.</p> <p>15 (Exhibit 12 marked.)</p> <p>16 THE WITNESS: Okay.</p> <p>17 BY MS. BARRAZA:</p> <p>18 Q. Exhibit 12, I'll represent to you, has been</p> <p>19 disclosed by the plaintiffs as an email between Jay</p> <p>20 Bloom and a representative of Northern Trust</p> <p>21 Company.</p> <p>22 A. Yes.</p> <p>23 Q. Have you ever looked at this email before?</p> <p>24 A. No.</p> <p>25 Q. I'll let you look through that first page,</p>	<p>1 BY MS. BARRAZA:</p> <p>2 Q. So I understand it's CBC Partners I, LLC's</p> <p>3 position that it was agreed, everybody was on the</p> <p>4 same page that the buyer would purchase it. I just</p> <p>5 want to clarify for the record that CBC Partners I,</p> <p>6 LLC, is not the entity that made those payments;</p> <p>7 correct?</p> <p>8 A. Correct.</p> <p>9 MR. MUSHKIN: I want to make the same</p> <p>10 objection. To the extent it calls for a legal</p> <p>11 conclusion, I'll object. I want to just reference</p> <p>12 the transfer document because I believe it may</p> <p>13 address that.</p> <p>14 BY MS. BARRAZA:</p> <p>15 Q. Now I want to go to the forbearance</p> <p>16 agreement. Did Spanish Heights Acquisition Company</p> <p>17 ever make any kind of payments to CBC Partners I,</p> <p>18 LLC?</p> <p>19 A. Yes.</p> <p>20 Q. Does CBC Partners I, LLC, have records of</p> <p>21 those payment transactions?</p> <p>22 A. Yes. I believe we provided that to</p> <p>23 counsel.</p> <p>24 Q. And have all of those transactions been</p> <p>25 produced in this litigation?</p>

50	<p>1 A. I would defer to counsel. I provided</p> <p>2 everything to Mike Mushkin.</p> <p>3 MS. BARRAZA: We'll just ask, to the extent</p> <p>4 there's any outstanding transactions that have not</p> <p>5 been produced, that those be produced.</p> <p>6 MR. MUSHKIN: Objection to the form of the</p> <p>7 question. You mean any evidence of those</p> <p>8 transactions is what you want produced; correct?</p> <p>9 MS. BARRAZA: If there is any evidence of</p> <p>10 any transactions between CBC and SHAC, we would want</p> <p>11 those transactions to be produced.</p> <p>12 MR. MUSHKIN: Thank you for the</p> <p>13 clarification.</p> <p>14 BY MS. BARRAZA:</p> <p>15 Q. So tell me about CBC Partners I, LLC's</p> <p>16 position as to what happened following the execution</p> <p>17 of this amended forbearance agreement.</p> <p>18 MR. MUSHKIN: Objection to the form of the</p> <p>19 question. Vague and ambiguous.</p> <p>20 THE WITNESS: What do you mean our</p> <p>21 "position"?</p> <p>22 BY MS. BARRAZA:</p> <p>23 Q. So was the forbearance agreement followed,</p> <p>24 or what happened with it?</p> <p>25 A. It basically matured. We extended it out</p>	52	<p>1 it.</p> <p>2 Q. Do you have any reason to dispute that the</p> <p>3 name of that entity is 5148 Spanish Heights, LLC?</p> <p>4 A. It sounds familiar, yes.</p> <p>5 Q. So tell me about how these conversations</p> <p>6 went with respect to Mr. Mushkin offering to</p> <p>7 purchase the property -- not the property, the note.</p> <p>8 A. I believe he originally approached</p> <p>9 Mr. Antos, and then Ken referred Mr. Mushkin to me.</p> <p>10 And he indicated -- asking what our position was.</p> <p>11 Do we want to continue on, or would we be willing to</p> <p>12 sell our position? I said we would be willing to</p> <p>13 sell our position. And at that point we started</p> <p>14 negotiating what that would look like in terms of</p> <p>15 price.</p> <p>16 Q. And what price was agreed upon?</p> <p>17 A. I don't have it in front of me. I'm sorry.</p> <p>18 I don't recall.</p> <p>19 Q. The approximate price?</p> <p>20 A. I think that document's been provided, the</p> <p>21 purchase and sale agreement. I think in the 3-plus</p> <p>22 million range.</p> <p>23 Q. CBC Partners I, LLC, did it obtain that 3</p> <p>24 million range or so? Did it obtain that money from</p> <p>25 5148 Spanish Heights, LLC?</p>
51	<p>1 to the end of March, and Mr. Bloom indicated he</p> <p>2 would not have liquidity to retire our note by that</p> <p>3 maturity date. So our position was, well, we could</p> <p>4 either, you know, enforce or sell. And we chose to</p> <p>5 sell the note.</p> <p>6 Q. So tell me about that. Tell me about how</p> <p>7 the decision to sell the note came about.</p> <p>8 A. I was approached by Mike Mushkin through</p> <p>9 Mr. Antos. Mike indicated if we were willing to</p> <p>10 sell, and we said yes. And we negotiated, and we</p> <p>11 sold.</p> <p>12 Q. And you negotiated with who?</p> <p>13 A. Mike Mushkin.</p> <p>14 Q. With anybody else?</p> <p>15 A. No.</p> <p>16 Q. And who did CBC Partners I, LLC, understand</p> <p>17 it was selling its note to?</p> <p>18 A. Mike Mushkin and/or the entity he was</p> <p>19 controlling.</p> <p>20 Q. Did CBC Partners I, LLC, conduct any kind</p> <p>21 of due diligence into that entity?</p> <p>22 A. No.</p> <p>23 Q. As you sit here today, do you know the name</p> <p>24 of that entity?</p> <p>25 A. I've heard it in the past. I don't recall</p>	53	<p>1 A. Yes.</p> <p>2 Q. When did it obtain that money?</p> <p>3 A. The end of the first week of April or part</p> <p>4 of the second week around that point. It was</p> <p>5 definitely the first half of April.</p> <p>6 MR. MUSHKIN: Of 2020?</p> <p>7 THE WITNESS: Yes, 2020.</p> <p>8 MR. MUSHKIN: Just trying to make the</p> <p>9 record nice and clear.</p> <p>10 BY MS. BARRAZA:</p> <p>11 Q. How was that 3 million or so dollars, how</p> <p>12 was that provided to CBC Partners I, LLC?</p> <p>13 A. Wire transfer.</p> <p>14 Q. If you can turn to Exhibit 19 and tell me</p> <p>15 whenever you're there.</p> <p>16 A. Okay.</p> <p>17 (Exhibit 19 marked.)</p> <p>18 BY MS. BARRAZA:</p> <p>19 Q. Have you ever seen Exhibit 19 before?</p> <p>20 A. Yes. I believe so.</p> <p>21 Q. I'll represent to you what Exhibit 19 is.</p> <p>22 It's CBC Partners I, LLC's responses to written</p> <p>23 discovery requests that the plaintiff Spanish</p> <p>24 Heights Acquisition Company has set forth. I want</p> <p>25 to turn your attention to Request Number 2, which is</p>

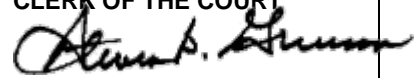
<p>54</p> <p>1 on page 3 of Exhibit 19. Tell me whenever you're</p> <p>2 there.</p> <p>3 A. Yes.</p> <p>4 Q. Now, if we can look at Request Number 2.</p> <p>5 It's asking for a copy of the payment, wire, check,</p> <p>6 or other for the purported purchase of Antos note.</p> <p>7 That's exactly what we're asking for. We're asking</p> <p>8 for that wire transfer you just mentioned.</p> <p>9 It looks like your answer was "CBC is in</p> <p>10 the process of obtaining documents responsive to</p> <p>11 this request." Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. What process has CBC Partners I, LLC,</p> <p>14 conducted?</p> <p>15 A. Just going through our accounting records.</p> <p>16 Q. Has it gone through those accounting</p> <p>17 records, and has it obtained that wire transfer?</p> <p>18 A. Yes. We have that.</p> <p>19 Q. And has that been produced in this</p> <p>20 litigation?</p> <p>21 A. Not to my knowledge.</p> <p>22 Q. Is there any reason why it can't be</p> <p>23 produced in this litigation?</p> <p>24 MR. MUSHKIN: Can I answer that question,</p> <p>25 please?</p>	<p>56</p> <p>1 you're there.</p> <p>2 A. Okay.</p> <p>3 (Exhibit 7 marked.)</p> <p>4 BY MS. BARRAZA:</p> <p>5 Q. Now, this Exhibit 7 is titled "Note</p> <p>6 Purchase and Sale Agreement." Have you even it</p> <p>7 before?</p> <p>8 A. Yes.</p> <p>9 Q. Tell me what CBC Partners I, LLC's</p> <p>10 understanding of what this document is.</p> <p>11 A. We are selling our position in the</p> <p>12 property.</p> <p>13 Q. Now, is this -- does CBC Partners I, LLC,</p> <p>14 understand it's selling the underlying note?</p> <p>15 A. Yes.</p> <p>16 MR. MUSHKIN: To the extent that it calls</p> <p>17 for a legal conclusion, I object. I'll actually</p> <p>18 also add your objection, that the document speaks</p> <p>19 for itself, although I never make that objection.</p> <p>20 But I want to do it once today.</p> <p>21 BY MS. BARRAZA:</p> <p>22 Q. If we look at Section B on the recitals on</p> <p>23 page 953, it mentions the secured promissory note</p> <p>24 dated June 22, 2012, and the ten modifications?</p> <p>25 A. Yes.</p>
<p>55</p> <p>1 MS. BARRAZA: Sure.</p> <p>2 MR. MUSHKIN: So I also have done the same</p> <p>3 thing on the other end of that wire and I have it</p> <p>4 today. I think Karen is going to lodge it with you.</p> <p>5 We wanted to try and get them together. In this</p> <p>6 world of electronic transfers, getting an actual</p> <p>7 document is not the easiest thing in the world to</p> <p>8 do.</p> <p>9 I actually think that Mr. Hallberg is</p> <p>10 referencing their internal document that</p> <p>11 acknowledges that they got it, not what you're</p> <p>12 actually asking for, which I went out and got on my</p> <p>13 end. And I will ultimately, if you still want it</p> <p>14 after receiving mine, ask him to go -- you get a</p> <p>15 little declaration from the -- mine is from the</p> <p>16 sending bank. His is from the receiving bank. I'd</p> <p>17 never known how to do this before today. That's the</p> <p>18 only reason I'm interrupting is because it was a</p> <p>19 whole process.</p> <p>20 MS. BARRAZA: Yeah. I mean, if there's</p> <p>21 also any internal kind of records evidencing that</p> <p>22 transfer, we would like it.</p> <p>23 BY MS. BARRAZA:</p> <p>24 Q. We can turn to the purchase and sale</p> <p>25 agreement. That's Exhibit 7. Tell me whenever</p>	<p>57</p> <p>1 Q. It says, Excluding that certain severed</p> <p>2 note in the amount of \$15,000. Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. What was that severed note again with the</p> <p>5 \$15,000? What was that about?</p> <p>6 A. I believe it dealt more with the</p> <p>7 restaurants.</p> <p>8 Q. Is it CBC Partners I, LLC's position that,</p> <p>9 aside from that severed note, it was transferring</p> <p>10 the secured promissory note and all the loan</p> <p>11 modifications to 5148 Spanish Heights, LLC?</p> <p>12 A. Yes.</p> <p>13 Q. All right. Who drafted this note purchase</p> <p>14 and sale agreement?</p> <p>15 A. I believe Mr. Mushkin.</p> <p>16 Q. And did -- who is the point person from CBC</p> <p>17 Partners I, LLC, working with Mr. Mushkin on this</p> <p>18 specific agreement, Exhibit 7?</p> <p>19 A. I was the point person.</p> <p>20 Q. And did you -- on behalf of CBC, did you</p> <p>21 have any edits or revisions to the note purchase and</p> <p>22 sale agreement that Mr. Mushkin had drafted?</p> <p>23 A. No.</p> <p>24 Q. Was anybody else involved in this note</p> <p>25 purchase and sale agreement?</p>

<p>58</p> <p>1 A. Conceptually, John Otter, my partner, as 2 well as the CBC board. But they did not review this 3 agreement during its negotiation. 4 Q. Now, it looks like this Exhibit 7 is dated 5 April 1, 2020. Do you see that? 6 A. Yes. 7 Q. It looks like it was signed on page 961. 8 Do you see that? 9 A. Yes. 10 MR. MUSHKIN: Counsel, you're referring -- 11 961 is Exhibit B. 12 THE WITNESS: 959. 13 MS. BARRAZA: Thank you. 959. 14 BY MS. BARRAZA: 15 Q. So it looks like the agreement is dated 16 April 1st, and it was signed by both parties on 17 April 3rd; is that correct? 18 A. Yes. 19 Q. After CBC Partners I, LLC, sold its notes, 20 did it have any other interest in the property? 21 A. No. 22 Q. Now, if we could turn to Exhibit 8, and 23 tell me whenever you're there. 24 A. Okay. 25 (Exhibit 8 marked.)</p>	<p>60</p> <p>1 (Exhibit 9 marked.) 2 BY MS. BARRAZA: 3 Q. This document appears to be a notice for 4 SJC Ventures, LLC, to vacate the property. Is that 5 your understanding of what this is? 6 A. Yes. 7 Q. This is dated April 3, 2020. It looks like 8 CBC Partners I, LLC, was cc'd on this. Did CBC 9 Partners I, LLC, authorize this notice to vacate 10 being sent out? 11 A. Yes. 12 Q. Why was it still taking actions with 13 respect to the property after it had already sold 14 its note? 15 A. We still had the provision that we're held 16 to via the purchase and sale agreement. So we still 17 have some responsibility with this transaction. 18 Q. You're stating here today that CBC 19 Partners I, LLC, authorized this April 3, 2020, 20 letter being sent out? 21 A. Yes. 22 Q. Does CBC Partners I, LLC -- is it still 23 responsible for servicing the note? 24 A. No. 25 Q. Going back briefly to the -- I think it was</p>
<p>59</p> <p>1 BY MS. BARRAZA: 2 Q. Have you ever seen this Exhibit 8 before? 3 A. Yes, I believe so. 4 Q. What do you understand this document to be? 5 A. It's a notice of default. 6 Q. It looks like it's saying this letter shall 7 serve as notice that on April 15, 2020, CBC 8 Partners I, LLC, will exercise its right under the 9 pledge agreement by transferring the pledge 10 collateral. Do you see that on the second 11 paragraph? 12 A. Yes. 13 Q. Now, at the time this document, this 14 letter, was sent on April 1, 2020, had CBC Partners 15 already sold its note? 16 MR. MUSHKIN: Objection. Asked and 17 answered I believe. 18 THE WITNESS: Yeah. I believe we had, yes. 19 BY MS. BARRAZA: 20 Q. You believe you had. Did CBC Partners I, 21 LLC, authorize this notice of default going out? 22 A. Yes. 23 Q. Let's turn to Exhibit 9. Tell me whenever 24 you're there. 25 A. Yes.</p>	<p>61</p> <p>1 Exhibit 7. I want to go back to the note purchase. 2 Is that the only agreement that was executed between 3 CBC Partners I, LLC, and 5148 Spanish Heights, LLC, 4 regarding the property? 5 A. Yes. I believe so. 6 Q. If we could go to Exhibit 13. Tell me 7 whenever you're there. 8 A. Okay. 9 (Exhibit 13 marked.) 10 BY MS. BARRAZA: 11 Q. Have you ever seen Exhibit 13 before? 12 A. I don't believe so. 13 Q. So you can look through it. It appears to 14 be a notice of default. On the first paragraph, it 15 looks like it says, Your loan with CBC Partners I, 16 LLC, is in default. Do you see that? 17 A. Yes. 18 Q. Do you see how it says, Because of this, 19 CBC Partners I, LLC, at its option without further 20 demand may invoke the power of sale and any other 21 remedies permitted by Nevada law? Do you see that? 22 A. Yes. 23 Q. Do you see this is dated July 2, 2020? 24 A. Yes. 25 Q. Does CBC Partners I, LLC, believe it has</p>

<p>62</p> <p>1 any -- does it believe it currently has any powers 2 to sell the property? 3 MR. MUSHKIN: Objection to the form of the 4 question to the extent it calls for a legal 5 conclusion. 6 BY MS. BARRAZA: 7 Q. You can answer. 8 A. No. We believe we sold the loan in April 9 of 2020. So the holder of that note has the ability 10 to do this, not CBC Partners I. 11 Q. Okay. So is it CBC Partners I, LLC's 12 position that as of the date of this letter, July 2, 13 2020, it did not have the power to sell the 14 property? 15 MR. MUSHKIN: Objection to the form of the 16 question. Vague and ambiguous. Asked and answered. 17 BY MS. BARRAZA: 18 Q. You can answer. 19 A. Yes. That's my assumption that we did not 20 have the ability to force a sale on July 2nd. 21 Q. Did CBC Partners I, LLC, personally 22 authorize this July 2, 2020, correspondence being 23 sent out? 24 A. No. 25 Q. I want to go to Exhibit 14. Tell me</p>	<p>64</p> <p>1 Partners I, LLC. 2 Q. Setting aside what the documents may state, 3 has CBC Partners I, LLC, had any conversations with 4 Kenneth Antos regarding the doctrine of merger? 5 A. No. 6 Q. And has CBC Partners I, LLC, had any 7 conversations with Kenneth Antos or with Spanish 8 Heights Acquisition Company regarding the one action 9 rule? 10 A. No. 11 Q. Does CBC Partners I, LLC, service any of 12 the other mortgages on the property? 13 A. No. 14 MR. MUSHKIN: Objection to the form of the 15 question. You don't mean payment. You mean service 16 in -- I'm actually going to go back. I'm not sure 17 what you mean by "service." 18 MS. BARRAZA: That's fine. We can just 19 strike that. 20 BY MS. BARRAZA: 21 Q. Tell me about CBC Partners I, LLC's history 22 of paying any HOA payments associated with the 23 property. 24 A. It was the responsibility of Mr. Bloom to 25 make sure that those payments were made. We did get</p>
<p>63</p> <p>1 whenever you're there. 2 A. Okay. 3 (Exhibit 14 marked.) 4 BY MS. BARRAZA: 5 Q. I assume you haven't, but have you ever 6 seen this Exhibit 14 before? 7 A. No. 8 Q. Do you have any idea what this document is 9 without looking at it at length? 10 A. No. 11 Q. Before we go to CBC Partners, LLC's 12 testimony, I want to get your testimony as to what 13 is CBC Partners I, LLC's relationship with CBC 14 Partners, LLC? 15 A. CBC Partners, LLC, is the general partner 16 and manager of the fund CBC Partners I, LLC. 17 Q. Has CBC Partners, LLC, been involved in any 18 of the underlying secured promissory note documents? 19 A. Yes. The credit committee and the board of 20 directors of the manager is at CBC Partners, LLC. 21 Q. Does CBC Partners I, LLC, have any personal 22 knowledge of CBC Partners, LLC, being a signatory to 23 any of the underlying promissory note documents? 24 A. Not to my knowledge. I assume these are 25 all signed on behalf of the lender of record, CBC</p>	<p>65</p> <p>1 a notice of intent to sell the property by the HOA 2 because of unpaid HOA dues. I discussed the issue 3 with Mr. Bloom. He said he would pay. He did not. 4 We got to within a day or two of the deadline, and 5 this CBC ended up making that payment. 6 Q. Tell me about any history that CBC 7 Partners I, LLC, has with paying any kind of 8 insurance on the property. 9 A. I believe that was for the account of 10 Mr. Bloom, not for CBC. 11 Q. CBC Partners I, LLC, do they have any 12 personal knowledge of any video footage being taken 13 regarding the property? 14 A. No. 15 Q. Has CBC Partners I, LLC, engaged in any 16 kind of communications with the HOA regarding the 17 property? 18 A. No. 19 Q. And did CBC Partners I, LLC, hire an 20 inspector to conduct a report regarding the 21 condition of the property earlier this year? 22 A. I believe that was done by Mr. Mushkin. 23 Q. Did CBC Partners I, LLC, pay for that 24 report? 25 A. No.</p>

<p>66</p> <p>1 Q. Did CBC Partners I, LLC, select the</p> <p>2 inspector?</p> <p>3 A. No.</p> <p>4 Q. Does CBC Partners I, LLC, have any input on</p> <p>5 the details of that report?</p> <p>6 A. No.</p> <p>7 MS. BARRAZA: I think I'm almost done. I</p> <p>8 just want to go off for two minutes to verify.</p> <p>9 Then --</p> <p>10 MR. MUSHKIN: Can I ask a few questions</p> <p>11 before you go off? Like three or four real quick?</p> <p>12 MS. BARRAZA: If you can just do yours when</p> <p>13 I'm done.</p> <p>14 MR. MUSHKIN: I thought you were done.</p> <p>15 MS. BARRAZA: I'm saying I want to go off</p> <p>16 for two minutes to verify I don't have anything</p> <p>17 else. At that point I'll verify if I do or if I</p> <p>18 don't. Then we can do yours if you guys are fine</p> <p>19 rolling right into CBC Partners I, LLC, after that.</p> <p>20 MR. MUSHKIN: You did Partners I.</p> <p>21 MS. BARRAZA: Just CBC Partners, LLC.</p> <p>22 MR. MUSHKIN: I just have a few questions.</p> <p>23 Very short.</p> <p>24 MS. BARRAZA: I'll be back in two minutes.</p> <p>25 Thanks.</p>	<p>68</p> <p>1 A. Yes. Mr. Bloom and I had that discussion</p> <p>2 during the negotiations where he indicated, if the</p> <p>3 liquidity doesn't come through for him, it's very</p> <p>4 simple. We enforce our rights, and we have the</p> <p>5 pledge of the membership interest in SHAC, and we</p> <p>6 basically take over the property.</p> <p>7 Q. And were you offered a security interest in</p> <p>8 the judgment that's described in the document as</p> <p>9 additional collateral for Mr. Bloom's performance?</p> <p>10 A. Yes. I believe so.</p> <p>11 Q. Do you believe that you disclosed all of</p> <p>12 the note and amendment terms to Mr. Bloom before he</p> <p>13 entered into the forbearance agreement?</p> <p>14 A. Yes.</p> <p>15 Q. Was there any information that Mr. Bloom</p> <p>16 asked you to produce for him that you did not</p> <p>17 produce?</p> <p>18 A. No.</p> <p>19 Q. Does CBC continue to assist in the</p> <p>20 collection of the note and deed of trust?</p> <p>21 A. Only insofar as we're living up to our</p> <p>22 indemnification provision and here in this</p> <p>23 deposition.</p> <p>24 Q. When Ms. Barraza asked you about servicing</p> <p>25 the note, do you know what she meant by that? What</p>
<p>67</p> <p>1 (A break was taken.)</p> <p>2 MS. BARRAZA: I'm concluding with my</p> <p>3 questions for today. However, with respect to the</p> <p>4 fact that we still have not received the evidence of</p> <p>5 the transfer, we are reserving our right to recall</p> <p>6 this deposition with respect to documents that we</p> <p>7 have requested that we still have not received.</p> <p>8 With that in mind, Mr. Mushkin, you can go</p> <p>9 ahead and do any questions that you have.</p> <p>10</p> <p>11 EXAMINATION</p> <p>12 BY MR. MUSHKIN:</p> <p>13 Q. Alan, did you ever discuss the doctrine of</p> <p>14 merger with Mr. Bloom?</p> <p>15 A. No.</p> <p>16 Q. Did you ever discuss the doctrine of merger</p> <p>17 with Mr. Antos?</p> <p>18 A. No.</p> <p>19 Q. Had you ever heard of the doctrine of</p> <p>20 merger before this case?</p> <p>21 A. No.</p> <p>22 Q. At the time that the pledge agreement was</p> <p>23 executed, did you believe that you were getting a</p> <p>24 hundred percent of the membership interest in SHAC</p> <p>25 as collateral for the forbearance agreement?</p>	<p>69</p> <p>1 did you think she meant by "servicing the note"?</p> <p>2 A. In its industry accepted terminology as the</p> <p>3 payment and collection agent for a mortgage, we are</p> <p>4 not acting as such.</p> <p>5 Q. But in regards to all things regarding the</p> <p>6 note and its collection, in terms of the</p> <p>7 foreclosure, you are assisting as you are requested;</p> <p>8 is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. Now, there's a lot of stuff about these</p> <p>11 notices. The note is between CBC I and the parties</p> <p>12 to the note; correct?</p> <p>13 A. Yes.</p> <p>14 Q. And nowhere does the note say 5148 as the</p> <p>15 maker of the note, does it?</p> <p>16 A. Correct.</p> <p>17 Q. So the note is properly referenced in terms</p> <p>18 of who the maker of the note is. Is that fair?</p> <p>19 MS. BARRAZA: Objection. Form.</p> <p>20 THE WITNESS: Yes.</p> <p>21 BY MR. MUSHKIN:</p> <p>22 Q. Now, on April 1st the documents were</p> <p>23 ready -- the testimony you earlier gave is that the</p> <p>24 documents were executed on April 3rd. Is that fair?</p> <p>25 A. Yes.</p>

70	72
<p>1 Q. And then the actual transfer of payment</p> <p>2 wasn't until April 6th?</p> <p>3 A. Yes.</p> <p>4 Q. And so the transaction doesn't close until</p> <p>5 April 6th; is that correct?</p> <p>6 MS. BARRAZA: Objection. Form.</p> <p>7 THE WITNESS: Yes.</p> <p>8 MR. MUSHKIN: That's all I have.</p> <p>9 MS. BARRAZA: I have a few more coming off</p> <p>10 of that.</p> <p>11</p> <p>12 FURTHER EXAMINATION</p> <p>13 BY MS. BARRAZA:</p> <p>14 Q. If we could go back to Exhibit 2, the</p> <p>15 secured promissory note documents. Did CBC</p> <p>16 Partners I, LLC, provide those documents to Jay</p> <p>17 Bloom while they were negotiating the forbearance</p> <p>18 agreement?</p> <p>19 A. I don't recall. If he had asked, I would</p> <p>20 have provided. But I don't recall if I provided it</p> <p>21 or not.</p> <p>22 Q. So as it sits here today, does it have any</p> <p>23 reason to dispute that those documents were not</p> <p>24 provided to Jay Bloom?</p> <p>25 MR. MUSHKIN: Objection to the form of the</p>	<p>1 not an attorney.</p> <p>2 MS. BARRAZA: I'll pass the witness.</p> <p>3</p> <p>4 FURTHER EXAMINATION</p> <p>5 BY MR. MUSHKIN:</p> <p>6 Q. Do you have any specific recollections of</p> <p>7 any questions arising in terms of the validity of</p> <p>8 the deed of trust from Mr. Bloom?</p> <p>9 A. None whatsoever.</p> <p>10 MR. MUSHKIN: No further questions.</p> <p>11 THE COURT REPORTER: Do you want a copy of</p> <p>12 this?</p> <p>13 MR. MUSHKIN: Yes.</p> <p>14 THE COURT REPORTER: Read and sign?</p> <p>15 MR. MUSHKIN: Sure.</p> <p>16 (Proceedings concluded at 11:24 a.m.)</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
71	73
<p>1 question.</p> <p>2 THE WITNESS: No reason to dispute. But,</p> <p>3 again, I will repeat myself, if he would have asked,</p> <p>4 he would have been given them.</p> <p>5 BY MS. BARRAZA:</p> <p>6 Q. And did CBC Partners I, LLC, provide to Jay</p> <p>7 Bloom any kind of disclosure that the Antos Trust</p> <p>8 was not a borrower under the underlying promissory</p> <p>9 note and was not a guarantor under the underlying</p> <p>10 promissory note?</p> <p>11 MR. MUSHKIN: Form.</p> <p>12 THE WITNESS: Please repeat that question.</p> <p>13 BY MS. BARRAZA:</p> <p>14 Q. So did CBC Partners I, LLC, ever disclose</p> <p>15 to Jay Bloom that the Antos Trust was not a borrower</p> <p>16 under the underlying secured promissory note?</p> <p>17 A. I don't believe I disclosed that, no.</p> <p>18 Q. And did CBC Partners I, LLC, disclose to</p> <p>19 Jay Bloom that the Antos Trust was not a guarantor</p> <p>20 on the underlying note?</p> <p>21 MR. MUSHKIN: Same objection as to</p> <p>22 requiring a legal conclusion.</p> <p>23 Answer if you can.</p> <p>24 THE WITNESS: Yeah, I don't believe that</p> <p>25 was disclosed. Again, I will disclose right now I'm</p>	<p>1 CERTIFICATE OF REPORTER</p> <p>2 STATE OF NEVADA)</p> <p>3)SS</p> <p>4 COUNTY OF CLARK)</p> <p>5 I, Holly Larsen, a duly certified court reporter</p> <p>6 licensed in and for the State of Nevada, do hereby</p> <p>7 certify:</p> <p>8 That I reported the taking of the deposition</p> <p>9 of the witness, Alan Hallberg, at the time and place</p> <p>10 aforesaid;</p> <p>11 That prior to being examined, the witness was by me</p> <p>12 duly sworn to testify to the truth, the whole truth,</p> <p>13 and nothing but the truth;</p> <p>14 That I thereafter transcribed my shorthand</p> <p>15 notes into typewriting and that the typewritten</p> <p>16 transcript of said deposition is a complete, true, and</p> <p>17 accurate record of testimony provided by the witness at</p> <p>18 said time to the best of my ability.</p> <p>19 I further certify (1) that I am not a relative</p> <p>20 or employee of counsel of any of the parties; nor a</p> <p>21 relative or employee of the parties involved in said</p> <p>22 action; nor a person financially interested in the</p> <p>23 action; nor do I have any other relationship with any</p> <p>24 of the parties or with counsel of any of the parties</p> <p>25 involved in the action that may reasonably cause my</p> <p>impartiality to be questioned; and (2) that transcript</p> <p>review pursuant to NRCP 30(e) was requested.</p> <p>IN WITNESS WHEREOF, I have hereunto set my hand</p> <p>in the County of Clark, State of Nevada, this 18th day</p> <p>of November, 2020.</p> <p align="right"><i>Holly Larsen</i></p> <p align="right">HOLLY LARSEN, CCR NO. 680</p>



TRO

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DISTRICT COURT

CLARK COUNTY, NEVADA

SPANISH HEIGHTS ACQUISITION
COMPANY, LLC, a Nevada Limited Liability
Company; SJC VENTURES HOLDING
COMPANY, LLC, d/b/a SJC VENTURES,
LLC, a Delaware Limited Liability Company,

Plaintiffs,

vs.

CBC PARTNERS I, LLC, a foreign Limited
Liability Company; CBC PARTNERS, LLC, a
foreign Limited Liability Company; 5148
SPANISH HEIGHTS, LLC, a Nevada Limited
Liability Company; KENNETH ANTOS AND
SHEILA NEUMANN-ANTOS, as Trustees of
the Kenneth & Sheila Antos Living Trust and
the Kenneth M. Antos & Sheila M. Neumann-
Antos Trust; DACIA, LLC, a foreign Limited
Liability Company; DOES I through X; and
ROE CORPORATIONS I through X, inclusive,

Defendants.

AND RELATED CLAIMS.

Case No.: A-20-813439-B

Dept. No.: ● XI

TEMPORARY RESTRAINING ORDER

The Court, having reviewed the application for temporary restraining order filed by Plaintiffs
Spanish Heights Acquisition Company, LLC and SJC Ventures Holding Company, LLC

1 (“Plaintiffs”), including all other pleadings, declarations, and affidavits on file herein, and for good
2 cause appearing, finds that this is a proper instance for a temporary restraining order to be issued and
3 that if defendants CBC Partners I, LLC, CBC Partners, LLC, and 5148 Spanish Heights, LLC
4 (“Defendants”) are not restrained and enjoined by order of this Court, Plaintiffs will continue to suffer
5 immediate and irreparable injury. Accordingly,

6 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the application for
7 temporary restraining order filed by Plaintiffs be, and the same is hereby GRANTED in a limited
8 fashion because the July 2020 Notice of Default did not correctly identify the current owner of the
9 Note.

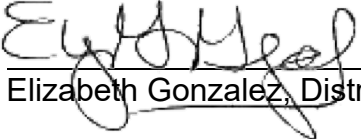
10 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants, together with
11 any and all of their affiliates, agents, employees, and attorneys, are immediately and until after the
12 hearing on Plaintiffs’ motion for preliminary injunction, ordered to vacate and not proceed with the
13 foreclosure sale currently set for January 5, 2021.

14 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that an evidentiary hearing on
15 the motion for preliminary injunction filed by Plaintiffs and trial on related legal issues will take place
16 on the 1st day of February 2021, at 1 p.m., in Department 11 of the above-entitled Court.

17 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiffs shall provide
18 appropriate security pursuant to NRCP 65(c) for the payment of such costs and damages sustained by
19 any party who is found to have been wrongfully enjoined or restrained in this action. This security
20 shall consist of the maintaining the status quo of the security that has previously been ordered by the
21 May 29, 2020 order granting Plaintiffs’ motion for preliminary injunction on a limited basis, which
22 includes the \$1,000 bond that Plaintiffs have already previously posted, in addition to plaintiff Spanish
23 Heights Acquisition Company continuing to tender payments which come due on the first mortgage
24 (to City National Bank) and the second mortgage (to Northern Trust Bank) while this injunction is in
25 place, although Plaintiff Spanish Heights Acquisition Company will not be required to make any
26 payments on any claimed third mortgage (to CBC Partners I, LLC or any purported transferee or
27 assignee of the Note associated with the third mortgage). Additionally, this security shall further
28 consist of Plaintiff Spanish Heights Acquisition Company paying the real property taxes, real property

1 insurance, and monthly HOA dues which come due while this injunction is in place. Plaintiff Spanish
2 Heights Acquisition Company's obligation hereunder does not include taxes, real property insurance,
3 or HOA dues that are incurred outside of the injunctive relief period. Likewise, Plaintiff Spanish
4 Heights Acquisition Company's obligation hereunder does not include the HOA fees that have been
5 imposed and that are subject to any lien that is being disputed through the Nevada Division of Real
6 Estate, but rather solely the outstanding monthly HOA assessments which come due during the
7 pendency of this Preliminary Injunction

8 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this temporary restraining
9 order shall remain in effect until the hearing on the motion for preliminary injunction, unless further
10 extended by order of this Court or stipulation of the parties.

11
12
13  January 5, 2021
14 Elizabeth Gonzalez, District Court Judge
15
16

17 Respectfully submitted,

Approved as to form and content:

18 **MAIER GUTIERREZ & ASSOCIATES**

MUSHKIN & COPPEDGE

19 /s/ Danielle J. Barraza

/s/ Michael R. Mushkin

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CBC Partners, LLC, 5148 Spanish Heights,
LLC, and Dacia LLC

Natalie Vazquez

From: Michael Mushkin <Michael@mccnvlaw.com>
Sent: Monday, January 04, 2021 4:14 PM
To: Danielle Barraza
Cc: Natalie Vazquez; Karen Foley
Subject: Re: Spanish Heights matter/ TRO draft

Danielle

Please submit this version with my electronic signature. The sale has been set off.

MRM

Sent from my iPhone

On Jan 4, 2021, at 4:03 PM, Danielle Barraza <djb@mgalaw.com> wrote:

Let me know if this version works and we will get it submitted.

Thanks,

Danielle J. Barraza | Associate
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Tel: 702.629.7900 | Fax: 702.629.7925
djb@mgalaw.com | www.mgalaw.com

From: Michael Mushkin <Michael@mccnvlaw.com>
Sent: Monday, January 04, 2021 1:25 PM
To: Danielle Barraza <djb@mgalaw.com>
Subject: Re: Spanish Heights matter/ TRO draft

Danielle

I am ok with order except #2. She did not order this only sale is enjoined until Feb 1 hearing. Issue of notice basis for TRO. No finding otherwise.

MRM

Sent from my iPhone

On Jan 4, 2021, at 12:48 PM, Danielle Barraza <djb@mgalaw.com> wrote:

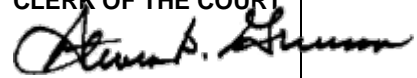
Michael, please review the order from this morning's hearing, let us know if we can affix your e-signature and submit.

Thanks,

Danielle J. Barraza | Associate
MAIER GUTIERREZ & ASSOCIATES
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<TRO re renewed motion for injunctive relief.docx>



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Attorneys for Defendants/Counterclaimants

DISTRICT COURT

CLARK COUNTY, NEVADA

SPANISH HEIGHTS ACQUISITION
COMPANY, LLC, a Nevada Limited Liability
Company; SJC VENTURES HOLDING
COMPANY, LLC, d/b/a SJC VENTURES,
LLC, a Delaware Limited Liability Company,

Plaintiffs,

v.

CBC PARTNERS I, LLC, a foreign Limited
Liability Company; CBC PARTNERS, LLC, a
foreign Limited Liability Company; 5148
SPANISH HEIGHTS, LLC, a Nevada Limited
Liability Company; KENNETH ANTOS AND
SHEILA NEUMANN-ANTOS, as Trustees of
the Kenneth & Sheila Antos Living Trust and the
Kenneth M. Antos & Sheila M. Neumann-Antos
Trust; DACIA, LLC, a foreign Limited Liability
Company; DOES I through X; and ROE
CORPORATIONS I through X, inclusive,

Defendants.

AND RELATED MATTERS

Case No. A-20-813439-B

Dept. No.: 11

Hearing Date: January 11, 2021

Hearing Time: 9:00 am

**REPLY IN SUPPORT OF
RENEWED MOTION TO DISMISS
FIRST AMENDED COMPLAINT AS
TO DACIA, LLC OR IN THE
ALTERNATIVE MOTION FOR
SUMMARY JUDGMENT**

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**REPLY IN SUPPORT OF RENEWED MOTION TO DISMISS FIRST AMENDED
COMPLAINT AS TO DACIA, LLC OR IN THE ALTERNATIVE MOTION FOR
SUMMARY JUDGMENT**

Dacia, LLC, by and through its attorney, Michael R. Mushkin, of the law firm of Mushkin & Coppedge, hereby submit its Reply in Support of Renewed Motion to Dismiss First Amended Complaint as to Dacia, LLC or in the Alternative Motion for Summary Judgment (the “Motion”).

This Reply is made and based upon the following Memorandum of Points and Authorities, the points and authorities set forth in the Motion the papers, pleadings, and records on file herein, and any and all arguments that may be allowed at the time of hearing of this motion.

POINTS AND AUTHORITIES

I. Summary

Plaintiffs’ only claim against Dacia arises out of Spanish Hills Community Association (“HOA”) fines and subsequent lien. Plaintiffs’ Opposition completely ignores the evidence presented, namely that the HOA found that fireworks were discharged on July 3, 4, 5, and 9, 2019. See Motion Exhibit B, specifically 5148SH 000592. As the Court is aware, Dacia did not become the owner of 5212 Spanish Heights Drive until July 19, 2019. See Motion Exhibit A. It is disingenuous of Plaintiffs to claim that Dacia is in anyway responsible for the July 2019 incidents. Further, for the Plaintiffs to claim that somehow Dacia is responsible for events that occurred prior to purchase is violative of this Court’s prior Ruling. In addition, the HOA specifically found that the fireworks were not authorized by the previous owner of 5212 Spanish Heights. See Motion Exhibit B, specifically 5148SH 000592.

Finally, as Plaintiffs and Jay Bloom (Plaintiffs’ representative) are quite aware, Michael Rhodes is responsible for the September 19, 2019, incident. See Motion Exhibit D Evidentiary Hearing Transcript, 216:6-14 and Exhibit E, Bloom Transcript Vol. 1 at 170:4-25. It is well known that Michael Rhodes and Mr. Bloom are quite friendly with each other and it is deceitful of Plaintiffs to claim that Michael Rhodes is Dacia.

II. Conclusion

Plaintiffs have not pled sufficient facts to support any of their claim against Dacia. Mere

1 recitation of legal elements and conclusions does not suffice, and the Complaint cannot pass even
2 the most basic scrutiny. Based on the reasons set forth herein and in the Motion, Dacia respectfully
3 requests this Court dismiss Plaintiffs claims against it in their entirety.

4 DATED this 5th day of January, 2021

5 MUSHKIN & COPPEDGE

6
7 /s/Michael R. Mushkin
8 MICHAEL R. MUSHKIN, ESQ.
9 Nevada Bar No. 2421
10 L. JOE COPPEDGE, ESQ.
11 Nevada Bar No. 4954
12 6070 South Eastern Ave Ste 270
13 Las Vegas, NV 89119

14 **CERTIFICATE OF SERVICE**

15 I hereby certify that the foregoing **Reply in Support of Renewed Motion to Dismiss**
16 **First Amended Complaint as to Dacia, LLC** was submitted electronically for filing and/or
17 service with the Eighth Judicial District Court on this this 5th day of January, 2021. Electronic
18 service of the foregoing document shall be upon all parties listed on the Odyssey eFileNV service
19 contact list:

20
21 /s/Kimberly C. Yoder
22 An Employee of
23 MUSHKIN & COPPEDGE
24
25
26
27
28

A-20-813439-B

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

January 11, 2021

A-20-813439-B Spanish Heights Acquisition Company LLC, Plaintiff(s)
vs.
CBC Partners I LLC, Defendant(s)

**January 11, 2021 9:00 AM Renewed Motion to Dismiss First Amended
Complaint as to Dacia, LLC or in the Alternative
Motion for Summary Judgment**

HEARD BY: Gonzalez, Elizabeth

COURTROOM: RJC Courtroom 03E

COURT CLERK: Dulce Romea

PARTIES None. Minute order only – no hearing held.

PRESENT:

JOURNAL ENTRIES

- Pursuant to Administrative Order 21-01 the Court decides this matter without the necessity of oral argument.

The Court, having reviewed the motion to dismiss and the related briefing and being fully informed, DENIES the motion. The Court declines to address the motion as a Motion for Summary Judgment. The Motion to Dismiss is DENIED as the claims are adequately plead. Counsel for Plaintiff is directed to submit a proposed order approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order.

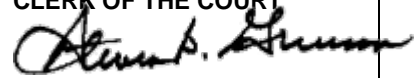
CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 2-1-21

PRINT DATE: 02/01/2021

Page 1 of 1

Minutes Date: January 11, 2021

AA3589



STIP

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DISTRICT COURT

CLARK COUNTY, NEVADA

SPANISH HEIGHTS ACQUISITION
COMPANY, LLC, a Nevada Limited Liability
Company; SJC VENTURES HOLDING
COMPANY, LLC, d/b/a SJC VENTURES,
LLC, a Delaware Limited Liability Company,

Plaintiffs,

vs.

CBC PARTNERS I, LLC, a foreign Limited
Liability Company; CBC PARTNERS, LLC, a
foreign Limited Liability Company; 5148
SPANISH HEIGHTS, LLC, a Nevada Limited
Liability Company; KENNETH ANTOS AND
SHEILA NEUMANN-ANTOS, as Trustees of
the Kenneth & Sheila Antos Living Trust and
the Kenneth M. Antos & Sheila M. Neumann-
Antos Trust; DACIA, LLC, a foreign Limited
Liability Company; DOES I through X; and
ROE CORPORATIONS I through X, inclusive,

Defendants.

AND RELATED CLAIMS.

Case No.: A-20-813439-B

Dept. No.: 11

**STIPULATION REGARDING LEGAL
ISSUES TO BE DECIDED BY THE COURT
AT BIFURCATED TRIAL COMMENCING
FEBRUARY 1, 2021**

As requested by the Court, in preparation for the bifurcated trial commencing on February 1,
2021, Plaintiffs/Counterdefendants and Defendants/Counterclaimants, by and through their respective

attorneys of record, hereby stipulate that the following unresolved legal issues should be adjudicated by the Court at the bifurcated trial:

- 1) Contractual interpretation and/or validity of the underlying “Secured Promissory Note” between CBC Partners I, LLC and KCI Investments, LLC and all modifications thereto;
- 2) Interpretation and/or validity of the claimed third-position Deed of Trust and all modifications thereto, and determination as to whether any consideration was provided in exchange for the Deed of Trust;
- 3) Contractual interpretation and/or validity of the Forbearance Agreement, Amended Forbearance Agreement and all associated documents/contracts;
- 4) Whether the Doctrine of Merger applies to the claims at issue; and
- 5) Whether the One Action Rule applies to the claims at issue.

Dated this 11th day of January, 2021.

Dated this 11th day of January, 2021.

Respectfully submitted,

Approved as to form and content:

MAIER GUTIERREZ & ASSOCIATES

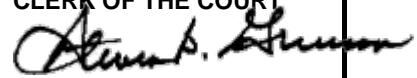
MUSHKIN & COPPEDGE

/s/ Danielle J. Barraza

/s/ Michael R. Mushkin

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*Attorneys for Defendants CBC Partners I, LLC,
CBC Partners, LLC, 5148 Spanish Heights,
LLC, and Dacia LLC*



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

SPANISH HEIGHTS ACQUISITION)
COMPANY LLC,)

Plaintiff,)

vs.)

CBC PARTNERS I LLC,)

Defendant.)

AND RELATED PARTIES)

CASE NO. A-20-813439-B
DEPT NO. XI

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

MONDAY, FEBRUARY 1, 2021

PRELIMINARY INJUNCTION HEARING AND TRIAL - DAY 1

APPEARANCES:

FOR THE PLAINTIFFS: JOSEPH A. GUTIERREZ, ESQ.
DANIELLE J. BARRAZA, ESQ.

FOR THE DEFENDANTS: MICHAEL R. MUSHKIN, ESQ.
L. JOE COPPEDGE, ESQ.

RECORDED BY: JILL HAWKINS, COURT RECORDER
TRANSCRIBED BY: JD REPORTING, INC.

I N D E X

Opening statement for the Plaintiffs by Mr. Gutierrez	7
Opening statement for the Defense by Mr. Mushkin	15

W I T N E S S E S

WITNESSES FOR THE PLAINTIFF:

KENNETH ANTOS

Direct Examination by Mr. Gutierrez	24
Cross-Examination by Mr. Mushkin	60
Redirect Examination by Mr. Gutierrez	69

ALAN HALLBERG

Direct Examination by Mr. Gutierrez	73
Cross-Examination by Mr. Mushkin	86
Redirect Examination by Mr. Gutierrez	92
Recross-Examination by Mr. Mushkin	95

E X H I B I T S

EXHIBITS ADMITTED:

1-113	5
115-129	5
132-145	6

1 **LAS VEGAS, CLARK COUNTY, NEVADA, FEBRUARY 1, 2021, 1:00 P.M.**

2 * * * * *

3 THE COURT: All right, guys. Are we all here? Are
4 we all ready?

5 MR. GUTIERREZ: Just waiting on Danielle. She's
6 supposed to be here.

7 THE COURT: So can I do my preliminary thing?

8 Joe, don't leave the room.

9 It's my understanding the parties have stipulated the
10 following legal issues surrounding the claims and counterclaims
11 are advanced for trial:

12 Contractual interpretation and/or validity of the
13 underlying secured promissory note between CBC Partners I, LLC,
14 and KCI Investments, LLC, and all modifications thereto;

15 Interpretation and/or validity of the claimed third
16 position deed of trust and all modifications thereto, and
17 determination as to whether any consideration was provided in
18 exchange for the deed of trust;

19 Contractual interpretation and/or validity of the
20 forbearance agreement, amended forbearance agreement and all
21 associated documents and contracts;

22 Whether the doctrine of merger applies to the claims
23 at issue;

24 And whether the one-action rule applies to the claims
25 at issue.

1 Is that accurate?

2 MR. MUSHKIN: Yes, Your Honor.

3 MR. GUTIERREZ: That's correct, Your Honor.

4 THE COURT: Okay. All right. Now, what do you want?
5 I did my housekeeping.

6 So thank you for your proposed findings. I looked at
7 them, and then I was able to glean that by reading them.

8 MR. MUSHKIN: Your Honor, I believe we have
9 stipulated all exhibits except one.

10 THE COURT: Okay.

11 MR. MUSHKIN: And I can't tell you that one -- well,
12 yes, I can.

13 (Pause in the proceedings.)

14 MR. MUSHKIN: I'm liable to pass out at any minute
15 with this mask on, but you never know -- a lack of oxygen.

16 THE COURT: We are required to wear the masks at all
17 times even when we're in our own private offices now.

18 MR. GUTIERREZ: I know.

19 (Pause in the proceedings.)

20 MR. MUSHKIN: 114, Your Honor.

21 THE COURT: 114?

22 MR. MUSHKIN: Yes.

23 THE COURT: Okay.

24 MR. MUSHKIN: And we've added deposition transcripts.
25 So we have the --

1 THE COURT: I don't admit deposition transcripts as
2 exhibits. We read them. So...

3 MR. MUSHKIN: I know. We have -- we just put them
4 there because we have the --

5 THE COURT: You have them marked.

6 MR. MUSHKIN: Yeah, we have the originals to publish.

7 (Pause in the proceedings.)

8 THE COURT: So 1 through 129 with the exception of
9 114 are admitted. Correct, Counsel?

10 MR. MUSHKIN: Yes. And then --

11 THE COURT: Wait. I need Joe to say yes.

12 MR. GUTIERREZ: That's correct, Your Honor.

13 THE COURT: Okay.

14 (Exhibit Number(s) 1-113, 115-129 admitted.)

15 THE COURT: Now.

16 MR. MUSHKIN: And then we have some others, Your
17 Honor, that I think will be stipulated in, and that starts at
18 132, and those are discovery responses and checks and recorded
19 instruments. And I don't think there's any objection to any of
20 those as well.

21 THE COURT: Mr. Gutierrez?

22 MR. GUTIERREZ: So for the record that would be 132
23 through 145, Counsel?

24 MR. MUSHKIN: Yes.

25 MR. GUTIERREZ: Yeah, no objection, Your Honor.

1 THE COURT: 132 through 145 will be admitted.

2 (Exhibit Number(s) 132-145 admitted.)

3 (Pause in the proceedings.)

4 THE COURT: That was easy.

5 So I know that you told me you thought you needed all
6 week. Do you still think you need all week?

7 MR. MUSHKIN: It really --

8 THE COURT: Pull your mask over your nose.

9 MR. MUSHKIN: It's --

10 THE COURT: Okay. I'm sorry. I'm the school police
11 or whatever, the hall monitor.

12 MR. MUSHKIN: Your Honor, it just depends on how long
13 it takes for Mr. Bloom to testify.

14 THE COURT: Okay.

15 MR. MUSHKIN: It was not easy during the --

16 THE COURT: Ms. Barraza, how are you doing?

17 MR. MUSHKIN: -- seven hours of deposition.

18 THE COURT: Ms. Barraza, it's nice to see you. I
19 hope you're doing okay.

20 MS. BARRAZA: Good afternoon, Your Honor.

21 THE COURT: If you need a break at any time, you let
22 us know. Okay?

23 All right.

24 MR. GUTIERREZ: So, Your Honor, we plan on getting
25 three witnesses. So I don't know --

1 THE COURT: I'm ready.

2 MR. GUTIERREZ: I don't know that it's going to last
3 longer than three days, but we're ready to start now.

4 THE COURT: Would anybody like to make an opening
5 statement since we've identified the issues that we have
6 advanced the trial on and for the preliminary injunction?

7 MR. GUTIERREZ: Yes, briefly, Your Honor.

8 THE COURT: Yes. Please remember, if you use the
9 lecturn you've got to come up and then wipe it down when you
10 leave.

11 MR. GUTIERREZ: Will do.

12 **OPENING STATEMENT FOR THE PLAINTIFFS**

13 MR. GUTIERREZ: Thank you, Your Honor. Joseph
14 Gutierrez and Danielle Barraza on behalf of Spanish Heights
15 Acquisition Company, LLC, SJC Ventures, LLC.

16 With us today is Jay Bloom on behalf of both
17 entities.

18 Your Honor, for purposes of this trial and I think in
19 this litigation we have been referring to the property at
20 issue, which is 5148 Spanish Heights Drive located in
21 Las Vegas, Nevada, ZIP Code 89148 as "the property" or "the
22 Spanish Heights property."

23 We've also been referring to Spanish Heights
24 Acquisition Company as "SHAC."

25 And then SJC Ventures just as "SJC."

1 THE COURT: You will confuse me if you call it SHAC
2 because I will think it is the Sapphires on Industrial Road
3 because that's the "SHAC" that we know.

4 MR. MUSHKIN: Oh, my.

5 THE COURT: As Joe mentioned, that was *SHAC versus*
6 *Eliades*.

7 MR. MUSHKIN: Oh, yes, it was.

8 THE COURT: So now we don't need to go through that.

9 MR. GUTIERREZ: We don't need any flashbacks, Your
10 Honor, on that one.

11 THE COURT: So, yeah, let's not call it SHAC. We're
12 going to call it "Spanish Heights."

13 MR. GUTIERREZ: Spanish Heights. Okay.

14 THE COURT: Yeah.

15 MR. GUTIERREZ: Your Honor, I just -- you've already
16 covered the issues for the bifurcated trial, but I wanted to
17 just go over a brief timeline, what I think the evidence will
18 show for this trial.

19 Your Honor, the evidence will show starting in -- on
20 April 16th, 2007, Ken and Sheila Antos, they purchased the
21 property in their individual capacity and owned it as joint
22 tenants. There was a deed of trust held by Colonial Bank.

23 Three years later, on October 14th, 2010, the
24 Antoses transferred the property to a trust that they held, The
25 Antos Trust.

1 And they'll testify, at least Mr. Antos will testify
2 that they transferred it based on advice for estate planning
3 purposes in the case of death. At that time they had a first
4 deed of trust on the property from City National Bank where
5 they pulled 3.62 million to build the house on the property.
6 And they also had a second deed of trust held by Northern
7 Trust, which was a HELOC on the property.

8 On June 22nd, two years later, 2012, a company
9 called KCI Investments, which Mr. Antos was the managing member
10 of, borrowed money for a commercial loan for a restaurant from
11 CBC Partners. KCI was in the business of operating
12 restaurants, and Mr. Antos has testified that they needed the
13 money for operating capital. There was a promissory note
14 executed for \$300,000. KCI provided restaurant property as
15 security, and the note was guaranteed by the Antoses in their
16 individual capacity.

17 The Antos Trust owned the property at the time;
18 however, they didn't pledge the property as security. The
19 Antos Trust was not an additional borrower under the KCI note,
20 and the Antos Trust was not a guarantor under the note.

21 From 2012 to 2016, Your Honor, there was 10
22 additional amendments to this KCI note:

23 It included more money being lent to KCI;

24 It included adding an additional borrower in the form
25 of a company called Dixie Funds;

1 And the note was continually secured by the Antoses
2 in their individual capacity;

3 None of the amendments added the Antos Trust as a
4 borrower;

5 And none of them added the Antos Trust as an
6 additional guarantor.

7 In December 2016, there was a forbearance agreement
8 entered into by the Antoses and CBC. And through that document
9 there was an attempt to add the property as security for the
10 note; however, there was no signed guarantee by the Antos
11 Trust, and there was no obligation for the trust to secure.

12 The evidence, Your Honor, will also show that there
13 was no consideration for the Antos Trust to pledge the deed of
14 trust on the property to CBC under their note.

15 And in 2017, Your Honor, Mr. Bloom on behalf of SHAC
16 purchased the property from the Antos Trust.

17 The evidence will show that originally Spanish
18 Heights Acquisition Company was going to be owned one third by
19 SJC Ventures, one third by the Antos Trust and one third by CBC
20 Partners.

21 The testimony of CBC will show that CBC resigned its
22 membership interest in Spanish Heights Acquisition Company in
23 2017 over lender-liability concerns. So Spanish Heights
24 Acquisition Company was owned 51 percent by SJC Ventures and
25 49 percent by the Antos Trust.

1 There was a forbearance agreement entered into in
2 September of 2017. Mr. Bloom was told that the trust properly
3 secured the CBC note; however, there's misrepresentations
4 within the forbearance agreement that the trust actually
5 guaranteed the note when, in fact, it did not.

6 There was a pledge agreement signed by the Antos
7 Trust pledging its interest to -- its interest in SHAC, or
8 Spanish Heights Acquisition Company, to CBC, and there was a
9 security agreement by SJC Ventures signed that pledged its
10 interest in a judgment that a company First 100, LLC, had -- it
11 actually pledged its assignment of its interest and any
12 proceeds from that judgment to CBC.

13 In December 2019, there was an amended forbearance
14 agreement entered into.

15 And in April 2020, Your Honor, CBC attempted to
16 foreclose on the property. They claimed default and attempted
17 to foreclose.

18 And what CBC then did is they acquired the Antos
19 Trust's 49 percent interest in Spanish Heights Acquisition
20 Company. That was on April 1st, 2020. There's a document
21 that the Antos Trust signed to give that interest over to CBC.

22 On April 6, 2020, CBC then sold its interest in the
23 KCI note to a company called 5148 Spanish Heights, LLC. The
24 evidence will show that that company is owned by Mr. Mushkin,
25 counsel for CBC, and it was funded by a person named Lorenzo

1 Russo (phonetic) through Mr. Mushkin's IOLTA account. That
2 company was formed in April of -- March or April of 2020. And
3 the purpose was to acquire the CBC commercial note and any
4 rights underneath.

5 Your Honor, you've already spelled out the five
6 issues that this trial is going to address.

7 What we'll prove is that the defendants, Your Honor,
8 have remedies; they just don't like them. There's money under
9 the note that's still due and owed by KCI and the Antoses
10 individually. The note is just not secured by the deed of
11 trust on the property.

12 CBC or any claimed successor in interest should
13 pursue the actual remedies they have against KCI and the
14 Antoses individually.

15 There were ways to structure this deal that would
16 have solved this problem, but they were never done:

17 The note could have been amended to add the Antos
18 Trust as an additional borrower or guarantor. That was never
19 done;

20 The trust could have transferred the property to the
21 Antoses individually so they had that property to pledge as
22 security, but that was never done.

23 Additionally, Your Honor, the evidence will show
24 there's no consideration for the obligation for the trust to
25 guarantee a debt for KCI or the Antoses.

1 And, Your Honor, we're going to ask the Court to find
2 that the note's valid with the exception of the attempt to
3 incorporate the property as security on that note, as the Antos
4 Trust again were never a borrower nor a guarantor on the note,
5 and the Antos Trust never received any consideration from CBC
6 for pledging the property under the deed of trust.

7 We're going to ask that Your Honor find that the
8 claimed deed of trust, third deed of trust position is invalid
9 because the guarantor Antos Trust is neither a borrower or a
10 guarantor and for lack of consideration.

11 We're also asking that the Court find the forbearance
12 agreement and the amended forbearance agreement is not valid
13 with respect to the attempt to incorporate an invalid third
14 deed of trust position into the agreement.

15 And, Your Honor, we're going to ask that the Court
16 find there's no foreclosure on the property, as it was not
17 pledged as security.

18 Your Honor, alternatively, if the Court finds that
19 the Antos Trust is liable as a guarantor for the KCI note,
20 we're going to ask that the Court apply the merger -- doctrine
21 of merger because CBC chose its remedy when it took the Antos
22 Trust's 49 percent interest in SHAC and its equity interest
23 (indiscernible) of the lien. Applying the doctrine of merger
24 would then eliminate its claimed lien on this collateral.

25 Additionally, Your Honor, we're asking that the

1 one-action rule apply as well to preclude any foreclosure
2 because again CBC elected its remedy in acquiring the equity
3 position of Antos Trust in Spanish Heights Acquisition Company.

4 And, Your Honor, we plan on presenting three
5 witnesses, the first of which would be Ken Antos, both in his
6 individual capacity and as the 30(b)(6) witness for the Antos
7 Trust. The next witness would be the 30(b)(6) witness for CBC
8 Partners, who I believe is Alan Hallberg, who is in court
9 today, and he'll be live. And then last we'd present Jay
10 Bloom, who would be the corporate representative on behalf of
11 SJC Ventures and Spanish Heights Acquisition Company.

12 Thank you, Your Honor.

13 THE COURT: Thank you.

14 And are the parties stipulating that you can do your
15 direct examination of a witness while the other person -- so I
16 don't have to call Mr. Bloom twice?

17 MR. GUTIERREZ: Oh, to exhaust his testimony, I would
18 like that, Your Honor.

19 THE COURT: Okay. All right.

20 MR. GUTIERREZ: Let me wipe down the counter.

21 THE COURT: Please wipe down.

22 (Pause in the proceedings.)

23 THE COURT: All right, Mr. Mushkin. Same spiel.
24 When you leave, you've got to wipe down. Okay?

25 MR. MUSHKIN: Yes, Your Honor.

1 THE COURT: All right. Thank you.

2 **OPENING STATEMENT FOR THE DEFENSE**

3 MR. MUSHKIN: First, Your Honor, I'd like to thank
4 you for sua sponte advancing the trial on the merits the way
5 you did. I discussed it at the very beginning. It seems like
6 the right way to go here.

7 What we're here for is a preliminary injunction, and
8 it is plaintiffs' burden to show that there's a likelihood of
9 success on the merits of their claim. They must do so with
10 competent and admissible evidence, and I say admissible
11 evidence, Your Honor, because you're going to be the gatekeeper
12 today for the parol evidence rule. Nowhere in any document are
13 these contracts viewed as ambiguous. There's no claim of this
14 interest rate is wrong; this number is wrong; that's -- no, no,
15 no, Judge, none of that. They're claiming that they were
16 tricked; they were misrepresented.

17 Plaintiffs' motion challenges the deed of trust
18 itself. Somehow Mr. Bloom believes there is legacy language
19 regarding the pledge of the membership interest of his company
20 even though both forbearances agreements are signed by his
21 company, even though all the documents talk about a hundred
22 percent pledge. The only spot in the documents that's ever
23 been challenged is that somehow Mr. Bloom didn't execute on
24 behalf of his company SJCV -- or SCJV. I inverse those letters
25 regularly. I apologize.

1 They challenged the deed of trust entered into years
2 before Mr. Bloom's arrival claiming a lack of consideration.
3 The record will show just the opposite, Judge. Mr. and
4 Mrs. Antos received exactly what they bargained for, the
5 extension of credit to their company. That is the
6 consideration bargained for. That is the consideration given.

7 In both of the forbearance agreements, Mr. Bloom
8 waives any defaults or defects. So I don't know where they can
9 come before this Court and how they can come before this Court
10 with this spurious claim.

11 Plaintiff is fully aware this is a commercial loan.
12 They say so in all their pleadings. Plaintiff does not
13 question the amount due, and plaintiff acknowledges that the
14 security is a third position deed of trust. They just want
15 this Court to rewrite the contract.

16 Plaintiffs' claims have been a moving target for us,
17 Your Honor. The complaint sounds in dec relief and contract.
18 The motion argues merger, the one-action rule and
19 consideration, and the testimony of Mr. Bloom claims fraud and
20 misrepresentation.

21 The one-action rule has been waived in writing,
22 Judge. Plaintiffs will not and cannot provide evidence to the
23 contrary. Cumulative remedies are specifically contracted for
24 between the parties. They can show no evidence to the
25 contrary.

1 The doctrine of merger, fascinating, Judge. The
2 doctrine of merger relates to title. I've been a practicing
3 real estate lawyer for 42 years, and there is no authority
4 cited. There is no authority given that the merger doctrine
5 would even affect the note. The merger doctrine, if it
6 applied, would apply when title and the lien become unanimity
7 of interest, where both are owned by the same party because you
8 can't owe yourself money, and the law goes all the way back to
9 the English system and about transfer of property.

10 In this case, the evidence is uncontroverted.
11 Mr. Antos on behalf of the trust transferred 49 percent of
12 Spanish Heights to CBC Partners. That was done pursuant to the
13 pledge agreement. At no time has the noteholder or any party
14 related to the noteholder come in to title. They are interest
15 holders in an LLC that is the title holder.

16 It's a particularly interesting theory, Judge, but
17 they skip a beat. They just skip one critical element of law,
18 and that is that title has to merge. Can't do that in this
19 situation. It would be as if any person that owned a part of
20 the debt on an MGM property and had stock in MGM corporate that
21 somehow that would extinguish those notes. It's the most
22 ludicrous proposition to think of.

23 Title is different than ownership of a company. They
24 have no authority to say otherwise.

25 The contracts are very clear, Judge. Now, their

1 latest theory, is misrepresentation, this fraud. I want to
2 address that very briefly, Judge, because fraud must be pled
3 with particularity and proven to a higher standard, clear and
4 convincing. The amended complaint is not verified. The
5 declarations of Mr. Bloom are void of facts that support this
6 claim. And this Court must look closely at this new defense,
7 this new theory, particularly in view of the parol evidence
8 rule and the veracity of Mr. Bloom.

9 The evidence will show a failure of performance by
10 the plaintiff, pure and simple. The documents are clear and
11 unambiguous.

12 The witnesses, as counsel has stated, there will be
13 three: Mr. Antos, Mr. Hallberg and Mr. Bloom.

14 Mr. Antos will tell you he owes the money.
15 Mr. Hallberg will tell you that Mr. Antos and his entities owe
16 the money. Mr. Bloom signed a contract agreeing to pay, and
17 the house was transferred to an entity to facilitate his
18 purchasing the house. The only problem is he hasn't paid for
19 the house.

20 Mr. Bloom in his deposition, Your Honor, said that
21 the documents speak for themselves 20 times when I questioned
22 him.

23 Mr. Bloom said he couldn't recall 51 times when I
24 questioned him, including who his attorney was for this
25 transaction.

1 And he even refused to answer or evaded answering too
2 many to count, Judge. I have stickers that represent all of
3 the questions that I have to go back and ask him because he
4 wouldn't answer them the first time.

5 Your Honor, the evidence will show that Mr. Bloom
6 violated your order. The evidence will show that the January
7 payment was not made until January 25th --

8 THE COURT: January 2021?

9 MR. MUSHKIN: '21, Your Honor.

10 THE COURT: Okay.

11 MR. MUSHKIN: And that no evidence of mailing has
12 ever been provided pursuant to the Court's order.

13 The other payments are erratic and not always on
14 time, but the January 1 is the most alarmingly late because I
15 started asking counsel on the 15th where the proof was.
16 Normally by the 11th they submit an update. They hadn't. I
17 asked. We've now found out why.

18 And, Judge, important perhaps more than anything
19 else, particularly given the opening statement is that the note
20 still exists. Well, Judge, if the note still exists and
21 Mr. Bloom and his companies owe it, because that's their
22 consideration for getting their 51 percent of Spanish Heights.
23 But for their promise to pay that debt, they would have no
24 ownership rights, no occupancy rights, none of that. So they
25 come before you claiming a lack of consideration for the Antos

1 Trust, a revocable living trust that has no separate existence
2 and exists for the benefit of the grantors, but they never paid
3 for their interest in Spanish Heights.

4 Your Honor, counsel is in error in his opening
5 statement on at least three statements that he made:

6 First, that the trust was not added as a borrower --
7 it was, and it's in our brief, and we will provide you that
8 exhibit. I don't have that number in front of me.

9 Second, that somehow lender liability was ever an
10 issue -- I mean, sorry, lender-liability concerns. That is
11 correct, not merger concerns, lender-liability concerns. I'm
12 sorry.

13 And, finally, Exhibit 14, Judge, is admitted and
14 uncontroverted, and that is the guarantee of the trust. So not
15 only did the trust become a creditor party, the trust became a
16 guarantor. That's Exhibit 14. It's already been admitted.

17 Your Honor, I think the Court has been very patient
18 with the plaintiffs through the course of this proceeding, and
19 I am thrilled that we now get to deal with the merits of their
20 claim.

21 Our request is that you deny the preliminary
22 injunction, vacate the TRO, find that notice of default and
23 election to sell are adequate, as this is a commercial note and
24 not subject to the terms of 107-point -- I apologize. I don't
25 have the quote, the residential sections of 107 -- and find

1 that the note and deed of trust are valid and enforceable as a
2 commercial obligation.

3 Your Honor, my last comment is that it should be
4 clear to the Court that what the plaintiffs want to do is steal
5 the house, pure and simple. They don't want to pay for the
6 obligation they contracted for. You cannot allow this to
7 happen, and I trust that you won't, Judge.

8 Thank you very much.

9 THE COURT: Thank you.

10 First witness.

11 MR. GUTIERREZ: Your Honor, we call Kenneth Antos.
12 He'll be remote.

13 THE COURT: Hold on. I'm looking at Jill.

14 (Pause in the proceedings.)

15 THE COURT: And for those of you who are in the
16 courtroom observing or the company representatives, if you want
17 to move around, as long as you stay spaced out, please feel
18 free to. If you need to get up and leave for a minute, fine.

19 If any of the counsel need a break, please let me
20 know. If you are not the counsel doing the questioning or
21 responsible for objecting, you can get up and leave any time
22 you want. But if you're in charge of objecting or asking
23 questions, we'll take a break for you.

24 MR. MUSHKIN: Your Honor, before we get started, just
25 two real quick things.

1 THE COURT: Yes, sir.

2 MR. MUSHKIN: First, obviously I neglected to
3 introduce Mr. Hallberg, who is seated slightly behind me.

4 THE COURT: I noticed he was there.

5 MR. MUSHKIN: You know Mr. Coppedge.

6 THE COURT: I gave Mr. Coppedge a hard time this
7 morning.

8 MR. MUSHKIN: Yeah, I understand that, Judge. I'm
9 fully expecting the same.

10 But finally, Mr. Coppedge will be available only
11 certain parts of the time. My paralegal will come in his
12 place.

13 THE COURT: It's okay.

14 MR. MUSHKIN: And Mr. Hallberg has to leave Thursday
15 afternoon.

16 THE COURT: He can leave any time he wants.

17 MR. MUSHKIN: He is not available on Friday, but I
18 don't think we'll need him.

19 THE COURT: I'm trying to say the only people who
20 have to be in this room are the lawyers, and I only need one
21 lawyer per side at all times, and it doesn't matter which
22 lawyer it is.

23 MR. MUSHKIN: Thank you, Judge.

24 MR. GUTIERREZ: Your Honor --

25 THE COURT: Good afternoon, Mr. Antos. Can you hear

1 us?

2 THE WITNESS: Yes, I can. Thank you.

3 (Indiscernible.)

4 THE COURT: We are all wearing masks here in the
5 courtroom, and so it may be difficult to hear the lawyers
6 asking you questions. If, for any reason, you can't hear him
7 or you don't understand what he said, please ask us to repeat
8 because we're trying to get your best information, and in order
9 to give that to us, you need to understand what we're asking
10 you. Okay?

11 THE WITNESS: I will.

12 THE COURT: All right. It's my understanding you've
13 consented to be sworn over the video line. If you could raise
14 your right hand, please.

15 **KENNETH ANTOS**

16 [having been called as a witness and being first duly sworn,
17 testified as follows:]

18 THE WITNESS: I do.

19 THE CLERK: Thank you. Please state and spell your
20 name for the record.

21 THE WITNESS: It's Kenneth Antos. K-e-n-n-e-t-h,
22 A-n-t-o-s.

23 THE COURT: Thank you, sir. And, sir, again, if you
24 need a break or anything at any time, you just let us know.
25 Okay?

1 THE WITNESS: I will.

2 THE COURT: All right.

3 Mr. Gutierrez.

4 MR. GUTIERREZ: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. GUTIERREZ:

7 Q Good afternoon, Mr. Antos. Can you hear me?

8 A Yes, I can. Good afternoon.

9 Q Okay. My name is Joseph Gutierrez. I'm the attorney
10 for the plaintiffs. If at any point you can't hear me or need
11 me to repeat a question, just let me know. Okay?

12 A I'll do that.

13 Q And, Mr. Antos, you have several documents in front
14 of you that are the exhibits in this case; is that correct?

15 A Yes, I do.

16 Q Okay. And you also have a copy of your deposition
17 transcript from when you were deposed in this case in November;
18 is that correct?

19 A Yes, I do.

20 Q Okay. Now, Mr. Antos, I just want to give the Court
21 some background information. Tell us, where are you currently
22 employed?

23 A I'm retired.

24 Q Okay. And give us an overview of your work history
25 over the last 20 years, Mr. Antos.

1 A Twenty years. Okay.

2 Well, I (indiscernible) I'm originally from upstate
3 New York, and I joined a company that became Circuit City as
4 the controller. And then subsequently they moved me to the
5 West Coast where I was the president of everything west of the
6 Mississippi for Circuit City.

7 I subsequently left there in 1991 and became involved
8 with the transaction involving cellular telephones, which I
9 sold in Walmart. I actually owned the departments that sold
10 them to the consumer.

11 Through that contact, I formed a company with a
12 couple of partners and brought Subway restaurants into Walmart.
13 So anywhere there is a Subway inside of a Walmart, it's a
14 result of that association with Walmart -- currently about 1800
15 to 2,000 Subways.

16 I did also have a opportunity as a result of my
17 contact with Walmart to open up a chain of dental offices
18 within their stores and got it up to about 29 or 30. And then,
19 of course, the pandemics became to be, and it was difficult to
20 get patients in. In fact, at some point, at points they
21 limited the patients coming in to zero. So we closed those.
22 We had to close those locations.

23 And then I decided I've had enough of this, and I'm
24 not working any at this point.

25 Q Mr. Antos, did you go to college?

1 A Yes, I did.

2 Q And did you graduate?

3 A Yes, I did.

4 Q What was your degree in?

5 A A BS in Accounting and a BS in business -- or an MBA
6 in Business Management.

7 Q Okay. So you did receive your MBA in business
8 management; is that correct?

9 A Yes.

10 Q Okay. Now, Mr. Antos, in the course of your career
11 as a businessman, have you had experience with loan agreements?

12 A Yes.

13 Q In the course of your career as a businessman, have
14 you had experience with security agreements or guaranties?

15 MR. MUSHKIN: Objection. Compound question.

16 THE WITNESS: Yes.

17 THE COURT: Overruled.

18 BY MR. GUTIERREZ:

19 Q Now, Mr. Antos, you're providing testimony today both
20 in your individual capacity and also as the 30(b)(6) witness,
21 or person most knowledgeable, for the Antos Trust; is that
22 correct?

23 A I believe so, yes.

24 Q Okay. And you've provided deposition testimony in
25 this case on behalf of yourself individually and the Antos

1 Trust; is that correct?

2 A Correct.

3 Q Okay. Are you currently the trustee for the Antos
4 Trust?

5 A Yes, I am.

6 Q And can you tell us what KCI Investments, LLC, was.

7 A KCI was engaged with operating fast food restaurants
8 and had a few different franchises that were under its, you
9 know, authority.

10 Q What was your involvement with KCI Investments?

11 A I was one of the original investors, and I was the
12 managing partner for the people involved with it.

13 Q What fast food restaurants did KCI Investments
14 operate?

15 A We operated Capriotti's. We operated Papa John's and
16 a couple of freestanding supper club kind of restaurants supper
17 club not being entertainment, but full meals here in Nevada,
18 Vegas for those two -- for the supper clubs.

19 Q Okay. And at some point, Mr. Antos, did KCI
20 Investments enter into a promissory note with CBC Partners?

21 A Yes.

22 Q And that was for a commercial loan for operating
23 expenses for the company; is that correct?

24 A That is correct.

25 Q Okay. And you have personal knowledge of that

1 promissory note between KCI Investments and CBC Partners; is
2 that correct?

3 A Yes.

4 Q Okay. And in addition to that promissory note
5 between KCI Investments and CBC Partners, there was also a
6 personal guarantee that you and your wife Sheila had signed; is
7 that correct?

8 A Yes.

9 Q Okay. Now I want to -- before we get into the loan
10 documents, I want to discuss, Mr. Antos, your purchase of the
11 property at 5148 Spanish Heights Drive. Okay?

12 A Okay.

13 Q Now, in this case, Mr. Antos, just so we're clear,
14 we're going to refer to that property as "the Spanish Heights
15 property" or "the property." Do you understand that?

16 A Yes.

17 Q Okay. Now, you and your wife bought the Spanish
18 Heights property on April 16th, 2007; is that correct?

19 A Yes.

20 Q And at that time the property was just raw land.
21 There was no house on it; is that correct?

22 A That is correct.

23 Q Okay. And, Mr. Antos, if you could turn to
24 Exhibit 17 in front of you, I want to show you the grant
25 bargain sale deed for that purchase. Okay. Hold on.

1 A What are we going to be looking at? Sorry.

2 Q Exhibit 17, tab 17.

3 A Okay.

4 Q Okay. And this is the Exhibit 17 which has been
5 admitted. This is the grant bargain sale deed for the purchase
6 of the Spanish Heights property by you and your wife
7 individually; correct?

8 A I believe this is it.

9 Q Okay. Now, Mr. Antos, a few years later, on October
10 14th, 2010, you and your wife then transferred the Spanish
11 Heights property to a trust, the Antos Trust; is that correct?

12 A I don't remember the exact date, but it did happen.

13 Q It did happen though; correct?

14 A Yes.

15 Q Okay. And you testified at your deposition the
16 reason you did that was for -- the reason you transferred the
17 Spanish Heights property was for estate planning reasons; is
18 that correct?

19 A That is correct.

20 Q Now, at some point you built the house that was on
21 the Spanish Heights property and took out a loan to build that
22 house; correct?

23 A Yes, I did.

24 Q Okay. And that loan was with the -- the first loan
25 was with City National Bank; is that correct?

1 A No.

2 Q I'm sorry. I couldn't hear you.

3 A There is a first loan that --

4 Ask that question again. I'm trying to answer it
5 accurately.

6 Q Okay. I'm sorry. Let me ask you this again.

7 When you built the house at the Spanish Heights
8 property, did you take out a loan for that project?

9 THE COURT: A construction loan?

10 THE WITNESS: Yes.

11 MR. GUTIERREZ: A construction loan.

12 THE WITNESS: Yes.

13 BY MR. GUTIERREZ:

14 Q And who did you get that loan from?

15 A Southwest Bank.

16 Q Okay. Did you also take out a HELOC or a second deed
17 of trust on the property?

18 A Eventually, yes.

19 Q And who was that with?

20 A Northern Trust.

21 Q Okay.

22 THE COURT: After you finished construction, did you
23 convert the loan to a first deed of trust?

24 THE WITNESS: From Southwest --

25 THE COURT: With a different bank?

1 THE WITNESS: From Southwest, yes.

2 THE COURT: And that was with what entity?

3 THE WITNESS: With City National.

4 THE COURT: Thank you. So you went from a
5 construction loan to a first loan, and then you had an
6 additional home equity loan?

7 THE WITNESS: That is correct.

8 THE COURT: All right. Thank you.

9 BY MR. GUTIERREZ:

10 Q Now, Mr. Antos, in June of 2012, KCI Investments took
11 out a commercial loan with CBC Partners; is that correct?

12 A What was your date?

13 Q In June of 2012.

14 A We did take out a loan with them, yes.

15 Q Okay. Now, you had said that KCI Investments needed
16 that loan for operating expenses; is that correct?

17 A Yes.

18 Q Okay. And KCI was the only borrower under that loan
19 with CBC Partners; is that correct?

20 A Correct.

21 Q Okay. Now, the terms of the KCI note -- loan were
22 reflected in a promissory note that you signed on behalf of KCI
23 Investments; correct?

24 A Yes.

25 Q Okay. And, Mr. Antos, if you could turn to

1 Exhibit 18, I just want to confirm that's the actual secured
2 promissory note?

3 A Hold on.

4 Okay. I'm looking at Exhibit 18.

5 As far as I know, this is it.

6 Q And, Mr. Antos, can you see the bolded numbers at the
7 bottom right-hand corner?

8 A Yes.

9 Q Okay. Those are what we call Bates numbers, and if
10 you could turn to where it says 5148SH 000238.

11 A Okay. So, yes. What was the number again, just to
12 make sure?

13 Q It was 238.

14 A Yes.

15 Q Do you have that in front of you?

16 A Yes, I do.

17 Q Okay. Is that your signature on behalf of KCI
18 investments for the promissory note?

19 A Yes.

20 Q Okay. Now, in addition to this promissory note, you
21 and your wife Sheila personally guaranteed the KCI loan in your
22 individual capacity; is that correct?

23 A Yes.

24 Q And if you turn to Exhibit 19, is that the guarantee
25 that you and your wife signed to secure the note?

1 A I believe so. Yes.

2 Q Okay. Now, in addition, you also pledged assets of
3 KCI investment to secure the note; is that correct?

4 A Yes.

5 Q Okay. And at the time, this is in June of 2012. The
6 Antos Trust was not a party to this agreement; correct?

7 A I believe that's correct.

8 Q And at the time, in June of 2012, the Antos Trust
9 owned the Spanish Heights property; is that correct?

10 A Yes.

11 Q Okay. Now, Mr. Antos, do you recall there being
12 several amendments to the KCI note?

13 A Yes.

14 Q Okay. How many amendments do you recall there being?

15 A There were several. I don't know the exact number.

16 Q And do you know the reason for those amendments?

17 A To obtain additional funding for the business.

18 Q So KCI needed additional funding for operating
19 expenses. So there was amendments to the note; is that
20 correct?

21 A Yes.

22 Q Okay. If you could go to Exhibit 21, Mr. Antos,
23 that's -- it's the first modification to the promissory note.

24 MR. MUSHKIN: Counsel, what one was that?

25 MR. GUTIERREZ: 21.

1 MR. MUSHKIN: Thank you.

2 THE WITNESS: Okay.

3 BY MR. GUTIERREZ:

4 Q And, Mr. Antos, this first modification to the
5 promissory note increased the maximum principal to \$2 million.
6 Do you see that on the first page at paragraph 2?

7 A After I look at it.

8 THE COURT: And that's on page 259?

9 MR. GUTIERREZ: Correct, Your Honor. Yes. 259.

10 THE WITNESS: Okay. I see it.

11 BY MR. GUTIERREZ:

12 Q Okay. Now, Mr. Antos, you again signed this document
13 on behalf of KCI Investments; is that correct?

14 A Yes.

15 Q Now, Mr. Antos, if you go to Exhibit 23, there's a
16 second modification to the promissory note.

17 A Okay.

18 Q And if you go to page 280, you signed this second
19 amendment to the promissory note on behalf of KCI Investments;
20 correct?

21 A Yes, I believe so.

22 Q Okay. And nowhere in this modification was the Antos
23 Trust added as an additional borrower; is that right?

24 A I don't know.

25 Q Did you hear my question, Mr. Antos?

1 A Yes. I answered you. I said I don't know.

2 Q Okay. If you go to page 280 on this Exhibit 23 -- do
3 you have that in front of you?

4 A Yes.

5 Q And that's a signature line for the borrower, which
6 is KCI Investments; correct?

7 A Yes.

8 Q Turn to the next page. There's a signature line for
9 the lender, which is CBC Partners I, LLC. Do you see that?

10 A Yes.

11 Q Is there any additional signature lines for the Antos
12 Trust?

13 A No.

14 Q And as the trustee of the Antos Trust, if you were to
15 sign on behalf of the Antos Trust, you would list that in a
16 signature; correct?

17 A Probably so.

18 Q Okay. If you go to Exhibit 24, this is a third
19 modification to the promissory note.

20 A Okay.

21 Q And if you go to page 284 -- do you have that in
22 front of you, sir?

23 A Okay. Yes.

24 Q Again, is there any signature line for the Antos
25 Trust on this document?

1 A No.

2 Q So the only borrower at this date is KCI Investments,
3 LLC; is that correct?

4 A Yes, I believe so.

5 Q Now, Mr. Antos, if you could go to -- let's go to
6 Exhibit -- go to Exhibit 33, which is a seventh modification to
7 the KCI note.

8 A Okay.

9 Q Do you have that in front of you, sir?

10 A Yes, I do.

11 Q Okay. Tell us who Preferred Restaurants Brand, Inc.,
12 also known as Dixie Foods International, Inc., tell us who that
13 company was.

14 A That was the successor company to KCI.

15 Q Was Preferred Restaurants Brand purchasing KCI? Is
16 that what was going on during this time frame?

17 A I believe that that's the eventuality that took
18 place.

19 Q Okay. Now, Preferred Restaurants Brand in the
20 seventh modification to the promissory note with CBC was added
21 as an additional borrower under the note; is that correct?

22 A I assume that that is correct, yes.

23 Q If you go to page 322.

24 A What page? I'm sorry.

25 Q 322. It's the very next page.

1 A I'm there.

2 Q And you see where it, under Section 2, where it says
3 joinder of Dixie?

4 A Yes.

5 Q And the first sentence under Section 2A says,

6 Dixie hereby agrees to be bound with KCI
7 on a joint and several basis as, quote,
8 "borrower," end quote, under the note, and
9 agrees to be bound by the provisions of the
10 note in its entirety as a signatory thereto
11 on the date of the note as borrower, and
12 Dixie shall comply with and be subject to and
13 have the benefit of and assumes and agrees to
14 be bound by all the terms, conditions,
15 covenants, agreements and obligations set
16 forth therein.

17 Do you see that?

18 A Yes.

19 Q Okay. So at this point, Dixie or Preferred
20 Restaurants Brand was added to the note as a borrower under the
21 CBC loan; correct?

22 A I believe that that's what this one is.

23 MR. MUSHKIN: To the extent it calls for a legal
24 conclusion, I would object. But factually I have no objection.

25 THE COURT: Overruled.

1 BY MR. GUTIERREZ:

2 Q Now, you had testified at your deposition that the
3 Antos Trust did not do any business with CBC; is that correct?

4 A I don't know what that means. We obviously we were
5 doing business with CBC in terms of these loans.

6 Q Well, let's back that up. You, on behalf of KCI
7 Investments were borrowing money from CBC; isn't that true?

8 A Yes.

9 Q And then you and your wife in your individual
10 capacity were guaranteeing that loan; correct?

11 A Yes.

12 Q But the Antos Trust, which held the Spanish Heights
13 property was not doing any business with CBC; correct?

14 A There was no business directly with them.

15 Q I can't hear you. I'm sorry.

16 A Correct.

17 Q Correct. Okay. So and you kept your trust separate
18 from your personal matters; correct?

19 MR. MUSHKIN: Objection to the form of the question.
20 Vague and ambiguous.

21 THE COURT: Can you rephrase your question.

22 MR. GUTIERREZ: Yes, Your Honor.

23 BY MR. GUTIERREZ:

24 Q You, as the -- your trust, the Antos Trust, you were
25 the trustee of that trust; correct?

1 A Yes.

2 Q And the property of the trust you held separate from
3 what you and your wife had individually; correct?

4 A Yes.

5 Q Okay. If you can go to -- we're on to the same
6 exhibit, Mr. Antos. It's page 332.

7 A 332. Okay. Hold on.

8 THE COURT: We're still on 33?

9 MR. GUTIERREZ: Yes, Your Honor.

10 THE COURT: Thank you.

11 THE WITNESS: Okay.

12 BY MR. GUTIERREZ:

13 Q Now, this is an acknowledgment and agreement of
14 guarantors, and it's signed by you and your wife individually;
15 correct?

16 A Correct.

17 Q Okay. And this acknowledgment and agreements of the
18 guarantors does not reference the Antos Trust; correct?

19 A I'd have to read through it, but I assume that that's
20 correct.

21 Q Now go to the next exhibit, which is Exhibit 34.

22 A Okay.

23 Q And this is a certificate of trust and existence of
24 authority. Do you see that?

25 A I guess it is.

1 Q Now, what was the purpose of this document,
2 Mr. Antos?

3 A I have no idea without, you know, looking at it and
4 reviewing it.

5 Q If you can just take your time and look it over and
6 let me know when you're done; I think it's a two-page
7 document -- three pages if you count the signature page. I
8 have a few questions on it.

9 A Okay. Go ahead. I think I can probably answer.

10 Q Okay. What was the purpose of the document, this
11 document we're looking at, Exhibit 34, Bate Number 334?

12 A Basically for me and the company to receive
13 additional funding. This document was prepared so that I could
14 get additional funding for the company.

15 Q When you say "the company," you're talking about KCI
16 Investments?

17 A No. I was talking about Preferred Restaurant Brands,
18 Inc., at this point I believe.

19 Q Understood. Because we've looked at the seventh
20 amendment that where it was a successor company. So the
21 company would be Preferred Restaurant Brands at this stage,
22 which is in, let's see, 2014; is that correct?

23 A I believe that's the date.

24 Q Okay. So in exchange for receiving additional
25 funding for Preferred Restaurant Brands, you and your wife

1 continued to guarantee the note; is that correct?

2 A Yes.

3 Q Did the trust, the Antos Trust receive any benefit
4 for the additional funding to Preferred Restaurant Brands?

5 A Well, to receive the funds for the business.

6 Q I'm sorry. I couldn't hear you.

7 A To receive the funds for the business, I had to sign
8 and create a third deed of trust.

9 Q Okay. Is there -- now, we're going to get the third
10 deed of trust. I'm talking about just for the additional
11 capital that Preferred Restaurant Brands received. Did the
12 Antos Trust receive any benefit from that?

13 A No, no cash or anything like that. No.

14 Q Now, you can go to -- if you can go to Exhibit 39,
15 Mr. Antos.

16 A Okay.

17 Q And this is the deed of trust that was signed, and
18 it's dated the December 17th, 2014. Do you see that?

19 A I'm trying to see the page with the signature.

20 Okay. I see the signature date -- I mean, the
21 signature page, but I don't see the date. Oh, yes, December
22 17th I believe.

23 Q And, Mr. Antos, just who was drafting -- who drafted
24 the original promissory note between KCI and CBC?

25 A CBC.

1 Q Okay. And who drafted all the amendments to the
2 promissory note?

3 A CBC.

4 Q And who drafted the guarantees to the note?

5 A CBC.

6 Q Did you have -- were you represented by any attorneys
7 during the time frame -- I'm sorry. Strike that.

8 Was KCI Investments represented by any attorneys to
9 help the company review the promissory note or the guarantees
10 during this time frame?

11 A I don't remember.

12 Q Okay. Were you or your wife --

13 A There may have been a review, but I'm not sure, for
14 sure positively.

15 Q Do you recall having any input on the documents and
16 making edits or changes to the documents prepared by CBC?

17 A Please ask that again.

18 Q Sure. Do you recall having -- making any edits or
19 changes to the loan documents that were drafted by CBC?

20 A I don't recall.

21 Q Now, Mr. Antos, this deed of trust you signed on
22 behalf of the Antos Trust for CBC; is that correct?

23 A Which one are you talking -- oh, yes, I believe so.

24 Q The one we're looking at on Exhibit 39.

25 A Yes.

1 Q And you were asked that at your deposition
2 specifically whether the Antos Trust ever received any type of
3 consideration in return for signing this deed of trust. Do you
4 recall that?

5 MR. MUSHKIN: Objection, Your Honor --

6 THE WITNESS: I do.

7 MR. MUSHKIN: -- calls for a legal conclusion.

8 THE COURT: -- overruled. Put your mask back on.

9 MR. MUSHKIN: I'm sorry. I was stretching.

10 THE COURT: It's okay.

11 BY MR. GUTIERREZ:

12 Q I'm sorry, Mr. Antos. What did you say?

13 A Please ask it again.

14 Q Sure. I said do you recall at your deposition being
15 asked whether the trust ever received any kind of consideration
16 in return for this deed of trust being signed?

17 A I recall a question of that nature where I thought
18 was directed to me about me, and I -- I was confused a little
19 bit at that point. I thought we were asking whether I was
20 receiving any compensation from Mr. Bloom. And that was not
21 the case.

22 MR. GUTIERREZ: Okay. Your Honor, can we publish
23 Mr. Antos's deposition?

24 THE COURT: You may.

25 How are you going to give it to him to look at?

1 MR. GUTIERREZ: He has a copy in front of him, Your
2 Honor.

3 THE COURT: Isn't that nice. Good job.

4 So is it okay with everyone? Do you stipulate that I
5 can publish the electronic version?

6 MR. MUSHKIN: Yes, Your Honor.

7 THE COURT: Okay. Dulce will do whatever it is she
8 has to do to publish the electronic one.

9 MR. GUTIERREZ: I have the original one here.

10 THE COURT: We are not supposed to take paper.

11 MR. GUTIERREZ: Oh, yeah. All right.

12 THE CLERK: I would love to, but Judge Bell...

13 THE COURT: No. Judge Bell said no, no paper.

14 THE CLERK: Sorry.

15 MR. GUTIERREZ: No problem.

16 BY MR. GUTIERREZ:

17 Q Mr. Antos, you have your deposition transcript in
18 front of you; correct?

19 A I have it here, yes.

20 THE COURT: You got to tell him where. He's got a
21 big book there.

22 BY MR. GUTIERREZ:

23 Q Can you go to -- turn the page to 69.

24 THE COURT: Tab 69?

25 MR. GUTIERREZ: Page 69 of the deposition transcript.

1 Oh, I'm sorry.

2 THE COURT: Hold on.

3 THE CLERK: Mr. Gutierrez, the one -- is there a two?

4 THE WITNESS: Hold on.

5 THE CLERK: September 23rd at 9:13 or at 11:00.

6 MR. GUTIERREZ: The 9:13.

7 THE CLERK: The 9:13.

8 MR. GUTIERREZ: Yes.

9 THE CLERK: Okay.

10 THE WITNESS: What are we trying to look at?

11 MR. GUTIERREZ: It's the transcript of your
12 deposition testimony, and it's on page 69.

13 (Pause in the proceedings.)

14 THE WITNESS: Okay.

15 BY MR. GUTIERREZ:

16 Q Okay. Go to line 15 on page 69. Do you see that?

17 A Yes.

18 Q And it says now -- the question is,

19 Now, do you have any recollection of the
20 trust ever receiving any kind of
21 consideration in return for this deed of
22 trust being signed.

23 Did I read that correctly?

24 A You read what's here, yes.

25 Q Yeah. And your response on line 20 was, The trust

1 specifically, no, I do not. No, I don't.

2 Is that correct?

3 A Yes.

4 Q So at this -- and today as you sit here, Mr. Antos,
5 testifying, did the trust receive any consideration for signing
6 this deed of trust to CBC?

7 A Is that a question?

8 Q Yes. Did the Antos Trust receive any consideration
9 for signing this deed of trust to CBC Partners in December
10 of 2014?

11 A I received the consideration in that the loan was
12 granted for this. And as trustee, I accepted the opportunity
13 to get that money.

14 Q Okay. When you say you received that, you received
15 that as far as Preferred Restaurant Brands or you individually?

16 A Well, Preferred Restaurant Brands under my authority.

17 Q Okay. How many -- you were the managing member of
18 Preferred Restaurant Brands; is that correct?

19 A Yes.

20 Q How many other members were part of that company?

21 A Members being defined as -- as corporate owners?

22 Q Yes.

23 A I have no idea. It was a public company --

24 Q So there were other owners; correct?

25 A -- I have no idea -- there were probably at least a

1 hundred other owners.

2 Q Now, were any of those other owners part of the Antos
3 Trust?

4 A No.

5 Q Okay. You also testified, Mr. Antos, that the Antos
6 Trust had no business relationship with CBC Partners. Do you
7 recall that?

8 A I just answered that as a positive to you a few
9 minutes ago.

10 Q Okay. So again that's still true today. The Antos
11 Trust had no business relationship with CBC Partners; correct?

12 A No direct, yes, that is correct.

13 Q Now, if we could go to Exhibit 50, Mr. Antos.

14 A Fifty -- five, zero?

15 Q Five, zero, yes.

16 A Hold on. Okay.

17 Q This is a -- do you have it in front of you, sir?

18 A Yes, I do.

19 Q This is a forbearance agreement dated December 2nd,
20 2016, between CBC Partners I and KCI Investments and Preferred
21 Restaurant Brands. Do you see that?

22 A If you say so. I haven't read through this since it
23 was done. So it probably is.

24 THE COURT: Sir, you can take a minute to read
25 through it if you want to familiarize yourself with it, at

1 least as much of it as you think you need to, and then let us
2 know when you're finished.

3 THE WITNESS: Okay. Well, I believe that I know the
4 intent of the document, not being able to read through this
5 specifically at this time because I think it takes a while to
6 read as many pages that are here, but in general it was
7 confirming the fact that I was going to get the other increase
8 in the loan from CBC.

9 BY MR. GUTIERREZ:

10 Q Okay. And this is in December of 2016. During this
11 time frame was KCI or Preferred Restaurant Brands able to pay
12 the note balance to CBC?

13 A Could you repeat that, please.

14 Q Yeah. During this time that this forbearance
15 agreement was signed in December of 2016, was KCI or Preferred
16 Restaurant Brands able to pay what was owed under the note?

17 A No.

18 Q And you said this agreement allowed you to borrow
19 additional money for the company?

20 A I believe so. The dates have -- I'm not quite
21 certain about the dates, but definitely what you said is in '16
22 they were unable to make the payment.

23 Q Now, during this time frame, did the Antos Trust have
24 any ownership of Preferred Restaurant Brands?

25 A No.

1 Q The ownership interest you held in Preferred
2 Restaurant Brands, how did you hold that, sir?

3 A In my name.

4 Q Now, Mr. Antos, do you recall in 2017 selling the
5 Spanish Heights property to Spanish Heights Acquisition Company
6 and Mr. Jay Bloom?

7 A There was no transaction that took place that was
8 finalized because Mr. Bloom never came up with the terms and
9 conditions of the purchase. So the answer to your question I
10 believe is no.

11 Q No, my question was do you recall that that loan --
12 or that transaction with Mr. Bloom and Spanish Heights
13 Acquisition Company.

14 A Please ask -- or answer -- I mean give me that
15 question again. I just didn't hear you.

16 Q Sure. Do you -- I'm just talking in general. Do you
17 recall the transaction in 2017 where the Antos Trust was going
18 to sell the Spanish Heights property to Mr. Bloom, one of
19 Mr. Bloom's entities?

20 MR. MUSHKIN: Objection to the form of the question.

21 THE WITNESS: I recall the --

22 MR. MUSHKIN: Misstates the evidence.

23 THE COURT: Overruled.

24 THE WITNESS: -- the intent was for that to happen.

25 THE COURT: Can you rephrase, but can you rephrase

1 your question, please.

2 MR. GUTIERREZ: Sure, Your Honor.

3 BY MR. GUTIERREZ:

4 Q Mr. Antos, just in general do you recall meeting with
5 Mr. Bloom to discuss selling the Spanish Heights property?

6 A I met with him once at your office I believe.

7 Q Okay. And what was discussed with Mr. Bloom during
8 this time frame?

9 A That he was to close on the property and receive the
10 cash to do that through a settlement of a judgment that he was
11 awarded or partially he owned from an individual who got the
12 largest Nevada judgment in history.

13 Q Do you recall signing documents related to selling
14 the Spanish Heights property during this time frame to Spanish
15 Heights Acquisition Company?

16 A Yes. I signed documents, but I don't know if they
17 were actually abided by by Mr. Bloom.

18 Q And who prepared the documents for this transaction?

19 A Probably your office.

20 Q My office?

21 A I believe so.

22 Q Okay. Are you sure?

23 A No, I'm not sure.

24 Q Okay. Who at my office prepared those documents,
25 sir?

1 A Are you asking me -- say that again. Ask me that
2 again.

3 Q Sure. Do you recall -- did you have an attorney
4 during this time frame in 2017 helping you with the
5 transaction?

6 A No.

7 Q Okay. Let's go to Exhibit 1, and we'll start with
8 that exhibit, sir.

9 A Okay.

10 Q Now, take a look at this document, Mr. Antos. And
11 it's a forbearance agreement dated September 27th, 2017.

12 A Okay.

13 Q Do you recall seeing this document?

14 A No.

15 Q Okay. If you can go to page 25 on this exhibit,
16 Mr. Antos.

17 A Okay.

18 Q Is that your signature on this page under where it
19 says Kenneth and Sheila Antos Living Trust?

20 A Yes. It says Kenneth Antos, trustee.

21 Q Okay. You signed this document as a -- you and your
22 wife signed it as trustee of the Kenneth and Sheila Antos
23 Living Trust; correct?

24 A Yes.

25 Q And you also signed it in your individual capacity.

1 Do you see that a few lines down?

2 A Yes.

3 Q Okay. Now, if you go back to page 1 of this
4 document...

5 A Okay.

6 Q It says in the very first paragraph that Kenneth
7 Antos and Sheila Neumann Antos, the K and S Trust; do you see
8 that?

9 A Yes.

10 Q Well, what was the K and S Trust?

11 A Whoever prepared the document used that as a
12 truncated description of the trust name.

13 Q How many -- well, it mentions two trusts. So I want
14 to clarify. It mentions the Kenneth and Sheila Antos Living
15 Trust that's defined as living trust. And then it mentions the
16 Kenneth Antos and Sheila Neumann Antos Trust, the K and S
17 Trust. Do you see that?

18 A I do.

19 Q What were the difference between those two trusts?

20 A I didn't -- in my mind I didn't have a difference.

21 Q Okay.

22 A I don't know why he did that.

23 Q Were you a trustee of two separate trusts, or was it
24 just one, and this may have been a typo?

25 A One.

1 Q Okay. Now, this paragraph goes on to state,

2 That Kenneth Antos and Sheila Neumann

3 Antos as trustees of the living trust and the

4 K and S Trust and as personal guarantors of a

5 secured promissory note.

6 At any point was the K and S Trust a guarantor of the
7 promissory note?

8 A In effect that the trust was under my jurisdiction,
9 yeah.

10 Q Okay.

11 A I believe that to be the case.

12 Q Okay. Mr. Antos, this transaction that you entered
13 into with Spanish Heights Acquisition Company, do you recall on
14 behalf of the trust obtaining a 49 percent ownership interest
15 in that company Spanish Heights Acquisition Company?

16 A I really don't remember. It's been a while, and I
17 don't know for sure.

18 MR. MUSHKIN: Your Honor, perhaps this might be a
19 good time to break?

20 THE COURT: Sir, are you okay taking a short break?
21 About ten minutes?

22 THE WITNESS: Yes. I'm fine.

23 THE COURT: Okay. All right. Ten minutes.

24 (Proceedings recessed at 2:20 p.m., until 2:24 p.m.)

25 (Pause in the proceedings.)

1 THE COURT: Mr. Antos, are you ready to resume?

2 THE WITNESS: Yes, I am.

3 THE COURT: All right. Mr. Gutierrez, do you
4 remember where you were?

5 MR. GUTIERREZ: I do. Thank you, Your Honor.

6 THE COURT: That would be lovely. Thank you.

7 BY MR. GUTIERREZ:

8 Q Mr. Antos, we were talking about the forbearance
9 agreement in Exhibit 1 before we took a break. Do you recall
10 that?

11 A Yes.

12 Q Okay. I think we also went to Exhibit 8, which was
13 the pledge agreement. Do you recall that?

14 A No.

15 Q If you could turn to --

16 A Do you need me to look at 8?

17 Q Okay. If you can go to Exhibit 8.

18 A Okay.

19 Q Do you recognize this document?

20 A No. I mean, it is (indiscernible) document. So do I
21 recognize it, no.

22 Q Mr. Antos, do you recall as part of your -- as part
23 of the Antos Trust selling the Spanish Heights property to
24 Spanish Heights Acquisition Company that you had received, you
25 meaning the trust, received a 49 percent membership interest in

1 Spanish Heights Acquisition Company?

2 A I remember the intent to do that, yes.

3 Q Okay. Do you also recall that you signed this pledge
4 agreement, and the intent was to transfer the interest from the
5 trust to CBC in the event of a default?

6 MR. MUSHKIN: Objection. Misstates the document,
7 Your Honor.

8 THE COURT: Overruled.

9 You can answer. And if you need time to look at the
10 document, you may.

11 THE WITNESS: Ask the question again, please.

12 BY MR. GUTIERREZ:

13 Q Okay. Let me ask you this. What's your
14 understanding of the pledge agreement?

15 A I'd have to read through it and -- hold on.

16 Well, CBC was a part of the -- held the third deed of
17 trust. So it involved the deed of trust, and you'll have to
18 talk to probably Alan Hallberg about the intent of what
19 happened here because I don't recall all of it. But they were
20 a party to -- to the transaction. So they did get me to sign
21 to get the situation so that the trust was a part of the -- was
22 a part of the transaction as far as the deed of trust goes.

23 Q Mr. Antos, do you recall transferring the Antos Trust
24 membership interest over to CBC?

25 A Do I recall? I'm sorry. Say that -- ask that again.

1 Q Yes. Do you recall transferring the Antos Trust
2 membership interest in Spanish Heights Acquisition Company over
3 to CBC?

4 A They were part of the crediting -- the creditor.
5 They were a creditor out here that (indiscernible) of the third
6 deed of trust, but I'm not quite sure how to answer you.

7 Q Could you go to Exhibit 81.

8 A Exhibit 81. Okay.

9 Q This is a document entitled assignment of company and
10 membership interest of Spanish Heights Acquisition Company,
11 LLC. Do you see that?

12 A Yes.

13 Q And the document is signed by you and your wife as
14 trustee of the Antos Trust; correct?

15 A Yes.

16 Q And what's your understanding of the purpose of this
17 document?

18 A Hold on.

19 I believe at the time that I believed that this
20 document helped to solidify the fact that CBC had a
21 continuation of the third deed of trust and that it
22 legitimized it with the trustee.

23 Q Mr. Antos, did anybody review this particular
24 document on your behalf before you signed it?

25 A No.

1 Q Okay. And as you understand --

2 A Other than --

3 Q Go ahead.

4 A No. No. Other than Mr. Hallberg may have indicated
5 that it was necessary.

6 Q What did Mr. Hallberg say it was necessary for?

7 A I can't remember back then. I have, you know, I
8 just -- I don't remember.

9 Q Okay. Now, Mr. Antos, if we can go back, I just want
10 to look at two documents -- well, we'll finish up here.
11 Exhibit 39 which we've looked at, which is the deed of trust,
12 if you could go to that document.

13 A 39?

14 Q Yes.

15 A Okay. 39.

16 Q Okay. And page 380 under 39.

17 A Okay. Hold on. Okay.

18 Q When you signed this document on behalf of the trust,
19 for the deed of trust on the property to go to CBC, was there
20 any guarantee that you had signed on behalf of the trust during
21 this time in 2014?

22 A I was subject to a guarantee of -- for the company at
23 this time in 2014.

24 Q And I understand that. I understand you were subject
25 to a guarantee on behalf of the company and on behalf of

1 yourself individually, but I want to be specific in that was
2 there any guarantee you signed on behalf of the Antos Trust in
3 2014 when you signed this deed of trust?

4 A I'm not sure.

5 Q Okay. Now, you subsequently three years later signed
6 a guarantee on behalf of the trust during the transaction with
7 Spanish Heights Acquisition Company. Do you recall that?

8 A No.

9 Q Go to Exhibit 14.

10 A Okay. I'm there.

11 Q And the date of this document is September 27th,
12 2017; is that correct, the first line?

13 A It doesn't say the date.

14 Q The first line, sir.

15 A It doesn't say -- it doesn't have a date on it.

16 Q Are you at Exhibit 14.

17 A Yes, I am. It says, This guarantee is given this
18 blank day of September.

19 THE COURT: September 27th, 2017.

20 THE WITNESS: It doesn't have a date on it.

21 THE COURT: Isn't it 27 written in your document?

22 THE WITNESS: I'm sorry. Yes, it is.

23 THE COURT: Okay. Trying to help.

24 BY MR. GUTIERREZ:

25 Q So does this personal guarantee agreement dated

1 September 27th, 2017, and this was three years after you had
2 signed the deed of trust on behalf of the Antos Trust; is that
3 correct?

4 A I assume so, yes.

5 Q Okay. And what was the purpose of this document?

6 A You know, I really don't remember. It was a
7 continuation of the guarantees.

8 Q Okay. And, sir, what guarantee do you believe was
9 continuing at this time in 2017?

10 A The guarantee of the payment to CBC.

11 Q From KCI and Preferred Restaurants; is that correct?

12 A Specifically under this document, I'm not sure, but
13 it's definitely me and my wife.

14 Q Okay. Did the Antos Trust ever receive any money
15 from CBC as part of the loan agreement?

16 A Personally, no.

17 MR. GUTIERREZ: I'll pass the witness, Your Honor.

18 THE COURT: Cross-examination.

19 MR. GUTIERREZ: Let me clean this.

20 THE COURT: Or direct.

21 Please wipe down.

22 Sir, give us a minute while we sterilize the lectern,
23 and then the next attorney will come up for questions.

24 THE WITNESS: Okay.

25 / / /

CROSS-EXAMINATION

BY MR. MUSHKIN:

Q Good afternoon, Mr. Antos. How are you today?

A I'm good. How are you?

Q Not too bad.

Mr. Antos, could you tell the Court how old you are?

A I am going on 79.

Q You were just directed to Exhibit 14; is that correct?

A Yes.

Q And that contains the guarantee of the Antos trust; is that correct?

A I believe it is.

Q If you look at the first page, it recites the various names that were used for the Antos Trust. Do you see that?

A Yes.

Q And at the time did you intend for the trust to be a guarantor of the note?

A Yes.

Q Now, everyone has -- or counsel has asked you a number of times if the trust were to benefit. Do you remember those questions?

A Yes.

Q And that was addressed in the documents; isn't that correct?

1 A It depends on which document. I don't know all of
2 the documents by heart because there's so many of them, but --

3 Q Let's take a look at Exhibit 34.

4 A -- (indiscernible), yes.

5 Do you want me to go to 34?

6 Q Yes, sir. And I'd like you to look at the second
7 page of that document, which is 5148 SH 000335.

8 A Okay. I'm there.

9 Q Take a look at that first paragraph:

10 The trust agreement has not been revoked
11 or modified.

12 Do you see that?

13 A I do.

14 Q And was that true at the time?

15 A Yes.

16 Q And it says provided the trustee is a grantor, any
17 one trustee may act or conduct business on behalf of the trust.
18 Do you see that?

19 A I do.

20 Q And was that true at the time?

21 A Yes.

22 Q The next paragraph says,

23 The deed of trust and lender's provision
24 of credit under the terms of the note will
25 directly and indirectly benefit the trust and

1 its beneficiaries.

2 Do you see that?

3 A I do.

4 Q Was that true at the time that you signed this
5 document?

6 A Yes.

7 Q And then the next provision says,

8 The trustees of the trust have the
9 authority to enter into the transactions with
10 respect to which the certificate is being
11 delivered, and such transactions will create
12 binding obligations on the assets of the
13 trust.

14 Do you see that?

15 A I do.

16 Q And did you believe that to be true when you signed
17 it?

18 A Yes.

19 Q And is that -- it was your intention at the time to
20 bind the trust; is that correct?

21 A Yes.

22 Q Okay. Now I'd like to take you for a moment and ask
23 you to look at Exhibit 50.

24 A Five, zero?

25 Q Five, zero.

1 It's entitled forbearance agreement; is that correct?

2 A I'm not there yet.

3 Yes, that is correct.

4 Q And what is the date on this agreement?

5 A The second day of December 2016.

6 Q And I'd like you to turn now to page 506.

7 A Okay.

8 Q Do you see that document entitled Consent,
9 Reaffirmation and General Release of the Trust?

10 A Yes.

11 Q And does that have your signature -- your signature
12 at the bottom?

13 A Yes.

14 Q And you recognize the lower signature as that of your
15 lovely wife?

16 A Yes.

17 Q I'd like to direct your attention to specifically to
18 provision V. It's the last sentence before the last paragraph.
19 It's the last sentence of the first paragraph starting with --
20 I'll read it to you:

21 Agrees to join in and be bound to the
22 terms of the representations and warranties
23 contained in Section 4 and 7 and the general
24 release contained in Section 8 of the
25 agreement applicable as though the trust were

1 a credit party.

2 Do you see that?

3 A Yes.

4 Q And was it your intention at the time in 2016 for the
5 trust to be bound as a credit party?

6 A Yes.

7 Q And I want to just go back to those provisions.

8 And the security interest is granted in Section 4 of
9 that agreement. Do you see it?

10 A No. Where are we looking?

11 Q Oh, I'm sorry. Page 2.

12 A Page 2 of?

13 Q Of Exhibit 50.

14 A Of Exhibit 50. Hold on.

15 Q I'm sorry. I'm actually pointing you to the wrong
16 one.

17 A Okay. Where do you want me to look?

18 Q Section 4 is on page 490.

19 A 490.

20 Q And that talks about the credit; is that correct?

21 A I'm not there yet.

22 Q Sorry.

23 A Okay. I'm at 490.

24 Q Do you see where it says Section 4?

25 A I'm not familiar.

1 Q And that section has a whole series of provisions; is
2 that correct?

3 A Let me look first. I need to look at it.

4 Q Sure.

5 A Yes.

6 Q And this is about a small portion of the note that
7 was sold; is that correct, about 15,000?

8 A What is the 15,000?

9 Q There came a time when CBC severed the note, took
10 15,000 and sold it to a third party. Do you recall that?

11 A No, I really don't.

12 Q Look at Section 3.1. Perhaps that will refresh your
13 recollection on page 5 of the note -- 5 of this document.

14 A Hold on. Let me read through it. Where is it?

15 Q 3.1.

16 A Oh. Yeah. All right. Hold on.

17 I do see it, yes.

18 Q So there was a time when there was a small portion of
19 this note broken out. Do you see that?

20 A I do.

21 Q Did you have any recollection before I pointed that
22 out to you, sir?

23 A No.

24 Q Okay. So now let's go to Section 7, and that says,
25 That each party has authority. Do you see that?

1 A Hold on. Okay. I'm on 7.

2 Q And that's representations and warranties; correct?

3 A Yes.

4 Q And 7, 1 sets out the authority of each credit party;
5 is that fair?

6 A Yes.

7 Q 7, 2 acknowledges that there was a default; is that
8 correct?

9 A Yes.

10 Q 7, 3, is the guarantor reaffirmations; is that
11 correct?

12 A Hold on.

13 Yes.

14 Q And then there's a general release of any claims of
15 default by CBC; is that correct?

16 A Yes.

17 Q Okay. Now, I'd like to turn your attention to 506
18 again.

19 A Page 506?

20 Q At the top it says, Consent, Reaffirmation --

21 A Yes.

22 Q -- and General Release of the Trust. Do you see
23 that?

24 A Yes, I do.

25 Q And I think we've gone over this, but your intention

1 was to enter into this contract to obtain additional credit for
2 your companies; is that correct?

3 A Yes.

4 Q Mr. Antos, are you the beneficiary of the Antos --
5 you and your wife the beneficiaries of the Antos Trust during
6 your lifetime?

7 A Yes.

8 Q Let's go to 50 for just one more quick moment. In
9 50, the first forbearance agreement, at page 3...

10 A Yes.

11 Q By October 31st of '16, the credit balance had
12 reached 2,950,000; is that correct?

13 A It's what it says, yes.

14 Q And there had been a default; is that correct?

15 A Yes.

16 Q You had already put up the deed of trust; is that
17 correct?

18 A Yes.

19 Q And at page 506, you consent, reaffirm and generally
20 release -- release the trust to CBC for any of those defaults
21 that may have occurred before that date; is that correct?

22 A Yes.

23 Q Did you ever have cause to notice a default to CBC at
24 any time in your relationship?

25 A Not that I can remember.

1 Q So in your deposition, you were asked about
2 consideration over and over again. Can you tell the Court what
3 the trust received from Mr. Bloom to get the house in the name
4 of SHAC and to get his interest in SHAC.

5 A Nothing that I'm aware of.

6 Q He made a bunch of promises in the operating
7 agreement, didn't he?

8 A Yes, he did.

9 Q Did he fulfill any of them?

10 A Not that I'm aware of.

11 Q Did you ever see a tax return for Spanish Heights?

12 A No.

13 Q Did you ever get a K-1?

14 A No.

15 Q Did you ever see a report as called out in the
16 operating agreement? Did you ever get a report from Mr. Bloom
17 on the activities of Spanish Heights?

18 A We had -- my wife and I had very little, if any,
19 association with Bloom. In fact, the last time we had a
20 session on the video she had to ask who that person was, and it
21 was Bloom.

22 Q You didn't even recognize --

23 A We got nothing from the guy.

24 Q And do you believe that CBC is owed the money that
25 was advanced --

1 A Oh, absolutely.

2 Q -- pursuant to the note and deed of trust?

3 A I wish he wasn't, but he is.

4 Q I'm sorry, sir. I didn't understand your --

5 A I said I wish he -- we didn't owe it to him, but we
6 do.

7 Q Oh, okay. And was it your intention upon entering
8 into these agreements to have Mr. Bloom retire the debt to CBC?

9 A Yes.

10 MR. MUSHKIN: No further questions, Your Honor.

11 THE COURT: Redirect?

12 MR. GUTIERREZ: Briefly, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. GUTIERREZ:

15 Q Mr. Antos, you had Exhibit 34 in front of you. Do
16 you recall -- do you have that in front of you still?

17 A I can get there. Do you want me to go to 34?

18 Q Yes.

19 A Okay.

20 Q And then on page 335, the second page of the
21 document, can you turn there.

22 A Okay. It's blank -- oh, no. Sorry. It continues on
23 the next page. Yes, 335.

24 Q The third paragraph that says,

25 The deed of trust and lenders provision

1 of credit under the terms of the note will
2 directly and indirectly benefit the trust and
3 its beneficiaries,

4 You talked about how you benefit, Mr. Antos, but how
5 did the trust benefit from this particular agreement?

6 A The trust benefited because it had the coverage of
7 the amount which was guaranteed to CBC, and it allowed us to
8 get the funding that was a part of the 2.95, I guess it was,
9 from CBC.

10 Q That allowed Preferred Restaurant Brands to get
11 additional funding; correct?

12 A Correct.

13 Q And but again the trust itself is separate from
14 Preferred Restaurant Brands; correct?

15 A The trust itself is separate from them, but the
16 responsibility of the trust is mine.

17 Q Mr. Antos, you have been asked about the 49 percent
18 membership interest in Spanish Heights Acquisition Company. Do
19 you recall that?

20 A Yes.

21 Q Did anybody at any point ever talk to you about the
22 doctrine of merger?

23 A Not that I'm aware of. I don't know what a doctrine
24 of merger is.

25 Q And I think that's what you testified during your

1 deposition. You did not know what the doctrine of merger was,
2 but do you recall --

3 A That's correct.

4 Q -- ever specifically waiving or signing a document to
5 waive the doctrine of merger in any of these documents?

6 A No.

7 MR. GUTIERREZ: Okay. All right. Thank you, Your
8 Honor.

9 THE COURT: Any further questions anybody have for
10 Mr. Antos?

11 (No audible response.)

12 THE COURT: Mr. Antos, thank you very much. Be well,
13 sir.

14 THE WITNESS: Thank you. You too.

15 THE COURT: Thank you. Have a nice day.

16 THE WITNESS: You too.

17 THE COURT: Next witness.

18 MR. GUTIERREZ: Your Honor, we'll call Alan Hallberg
19 (indiscernible) --

20 THE COURT: Sir, do you need a break before we get
21 started?

22 THE WITNESS: I'm okay.

23 THE COURT: All right.

24 MR. MUSHKIN: Hallberg.

25 MR. GUTIERREZ: Hallberg. I'm sorry.

1 MR. MUSHKIN: Your Honor, can I take a five-minute
2 break just briefly?

3 THE COURT: Yes, you may take a break.

4 (Pause in the proceedings.)

5 THE COURT: All right. 10 minutes.

6 (Proceedings recessed at 3:04 p.m., until 3:07 p.m.)

7 (Pause in the proceedings.)

8 THE COURT: Are you ready?

9 THE WITNESS: I'm ready.

10 THE COURT: You've got to stand up so we can swear
11 you in.

12 THE WITNESS: Okay.

13 THE COURT: Come on, Dulce. Swear him in.

14 **ALAN HALLBERG**

15 [having been called as a witness and being first duly sworn,
16 testified as follows:]

17 THE CLERK: Thank you. Please be seated. Please
18 state and spell your name for the record.

19 THE WITNESS: Alan Hallberg. A-l-a-n,
20 H-a-l-l-b-e-r-g.

21 THE COURT: Thank you, sir. And again if you need a
22 break at any time, you let me know. If you can't hear us
23 because we're all wearing masks, let me know and we'll tell you
24 if we can't hear you --

25 THE WITNESS: Yes, likewise, please.

1 THE COURT: -- because you're wearing a mask. Okay.
2 All right. Let's go, guys.

3 DIRECT EXAMINATION

4 BY MR. GUTIERREZ:

5 Q Good afternoon, Mr. Hallberg. What's your current
6 occupation?

7 A Chief Credit Officer, CBC Partners.

8 Q And how long have you worked with CBC Partners?

9 A Since November 2007.

10 (Pause in the proceedings.)

11 THE COURT: Okay. Keep going. The heck.

12 MR. GUTIERREZ: Are you ready, Judge?

13 (Pause in the proceedings.)

14 BY MR. GUTIERREZ:

15 Q Mr. Hallberg, you recall giving deposition testimony
16 in this case a few months ago on behalf of CBC partners;
17 correct?

18 A Yes.

19 Q Okay. And you're here today testifying again as the
20 corporate representative on behalf of CBC Partners; correct?

21 A Yes.

22 Q And you have knowledge of a transaction involving the
23 Spanish Heights property and Spanish Heights Acquisition
24 Company; correct?

25 A Yes.

1 Q And you also have personal knowledge of the loan
2 agreement and guarantee between CBC partners and
3 KCI Investments; correct?

4 A Yes.

5 Q And also the loan guarantees between the Antoses and
6 KCI -- and CBC; correct?

7 A Yes.

8 Q What's the difference between CBC Partners and
9 CBC Partners I?

10 A CBC Partners is the general manager or general
11 partner. CBC Partners I is the fund. So the fund is managed
12 by the general partner.

13 THE COURT: And are there limited partners in CBC I?

14 THE WITNESS: Yes. Yes. The investors are limited.

15 THE COURT: Just checking.

16 BY MR. GUTIERREZ:

17 Q And where is CBC Partners I domiciled?

18 A The state of Washington.

19 Q And what business does CBC Partners do in Nevada?

20 A We just have two loans in Nevada.

21 Q Now, Mr. Hallberg, you're familiar with the loan
22 documents in this case; correct?

23 A In general.

24 Q Okay. We have them in front of you, and I want to
25 start with the Exhibit 18, which is the secured promissory

1 note.

2 A Okay.

3 Q Were you involved with the negotiation of this
4 particular note?

5 A Yes.

6 Q Okay. Tell me, who were you dealing with on behalf
7 of KCI Investments?

8 A Primarily Mr. Antos.

9 Q Who else did you deal with?

10 A There was a middleman, an intermediary who introduced
11 the relationship. He was involved off and on, but it was
12 primarily Ken.

13 Q Okay. Did KCI Investments have legal counsel during
14 this time frame or during these agreements?

15 A I wasn't a lawyer. I was just working directly with
16 Ken, and I was working directly with my counsel. My counsel
17 did not interact with Ken. So I don't know. I assumed he had,
18 but I did not have any interaction with his counsel.

19 Q And was your counsel the person who was preparing the
20 promissory note and guarantees?

21 A Yes.

22 Q Okay. Do you recall Mr. Antos on behalf of KCI ever
23 having edits and sending you back to changes?

24 A He might have. My practice, and I know I did this
25 with Ken, is to ask for comments, and he typically had minimal

1 if any comments.

2 Q Okay. Now, this secured promissory note, which is
3 Exhibit 18, the borrower is KCI Investments, and the lender is
4 CBC Partners I; correct?

5 A Yes.

6 Q Okay. Now, the Antos Trust is not a borrower in any
7 way to this loan agreement; correct?

8 A Correct.

9 Q And in the 10 separate amendments that were done in
10 this transaction, the Antos Trust was never added as a
11 borrower; correct?

12 A That's my understanding.

13 Q Okay. And the Antos -- and I know you testified to
14 this in your deposition, but the Antos Trust was never added as
15 a guarantor as well; correct?

16 A Yes, that's my understanding.

17 Q Okay. Can you turn to Exhibit 34, Mr. Hallberg.
18 And you've seen this document before?

19 A Likely, yes, but I don't remember it in detail.

20 Q Okay. It's not signed by anyone at CBC Partners. So
21 do you recall the circumstances of this document being sent to
22 the Antoses?

23 A No. It was drafted by outside counsel.

24 Q And then when outside counsel would draft it, would
25 you be the person sending it directly to Mr. Antos for

1 signature?

2 A Yes.

3 Q Okay. Now, during this time frame, this is in --
4 well, can you tell me when this document was signed?

5 A December of 2014.

6 Q Okay. Now, what consideration did the Antos Trust
7 get for signing this agreement?

8 A They did not receive consideration.

9 Q Can you go to Exhibit --

10 MR. MUSHKIN: And to the extent that calls for a
11 legal conclusion, I object, Your Honor.

12 THE COURT: Okay. The witness can answer, but I
13 understand your legal position.

14 BY MR. GUTIERREZ:

15 Q Do you understand what consideration is, sir?

16 A Yes.

17 Q Okay. And how long have you been working with loan
18 agreements?

19 A Since 1988.

20 Q And you've been working with personal guarantees
21 about that long as well; correct, sir?

22 A Personal guarantees since approximately 1992.

23 Q Okay. If you can go to Exhibit 50.

24 Do you recall this forbearance agreement, sir, the
25 circumstances surrounding it?

1 A It's somewhat vague, but I recall, yes, some of it.

2 Q Okay. And again this was drafted by your counsel?

3 A Yes.

4 Q Okay. And if you could go to 506 under this exhibit.

5 Now, again, sir, did the Antos Trust receive any
6 consideration for signing this particular document to be bound
7 by the note with KCI?

8 A Only the Antoses individually.

9 Q Now, CBC Partners hasn't ever sued the Antos Trust
10 for defaulting on the KCI note in any way; correct?

11 A Correct.

12 Q And let's go to Exhibit 1, sir, which is the
13 forbearance agreement.

14 Now, do you recall the circumstances surrounding the
15 forbearance agreement details of '17 when Mr. Bloom on behalf
16 of Spanish Heights Acquisition Company acquired the property?

17 A Yes.

18 Q Okay. And again, sir, what was the purpose of this
19 document, Exhibit 1, this forbearance agreement?

20 A Through a Realtor hired by Ken Antos, Jay Bloom
21 approached CBC, and he asked us to forbear for a period of time
22 because he had liquidity that he was expecting to come inbound
23 within 18 months or so. And the purpose was we would stall any
24 action on loan enforcement while Mr. Bloom, you know,
25 accumulates his liquidity and pays off our note.

1 Q Okay.

2 THE COURT: And the liquidity was related to a
3 judgment?

4 THE WITNESS: Various things, but that was one of
5 them.

6 THE COURT: Okay. Thank you.

7 BY MR. GUTIERREZ:

8 Q And were you the one on behalf of CBC Partners
9 negotiating the terms of these agreements with Mr. Bloom?

10 A Yes.

11 Q And who was representing CBC during this time frame?

12 A Vernon Nelson.

13 Q Okay. He was your Nevada counsel on this?

14 A Yes.

15 Q Okay. And did the Antoses have counsel during this
16 time frame in 2017 for this transaction?

17 A Not to my knowledge, but I would defer to Ken Antos.

18 Q Okay. Now, Mr. Hallberg, do you -- let's go to
19 Exhibit 8 first.

20 A I'm sorry. Which one?

21 Q Exhibit 8, the pledge agreement.

22 Do you recall the circumstances surrounding the
23 pledge agreement with the Antos Trust?

24 A Yes.

25 Q Okay. And I think originally the memberships

1 ownership structure of Spanish Heights Acquisition Company was
2 going to be a third to SJC Ventures, a third to the Antos
3 Trust, and a third to CBC Partners; is that correct?

4 A I had never agreed to that. Mr. Bloom had gone and
5 done that without consent from me.

6 Q Okay. So then at some point did CBC Partners resign
7 its membership interest in Spanish Heights Acquisition Company?

8 A Yes. Yes.

9 Q And I think at your deposition you were concerned
10 about lender liability laws --

11 A Yes.

12 Q -- about having a membership interest in Spanish
13 Heights Acquisition Company; is that correct?

14 A That's correct.

15 Q Okay. And specifically what lender liability laws
16 were you concerned about on behalf of the company in having a
17 membership interest for SHAC?

18 MR. MUSHKIN: Objection to the extent it calls for a
19 legal conclusion.

20 THE COURT: Overruled.

21 THE WITNESS: In general as a lender I want to remain
22 a lender. I don't want a conflict of interest by taking action
23 on a loan as a lender and having an ownership interest.

24 BY MR. GUTIERREZ:

25 Q Okay. And are you aware of what the doctrine of

1 merger is?

2 A No.

3 Q Okay. Now, if CBC had to resign its membership
4 interest in Spanish Heights Acquisition Company in 2017 because
5 of lender liability issues, how could it in April of 2020 take
6 over the Antos Trust 49 percent interest in Spanish Heights
7 Acquisition Company?

8 MR. MUSHKIN: Objection.

9 THE WITNESS: You said, I'm sorry, April of 2020?

10 MR. GUTIERREZ: Yes.

11 MR. MUSHKIN: To the extent it calls for a legal
12 conclusion, I object.

13 THE COURT: Overruled.

14 THE WITNESS: That's part of the enforcement, and
15 that was always the understanding. The membership interest the
16 property was put into -- sorry, Your Honor -- SHAC.

17 THE COURT: It's okay. You just give me flashbacks.

18 MR. GUTIERREZ: She's getting flashbacks.

19 THE COURT: To the showgirls coming in for the
20 auction.

21 THE WITNESS: I really didn't mean that. I'm from
22 Washington. I have no idea what you're talking about.

23 THE COURT: Okay. Good.

24 (Pause in the proceedings.)

25 THE WITNESS: So I'd had a discussion with Mr. Bloom

1 the summer of 2017 how to structure this. It was understood
2 the property would be in a legal entity. There would be member
3 interest pledged. And to the extent that the forbearance
4 agreement matured and there was no payment to the loan, it
5 would be very simple to just foreclose on the member interest,
6 which is what we did with Mr. Antos.

7 BY MR. GUTIERREZ:

8 Q Okay. So as you sit here today, you don't dispute
9 that CBC Partners foreclosed on the 49 percent interest that
10 the Antos Trust held in SHAC; correct?

11 A It was the result of the forbearance agreement
12 mature, yes.

13 Q I understand. But I just want to make sure we're
14 clear that the actual -- that CBC Partners foreclosed on the
15 membership interest of the Antos Trust in Spanish Heights
16 Acquisition Company; isn't that true?

17 A It is --

18 MR. MUSHKIN: Objection to the --

19 THE WITNESS: It is not a --

20 MR. MUSHKIN: -- form of the question.

21 THE COURT: The objection is sustained.

22 THE WITNESS: Yeah.

23 MR. MUSHKIN: Thank you, Your Honor.

24 THE WITNESS: It's not a --

25 THE COURT: Sir, don't answer.

1 MR. GUTIERREZ: There's no question.

2 THE WITNESS: Yeah. I'm not an attorney.

3 BY MR. GUTIERREZ:

4 Q Okay. But you said that there was a foreclosure by
5 CBC partners.

6 A It was an enforcement. I'm sorry.

7 Q Okay.

8 A Per the terms of the forbearance agreement, if it
9 matured and nothing was paid, the membership interest would
10 revert to CBC.

11 Q Okay. And then Mr. Antos on behalf of the Antos
12 Trust signed a document reverting that interest over to CBC --

13 A Yes.

14 Q Correct?

15 A Yes.

16 Q Yes. Okay.

17 And as you sit here today, CBC in your opinion owns
18 49 percent interest in Spanish Heights Acquisition Company;
19 correct?

20 A It's my understanding.

21 Q That's your understanding?

22 A Yeah.

23 Q Okay. And Spanish Heights Acquisition Company, sir,
24 SJC Ventures is still the exclusive and irrevocable manager of
25 that company; correct?

1 A I'm not sure.

2 Q Are you familiar with the operating agreement for
3 that company?

4 A No, I'm not familiar with it.

5 Q Now, SJC Ventures is the tenant of the property, the
6 Spanish Heights property; correct?

7 A That's my understanding.

8 Q And is it your understanding that SJC Ventures has a
9 prepaid the rent for the property?

10 A At times it did, yes.

11 Q What's the current status of the rents on the
12 property?

13 A Don't know.

14 Q At any point was the doctrine of merger ever waived
15 in writing by any party?

16 A I don't know.

17 Q Okay. Do you know what the doctrine of merger is?

18 A No.

19 Q Okay. Do you know what the one-action rule is, sir?

20 A No.

21 Q Isn't it true, sir, that CBC chose to take equity in
22 SHAC as its remedy under the note?

23 MR. MUSHKIN: Objection. Calls for a legal
24 conclusion, Your Honor.

25 THE COURT: Sustained.

1 Can you rephrase your question.

2 MR. GUTIERREZ: Yes.

3 BY MR. GUTIERREZ:

4 Q Sir, you mentioned that CBC exercised its right under
5 the forbearance agreement, is that correct, to acquire the
6 interest of Antos Trust?

7 MR. MUSHKIN: Objection. Asked and answered.

8 THE COURT: Overruled.

9 You can answer.

10 THE WITNESS: Yes, that's true. That's what I said
11 five minutes ago.

12 BY MR. GUTIERREZ:

13 Q And the purpose -- and explain what the purpose of
14 that was.

15 A It was part of the understanding all along. A
16 hundred percent of the interest would revert to CBC if we got
17 to the maturity date and Mr. Bloom had not paid off the loan.

18 MR. GUTIERREZ: Give me one second, sir.

19 (Pause in the proceedings.)

20 MR. GUTIERREZ: Sir, thank you for your time.

21 I'm going to pass the witness, Your Honor.

22 THE COURT: Mr. Mushkin, would you like to do your
23 direct examination?

24 MR. MUSHKIN: Your Honor, I have very little. I'll
25 do my cross. On this particular witness, I am going to

1 reserve.

2 THE COURT: Okay. That's what I was asking, if you
3 were going to do your direct now or just the cross.

4 MR. MUSHKIN: I just want to cross him.

5 THE COURT: So let's let Mr. Gutierrez sanitize.

6 MR. MUSHKIN: I'm not even going there. So it's
7 okay. I just have so few questions I'll just do it from here
8 if the Court will allow.

9 THE COURT: Well, it's up to Jill, not me.

10 THE COURT RECORDER: You're good.

11 CROSS-EXAMINATION

12 BY MR. MUSHKIN:

13 Q Mr. Hallberg, you heard Mr. Gutierrez question you
14 about the note. Do you recall that?

15 A Yes.

16 Q There isn't just one note, is there? There's a note
17 and 10 modifications; correct?

18 A Yes.

19 Q And in the beginning, the trust was not a party to
20 the note; correct?

21 A Correct.

22 Q But later on the trust became a credit party; is that
23 correct?

24 A Yes, I believe so.

25 Q And I want to direct your attention to -- oh, sorry,

1 wrong page. -- Exhibit 50.

2 THE COURT: Fifty?

3 MR. MUSHKIN: Five, oh.

4 (Pause in the proceedings.)

5 BY MR. MUSHKIN:

6 Q It's entitled forbearance agreement. Do you see it?

7 A Yes.

8 Q And what's the date of this document?

9 A December 2016.

10 Q And this is a year before Mr. Bloom shows up? In
11 fact, it was a little more than that; right?

12 A I believe that Mr. Bloom was in the transaction the
13 summer of 2017.

14 Q So, but -- so it's about eight months later, July;
15 right?

16 A Yes. Yes.

17 Q And then on page 506 of this exhibit is a consent,
18 reaffirmation and general release; correct?

19 A Yes.

20 Q And at the last of that document, it says that,

21 The parties agree to join in and be
22 bound to the terms of the representations and
23 warranties contained in Section 4 and 7 and
24 the general release contained in Section 8 of
25 the agreement applicable as though the trust

1 were a credit party.

2 Do you see that?

3 A Yes.

4 THE COURT: Where are you reading?

5 MR. MUSHKIN: Right above the dark --

6 THE COURT: What page number?

7 MR. MUSHKIN: 506.

8 THE COURT: Thank you. I was on 486.

9 MR. MUSHKIN: Sorry, Judge.

10 THE COURT: It's okay. Just --

11 MR. MUSHKIN: It's at small Roman numeral V.

12 THE COURT: Thank you.

13 BY MR. MUSHKIN:

14 Q Is it fair to say, Mr. Hallberg, that as of December
15 of '16 the trust became a credit party?

16 A Yes, based upon this document.

17 Q Now, let's take a look. You heard counsel was
18 questioning you about the beginning of the note, and he said
19 that the trust wasn't a guarantor, and you said that's correct?

20 A Yes, I did.

21 Q And, in fact, the trust was not a guarantor in the
22 beginning, were they?

23 A Correct.

24 Q Is it true that the trust became a guarantor?

25 A Through the forbearance, yes.

1 Q And let's take a look at Exhibit 14.

2 THE COURT: Page number?

3 MR. MUSHKIN: 116, Your Honor.

4 THE WITNESS: I'm not seeing that.

5 THE COURT: Mine starts at 119.

6 MR. MUSHKIN: I'm looking at my exhibit --

7 THE COURT: Personal guarantee agreement,
8 September 27, handwritten in, 2017?

9 MR. MUSHKIN: I'm sorry. I gave you the wrong page,
10 Judge. Mine stuck together. It is 119.

11 THE COURT: Thank you.

12 MR. MUSHKIN: I apologize. There's another personal
13 guarantee at 116, just not the right one.

14 THE COURT: I'm sure, you know...

15 BY MR. MUSHKIN:

16 Q This is dated September 27th of '17; is that
17 correct, Mr. Hallberg?

18 A Yes.

19 Q And was that the date of closing of the entire
20 transaction with Mr. Bloom?

21 A I believe so.

22 Q And I direct your attention to the first paragraph
23 where it sets out the parties.

24 A Yes.

25 Q And then the signature page which has the signature

1 of the trustees of the trust. Do you see that?

2 A Yes.

3 Q On page 121?

4 A Yes.

5 Q And is this the document that creates the trust as a
6 guarantor?

7 A Yes.

8 Q Now, the last thing I'd like to bring up with you in
9 terms of the exhibits is Exhibit 34.

10 THE COURT: What page?

11 BY MR. MUSHKIN:

12 Q So you heard the testimony of Mr. Antos; correct?

13 A Yes.

14 Q And do you believe Mr. Antos testified truthfully?

15 A To the best of his ability.

16 Q There were things he didn't remember, sure.

17 And take a look at Exhibit 34.

18 THE COURT: What page? It's three pages long.

19 MR. MUSHKIN: 334, Your Honor.

20 THE COURT: Thank you.

21 BY MR. MUSHKIN:

22 Q Is this a document that you received as a part of the
23 loan transaction with the Antoses in 2014?

24 A Yes. This would have been drafted by outside,
25 Counsel.

1 Q And this is the -- its title says certificate of
2 existence and of trust existence and authority. Do you see
3 that?

4 A Yes.

5 Q And is this the document that sets forth the
6 authority to deliver a deed of trust?

7 A One moment. Yes.

8 Q And did, in fact, the trust deliver that deed of
9 trust?

10 A Yes.

11 Q And did you negotiate and bargain for this document
12 and the deed of trust?

13 A Yes. We increased our outstandings during that
14 month. We advanced additional principal, to be clear.

15 Q Now, there came a similar moment in time, I don't
16 know if it's precisely, but there was a substantial change in
17 financial condition for Mr. Antos; is that fair?

18 A In the fourth quarter of 2013, he had sold a personal
19 asset that we had a security interest in. So we had gone
20 roughly a year without replacement collateral. We thought we
21 might get repaid prior to that year, and we did not, and he
22 asked for additional money. And we said essentially, okay, we
23 can approve an additional advance, but now we do need a
24 mortgage on your property in support of your personal
25 guarantee.

1 Q You are familiar with the terms of the transaction.
2 Have you received -- has CBC or anyone that you are associated
3 with, including 5148, received any funds from Mr. Bloom since
4 March 31st of 2020?

5 A CBC has not.

6 Q No rent?

7 A No.

8 Q No retirement of debt?

9 A No.

10 Q No payment of advances?

11 A No.

12 Q No payment of real property taxes that have accrued?

13 A I am unaware. I don't know.

14 MR. MUSHKIN: Thank you.

15 I have no further questions, Your Honor.

16 THE COURT: Any redirect?

17 MR. GUTIERREZ: Yes, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. GUTIERREZ:

20 Q Mr. Hallberg, Spanish Heights Acquisition Company has
21 been paying the first deed of trust, first mortgage on the
22 property over the last year; correct?

23 A I'm not sure.

24 Q You're not sure?

25 A No, I'm not sure.

1 Q Has CBC Partners paid it?

2 A It was -- we ended the relationship. We sold our
3 note in April of 2020.

4 Q And you sold your note to 5148 Spanish Heights, LLC;
5 is that correct?

6 A I believe that's the name, yes.

7 Q Who did you negotiate that deal with?

8 A Mr. Mushkin.

9 Q Okay. Back to Exhibit 34, you were asked about the
10 certificate of trust and existence of authority. Do you see
11 that?

12 A Yes.

13 THE COURT: That's Exhibit 34?

14 MR. GUTIERREZ: Yes, Your Honor.

15 MR. MUSHKIN: Page 330?

16 MR. GUTIERREZ: 334.

17 THE COURT: It's only three pages.

18 MR. GUTIERREZ: 335.

19 MR. MUSHKIN: 334, 335, something like that.

20 BY MR. GUTIERREZ:

21 Q Now, is this what you're relying on as a personal
22 guarantee under the note on behalf of the trust?

23 A Again, I did not draft the documents. I was advised
24 by outside counsel regarding those transaction.

25 THE COURT: And that was Mr. Nelson?

1 THE WITNESS: For this transaction -- one moment,
2 Your Honor.

3 THE COURT: It's okay. And you can look at other
4 documents to refresh your memory, but you've got to tell me
5 what you're looking at after you find it.

6 THE WITNESS: Yeah, I'm just looking for the date.

7 THE COURT: It's okay.

8 THE WITNESS: In 2014, this was Lane Powell in
9 Seattle.

10 THE COURT: Lane Powell. Thank you.

11 BY MR. GUTIERREZ:

12 Q So is your understanding that this was a guarantee;
13 is that what you're saying today?

14 A I'm not saying that. I'm not in a position to know
15 whether or not this is a full-blown guarantee or not. I'm not
16 an attorney. I relied on outside counsel.

17 Q Understood. Now, if you go to Exhibit 39, which is
18 the deed of trust, what is the document that the Antos Trust
19 signed to be bound to the KCI note and pledge its deed of
20 trust?

21 MR. MUSHKIN: Objection. Calls for a legal
22 conclusion.

23 THE COURT: Overruled.

24 If you know of any documents, you can tell us.

25 THE WITNESS: I don't know offhand. I'm sorry.

1 BY MR. GUTIERREZ:

2 Q When this amendment was done in 2014, I think you
3 said there was additional credit extended to KCI and Preferred
4 Brands. Was any of that money ever given to the Antos Trust?

5 A No.

6 MR. GUTIERREZ: Thank you, Your Honor. I'll -- I
7 have no further questions.

8 MR. MUSHKIN: Just one question, Judge.

9 THE COURT: All right.

10 RECROSS-EXAMINATION

11 BY MR. MUSHKIN:

12 Q Would you turn to Exhibit 14.

13 Is that the personal guarantee of the trust?

14 A Yes.

15 Q And you relied upon this document. Is that fair?

16 A Yes.

17 MR. MUSHKIN: No further questions, Your Honor.

18 THE COURT: Anything else?

19 MR. MUSHKIN: Nothing for this witness, Your Honor.

20 THE COURT: Okay. You may step down.

21 THE WITNESS: Thank you.

22 THE COURT: Mr. Mushkin wants you to stay though.

23 You can't just leave.

24 THE WITNESS: Oh, I wasn't.

25 Your Honor, should I just leave the binder?

1 THE COURT: Yeah, I guess. Mr. Bloom may want to use
2 it.

3 MR. GUTIERREZ: Yes, he'll want to use that, Your
4 Honor.

5 THE COURT: You ready?

6 MR. GUTIERREZ: Actually, Your Honor, is there any
7 way we could start in the morning with Mr. Bloom? I think he's
8 our last witness. I don't plan on being long with him, but I
9 know Mr. Mushkin may. He's had his vaccine shot today and
10 wanted just to rest.

11 THE COURT: Okay. 10:00 o'clock?

12 MR. MUSHKIN: I defer to the Court, Your Honor.

13 THE COURT: Well, it just means I go home and make
14 dinner, and the kids are happier.

15 MR. GUTIERREZ: Oh, well, that's --

16 THE COURT: Because I told them I was at work, and
17 they were going to get dinner until I got ready to get it at
18 home.

19 (Pause in the proceedings.)

20 MR. GUTIERREZ: Judge, do you want us to take
21 everything with us? I know you --

22 THE COURT: No.

23 MR. GUTIERREZ: Oh, we can leave it here?

24 THE COURT: You may.

25 MR. GUTIERREZ: Oh, great. Okay.

(Proceedings concluded at 3:46 p.m.)

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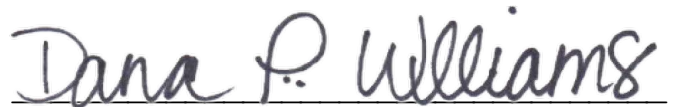
CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

DANA L. WILLIAMS
LAS VEGAS, NEVADA 89183

A handwritten signature in dark ink, reading "Dana L. Williams", is written over a horizontal line.

DANA L. WILLIAMS, TRANSCRIBER

02/07/2021

DATE

<p>BY MR. GUTIERREZ: [33] 24/6 26/18 30/13 31/9 34/3 34/11 38/1 38/23 39/12 43/11 44/16 44/22 45/15 48/9 50/3 54/7 55/12 58/24 69/14 73/4 73/14 74/16 77/14 79/7 80/24 82/7 83/3 85/3 85/12 92/19 93/20 94/11 95/1</p> <p>BY MR. MUSHKIN: [8] 60/2 86/12 87/5 88/13 89/15 90/11 90/21 95/11</p> <p>MR. GUTIERREZ: [59] 3/5 4/3 4/18 5/12 5/22 5/25 6/24 7/2 7/7 7/11 7/13 8/9 8/13 8/15 14/17 14/20 21/11 22/24 24/4 30/11 33/25 34/9 38/22 39/9 43/22 44/1 44/9 44/11 44/15 44/25 45/6 45/8 45/11 50/2 54/5 59/17 59/19 69/12 71/7 71/18 71/25 73/12 81/10 81/18 83/1 85/2 85/18 85/20 92/17 93/14 93/16 93/18 95/6 96/3 96/6 96/15 96/20 96/23 96/25</p> <p>MR. MUSHKIN: [76] 4/2 4/8 4/11 4/14 4/20 4/22 4/24 5/3 5/6 5/10 5/16 5/24 6/7 6/9 6/12 6/15 6/17 8/4 8/7 14/25 15/3 19/9 19/11 21/24 22/2 22/5 22/8 22/14 22/17 22/23 26/15 33/24 34/1 37/23 38/19 43/5 43/7 43/9 44/6 49/20 49/22 53/18 55/6 69/10 71/24 72/1 77/10 80/18 81/8 81/11 82/18 82/20 82/23 84/23 85/7 85/24 86/4 86/6 87/3 88/5 88/7 88/9 88/11 89/3 89/6 89/9 89/12 90/19 92/14 93/15 93/19 94/21 95/8 95/17 95/19 96/12</p> <p>MS. BARRAZA: [1] 6/20</p> <p>THE CLERK: [8] 23/19 44/12 44/14 45/3 45/5 45/7 45/9 72/17</p> <p>THE COURT RECORDER: [1] 86/10 THE COURT: [153] THE WITNESS: [54] 23/2 23/11 23/18 23/21 24/1 26/16 30/10 30/12 30/24 31/1 31/3 31/7 34/2 34/10 39/11 43/6 45/4 45/10 45/14 48/3 49/21 49/24 53/22 54/2 55/11 58/20 58/22 59/24 71/14 71/16</p>	<p>71/22 72/9 72/12 72/19 72/25 74/14 79/4 80/21 81/9 81/14 81/21 81/25 82/19 82/22 82/24 83/2 85/10 89/4 94/1 94/6 94/8 94/25 95/21 95/24</p> <p>\$</p> <p>\$2 [1] 34/5 \$2 million [1] 34/5 \$300,000 [1] 9/14</p> <p>'</p> <p>*16 [3] 48/21 67/11 88/15 *17 [2] 78/15 89/16 *21, [1] 19/9 *21, Your [1] 19/9</p> <p>0</p> <p>000238 [1] 32/10 000335 [1] 61/7 02/07/2021 [1] 98/18</p> <p>1</p> <p>1 through [1] 5/8 1-113 [1] 5/14 10 [4] 9/21 72/5 76/9 86/17 100 [1] 11/10 107 [1] 20/25 107-point [1] 20/24 10:00 o'clock [1] 96/11 113 [1] 5/14 114 [3] 4/20 4/21 5/9 115-129 [1] 5/14 116 [2] 89/3 89/13 119 [2] 89/5 89/10 11:00 [1] 45/5 11th [1] 19/16 121 [1] 90/3 129 [2] 5/8 5/14 132 [3] 5/18 5/22 6/1 132-145 [1] 6/2 14 [7] 20/13 20/16 58/9 58/16 60/8 89/1 95/12 145 [3] 5/23 6/1 6/2 14th [2] 8/23 29/10 15 [1] 45/16 15,000 [3] 65/7 65/8 65/10 15th [1] 19/15 16th [2] 8/20 28/18 17 [4] 28/24 29/2 29/2 29/4 17th [2] 41/18 41/22 18 [5] 32/1 32/4 74/25 76/3 78/23 1800 [1] 25/14 19 [1] 32/24 1988 [1] 77/19 1991 [1] 25/7 1992 [1] 77/22 1:00 [1] 3/1 1st [1] 11/20</p> <p>2</p> <p>2,000 [1] 25/15 2,950,000 [1] 67/12</p>	<p>2.95 [1] 70/8 20 [3] 18/21 24/25 45/25 2007 [3] 8/20 28/18 73/9 2010 [2] 8/23 29/10 2012 [6] 9/8 9/21 31/10 31/13 33/5 33/8 2013 [1] 91/18 2014 [10] 40/22 41/18 46/10 57/21 57/23 58/3 77/5 90/23 94/8 95/2 2016 [8] 9/21 10/7 47/20 48/10 48/15 63/5 64/4 87/9 2017 [16] 10/15 10/23 11/2 49/4 49/17 51/4 51/11 58/12 58/19 59/1 59/9 79/16 81/4 82/1 87/13 89/8 2019 [1] 11/13 2020 [8] 11/15 11/20 11/22 12/2 81/5 81/9 92/4 93/3 2021 [4] 1/14 3/1 19/8 98/18 21 [2] 33/22 33/25 22nd [1] 9/8 23 [2] 34/15 35/2 238 [1] 32/13 23rd [1] 45/5 24 [1] 35/18 25 [1] 51/15 259 [2] 34/8 34/9 25th [1] 19/7 27 [2] 58/21 89/8 27th [5] 51/11 58/11 58/19 59/1 89/16 280 [2] 34/18 35/2 284 [1] 35/21 29 [1] 25/18 2:20 p.m [1] 53/24 2:24 p.m [1] 53/24 2A [1] 37/5 2nd [1] 47/19</p> <p>3</p> <p>3.1 [2] 65/12 65/15 3.62 million [1] 9/5 30 [4] 14/6 14/7 25/18 26/20 31st [2] 67/11 92/4 322 [2] 36/23 36/25 33 [2] 36/6 39/8 330 [1] 93/15 332 [2] 39/6 39/7 334 [4] 40/11 90/19 93/16 93/19 335 [4] 69/20 69/23 93/18 93/19 34 [11] 39/21 40/11 61/3 61/5 69/15 69/17 76/17 90/9 90/17 93/9 93/13 380 [1] 57/16 39 [7] 41/14 42/24 57/11 57/13 57/15 57/16 94/17 3:04 p.m [1] 72/6</p>	<p>3:07 [1] 72/6 3:46 p.m [1] 97/1</p> <p>4</p> <p>4 of [1] 64/8 42 [1] 17/3 486 [1] 88/8 49 percent [10] 10/25 11/19 13/22 17/11 53/14 54/25 70/17 81/6 82/9 83/18 490 [3] 64/18 64/19 64/23</p> <p>5</p> <p>50 [8] 47/13 62/23 64/13 64/14 67/8 67/9 77/23 87/1 506 [7] 63/6 66/17 66/19 67/19 78/4 87/17 88/7 51 [1] 18/23 51 percent [2] 10/24 19/22 5148 [6] 7/20 11/23 28/11 61/7 92/3 93/4 5148SH [1] 32/10</p> <p>6</p> <p>69 [5] 44/23 44/24 44/25 45/12 45/16</p> <p>7</p> <p>7 and [1] 87/23 79 [1] 60/7</p> <p>8</p> <p>81 [2] 56/7 56/8 89148 [1] 7/21 89183 [1] 98/12</p> <p>9</p> <p>9:13 [2] 45/6 45/7 9:13 or [1] 45/5</p> <p>A</p> <p>abided [1] 50/17 ability [1] 90/15 able [4] 4/7 48/4 48/11 48/16 about [28] 15/21 17/9 25/14 25/18 40/15 40/17 41/10 43/18 48/21 53/21 54/8 55/18 64/20 65/6 65/7 68/1 70/4 70/17 70/21 77/21 80/10 80/12 80/16 81/22 86/14 87/14 88/18 93/9 above [2] 88/5 98/4 ABOVE-ENTITLED [1] 98/4 absolutely [1] 69/1 accepted [1] 46/12 account [1] 12/1 Accounting [1] 26/5 accrued [1] 92/12 accumulates [1] 78/25 accurate [1] 4/1</p>	<p>accurately [1] 30/5 acknowledges [2] 16/13 66/7 acknowledgment [2] 39/13 39/17 acquire [2] 12/3 85/5 acquired [2] 11/18 78/16 acquiring [1] 14/2 ACQUISITION [32] 1/5 7/15 7/24 10/18 10/22 10/24 11/8 11/19 14/3 14/11 49/5 49/13 50/15 53/13 53/15 54/24 55/1 56/2 56/10 58/7 70/18 73/23 78/16 80/1 80/7 80/13 81/4 81/7 82/16 83/18 83/23 92/20 act [1] 61/17 action [7] 3/24 14/1 16/18 16/21 78/24 80/22 84/19 activities [1] 68/17 actual [3] 12/13 32/1 82/14 actually [6] 11/4 11/11 25/9 50/17 64/15 96/6 add [2] 10/9 12/17 added [9] 4/24 10/3 10/5 20/6 34/23 36/20 37/20 76/10 76/14 adding [1] 9/24 addition [3] 28/4 32/20 33/2 additional [23] 9/19 9/22 9/24 10/6 12/18 31/6 33/17 33/18 34/23 35/11 36/21 40/13 40/14 40/24 41/4 41/10 48/19 67/1 70/11 91/14 91/22 91/23 95/3 Additionally [2] 12/23 13/25 address [2] 12/6 18/2 addressed [1] 60/24 adequate [1] 20/23 admissible [2] 15/10 15/10 admit [1] 5/1 admitted [8] 2/18 5/9 5/14 6/1 6/2 20/13 20/16 29/5 advance [1] 91/23 advanced [4] 3/11 7/6 68/25 91/14 advances [1] 92/10 advancing [1] 15/4 advice [1] 9/2 advised [1] 93/23 affect [1] 17/5 AFFIRM [1] 98/9 AFFIRMATION [1] 98/7 after [4] 30/22 34/7 59/1 94/5 afternoon [7] 6/20 22/15 22/25 24/7 24/8 60/3 73/5 again [25] 13/4 14/2 23/23 30/4 30/6 32/13 36/90</p>
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<p>A</p> <p>again... [19] 34/12 35/24 42/17 43/13 47/10 49/15 51/1 51/2 55/11 55/25 66/18 68/2 70/13 72/21 73/19 78/2 78/5 78/18 93/23 against [1] 12/13 ago [3] 47/9 73/16 85/11 agree [1] 87/21 agreed [1] 80/4 agreeing [1] 18/16 agreement [50] 3/20 3/20 10/7 11/1 11/4 11/6 11/9 11/14 13/12 13/12 13/14 17/13 33/6 39/13 47/19 48/15 48/18 51/11 54/9 54/13 55/4 55/14 58/25 59/15 61/10 63/1 63/4 63/25 64/9 67/9 68/7 68/16 70/5 74/2 76/7 77/7 77/24 78/13 78/15 78/19 79/21 79/23 82/4 82/11 83/8 84/2 85/5 87/6 87/25 89/7 agreements [10] 15/20 16/7 26/11 26/14 37/15 39/17 69/8 75/14 77/18 79/9 agrees [4] 37/6 37/9 37/13 63/21 ahead [2] 40/9 57/3 Alan [5] 14/8 55/18 71/18 72/14 72/19 alarmingly [1] 19/14 all [39] 3/3 3/3 3/4 3/14 3/16 3/20 4/4 4/9 4/16 6/5 6/6 6/23 14/19 14/23 15/1 15/21 16/12 17/8 19/2 22/21 23/4 23/12 24/2 31/8 37/14 42/1 44/11 53/23 54/3 55/19 61/1 65/16 71/7 71/23 72/5 72/23 73/2 85/15 95/9 allow [2] 21/6 86/8 allowed [3] 48/18 70/7 70/10 along [1] 85/15 already [4] 8/15 12/5 20/16 67/16 also [17] 7/23 9/6 10/12 13/11 24/16 25/16 26/20 28/5 30/16 33/2 36/12 47/5 51/25 54/12 55/3 74/1 74/5 alternatively [1] 13/18 always [2] 19/13 81/15 am [7] 20/19 27/5 54/2 58/17 60/7 85/25 92/13 ambiguous [2] 15/13 38/20 amended [5] 3/20 11/13 12/17 13/12 18/4 amendment [3] 34/19 40/20 95/2</p>	<p>amendments [8] 9/22 10/3 33/12 33/14 33/16 33/19 42/1 76/9 amount [2] 16/13 70/7 another [1] 89/12 answer [11] 19/1 19/4 30/4 40/9 49/9 49/14 55/9 56/6 77/12 82/25 85/9 answered [3] 35/1 47/8 85/7 answering [1] 19/1 Antos [160] Antos's [1] 43/23 Antoses [13] 8/24 9/15 10/1 10/8 12/9 12/14 12/21 12/25 74/5 76/22 78/8 79/15 90/23 any [70] 3/17 4/14 5/19 5/19 6/21 8/9 11/11 12/3 12/12 13/5 14/1 15/12 16/8 17/13 17/19 21/19 21/21 22/16 23/6 23/24 24/10 25/24 35/11 35/24 38/3 38/13 41/3 41/12 42/6 42/8 42/15 42/18 43/2 43/15 43/20 45/19 45/20 46/5 46/8 47/2 48/24 53/6 57/20 58/2 59/14 61/16 65/21 66/14 67/20 67/24 68/9 68/18 70/21 71/5 71/9 72/22 75/18 76/1 76/6 78/5 78/10 78/23 84/14 84/15 92/3 92/16 94/24 95/4 96/6 98/10 anybody [4] 7/4 56/23 70/21 71/9 anyone [2] 76/20 92/2 anything [4] 19/18 23/24 41/13 95/18 anywhere [1] 25/13 apologize [3] 15/25 20/24 89/12 APPEARANCES [1] 1/17 applicable [2] 63/25 87/25 applied [1] 17/6 applies [2] 3/22 3/24 apply [3] 13/20 14/1 17/6 Applying [1] 13/23 approached [1] 78/21 approve [1] 91/23 approximately [1] 77/22 April [10] 8/20 11/15 11/20 11/22 12/2 12/2 28/18 81/5 81/9 93/3 April 2020 [1] 11/15 April 6 [1] 11/22 are [53] 3/3 3/3 3/11 4/16 5/9 5/18 6/16 14/14 15/12 15/20 16/23 17/7 17/14 17/25 18/5 18/10 19/13 20/23 21/1 21/15 21/20 22/20</p>	<p>23/4 24/14 24/21 27/3 29/1 32/9 42/23 43/25 44/10 45/10 48/6 50/22 51/1 53/20 54/1 58/16 60/3 60/4 60/6 64/10 67/4 72/8 73/12 74/13 74/14 80/25 84/2 88/4 92/1 92/2 96/14 argues [1] 16/18 around [1] 21/17 arrival [1] 16/2 as [93] 3/17 5/1 5/20 7/21 7/24 7/25 8/5 8/21 9/14 9/18 10/3 10/5 10/9 12/18 12/21 13/3 13/3 13/16 13/17 13/19 14/1 14/6 15/13 17/19 18/12 20/6 20/23 21/1 21/17 21/17 23/16 23/17 25/3 25/16 26/11 26/13 26/20 28/14 32/5 32/5 34/23 35/14 36/12 36/21 37/7 37/10 37/11 37/20 38/24 46/4 46/12 46/15 46/15 46/21 46/21 47/8 48/1 48/1 48/6 51/21 51/22 52/11 52/15 53/3 53/4 54/22 54/22 55/22 55/22 56/13 57/1 59/15 63/14 63/25 64/5 68/15 72/15 72/16 73/19 76/10 76/14 76/15 77/21 80/21 80/23 82/8 83/17 84/22 87/25 88/14 90/5 90/22 93/21 ask [18] 13/1 13/7 13/15 13/20 19/3 23/7 30/4 30/6 42/17 43/13 49/14 51/1 55/11 55/13 55/25 62/22 68/20 75/25 asked [10] 19/17 43/1 43/15 60/20 68/1 70/17 78/21 85/7 91/22 93/9 asking [9] 13/11 13/25 19/15 21/22 23/6 23/9 43/19 51/1 86/2 asset [1] 91/19 assets [2] 33/2 62/12 assignment [2] 11/11 56/9 associated [2] 3/21 92/2 association [2] 25/14 68/19 assume [3] 36/22 39/19 59/4 assumed [1] 75/17 assumes [1] 37/13 at [107] attempt [3] 10/9 13/2 13/13 attempted [2] 11/15 11/16 attention [4] 63/17 66/17 86/25 89/22 attorney [6] 18/24 24/9 51/3 59/23 83/2 94/16</p>	<p>attorneys [2] 42/6 42/8 auction [1] 81/20 audible [1] 71/11 AUDIO [1] 98/4 AUDIO-VISUAL [1] 98/4 authority [12] 17/3 17/4 17/24 27/9 39/24 46/16 62/9 65/25 66/4 91/2 91/6 93/10 available [2] 22/10 22/17 awarded [1] 50/11 aware [5] 16/11 68/5 68/10 70/23 80/25</p> <p>B</p> <p>back [10] 17/8 19/3 38/6 43/8 52/3 57/7 57/9 64/7 75/23 93/9 background [1] 24/21 bad [1] 60/5 balance [2] 48/12 67/11 bank [5] 8/22 9/4 29/25 30/15 30/25 bargain [3] 28/25 29/5 91/11 bargained [2] 16/4 16/6 BARRAZA [4] 1/18 6/16 6/18 7/14 based [2] 9/2 88/16 Basically [1] 40/12 basis [1] 37/7 Bate [1] 40/11 Bates [1] 32/9 be [45] 3/6 5/17 5/22 6/1 10/18 14/5 14/7 14/9 14/10 15/11 17/19 18/2 18/12 21/3 21/12 22/10 22/20 23/5 23/13 25/19 29/1 37/6 37/9 37/12 37/14 40/21 53/11 53/18 54/6 58/1 60/17 62/16 63/21 64/5 71/12 72/17 76/25 78/6 80/2 82/2 82/2 82/5 87/21 91/14 94/19 beat [1] 17/17 became [7] 20/15 25/3 25/7 25/19 86/22 88/15 88/24 because [24] 5/4 8/2 8/3 13/9 13/21 14/2 15/11 17/7 18/2 19/3 19/14 19/21 23/8 40/19 48/5 49/8 55/19 61/2 70/6 72/23 73/1 78/22 81/4 96/16 become [2] 17/6 20/15 been [23] 7/19 7/23 12/17 15/23 16/16 16/21 17/2 19/12 20/16 20/17 23/16 29/4 42/13 52/24 53/16 61/10 67/14 70/17 72/15 77/17 77/20 90/24 92/21</p>	<p>before [15] 1/13 16/2 16/9 16/9 19/25 21/24 28/9 54/9 56/24 63/18 65/21 67/21 71/20 76/18 87/10 beginning [4] 15/5 86/19 88/18 88/22 behalf [33] 7/14 7/16 10/15 14/10 15/24 17/11 26/25 31/22 32/17 34/13 34/19 35/15 38/6 42/22 53/14 56/24 57/18 57/20 57/25 57/25 58/2 58/6 59/2 61/17 73/16 73/20 75/6 75/22 78/15 79/8 80/16 83/11 93/22 behind [1] 22/3 being [14] 9/23 23/16 27/17 33/11 33/14 43/14 43/16 45/22 46/21 48/4 62/10 72/15 76/21 96/8 believe [30] 4/8 14/8 26/23 29/8 33/1 33/7 34/21 36/4 36/17 37/22 40/18 40/23 41/22 42/23 48/3 48/20 49/10 50/6 50/21 53/11 56/19 59/8 60/13 62/16 68/24 86/24 87/12 89/21 90/14 93/6 believed [1] 56/19 believes [1] 15/18 Bell [2] 44/12 44/13 beneficiaries [3] 62/1 67/5 70/3 beneficiary [1] 67/4 benefit [9] 20/2 37/13 41/3 41/12 60/21 61/25 70/2 70/4 70/5 benefited [1] 70/6 best [2] 23/8 90/15 between [10] 3/13 16/24 28/1 28/5 41/24 47/20 52/19 74/2 74/5 74/8 bifurcated [1] 8/16 big [1] 44/21 bind [1] 62/20 binder [1] 95/25 binding [1] 62/12 bit [1] 43/19 blank [2] 58/18 69/22 Bloom [44] 6/13 7/16 10/15 11/2 14/10 14/16 15/18 15/23 16/7 16/19 18/5 18/8 18/13 18/16 18/20 18/23 19/5 19/21 43/20 49/6 49/8 49/12 49/18 50/5 50/7 50/17 68/3 68/16 68/19 68/21 69/8 78/15 78/20 78/24 79/9 80/4 81/25 85/17 87/10 87/12 89/20 92/3 96/1 96/7 Bloom's [2] 16/2 49/19 blown [1] 94/15 bolded [1] 32/6 AA3691</p>
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<p>B</p> <p>book [1] 44/21</p> <p>borrow [1] 48/18</p> <p>borrowed [1] 9/10</p> <p>borrower [18] 9/19 9/24 10/4 12/18 13/4 13/9 20/6 31/18 34/23 35/5 36/2 36/21 37/8 37/11 37/20 76/3 76/6 76/11</p> <p>borrowing [1] 38/7</p> <p>both [6] 7/16 14/5 15/20 16/7 17/7 26/19</p> <p>bottom [2] 32/7 63/12</p> <p>bought [1] 28/17</p> <p>bound [8] 37/6 37/9 37/14 63/21 64/5 78/6 87/22 94/19</p> <p>Brand [4] 36/11 36/15 36/19 37/20</p> <p>Brands [16] 40/17 40/21 40/25 41/4 41/11 46/15 46/16 46/18 47/21 48/11 48/16 48/24 49/2 70/10 70/14 95/4</p> <p>break [11] 6/21 21/19 21/23 23/24 53/19 53/20 54/9 71/20 72/2 72/3 72/22</p> <p>brief [2] 8/17 20/7</p> <p>briefly [4] 7/7 18/2 69/12 72/2</p> <p>bring [1] 90/8</p> <p>broken [1] 65/19</p> <p>brought [1] 25/12</p> <p>BS [2] 26/5 26/5</p> <p>build [2] 9/5 29/21</p> <p>built [2] 29/20 30/7</p> <p>bunch [1] 68/6</p> <p>burden [1] 15/8</p> <p>business [15] 9/11 26/5 26/6 26/7 33/17 38/3 38/5 38/13 38/14 41/5 41/7 47/6 47/11 61/17 74/19</p> <p>businessman [2] 26/11 26/13</p> <p>but [52] 4/15 7/3 8/16 12/16 12/22 17/16 19/14 19/23 20/2 21/22 22/10 22/17 27/17 29/12 37/24 38/12 39/19 41/21 42/13 44/12 48/6 48/21 49/25 50/16 55/19 56/6 58/1 59/12 61/2 66/25 69/3 69/5 70/4 70/13 70/15 71/2 75/11 75/18 76/14 76/19 77/12 78/1 79/4 79/17 82/13 83/4 86/22 87/14 91/16 91/23 94/4 96/8</p> <p>C</p> <p>call [7] 8/1 8/11 8/12 14/16 21/11 32/9 71/18</p> <p>called [6] 9/9 9/25</p>	<p>11/23 23/16 68/15 72/15</p> <p>calls [7] 37/23 43/7 77/10 80/18 81/11 84/23 94/21</p> <p>came [3] 49/8 65/9 91/15</p> <p>can [47] 3/7 4/12 14/14 16/8 16/9 16/24 21/21 22/16 22/25 23/2 24/7 24/8 27/6 32/6 38/21 39/5 40/5 40/9 41/14 41/14 43/22 44/5 44/23 47/24 49/25 49/25 51/15 54/17 55/9 57/9 67/25 68/2 69/17 69/21 72/1 72/10 76/17 77/4 77/9 77/12 77/23 85/1 85/9 91/23 94/3 94/24 96/23</p> <p>can't [10] 4/11 17/8 17/18 23/6 24/10 38/15 57/7 72/22 72/24 95/23</p> <p>cannot [2] 16/22 21/6</p> <p>capacity [8] 8/21 9/16 10/2 14/6 26/20 32/22 38/10 51/25</p> <p>capital [2] 9/13 41/11</p> <p>Capriotti's [1] 27/15</p> <p>career [2] 26/10 26/13</p> <p>case [11] 1/7 9/3 17/10 24/14 24/17 26/25 28/13 43/21 53/11 73/16 74/22</p> <p>cash [2] 41/13 50/10</p> <p>cause [1] 67/23</p> <p>CBC [99]</p> <p>CBC Partners [1] 74/9</p> <p>cellular [1] 25/8</p> <p>certain [2] 22/11 48/21</p> <p>certificate [4] 39/23 62/10 91/1 93/10</p> <p>CERTIFICATION [1] 97/2</p> <p>CERTIFY [1] 98/3</p> <p>chain [1] 25/17</p> <p>challenged [2] 15/23 16/1</p> <p>challenges [1] 15/17</p> <p>change [1] 91/16</p> <p>changes [3] 42/16 42/19 75/23</p> <p>charge [1] 21/22</p> <p>checking [1] 74/15</p> <p>checks [1] 5/18</p> <p>Chief [1] 73/7</p> <p>chose [2] 13/21 84/21</p> <p>Circuit [2] 25/3 25/6</p> <p>circumstances [4] 76/21 77/25 78/14 79/22</p> <p>cited [1] 17/4</p> <p>City [5] 9/4 25/3 25/6 29/25 31/3</p> <p>claim [5] 15/9 15/13 16/10 18/6 20/20</p> <p>claimed [5] 3/15 11/16 12/12 13/8 13/24</p> <p>claiming [3] 15/15 16/2</p>	<p>19/25</p> <p>claims [6] 3/10 3/22 3/24 16/16 16/19 66/14</p> <p>clarify [1] 52/14</p> <p>CLARK [2] 1/3 3/1</p> <p>clean [1] 59/19</p> <p>clear [7] 17/25 18/3 18/10 21/4 28/13 82/14 91/14</p> <p>close [2] 25/22 50/9</p> <p>closed [1] 25/21</p> <p>closely [1] 18/6</p> <p>closing [1] 89/19</p> <p>club [2] 27/16 27/17</p> <p>clubs [1] 27/18</p> <p>Coast [1] 25/5</p> <p>Code [1] 7/21</p> <p>collateral [2] 13/24 91/20</p> <p>college [1] 25/25</p> <p>Colonial [1] 8/22</p> <p>come [9] 7/9 16/9 16/9 17/14 19/25 22/11 59/23 72/13 78/22</p> <p>coming [2] 25/21 81/19</p> <p>comment [1] 21/3</p> <p>comments [2] 75/25 76/1</p> <p>commercial [7] 9/10 12/3 16/11 20/23 21/2 27/22 31/11</p> <p>companies [2] 19/21 67/2</p> <p>company [65] 1/6 7/15 7/24 9/8 9/25 10/18 10/22 10/24 11/8 11/10 11/20 11/23 11/24 12/2 14/3 14/11 15/19 15/21 15/24 16/5 17/23 21/16 25/3 25/11 27/23 36/13 36/14 40/12 40/14 40/15 40/20 40/21 42/9 46/20 46/23 48/19 49/5 49/13 50/15 53/13 53/15 53/15 54/24 55/1 56/2 56/9 56/10 57/22 57/25 58/7 70/18 73/24 78/16 80/1 80/7 80/13 80/16 81/4 81/7 82/16 83/18 83/23 83/25 84/3 92/20</p> <p>compensation [1] 43/20</p> <p>competent [1] 15/10</p> <p>complaint [2] 16/17 18/4</p> <p>comply [1] 37/12</p> <p>Compound [1] 26/15</p> <p>concerned [2] 80/9 80/16</p> <p>concerns [4] 10/23 20/10 20/11 20/11</p> <p>concluded [1] 97/1</p> <p>conclusion [7] 37/24 43/7 77/11 80/19 81/12 84/24 94/22</p> <p>condition [1] 91/17</p> <p>conditions [2] 37/14 49/9</p>	<p>conduct [1] 61/17</p> <p>confirm [1] 32/1</p> <p>confirming [1] 48/7</p> <p>conflict [1] 80/22</p> <p>confuse [1] 8/1</p> <p>confused [1] 43/18</p> <p>consent [5] 63/8 66/20 67/19 80/5 87/17</p> <p>consented [1] 23/13</p> <p>consideration [22] 3/17 10/13 12/24 13/5 13/10 16/2 16/6 16/6 16/19 19/22 19/25 43/3 43/15 45/21 46/5 46/8 46/11 68/2 77/6 77/8 77/15 78/6</p> <p>construction [4] 30/9 30/11 30/22 31/5</p> <p>consumer [1] 25/10</p> <p>contact [2] 25/11 25/17</p> <p>CONTAIN [1] 98/9</p> <p>contained [4] 63/23 63/24 87/23 87/24</p> <p>contains [1] 60/11</p> <p>continually [1] 10/1</p> <p>continuation [2] 56/21 59/7</p> <p>continued [1] 41/1</p> <p>continues [1] 69/22</p> <p>continuing [1] 59/9</p> <p>contract [4] 16/15 16/17 18/16 67/1</p> <p>contracted [2] 16/23 21/6</p> <p>contracts [3] 3/21 15/13 17/25</p> <p>Contractual [2] 3/12 3/19</p> <p>contrary [2] 16/23 16/25</p> <p>controller [1] 25/4</p> <p>convert [1] 30/23</p> <p>convincing [1] 18/4</p> <p>COPPEDGE [4] 1/20 22/5 22/6 22/10</p> <p>copy [2] 24/16 44/1</p> <p>corner [1] 32/7</p> <p>corporate [4] 14/10 17/20 46/21 73/20</p> <p>correct [128]</p> <p>correctly [1] 45/23</p> <p>could [18] 12/17 12/20 23/13 28/23 31/25 32/10 33/22 36/5 40/13 47/13 48/13 54/15 56/7 57/12 60/6 78/4 81/5 96/7</p> <p>couldn't [3] 18/23 30/2 41/6</p> <p>counsel [24] 5/9 5/23 11/25 18/12 19/15 20/4 21/19 21/20 33/24 60/20 75/13 75/16 75/16 75/18 75/19 76/23 76/24 78/2 79/13 79/15 88/17 90/25 93/24 94/16</p> <p>count [2] 19/2 40/7</p> <p>counter [1] 14/20</p>	<p>counterclaims [1] 3/10</p> <p>COUNTY [2] 1/3 3/1</p> <p>couple [2] 25/12 27/16</p> <p>course [4] 20/18 25/19 26/10 26/13</p> <p>court [20] 1/3 1/13 1/24 13/1 13/11 13/15 13/18 13/20 14/8 16/9 16/9 16/15 18/6 20/17 21/4 24/20 60/6 68/2 86/8 96/12</p> <p>Court's [1] 19/12</p> <p>courtroom [2] 21/16 23/5</p> <p>covenants [1] 37/15</p> <p>coverage [1] 70/6</p> <p>covered [1] 8/16</p> <p>create [2] 41/8 62/11</p> <p>creates [1] 90/5</p> <p>credit [14] 16/5 61/24 64/1 64/5 64/20 66/4 67/1 67/11 70/1 73/7 86/22 88/1 88/15 95/3</p> <p>crediting [1] 56/4</p> <p>creditor [3] 20/15 56/4 56/5</p> <p>critical [1] 17/17</p> <p>cross [8] 2/9 2/13 59/18 60/1 85/25 86/3 86/4 86/11</p> <p>Cross-Examination [5] 2/9 2/13 59/18 60/1 86/11</p> <p>Cumulative [1] 16/23</p> <p>current [2] 73/5 84/11</p> <p>currently [3] 24/21 25/14 27/3</p> <p>D</p> <p>DANA [2] 98/12 98/16</p> <p>DANIELLE [3] 1/18 3/5 7/14</p> <p>dark [1] 88/5</p> <p>date [18] 29/12 31/12 36/2 37/11 40/23 41/20 41/21 58/11 58/13 58/15 58/20 63/4 67/21 85/17 87/8 89/19 94/6 98/19</p> <p>dated [5] 41/18 47/19 51/11 58/25 89/16</p> <p>dates [2] 48/20 48/21</p> <p>day [4] 1/15 58/18 63/5 71/15</p> <p>days [1] 7/3</p> <p>deal [4] 12/15 20/19 75/9 93/7</p> <p>dealing [1] 75/6</p> <p>death [1] 9/3</p> <p>debt [5] 12/25 17/20 19/23 69/8 92/8</p> <p>dec [1] 16/17</p> <p>December [12] 10/7 11/13 41/18 41/21 46/9 47/19 48/10 48/15 63/5 77/5 87/9 88/14</p> <p>December 2016 [2] 10/7 87/9</p> <p>December 2019 [1] 36/2</p>
--	---	---	---	---

<p>D</p> <p>December 2019... [1] 11/13</p> <p>decided [1] 25/23</p> <p>declarations [1] 18/5</p> <p>deed [47] 3/16 3/18 8/22 9/4 9/6 10/13 12/10 13/6 13/8 13/8 13/14 15/17 16/1 16/14 21/1 28/25 29/5 30/16 30/23 41/8 41/10 41/17 42/21 43/3 43/16 45/21 46/6 46/9 55/16 55/17 55/22 56/6 56/21 57/11 57/19 58/3 59/2 61/23 67/16 69/2 69/25 91/6 91/8 91/12 92/21 94/18 94/19</p> <p>default [7] 11/16 20/22 55/5 66/7 66/15 67/14 67/23</p> <p>defaulting [1] 78/10</p> <p>defaults [2] 16/8 67/20</p> <p>defects [1] 16/8</p> <p>Defendant [1] 1/10</p> <p>defendants [2] 1/20 12/7</p> <p>defense [3] 2/4 15/2 18/6</p> <p>defer [2] 79/17 96/12</p> <p>defined [2] 46/21 52/15</p> <p>definitely [2] 48/21 59/13</p> <p>degree [1] 26/4</p> <p>deliver [2] 91/6 91/8</p> <p>delivered [1] 62/11</p> <p>dental [1] 25/17</p> <p>deny [1] 20/21</p> <p>departments [1] 25/9</p> <p>depends [2] 6/12 61/1</p> <p>deposed [1] 24/17</p> <p>deposition [19] 4/24 5/1 6/17 18/20 24/16 26/24 29/15 38/2 43/1 43/14 43/23 44/17 44/25 45/12 68/1 71/1 73/15 76/14 80/9</p> <p>DEPT [1] 1/7</p> <p>description [1] 52/12</p> <p>detail [1] 76/19</p> <p>details [1] 78/15</p> <p>determination [1] 3/17</p> <p>did [70] 4/5 11/5 11/18 15/5 20/15 25/16 25/25 26/1 26/2 26/3 26/7 27/13 27/19 29/12 29/13 29/16 29/23 30/8 30/14 30/16 30/22 31/14 34/25 38/3 41/3 41/11 42/6 43/12 45/23 46/5 46/8 48/23 49/2 51/3 52/22 55/20 56/23 57/6 59/14 60/17 62/16 65/21 67/23 68/8 68/9 68/11 68/13 68/15 68/16 70/5 70/21 71/1 75/9 75/13 75/17 75/18 75/24 77/6 77/8 78/5</p>	<p>79/15 80/6 82/6 84/10 88/20 91/8 91/11 91/21 93/7 93/23</p> <p>didn't [11] 9/18 15/23 49/15 52/20 52/20 68/7 68/22 69/4 69/5 81/21 90/16</p> <p>difference [3] 52/19 52/20 74/8</p> <p>different [3] 17/23 27/8 30/25</p> <p>difficult [2] 23/5 25/19</p> <p>dinner [2] 96/14 96/17</p> <p>direct [12] 2/8 2/12 14/15 24/5 47/12 59/20 63/17 73/3 85/23 86/3 86/25 89/22</p> <p>directed [2] 43/18 60/8</p> <p>directly [6] 38/14 61/25 70/2 75/15 75/16 76/25</p> <p>discovery [1] 5/18</p> <p>discuss [2] 28/10 50/5</p> <p>discussed [2] 15/5 50/7</p> <p>discussion [1] 81/25</p> <p>dispute [1] 82/8</p> <p>DISTRICT [2] 1/3 1/13</p> <p>Dixie [6] 9/25 36/12 37/3 37/6 37/12 37/19</p> <p>do [127]</p> <p>doctrine [14] 3/22 13/20 13/23 17/1 17/2 17/4 17/5 70/22 70/23 71/1 71/5 80/25 84/14 84/17</p> <p>document [53] 10/8 11/20 15/12 34/12 35/25 40/1 40/7 40/10 40/11 40/13 48/4 51/10 51/13 51/21 52/4 52/11 54/19 54/20 55/6 55/10 56/9 56/13 56/17 56/20 56/24 57/12 57/18 58/11 58/21 59/5 59/12 61/1 61/7 62/5 63/8 65/13 69/21 71/4 76/18 76/21 77/4 78/6 78/19 83/12 87/8 87/20 88/16 90/5 90/22 91/5 91/11 94/18 95/15</p> <p>documents [22] 3/21 15/21 15/22 18/10 18/21 24/13 28/10 42/15 42/16 42/19 50/13 50/16 50/18 50/24 57/10 60/24 61/2 71/5 74/22 93/23 94/4 94/24</p> <p>does [6] 16/12 39/18 58/25 63/11 74/19 98/9</p> <p>doesn't [5] 22/21 58/13 58/15 58/15 58/20</p> <p>doing [5] 6/16 6/19 21/20 38/5 38/13</p> <p>domiciled [1] 74/17</p> <p>don't [45] 3/8 5/1 5/19 6/25 7/2 8/8 8/9 12/8 14/16 16/8 20/8 20/24 21/5 22/18 23/7 29/12</p>	<p>33/15 34/24 35/1 38/4 41/21 42/11 42/20 46/1 50/16 52/22 53/16 53/17 55/19 57/8 59/6 61/1 65/11 70/23 75/17 76/19 80/22 82/8 82/25 84/13 84/16 91/15 92/13 94/25 96/8</p> <p>done [9] 12/16 12/19 12/22 17/12 40/6 47/23 76/9 80/5 95/2</p> <p>down [7] 7/9 14/20 14/21 14/24 52/1 59/21 95/20</p> <p>draft [2] 76/24 93/23</p> <p>drafted [7] 41/23 42/1 42/4 42/19 76/23 78/2 90/24</p> <p>drafting [1] 41/23</p> <p>Drive [2] 7/20 28/11</p> <p>due [2] 12/9 16/13</p> <p>Dulce [2] 44/7 72/13</p> <p>duly [2] 23/16 72/15</p> <p>during [20] 6/15 36/16 42/7 42/10 48/10 48/14 48/23 50/7 50/14 51/4 57/20 58/6 67/5 70/25 75/13 75/14 77/3 79/11 79/15 91/13</p> <p>E</p> <p>each [2] 65/25 66/4</p> <p>easy [2] 6/4 6/15</p> <p>edits [3] 42/16 42/18 75/23</p> <p>effect [1] 53/8</p> <p>eight [1] 87/14</p> <p>elected [1] 14/2</p> <p>election [1] 20/23</p> <p>electronic [2] 44/5 44/8</p> <p>element [1] 17/17</p> <p>Eliades [1] 8/6</p> <p>eliminate [1] 13/24</p> <p>ELIZABETH [1] 1/13</p> <p>else [3] 19/19 75/9 95/18</p> <p>employed [1] 24/22</p> <p>end [1] 37/8</p> <p>ended [1] 93/2</p> <p>enforceable [1] 21/1</p> <p>enforcement [3] 78/24 81/14 83/6</p> <p>engaged [1] 27/7</p> <p>English [1] 17/9</p> <p>enough [1] 25/23</p> <p>enter [3] 27/20 62/9 67/1</p> <p>entered [5] 10/8 11/1 11/14 16/1 53/12</p> <p>entering [1] 69/7</p> <p>entertainment [1] 27/17</p> <p>entire [1] 89/19</p> <p>entirety [1] 37/10</p> <p>entities [3] 7/17 18/15 49/19</p> <p>entitled [5] 56/9 63/1 63/8 87/6 98/4</p>	<p>entity [4] 18/17 31/2 82/2 98/10</p> <p>equity [4] 13/22 14/2 31/6 84/21</p> <p>erratic [1] 19/13</p> <p>error [1] 20/4</p> <p>ESQ [4] 1/18 1/18 1/20 1/20</p> <p>essentially [1] 91/22</p> <p>estate [3] 9/2 17/3 29/17</p> <p>evaded [1] 19/1</p> <p>even [7] 4/17 15/20 15/21 17/5 19/1 68/22 86/6</p> <p>event [1] 55/5</p> <p>eventuality [1] 36/17</p> <p>Eventually [1] 30/18</p> <p>ever [18] 15/22 19/12 20/9 43/2 43/15 45/20 59/14 67/23 68/11 68/13 68/15 68/16 70/21 71/4 75/22 78/9 84/14 95/4</p> <p>everyone [2] 44/4 60/20</p> <p>everything [2] 25/5 96/21</p> <p>evidence [18] 8/17 8/19 10/12 10/17 11/24 12/23 15/10 15/11 15/12 16/22 16/24 17/10 18/7 18/9 19/5 19/6 19/11 49/22</p> <p>exact [2] 29/12 33/15</p> <p>exactly [1] 16/4</p> <p>examination [17] 2/8 2/9 2/10 2/12 2/13 2/14 2/15 14/15 24/5 59/18 60/1 69/13 73/3 85/23 86/11 92/18 95/10</p> <p>except [1] 4/9</p> <p>exception [2] 5/8 13/2</p> <p>exchange [2] 3/18 40/24</p> <p>exclusive [1] 83/24</p> <p>execute [1] 15/23</p> <p>executed [1] 9/14</p> <p>exercised [1] 85/4</p> <p>exhaust [1] 14/17</p> <p>exhibit [61] 5/14 6/2 20/8 20/13 20/16 28/24 29/2 29/4 32/1 32/4 32/24 33/22 34/15 35/2 35/18 36/6 36/6 39/6 39/21 39/21 40/11 41/14 42/24 47/13 51/7 51/8 51/15 54/9 54/12 54/17 56/7 56/8 57/11 58/9 58/16 60/8 61/3 62/23 64/13 64/14 69/15 74/25 76/3 76/17 77/9 77/23 78/4 78/12 78/19 79/19 79/21 87/1 87/17 89/1 89/6 90/9 90/17 93/9 93/13 94/17 95/12</p> <p>Exhibit 1 [3] 51/7 78/12 78/19</p>	<p>Exhibit 1 before [1] 54/9</p> <p>Exhibit 14 [7] 20/13 20/16 58/9 58/16 60/8 89/1 95/12</p> <p>Exhibit 17 [2] 28/24 29/2</p> <p>Exhibit 18 [3] 32/1 32/4 76/3</p> <p>Exhibit 19 [1] 32/24</p> <p>Exhibit 21 [1] 33/22</p> <p>Exhibit 23 [2] 34/15 35/2</p> <p>Exhibit 24 [1] 35/18</p> <p>Exhibit 33 [1] 36/6</p> <p>Exhibit 34 [9] 39/21 40/11 61/3 69/15 76/17 90/9 90/17 93/9 93/13</p> <p>Exhibit 39 [4] 41/14 42/24 57/11 94/17</p> <p>Exhibit 50 [6] 47/13 62/23 64/13 64/14 77/23 87/1</p> <p>Exhibit 8 [3] 54/17 79/19 79/21</p> <p>Exhibit 81 [2] 56/7 56/8</p> <p>exhibits [5] 2/18 4/9 5/2 24/14 90/9</p> <p>existence [5] 20/1 39/23 91/2 91/2 93/10</p> <p>exists [3] 19/20 19/20 20/2</p> <p>expecting [2] 22/9 78/22</p> <p>expenses [3] 27/23 31/16 33/19</p> <p>experience [2] 26/11 26/14</p> <p>explain [1] 85/13</p> <p>extended [1] 95/3</p> <p>extension [1] 16/5</p> <p>extent [5] 37/23 77/10 80/18 81/11 82/3</p> <p>extinguish [1] 17/21</p> <p>F</p> <p>facilitate [1] 18/17</p> <p>fact [8] 11/5 25/20 48/7 56/20 68/19 87/11 88/21 91/8</p> <p>facts [1] 18/5</p> <p>factually [1] 37/24</p> <p>failure [1] 18/9</p> <p>fair [4] 66/5 88/14 91/17 95/15</p> <p>familiar [5] 64/25 74/21 84/2 84/4 92/1</p> <p>familiarize [1] 47/25</p> <p>far [3] 32/5 46/15 55/22</p> <p>fascinating [1] 17/1</p> <p>fast [2] 27/7 27/13</p> <p>FEBRUARY [2] 1/14 3/1</p> <p>feel [1] 21/17</p> <p>few [7] 27/8 29/9 40/8 47/8 52/1 73/16 86/7</p> <p>Fifty [2] 47/14 87/2</p> <p>finalized [1] 49/8</p>
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<p>F</p> <p>finally [2] 20/13 22/10</p> <p>financial [1] 91/17</p> <p>find [7] 13/1 13/7 13/11 13/16 20/22 20/25 94/5</p> <p>findings [1] 4/6</p> <p>finds [1] 13/18</p> <p>fine [2] 21/18 53/22</p> <p>finish [1] 57/10</p> <p>finished [2] 30/22 48/2</p> <p>first [30] 9/3 11/10 14/5 15/3 19/4 20/6 21/10 22/2 23/16 29/24 30/3 30/23 31/5 33/23 34/4 34/6 37/5 52/6 58/12 58/14 60/14 61/9 63/19 65/3 67/9 72/15 79/19 89/22 92/21 92/21</p> <p>five [8] 12/5 47/14 47/15 62/24 62/25 72/1 85/11 87/3</p> <p>five-minute [1] 72/1</p> <p>flashbacks [3] 8/9 81/17 81/18</p> <p>following [1] 3/10</p> <p>follows [2] 23/17 72/16</p> <p>food [2] 27/7 27/13</p> <p>Foods [1] 36/12</p> <p>forbear [1] 78/21</p> <p>forbearance [25] 3/20 3/20 10/7 11/1 11/4 11/13 13/11 13/12 16/7 47/19 48/14 51/11 54/8 63/1 67/9 77/24 78/13 78/15 78/19 82/3 82/11 83/8 85/5 87/6 88/25</p> <p>forbearances [1] 15/20</p> <p>foreclose [3] 11/16 11/17 82/5</p> <p>foreclosed [2] 82/9 82/14</p> <p>foreclosure [3] 13/16 14/1 83/4</p> <p>FOREGOING [1] 98/3</p> <p>form [4] 9/24 38/19 49/20 82/20</p> <p>formed [2] 12/2 25/11</p> <p>forth [2] 37/16 91/5</p> <p>found [1] 19/17</p> <p>fourth [1] 91/18</p> <p>frame [12] 36/16 42/7 42/10 48/11 48/23 50/8 50/14 51/4 75/14 77/3 79/11 79/16</p> <p>franchises [1] 27/8</p> <p>fraud [3] 16/19 18/1 18/2</p> <p>free [1] 21/18</p> <p>freestanding [1] 27/16</p> <p>Friday [1] 22/17</p> <p>front [13] 20/8 24/13 28/24 32/15 35/3 35/22 36/9 44/1 44/18 47/17 69/15 69/16 74/24</p> <p>fulfill [1] 68/9</p> <p>full [2] 27/17 94/15</p> <p>full-blown [1] 94/15</p> <p>fully [2] 16/11 22/9</p>	<p>fund [2] 74/11 74/11</p> <p>funded [1] 11/25</p> <p>funding [8] 33/17 33/18 40/13 40/14 40/25 41/4 70/8 70/11</p> <p>funds [4] 9/25 41/5 41/7 92/3</p> <p>further [5] 69/10 71/9 92/15 95/7 95/17</p> <p>G</p> <p>gatekeeper [1] 15/11</p> <p>gave [2] 22/6 89/9</p> <p>general [14] 48/6 49/16 50/4 63/9 63/23 66/14 66/22 74/10 74/10 74/12 74/23 80/21 87/18 87/24</p> <p>generally [1] 67/19</p> <p>get [26] 20/19 21/18 21/21 21/24 23/8 25/20 28/9 30/14 40/14 41/9 46/13 48/7 55/20 55/21 68/3 68/4 68/13 68/16 69/17 70/8 70/10 71/20 77/7 91/21 96/17 96/17</p> <p>getting [3] 6/24 19/22 81/18</p> <p>give [9] 11/21 23/9 24/20 24/24 43/25 49/14 59/22 81/17 85/18</p> <p>given [5] 16/6 17/4 19/19 58/17 95/4</p> <p>giving [1] 73/15</p> <p>glean [1] 4/7</p> <p>go [46] 8/8 8/17 15/6 19/3 25/25 33/22 34/15 34/18 35/2 35/18 35/21 36/5 36/5 36/6 36/23 39/5 39/21 40/9 41/14 41/14 44/23 45/16 47/13 51/7 51/15 52/3 54/17 56/7 57/3 57/9 57/12 57/19 58/9 61/5 64/7 65/24 67/8 69/17 73/2 77/9 77/23 78/4 78/12 79/18 94/17 96/13</p> <p>goes [3] 17/8 53/1 55/22</p> <p>going [24] 7/2 8/12 10/18 12/6 13/1 13/7 13/15 13/20 15/11 28/14 29/1 36/16 41/9 43/25 48/7 49/17 60/7 73/11 80/2 85/21 85/25 86/3 86/6 96/17</p> <p>gone [3] 66/25 80/4 91/19</p> <p>GONZALEZ [1] 1/13</p> <p>good [11] 6/20 22/25 24/7 24/8 44/3 53/19 60/3 60/4 73/5 81/23 86/10</p> <p>got [11] 7/9 14/24 25/18 44/20 44/20 50/11 68/23 72/10 85/16 94/4 96/17</p>	<p>graduate [1] 26/2</p> <p>grant [2] 28/24 29/5</p> <p>granted [2] 46/12 64/8</p> <p>grantor [1] 61/16</p> <p>grantors [1] 20/2</p> <p>great [1] 96/25</p> <p>guarantee [24] 10/10 12/25 20/14 28/6 32/24 41/1 57/20 57/22 57/25 58/2 58/6 58/17 58/25 59/8 59/10 60/11 74/2 89/7 89/13 91/25 93/22 94/12 94/15 95/13</p> <p>guaranteed [4] 9/15 11/5 32/21 70/7</p> <p>guaranteeing [1] 38/10</p> <p>guarantees [7] 42/4 42/9 59/7 74/5 75/20 77/20 77/22</p> <p>guaranties [1] 26/14</p> <p>guarantor [16] 9/20 10/6 12/18 13/4 13/9 13/10 13/19 20/16 53/6 60/18 66/10 76/15 88/19 88/21 88/24 90/6</p> <p>guarantors [3] 39/14 39/18 53/4</p> <p>guess [3] 39/25 70/8 96/1</p> <p>GUTIERREZ [14] 1/18 2/3 2/8 2/10 2/12 2/14 5/21 7/14 24/3 24/9 45/3 54/3 86/5 86/13</p> <p>guy [1] 68/23</p> <p>guys [2] 3/3 73/2</p> <p>H</p> <p>H-a-l-l-b-e-r-g [1] 72/20</p> <p>had [43] 9/3 9/6 11/10 12/21 17/20 25/22 25/23 26/11 26/14 27/8 28/6 31/5 31/15 38/2 39/3 41/7 47/6 47/11 54/24 56/20 57/20 59/1 67/11 67/14 67/16 68/18 68/18 68/19 68/20 69/15 70/6 75/17 75/25 78/22 80/4 80/4 81/3 81/25 85/17 91/18 91/19 91/19 96/9</p> <p>hadn't [1] 19/16</p> <p>hall [1] 6/11</p> <p>Hallberg [22] 14/8 18/13 18/15 22/3 22/14 55/18 57/4 57/6 71/18 71/24 71/25 72/14 72/19 73/5 73/15 74/21 76/17 79/18 86/13 88/14 89/17 92/20</p> <p>hand [2] 23/14 32/7</p> <p>handwritten [1] 89/8</p> <p>happen [4] 21/7 29/12 29/13 49/24</p> <p>happened [1] 55/19</p> <p>happier [1] 96/14</p> <p>hard [1] 22/6</p> <p>has [23] 9/12 16/21 17/13 17/18 18/12 19/11 20/1 20/17 22/14</p>	<p>29/4 44/1 44/8 60/20 60/20 61/10 65/1 65/25 84/8 89/25 92/2 92/5 92/20 93/1</p> <p>hasn't [2] 18/18 78/9</p> <p>have [87] 3/9 4/8 4/25 5/3 5/4 5/5 5/6 5/16 7/5 7/19 12/8 12/13 12/16 12/17 12/20 14/16 16/16 17/24 19/2 19/3 19/23 20/8 20/25 22/20 24/13 24/16 25/16 26/11 26/13 27/25 32/15 35/3 35/21 36/9 37/13 37/24 39/19 40/3 40/8 42/6 42/13 44/9 44/17 44/19 45/19 46/23 46/25 47/17 48/20 48/23 51/3 52/20 52/24 55/15 55/17 57/4 57/7 58/15 58/20 62/8 63/11 65/21 67/21 67/23 69/8 69/16 70/17 71/9 71/15 73/8 73/22 74/1 74/20 74/24 75/13 75/18 75/24 77/17 79/15 81/22 85/24 86/7 90/24 92/2 92/12 92/15 95/7</p> <p>haven't [1] 47/22</p> <p>having [8] 23/16 42/15 42/18 72/15 75/23 80/12 80/16 80/23</p> <p>HAWKINS [1] 1/24</p> <p>he [35] 18/14 18/18 18/23 19/1 19/3 20/5 22/4 22/16 22/16 22/17 23/7 44/1 50/9 50/10 50/11 52/22 68/6 68/7 68/8 68/9 69/3 69/3 69/5 75/11 75/17 75/24 75/25 78/21 78/22 78/22 79/13 88/18 90/16 91/18 91/21</p> <p>he'll [3] 14/9 21/12 96/3</p> <p>he's [3] 44/20 96/7 96/9</p> <p>hear [12] 22/25 23/5 23/6 24/7 24/10 30/2 34/25 38/15 41/6 49/15 72/22 72/24</p> <p>heard [3] 86/13 88/17 90/12</p> <p>HEARING [1] 1/15</p> <p>heart [1] 61/2</p> <p>heck [1] 73/11</p> <p>HEIGHTS [60] 1/5 7/14 7/20 7/22 7/23 8/12 8/13 10/18 10/22 10/23 11/8 11/19 11/23 14/3 14/11 17/12 19/22 20/3 28/11 28/14 28/18 29/6 29/11 29/17 29/21 30/7 33/9 38/12 49/5 49/5 49/12 49/18 50/5 50/14 50/15 53/13 53/15 54/23 54/24 55/1 56/2 56/10 58/7 68/11 68/17</p>	<p>70/18 73/23 73/23 78/16 80/1 80/7 80/13 81/4 81/6 82/15 83/18 83/23 84/6 92/20 93/4</p> <p>held [8] 8/22 8/24 9/6 38/12 39/2 49/1 55/16 82/10</p> <p>HELOC [2] 9/7 30/16</p> <p>help [2] 42/9 58/23</p> <p>helped [1] 56/20</p> <p>helping [1] 51/4</p> <p>here [19] 3/3 3/6 15/6 15/7 23/4 27/17 44/9 44/19 45/24 46/4 48/6 55/19 56/5 57/10 73/19 82/8 83/17 86/7 96/23</p> <p>hereby [1] 37/6</p> <p>higher [1] 18/3</p> <p>him [13] 18/22 18/24 19/3 22/18 23/6 43/25 44/1 44/20 50/6 69/5 72/13 86/4 96/8</p> <p>hired [1] 78/20</p> <p>his [17] 14/5 14/17 15/19 15/20 15/24 15/18 18/17 18/20 18/24 19/21 20/4 22/11 68/4 75/18 78/25 90/15 96/9</p> <p>history [2] 24/24 50/12</p> <p>hold [16] 21/13 28/25 32/3 39/7 45/2 45/4 47/16 49/2 55/15 56/18 57/17 64/14 65/14 65/16 66/1 66/12</p> <p>holder [1] 17/15</p> <p>holders [1] 17/15</p> <p>home [3] 31/6 96/13 96/18</p> <p>Honor [81] 4/2 4/3 4/8 4/20 5/12 5/17 5/25 6/12 6/20 6/24 7/7 7/13 7/18 8/10 8/15 8/19 9/21 10/12 10/15 11/15 12/5 12/7 12/23 13/1 13/7 13/15 13/18 13/25 14/4 14/12 14/18 14/25 15/3 15/11 16/17 18/20 19/5 19/9 20/4 20/17 21/3 21/11 21/24 22/24 24/4 34/9 38/22 39/9 43/5 43/22 44/2 44/6 50/2 53/18 54/5 55/7 59/17 69/10 69/12 71/8 71/18 72/1 77/11 81/16 82/23 84/24 85/21 85/24 89/3 90/19 92/15 92/17 93/14 94/2 95/6 95/17 95/19 95/25 96/4 96/6 96/12</p> <p>HONORABLE [1] 1/13</p> <p>hope [1] 6/19</p> <p>hours [1] 6/17</p> <p>house [10] 9/5 18/17 18/18 18/19 21/5 28/21 29/20 29/22 30/7 68/3</p> <p>housekeeping [1] 4/5</p> <p>how [19] 6/12 6/16 16/9 33/14 43/25 44/3 46/3 46/9 46/13 46/18 46/21 46/24 46/27 46/30 46/33 46/36 46/39 46/42 46/45 46/48 46/51 46/54 46/57 46/60 46/63 46/66 46/69 46/72 46/75 46/78 46/81 46/84 46/87 46/90 46/93 46/96 46/99 47/2 47/5 47/8 47/11 47/14 47/17 47/20 47/23 47/26 47/29 47/32 47/35 47/38 47/41 47/44 47/47 47/50 47/53 47/56 47/59 47/62 47/65 47/68 47/71 47/74 47/77 47/80 47/83 47/86 47/89 47/92 47/95 47/98 48/1 48/4 48/7 48/10 48/13 48/16 48/19 48/22 48/25 48/28 48/31 48/34 48/37 48/40 48/43 48/46 48/49 48/52 48/55 48/58 48/61 48/64 48/67 48/70 48/73 48/76 48/79 48/82 48/85 48/88 48/91 48/94 48/97 49/1 49/4 49/7 49/10 49/13 49/16 49/19 49/22 49/25 49/28 49/31 49/34 49/37 49/40 49/43 49/46 49/49 49/52 49/55 49/58 49/61 49/64 49/67 49/70 49/73 49/76 49/79 49/82 49/85 49/88 49/91 49/94 49/97 50/1 50/4 50/7 50/10 50/13 50/16 50/19 50/22 50/25 50/28 50/31 50/34 50/37 50/40 50/43 50/46 50/49 50/52 50/55 50/58 50/61 50/64 50/67 50/70 50/73 50/76 50/79 50/82 50/85 50/88 50/91 50/94 50/97 51/1 51/4 51/7 51/10 51/13 51/16 51/19 51/22 51/25 51/28 51/31 51/34 51/37 51/40 51/43 51/46 51/49 51/52 51/55 51/58 51/61 51/64 51/67 51/70 51/73 51/76 51/79 51/82 51/85 51/88 51/91 51/94 51/97 52/1 52/4 52/7 52/10 52/13 52/16 52/19 52/22 52/25 52/28 52/31 52/34 52/37 52/40 52/43 52/46 52/49 52/52 52/55 52/58 52/61 52/64 52/67 52/70 52/73 52/76 52/79 52/82 52/85 52/88 52/91 52/94 52/97 53/1 53/4 53/7 53/10 53/13 53/16 53/19 53/22 53/25 53/28 53/31 53/34 53/37 53/40 53/43 53/46 53/49 53/52 53/55 53/58 53/61 53/64 53/67 53/70 53/73 53/76 53/79 53/82 53/85 53/88 53/91 53/94 53/97 54/1 54/4 54/7 54/10 54/13 54/16 54/19 54/22 54/25 54/28 54/31 54/34 54/37 54/40 54/43 54/46 54/49 54/52 54/55 54/58 54/61 54/64 54/67 54/70 54/73 54/76 54/79 54/82 54/85 54/88 54/91 54/94 54/97 55/1 55/4 55/7 55/10 55/13 55/16 55/19 55/22 55/25 55/28 55/31 55/34 55/37 55/40 55/43 55/46 55/49 55/52 55/55 55/58 55/61 55/64 55/67 55/70 55/73 55/76 55/79 55/82 55/85 55/88 55/91 55/94 55/97 56/1 56/4 56/7 56/10 56/13 56/16 56/19 56/22 56/25 56/28 56/31 56/34 56/37 56/40 56/43 56/46 56/49 56/52 56/55 56/58 56/61 56/64 56/67 56/70 56/73 56/76 56/79 56/82 56/85 56/88 56/91 56/94 56/97 57/1 57/4 57/7 57/10 57/13 57/16 57/19 57/22 57/25 57/28 57/31 57/34 57/37 57/40 57/43 57/46 57/49 57/52 57/55 57/58 57/61 57/64 57/67 57/70 57/73 57/76 57/79 57/82 57/85 57/88 57/91 57/94 57/97 58/1 58/4 58/7 58/10 58/13 58/16 58/19 58/22 58/25 58/28 58/31 58/34 58/37 58/40 58/43 58/46 58/49 58/52 58/55 58/58 58/61 58/64 58/67 58/70 58/73 58/76 58/79 58/82 58/85 58/88 58/91 58/94 58/97 59/1 59/4 59/7 59/10 59/13 59/16 59/19 59/22 59/25 59/28 59/31 59/34 59/37 59/40 59/43 59/46 59/49 59/52 59/55 59/58 59/61 59/64 59/67 59/70 59/73 59/76 59/79 59/82 59/85 59/88 59/91 59/94 59/97 60/1 60/4 60/7 60/10 60/13 60/16 60/19 60/22 60/25 60/28 60/31 60/34 60/37 60/40 60/43 60/46 60/49 60/52 60/55 60/58 60/61 60/64 60/67 60/70 60/73 60/76 60/79 60/82 60/85 60/88 60/91 60/94 60/97 61/1 61/4 61/7 61/10 61/13 61/16 61/19 61/22 61/25 61/28 61/31 61/34 61/37 61/40 61/43 61/46 61/49 61/52 61/55 61/58 61/61 61/64 61/67 61/70 61/73 61/76 61/79 61/82 61/85 61/88 61/91 61/94 61/97 62/1 62/4 62/7 62/10 62/13 62/16 62/19 62/22 62/25 62/28 62/31 62/34 62/37 62/40 62/43 62/46 62/49 62/52 62/55 62/58 62/61 62/64 62/67 62/70 62/73 62/76 62/79 62/82 62/85 62/88 62/91 62/94 62/97 63/1 63/4 63/7 63/10 63/13 63/16 63/19 63/22 63/25 63/28 63/31 63/34 63/37 63/40 63/43 63/46 63/49 63/52 63/55 63/58 63/61 63/64 63/67 63/70 63/73 63/76 63/79 63/82 63/85 63/88 63/91 63/94 63/97 64/1 64/4 64/7 64/10 64/13 64/16 64/19 64/22 64/25 64/28 64/31 64/34 64/37 64/40 64/43 64/46 64/49 64/52 64/55 64/58 64/61 64/64 64/67 64/70 64/73 64/76 64/79 64/82 64/85 64/88 64/91 64/94 64/97 65/1 65/4 65/7 65/10 65/13 65/16 65/19 65/22 65/25 65/28 65/31 65/34 65/37 65/40 65/43 65/46 65/49 65/52 65/55 65/58 65/61 65/64 65/67 65/70 65/73 65/76 65/79 65/82 65/85 65/88 65/91 65/94 65/97 66/1 66/4 66/7 66/10 66/13 66/16 66/19 66/22 66/25 66/28 66/31 66/34 66/37 66/40 66/43 66/46 66/49 66/52 66/55 66/58 66/61 66/64 66/67 66/70 66/73 66/76 66/79 66/82 66/85 66/88 66/91 66/94 66/97 67/1 67/4 67/7 67/10 67/13 67/16 67/19 67/22 67/25 67/28 67/31 67/34 67/37 67/40 67/43 67/46 67/49 67/52 67/55 67/58 67/61 67/64 67/67 67/70 67/73 67/76 67/79 67/82 67/85 67/88 67/91 67/94 67/97 68/1 68/4 68/7 68/10 68/13 68/16 68/19 68/22 68/25 68/28 68/31 68/34 68/37 68/40 68/43 68/46 68/49 68/52 68/55 68/58 68/61 68/64 68/67 68/70 68/73 68/76 68/79 68/82 68/85 68/88 68/91 68/94 68/97 69/1 69/4 69/7 69/10 69/13 69/16 69/19 69/22 69/25 69/28 69/31 69/34 69/37 69/40 69/43 69/46 69/49 69/52 69/55 69/58 69/61 69/64 69/67 69/70 69/73 69/76 69/79 69/82 69/85 69/88 69/91 69/94 69/97 70/1 70/4 70/7 70/10 70/13 70/16 70/19 70/22 70/25 70/28 70/31 70/34 70/37 70/40 70/43 70/46 70/49 70/52 70/55 70/58 70/61 70/64 70/67 70/70 70/73 70/76 70/79 70/82 70/85 70/88 70/91 70/94 70/97 71/1 71/4 71/7 71/10 71/13 71/16 71/19 71/22 71/25 71/28 71/31 71/34 71/37 71/40 71/43 71/46 71/49 71/52 71/55 71/58 71/61 71/64 71/67 71/70 71/73 71/76 71/79 71/82 71/85 71/88 71/91 71/94 71/</p>
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<p>H</p> <p>how... [13] 46/20 49/2 52/13 56/6 60/3 60/4 60/6 70/4 70/4 73/8 77/17 81/5 82/1</p> <p>however [3] 9/18 10/10 11/3</p> <p>hundred [3] 15/21 47/1 85/16</p> <hr/> <p>I</p> <p>I'd [10] 15/3 39/19 55/15 61/6 62/22 63/6 63/17 66/17 81/25 90/8</p> <p>I'll [6] 24/12 59/17 63/20 85/24 86/7 95/6</p> <p>I'm [74] 4/14 6/10 6/10 7/1 20/11 21/13 22/8 22/19 24/9 24/23 25/2 25/23 30/2 30/4 30/6 32/4 36/24 37/1 38/15 41/6 41/10 41/19 42/7 42/13 43/9 43/12 45/1 48/20 49/16 50/23 53/22 55/25 56/6 58/4 58/10 58/22 59/12 60/4 61/8 63/2 64/11 64/15 64/15 64/21 64/23 64/25 66/1 68/5 68/10 69/4 70/23 71/22 71/25 72/9 79/20 81/9 81/21 83/2 83/6 84/1 84/4 85/21 86/6 89/4 89/6 89/9 89/14 92/23 92/25 94/6 94/14 94/14 94/15 94/25</p> <p>I've [2] 17/2 25/23</p> <p>idea [4] 40/3 46/23 46/25 81/22</p> <p>IDENTIFICATION [1] 98/10</p> <p>identified [1] 7/5</p> <p>if [61] 6/21 7/8 8/1 13/18 17/5 17/19 19/20 21/16 21/18 21/19 21/20 21/22 23/6 23/13 23/23 24/10 28/23 31/25 32/9 32/24 33/22 34/15 34/18 35/2 35/14 35/18 35/21 36/5 36/23 39/5 40/5 40/7 41/14 47/13 47/22 47/25 50/16 51/15 52/3 54/15 54/17 55/9 57/9 57/12 60/14 60/21 68/18 72/21 72/22 72/24 76/1 77/23 78/4 81/3 83/8 85/16 86/2 86/8 91/16 94/17 94/24</p> <p>important [1] 19/18</p> <p>in [224]</p> <p>inbound [1] 78/22</p> <p>INC [4] 1/25 36/11 36/12 40/18</p> <p>included [2] 9/23 9/24</p> <p>including [2] 18/24 92/3</p> <p>incorporate [2] 13/3</p>	<p>13/13</p> <p>increase [1] 48/7</p> <p>increased [2] 34/5 91/13</p> <p>indicated [1] 57/4</p> <p>indirectly [2] 61/25 70/2</p> <p>indiscernible [7] 13/23 23/3 25/2 54/20 56/5 61/4 71/19</p> <p>individual [9] 8/21 9/16 10/2 14/6 26/20 32/22 38/9 50/11 51/25</p> <p>individually [10] 12/10 12/14 12/21 26/25 29/7 39/3 39/14 46/15 58/1 78/8</p> <p>Industrial [1] 8/2</p> <p>information [2] 23/8 24/21</p> <p>injunction [4] 1/15 7/6 15/7 20/22</p> <p>input [1] 42/15</p> <p>inside [1] 25/13</p> <p>instruments [1] 5/19</p> <p>intend [1] 60/17</p> <p>intent [5] 48/4 49/24 55/2 55/4 55/18</p> <p>intention [4] 62/19 64/4 66/25 69/7</p> <p>interact [1] 75/17</p> <p>interaction [1] 75/18</p> <p>interest [44] 10/22 11/7 11/7 11/10 11/11 11/19 11/21 11/22 12/12 13/22 13/22 15/14 15/19 17/7 17/14 20/3 49/1 53/14 54/25 55/4 55/24 56/2 56/10 64/8 68/4 70/18 80/7 80/12 80/17 80/22 80/23 81/4 81/6 81/15 82/3 82/5 82/9 82/15 83/9 83/12 83/18 85/6 85/16 91/19</p> <p>interesting [1] 17/16</p> <p>intermediary [1] 75/10</p> <p>International [1] 36/12</p> <p>interpretation [3] 3/12 3/15 3/19</p> <p>into [13] 10/8 11/1 11/14 13/14 16/1 25/12 27/20 28/9 53/13 62/9 67/1 69/8 81/16</p> <p>introduce [1] 22/3</p> <p>introduced [1] 75/10</p> <p>invalid [2] 13/8 13/13</p> <p>inverse [1] 15/24</p> <p>investment [1] 33/3</p> <p>investments [24] 3/14 9/9 27/6 27/10 27/13 27/20 28/1 28/5 31/10 31/15 31/23 32/18 34/13 34/19 35/6 36/2 38/7 40/16 42/8 47/20 74/3 75/7 75/13 76/3</p> <p>investors [2] 27/11 74/14</p> <p>involved [5] 25/7 27/12</p>	<p>55/17 75/3 75/11</p> <p>involvement [1] 27/10</p> <p>involving [2] 25/8 73/22</p> <p>IOLTA [1] 12/1</p> <p>irrevocable [1] 83/24</p> <p>is [219]</p> <p>isn't [7] 38/7 44/3 58/21 60/24 82/16 84/21 86/16</p> <p>issue [4] 3/23 3/25 7/20 20/10</p> <p>issues [5] 3/10 7/5 8/16 12/6 81/5</p> <p>it [158]</p> <p>it's [45] 3/9 6/9 6/18 7/2 17/16 17/21 20/7 20/16 22/13 23/12 23/21 25/13 33/23 36/25 39/6 39/14 40/6 41/18 43/10 45/11 45/12 51/11 53/16 59/13 63/1 63/18 63/19 67/13 69/22 76/20 78/1 81/17 82/24 83/20 86/6 86/9 87/6 87/14 88/10 88/11 90/18 91/16 93/17 94/3 94/7</p> <p>its [21] 10/21 11/7 11/7 11/9 11/11 11/11 11/22 13/21 13/22 13/24 14/2 27/8 37/10 62/1 70/3 80/7 81/3 84/22 85/4 91/1 94/19</p> <p>itself [3] 15/18 70/13 70/15</p> <hr/> <p>J</p> <p>January [4] 19/6 19/7 19/8 19/14</p> <p>January 1 [1] 19/14</p> <p>January 2021 [1] 19/8</p> <p>Jay [4] 7/16 14/9 49/6 78/20</p> <p>JD [1] 1/25</p> <p>JILL [3] 1/24 21/13 86/9</p> <p>job [1] 44/3</p> <p>JOE [4] 1/20 3/8 5/11 8/5</p> <p>John's [1] 27/15</p> <p>join [2] 63/21 87/21</p> <p>joinder [1] 37/3</p> <p>joined [1] 25/3</p> <p>joint [2] 8/21 37/7</p> <p>JOSEPH [3] 1/18 7/13 24/9</p> <p>JUDGE [22] 1/13 15/15 16/3 16/22 17/1 17/16 17/25 18/2 19/2 19/18 19/20 20/13 21/7 22/8 22/23 44/12 44/13 73/12 88/9 89/10 95/8 96/20</p> <p>judgment [5] 11/10 11/12 50/10 50/12 79/3</p> <p>July [1] 87/14</p> <p>June [5] 9/8 31/10 31/13 33/5 33/8</p>	<p>jurisdiction [1] 53/8</p> <p>just [52] 3/5 5/3 6/12 7/25 8/15 8/17 12/8 12/10 16/3 16/14 17/17 21/24 23/24 24/11 24/20 28/13 28/20 32/1 32/11 40/5 41/10 41/23 47/8 49/15 49/16 50/4 52/24 57/8 57/9 60/8 64/7 67/8 72/2 74/15 74/20 75/15 81/17 82/5 82/13 86/3 86/4 86/7 86/7 86/16 88/10 89/13 94/6 95/8 95/23 95/25 96/10 96/13</p> <hr/> <p>K</p> <p>K-1 [1] 68/13</p> <p>K-e-n-n-e-t-h [1] 23/21</p> <p>KCI [55] 3/14 9/9 9/11 9/14 9/19 9/22 9/23 11/23 12/9 12/13 12/25 13/19 27/6 27/7 27/10 27/13 27/19 28/1 28/5 31/10 31/15 31/18 31/21 31/22 32/17 32/21 33/3 33/12 33/18 34/13 34/19 35/6 36/2 36/7 36/14 36/15 37/6 38/6 40/15 41/24 42/8 47/20 48/11 48/15 59/11 74/3 74/6 75/7 75/13 75/22 76/3 78/7 78/10 94/19 95/3</p> <p>KCI Investments [1] 74/3</p> <p>Keep [1] 73/11</p> <p>Ken [8] 8/20 14/5 75/12 75/16 75/17 75/25 78/20 79/17</p> <p>Kenneth [10] 21/11 23/15 23/21 51/19 51/20 51/22 52/6 52/14 52/16 53/2</p> <p>kept [1] 38/17</p> <p>kids [1] 96/14</p> <p>kind [3] 27/16 43/15 45/20</p> <p>know [50] 4/15 4/18 5/3 6/5 6/22 6/25 7/2 8/3 16/8 21/20 22/5 23/24 24/11 27/9 32/5 33/15 33/16 34/24 35/1 38/4 40/3 40/6 48/2 48/3 50/16 52/22 53/17 57/7 59/6 61/1 70/23 71/1 72/22 72/23 75/17 75/24 76/13 78/24 84/13 84/16 84/17 84/19 89/14 91/16 92/13 94/14 94/24 94/25 96/9 96/21</p> <p>know and [1] 72/23</p> <p>knowledge [4] 27/25 73/22 74/1 79/17</p> <p>knowledgeable [1] 26/21</p> <p>known [1] 36/12</p>	<p>L</p> <p>lack [4] 4/15 13/10 16/2 19/25</p> <p>land [1] 28/20</p> <p>Lane [2] 94/8 94/10</p> <p>language [1] 15/18</p> <p>largest [1] 50/12</p> <p>LAS [3] 2/22 7/21 98/12</p> <p>Las Vegas [1] 7/21</p> <p>last [12] 7/2 14/9 21/3 24/25 63/18 63/18 63/19 68/19 87/20 90/8 92/22 96/8</p> <p>late [1] 19/14</p> <p>later [6] 8/23 9/8 29/9 58/5 86/22 87/14</p> <p>latest [1] 18/1</p> <p>law [2] 17/8 17/17</p> <p>laws [2] 80/10 80/15</p> <p>lawyer [4] 17/3 22/21 22/22 75/15</p> <p>lawyers [2] 22/20 23/5</p> <p>least [4] 9/1 20/5 46/25 48/1</p> <p>leave [10] 3/8 7/10 14/24 21/18 21/21 22/14 22/16 95/23 95/25 96/23</p> <p>lectern [1] 59/22</p> <p>lecture [1] 7/9</p> <p>left [1] 25/7</p> <p>legacy [1] 15/18</p> <p>legal [11] 3/10 37/23 43/7 75/13 77/11 77/13 80/19 81/11 82/2 84/23 94/21</p> <p>legitimized [1] 56/22</p> <p>lender [12] 10/23 20/9 20/10 20/11 35/9 76/3 80/10 80/15 80/21 80/22 80/23 81/5</p> <p>lender's [1] 61/23</p> <p>lender-liability [3] 10/23 20/10 20/11</p> <p>lenders [1] 69/25</p> <p>lent [1] 9/23</p> <p>let [15] 6/21 14/20 21/19 23/24 24/11 30/6 40/6 48/1 55/13 59/19 65/3 65/14 72/22 72/23 86/5</p> <p>let's [14] 8/11 36/5 38/6 40/22 51/7 61/3 65/24 67/8 73/2 78/12 79/18 86/5 88/17 89/1</p> <p>letters [1] 15/24</p> <p>liability [7] 10/23 20/9 20/10 20/11 80/10 80/15 81/5</p> <p>liable [2] 4/14 13/19</p> <p>lien [3] 13/23 13/24 17/6</p> <p>lifetime [1] 67/6</p> <p>like [14] 7/4 12/8 14/18 15/3 15/5 41/13 61/6 62/22 63/6 63/17 66/17 85/22 90/8 93/19</p>
--	---	--	--	--

<p>L</p> <p>likelihood [1] 15/8 Likely [1] 76/19 likewise [1] 72/25 limited [3] 25/21 74/13 74/14 line [8] 23/13 35/5 35/8 35/24 45/16 45/25 58/12 58/14 lines [2] 35/11 52/1 liquidity [3] 78/22 78/25 79/2 list [1] 35/15 litigation [1] 7/19 little [4] 43/18 68/18 85/24 87/11 live [1] 14/9 living [6] 20/1 51/19 51/23 52/14 52/15 53/3 LLC [14] 1/6 1/9 3/13 3/14 7/15 7/15 11/10 11/23 17/15 27/6 35/9 36/3 56/11 93/4 loan [40] 9/10 16/11 26/11 27/22 28/9 29/21 29/24 29/24 30/3 30/8 30/9 30/11 30/14 30/23 31/5 31/5 31/6 31/11 31/14 31/16 31/18 31/21 32/21 37/21 38/10 42/19 46/11 48/8 49/11 59/15 74/1 74/5 74/21 76/7 77/17 78/24 80/23 82/4 85/17 90/23 loans [2] 38/5 74/20 located [1] 7/20 locations [1] 25/22 long [7] 6/12 21/17 73/8 77/17 77/21 90/18 96/8 longer [1] 7/3 look [22] 18/6 34/7 40/5 43/25 45/10 51/10 54/16 55/9 57/10 60/14 61/3 61/6 61/9 62/23 64/17 65/3 65/3 65/12 88/17 89/1 90/17 94/3 looked [3] 4/6 40/19 57/11 looking [10] 21/13 29/1 32/4 40/3 40/11 42/24 64/10 89/6 94/5 94/6 Lorenzo [1] 11/25 love [1] 44/12 lovely [2] 54/6 63/15 lower [1] 63/14 ludicrous [1] 17/22</p> <p>M</p> <p>made [3] 19/7 20/5 68/6 mailing [1] 19/11 make [5] 7/4 32/12 48/22 82/13 96/13 making [2] 42/16 42/18 managed [1] 74/11 management [2] 26/6</p>	<p>26/8 manager [2] 74/10 83/24 managing [3] 9/9 27/12 46/17 many [7] 19/2 33/14 46/17 46/20 48/6 52/13 61/2 March [2] 12/2 92/4 marked [1] 5/5 mask [4] 4/15 6/8 43/8 73/1 masks [3] 4/16 23/4 72/23 matter [2] 22/21 98/5 matters [1] 38/18 mature [1] 82/12 matured [2] 82/4 83/9 maturity [1] 85/17 maximum [1] 34/5 may [13] 23/5 42/13 43/24 52/24 55/10 57/4 61/17 67/21 72/3 95/20 96/1 96/9 96/24 MBA [2] 26/5 26/7 me [38] 6/5 8/1 14/20 20/8 21/19 22/3 24/7 24/10 24/11 24/11 25/4 30/6 40/6 40/12 43/18 43/18 49/14 51/1 51/1 54/16 55/13 55/20 59/13 59/19 61/5 64/17 65/3 65/14 69/17 72/22 72/23 75/6 77/4 80/5 81/17 85/18 86/9 94/4 meals [1] 27/17 mean [5] 20/10 41/20 49/14 54/20 81/21 meaning [1] 54/25 means [2] 38/4 96/13 meeting [1] 50/4 member [4] 9/9 46/17 82/2 82/5 members [2] 46/20 46/21 membership [14] 10/22 15/19 54/25 55/24 56/2 56/10 70/18 80/7 80/12 80/17 81/3 81/15 82/15 83/9 memberships [1] 79/25 memory [1] 94/4 mentioned [2] 8/5 85/4 mentions [3] 52/13 52/14 52/15 merge [1] 17/18 merger [17] 3/22 13/20 13/21 13/23 16/18 17/1 17/2 17/4 17/5 20/11 70/22 70/24 71/1 71/5 81/1 84/14 84/17 merits [3] 15/4 15/9 20/19 met [1] 50/6 MGM [2] 17/20 17/20 MICHAEL [1] 1/20 middleman [1] 75/10 might [3] 53/18 75/24</p>	<p>91/21 million [2] 9/5 34/5 mind [1] 52/20 mine [3] 70/16 89/5 89/10 minimal [1] 75/25 minute [5] 4/14 21/18 47/24 59/22 72/1 minutes [5] 47/9 53/21 53/23 72/5 85/11 misrepresentation [2] 16/20 18/1 misrepresentations [1] 11/3 misrepresented [1] 15/16 Mississippi [1] 25/6 Misstates [2] 49/22 55/6 modification [7] 33/23 34/4 34/16 34/22 35/19 36/6 36/20 modifications [3] 3/14 3/16 86/17 modified [1] 61/11 moment [5] 62/22 67/8 91/7 91/15 94/1 MONDAY [1] 1/14 money [14] 9/10 9/13 9/23 12/8 17/8 18/14 18/16 38/7 46/13 48/19 59/14 68/24 91/22 95/4 monitor [1] 6/11 month [1] 91/14 months [3] 73/16 78/23 87/14 more [4] 9/23 19/18 67/8 87/11 morning [2] 22/7 96/7 mortgage [2] 91/24 92/21 most [3] 17/21 19/14 26/21 motion [2] 15/17 16/18 move [1] 21/17 moved [1] 25/4 moving [1] 16/16 Mr [9] 2/3 2/4 2/8 2/9 2/10 2/12 2/13 2/14 2/15 Mr. [142] Mr. and [1] 16/3 Mr. Antos [67] 9/1 9/9 9/12 17/11 18/13 18/14 18/15 22/25 24/7 24/13 24/20 24/25 25/25 26/10 26/19 27/19 28/10 28/13 28/23 29/9 31/10 31/25 32/6 33/11 33/22 34/4 34/12 34/15 34/25 36/5 39/6 40/2 41/15 41/23 42/21 43/12 44/17 46/4 47/5 47/13 49/4 50/4 51/10 51/16 53/12 54/1 54/8 54/22 55/23 56/23 57/9 60/3 60/6 67/4 69/15 70/4 70/17 71/10 71/12 75/8 75/22 76/25 82/6</p>	<p>83/11 90/12 90/14 91/17 Mr. Antos's [1] 43/23 Mr. Bloom [38] 6/13 10/15 11/2 14/16 15/18 15/23 16/7 16/19 18/5 18/8 18/13 18/16 18/20 18/23 19/5 19/21 43/20 49/8 49/12 49/18 50/5 50/7 50/17 68/3 68/16 69/8 78/15 78/24 79/9 80/4 81/25 85/17 87/10 87/12 89/20 92/3 96/1 96/7 Mr. Bloom's [2] 16/2 49/19 Mr. Coppedge [3] 22/5 22/6 22/10 Mr. Gutierrez [6] 5/21 24/3 45/3 54/3 86/5 86/13 Mr. Hallberg [15] 18/13 18/15 22/3 22/14 57/4 57/6 73/5 73/15 74/21 76/17 79/18 86/13 88/14 89/17 92/20 Mr. Jay [1] 49/6 Mr. Mushkin [6] 11/24 14/23 85/22 93/8 95/22 96/9 Mr. Mushkin's [1] 12/1 Mr. Nelson [1] 93/25 Mrs. [1] 16/4 Mrs. Antos [1] 16/4 Ms. [2] 6/16 6/18 Ms. Barraza [2] 6/16 6/18 much [3] 21/8 48/1 71/12 MUSHKIN [11] 1/20 2/4 2/9 2/13 2/15 11/24 14/23 85/22 93/8 95/22 96/9 Mushkin's [1] 12/1 must [3] 15/9 18/2 18/6 my [29] 3/7 3/9 4/5 8/4 21/3 22/11 23/12 24/9 25/16 34/25 46/16 49/3 49/11 50/20 50/24 52/20 53/8 59/13 68/18 75/16 75/16 75/24 76/12 76/16 79/17 83/20 84/7 85/25 89/6</p> <p>N</p> <p>name [7] 23/20 24/9 49/3 52/12 68/3 72/18 93/6 named [1] 11/25 names [1] 60/15 National [3] 9/4 29/25 31/3 nature [1] 43/17 necessary [2] 57/5 57/6 need [19] 5/11 6/6 6/21 8/8 8/9 21/18 21/19 22/18 22/20 23/9 23/24 24/10 48/1 54/16 55/9</p>	<p>65/3 71/20 72/21 91/23 needed [4] 6/5 9/12 31/15 33/18 neglected [1] 22/2 negotiate [2] 91/11 93/7 negotiating [1] 79/9 negotiation [1] 75/3 neither [1] 13/9 Nelson [2] 79/12 93/25 Neumann [3] 52/7 52/16 53/2 NEVADA [9] 1/3 3/1 7/21 27/17 50/12 74/19 74/20 79/13 98/12 never [11] 4/15 12/16 12/18 12/22 13/4 13/5 20/2 49/8 76/10 76/14 80/4 new [3] 18/6 18/7 25/3 next [9] 14/7 35/8 36/25 39/21 59/23 61/22 62/7 69/23 71/17 nice [3] 6/18 44/3 71/15 no [90] 1/7 1/7 5/25 10/10 10/11 10/13 12/24 13/16 15/13 15/14 15/14 15/15 16/24 17/3 17/4 17/13 17/24 19/11 19/23 19/24 20/1 28/21 30/1 35/13 36/1 37/24 38/14 40/3 40/17 41/13 41/13 41/13 44/13 44/13 44/13 44/15 46/1 46/1 46/23 46/25 47/4 47/6 47/11 47/12 48/17 48/25 49/7 49/10 49/11 50/23 51/6 51/14 54/14 54/20 54/21 56/25 57/4 57/4 58/8 59/16 64/10 65/11 65/23 68/12 68/14 69/10 69/22 71/6 71/11 76/23 81/2 81/22 82/4 83/1 84/4 84/18 84/20 92/6 92/7 92/8 92/9 92/10 92/11 92/12 92/15 92/25 95/5 95/7 95/17 96/22 none [4] 10/3 10/5 15/15 19/24 nor [1] 13/4 Normally [1] 19/16 Northern [2] 9/6 30/20 nose [1] 6/8 not [74] 6/15 8/11 9/19 9/20 11/5 12/10 13/12 13/16 16/12 16/22 18/4 19/7 19/13 20/6 20/11 20/14 20/24 21/20 22/17 25/24 27/17 33/6 38/3 38/13 39/18 42/13 43/20 44/10 46/1 48/4 48/20 50/23 56/6 58/4 59/12 60/5 61/10 63/2 64/21 64/25 67/25 68/10 70/23 71/1 75/17 75/18 76/6 76/20 77/3 77/6 77/12 77/13 77/14 77/15 77/16 77/17 77/18 77/19 77/20 77/21 77/22 77/23 77/24 77/25 77/26 77/27 77/28 77/29 77/30 77/31 77/32 77/33 77/34 77/35 77/36 77/37 77/38 77/39 77/40 77/41 77/42 77/43 77/44 77/45 77/46 77/47 77/48 77/49 77/50 77/51 77/52 77/53 77/54 77/55 77/56 77/57 77/58 77/59 77/60 77/61 77/62 77/63 77/64 77/65 77/66 77/67 77/68 77/69 77/70 77/71 77/72 77/73 77/74 77/75 77/76 77/77 77/78 77/79 77/80 77/81 77/82 77/83 77/84 77/85 77/86 77/87 77/88 77/89 77/90 77/91 77/92 77/93 77/94 77/95 77/96 77/97 77/98 77/99 77/100</p>
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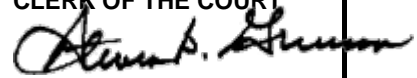
N	numeral [1] 88/11	46/12	page [45] 34/6 34/8 34/18 35/2 35/8 35/21 36/23 36/24 36/25 39/6 40/6 40/7 41/19 41/21 44/23 44/25 45/12 45/16 51/15 51/18 52/3 57/16 60/14 61/7 63/6 64/11 64/12 64/18 65/13 66/19 67/9 67/19 69/20 69/20 69/23 87/1 87/17 88/6 89/2 89/9 89/25 90/3 90/10 90/18 93/15	74/8 74/9 74/10 74/11 74/13 74/17 74/19 76/4 76/20 78/9 79/8 80/3 80/6 82/9 82/14 83/5 93/1
not... [25] 79/17 82/19 82/24 83/2 84/1 84/4 85/17 86/6 86/9 86/19 88/21 89/4 89/13 91/21 92/5 92/23 92/24 92/25 93/23 94/14 94/14 94/15 94/15 94/15 98/9	O	opposite [1] 16/3 or [55] 3/12 3/15 3/19 6/11 7/21 11/7 12/2 12/12 12/18 12/25 13/9 15/24 16/8 17/13 19/1 21/16 21/20 21/22 23/7 23/24 24/10 25/18 26/5 26/14 26/21 28/15 30/16 37/19 41/13 42/9 42/12 42/16 42/18 45/5 46/15 48/11 48/15 49/12 49/14 50/11 52/23 59/20 60/20 61/11 61/17 71/4 74/10 75/14 78/23 86/3 92/2 94/15 94/15 98/10 98/10	parts [1] 22/11 party [15] 17/7 17/13 20/15 33/6 55/20 64/1 64/5 65/10 65/25 66/4 84/15 86/19 86/22 88/1 88/15 pass [3] 4/14 59/17 85/21 patient [1] 20/17 patients [2] 25/20 25/21 Pause [16] 4/13 4/19 5/7 6/3 14/22 21/14 45/13 53/25 72/4 72/7 73/10 73/13 81/24 85/19 87/4 96/19 pay [5] 18/16 19/23 21/5 48/11 48/16 paying [1] 92/21 payment [6] 19/7 48/22 59/10 82/4 92/10 92/12 payments [1] 19/13 pays [1] 78/25 people [2] 22/19 27/12 per [2] 22/21 83/8 percent [14] 10/24 10/25 11/19 13/22 15/22 17/11 19/22 53/14 54/25 70/17 81/6 82/9 83/18 85/16 performance [1] 18/9 perhaps [3] 19/18 53/18 65/12 period [1] 78/21 person [8] 11/25 14/15 17/19 26/21 68/20 75/19 76/25 98/10 personal [14] 27/25 28/6 38/18 53/4 58/25 74/1 77/20 77/22 89/7 89/12 91/18 91/24 93/21 95/13 personally [2] 32/21 59/16 phonetic [1] 12/1 place [3] 22/12 36/18 49/7 plaintiff [6] 1/7 2/6 16/11 16/12 16/13 18/10 plaintiffs [7] 1/18 2/3 7/12 16/22 20/18 21/4 24/10 plaintiffs' [3] 15/8 15/17 16/16 plan [3] 6/24 14/4 96/8 planning [2] 9/2 29/17 pleadings [1] 16/12 please [17] 7/8 14/21 21/17 21/19 23/7 23/14 23/19 42/17 43/13 48/13 49/14 50/1 55/11 59/21 72/17 72/17 72/25	
note [82] 3/13 9/13 9/15 9/19 9/20 9/22 10/1 10/10 10/14 11/3 11/5 11/23 12/3 12/9 12/10 12/17 13/3 13/4 13/19 17/5 19/19 19/20 20/23 21/1 27/20 28/1 28/4 31/21 31/22 32/2 32/18 32/20 32/25 33/3 33/12 33/19 33/23 34/5 34/16 34/19 35/19 36/7 36/20 36/21 37/8 37/10 37/11 37/20 41/1 41/24 42/2 42/4 42/9 48/12 48/16 53/5 53/7 60/18 61/24 65/6 65/9 65/13 65/19 69/2 70/1 75/1 75/4 75/20 76/2 78/7 78/10 78/25 84/22 86/14 86/16 86/16 86/20 88/18 93/3 93/4 93/22 94/19	obligation [4] 10/11 12/24 21/2 21/6 obligations [2] 37/15 62/12 observing [1] 21/16 obtain [2] 33/17 67/1 obtaining [1] 53/14 obviously [2] 22/2 38/4 occupancy [1] 19/24 occupation [1] 73/6 occurred [1] 67/21 October [3] 8/23 29/9 67/11 off [3] 75/11 78/25 85/17 offhand [1] 94/25 office [4] 50/6 50/19 50/20 50/24 Officer [1] 73/7 offices [2] 4/17 25/17 oh [18] 8/4 8/7 14/17 41/21 42/23 44/11 45/1 64/11 65/16 69/1 69/7 69/22 86/25 87/3 95/24 96/15 96/23 96/25 okay [198] old [1] 60/6 on [138] once [1] 50/6 one [36] 3/24 4/9 4/11 8/10 10/18 10/19 10/19 14/1 16/18 16/21 17/17 22/20 27/11 33/24 37/22 42/23 42/24 44/8 44/9 45/3 49/18 52/24 52/25 61/17 64/16 67/8 79/4 79/8 79/20 84/19 85/18 86/16 89/13 91/7 94/1 95/8 one-action [5] 3/24 14/1 16/18 16/21 84/19 only [10] 15/22 18/18 20/15 22/10 22/19 22/20 31/18 36/2 78/8 93/17 open [1] 25/17 opening [7] 2/3 2/4 7/4 7/12 15/2 19/19 20/4 operate [1] 27/14 operated [2] 27/15 27/15 operating [9] 9/11 9/13 27/7 27/22 31/16 33/18 68/6 68/16 84/2 opinion [1] 83/17 opportunity [2] 25/16	order [3] 19/6 19/12 23/8 original [3] 27/11 41/24 44/9 originally [3] 10/17 25/2 79/25 originals [1] 5/6 other [10] 14/15 19/13 46/20 46/24 47/1 47/2 48/7 57/2 57/4 94/3 others [1] 5/16 otherwise [1] 17/24 our [7] 4/17 20/7 20/21 78/25 91/13 93/2 96/8 out [15] 4/14 12/5 19/17 21/17 29/21 30/8 30/16 31/11 31/14 56/5 65/19 65/22 66/4 68/15 89/23 outside [5] 76/23 76/24 90/24 93/24 94/16 outstandings [1] 91/13 over [15] 6/8 8/17 10/23 11/21 23/13 24/25 40/5 55/24 56/2 66/25 68/2 68/2 81/6 83/12 92/22 overruled [9] 26/17 37/25 43/8 49/23 55/8 80/20 81/13 85/8 94/23 overview [1] 24/24 owe [4] 17/8 18/15 19/21 69/5 owed [3] 12/9 48/16 68/24 owes [1] 18/14 own [1] 4/17 owned [10] 8/21 9/17 10/18 10/24 11/24 17/7 17/19 25/9 33/9 50/11 owners [4] 46/21 46/24 47/1 47/2 ownership [7] 17/23 19/24 48/24 49/1 53/14 80/1 80/23 owns [1] 83/17 oxygen [1] 4/15	page 1 of [1] 52/3 page 121 [1] 90/3 Page 2 [1] 64/11 Page 2 of [1] 64/12 page 25 [1] 51/15 page 259 [1] 34/8 page 280 [2] 34/18 35/2 page 284 [1] 35/21 page 3 [1] 67/9 page 322 [1] 36/23 Page 330 [1] 93/15 page 332 [1] 39/6 page 335 [1] 69/20 page 380 [1] 57/16 page 490 [1] 64/18 page 5 [1] 65/13 page 506 [4] 63/6 66/19 67/19 87/17 page 69 [3] 44/25 45/12 45/16 pages [4] 40/7 48/6 90/18 93/17 paid [5] 18/18 20/2 83/9 85/17 93/1 pandemics [1] 25/19 Papa [1] 27/15 paper [2] 44/10 44/13 paragraph [9] 34/6 52/6 53/1 61/9 61/22 63/18 63/19 69/24 89/22 paragraph 2 [1] 34/6 paralegal [1] 22/11 parol [2] 15/12 18/7 part [14] 17/19 46/20 47/2 54/22 54/22 55/16 55/21 55/22 56/4 59/15 70/8 81/14 85/15 90/22 partially [1] 50/11 particular [5] 56/23 70/5 75/4 78/6 85/25 particularity [1] 18/3 particularly [3] 17/16 18/7 19/19 parties [6] 1/11 3/9 14/14 16/24 87/21 89/23 partner [3] 27/12 74/11 74/12 partners [39] 1/9 3/13 9/11 10/20 14/8 17/12 25/12 27/20 28/1 28/5 31/11 31/19 35/9 46/9 47/6 47/11 47/20 73/7 73/8 73/16 73/20 74/2	
note's [1] 13/2 noteholder [2] 17/13 17/14 notes [1] 17/21 nothing [4] 68/5 68/23 83/9 95/19 notice [2] 20/22 67/23 noticed [1] 22/4 November [2] 24/17 73/9 November 2007 [1] 73/9 now [67] 4/4 4/17 5/15 7/3 8/8 17/25 19/17 20/19 24/20 26/10 26/19 28/9 28/13 28/17 29/9 29/20 31/10 31/15 31/21 32/20 33/2 33/11 34/12 34/15 36/5 36/19 38/2 39/13 39/21 40/1 41/9 41/14 42/21 45/18 45/19 47/2 47/13 48/23 49/4 51/10 52/3 53/1 57/9 58/5 60/20 62/22 63/6 65/24 66/17 74/21 76/2 76/6 77/3 77/6 78/5 78/9 78/14 79/18 81/3 84/5 86/3 88/17 90/8 91/15 91/23 93/21 94/17 nowhere [2] 15/12 34/22 number [11] 5/14 6/2 15/14 20/8 32/11 33/15 40/11 60/21 88/6 89/2 98/10 Number 334 [1] 40/11 numbers [2] 32/6 32/9		p		
		p.m [6] 3/1 53/24 53/24 72/6 72/6 97/1		

<p>P</p> <p>pled [1] 18/2</p> <p>pledge [13] 9/18 10/13 11/6 12/21 15/19 15/22 17/13 54/13 55/3 55/14 79/21 79/23 94/19</p> <p>pledged [5] 11/9 11/11 13/17 33/2 82/3</p> <p>pledging [2] 11/7 13/6</p> <p>point [13] 20/24 24/10 25/20 25/24 27/19 29/20 37/19 40/18 43/19 53/6 70/21 80/6 84/14</p> <p>pointed [1] 65/21</p> <p>pointing [1] 64/15</p> <p>points [1] 25/20</p> <p>police [1] 6/10</p> <p>portion [2] 65/6 65/18</p> <p>position [7] 3/16 13/8 13/14 14/3 16/14 77/13 94/14</p> <p>positive [1] 47/8</p> <p>positively [1] 42/14</p> <p>Powell [2] 94/8 94/10</p> <p>practice [1] 75/24</p> <p>practicing [1] 17/2</p> <p>precisely [1] 91/16</p> <p>preclude [1] 14/1</p> <p>Preferred [21] 36/11 36/15 36/19 37/19 40/17 40/21 40/25 41/4 41/11 46/15 46/16 46/18 47/20 48/11 48/15 48/24 49/1 59/11 70/10 70/14 95/3</p> <p>preliminary [5] 1/15 3/7 7/6 15/7 20/21</p> <p>prepaid [1] 84/9</p> <p>prepared [5] 40/13 42/16 50/18 50/24 52/11</p> <p>preparing [1] 75/19</p> <p>present [1] 14/9</p> <p>presenting [1] 14/4</p> <p>president [1] 25/5</p> <p>primarily [2] 75/8 75/12</p> <p>principal [2] 34/5 91/14</p> <p>prior [1] 91/21</p> <p>private [1] 4/17</p> <p>probably [6] 35/17 40/9 46/25 47/23 50/19 55/18</p> <p>problem [3] 12/16 18/18 44/15</p> <p>proceeding [1] 20/18</p> <p>proceedings [21] 1/10 4/13 4/19 5/7 6/3 14/22 21/14 45/13 53/24 53/25 72/4 72/6 72/7 73/10 73/13 81/24 85/19 87/4 96/19 97/1 98/4</p> <p>proceeds [1] 11/12</p> <p>project [1] 30/8</p> <p>promise [1] 19/23</p>	<p>promises [1] 68/6</p> <p>promissory [23] 3/13 9/13 27/20 28/1 28/4 31/22 32/2 32/18 32/20 33/23 34/5 34/16 34/19 35/19 36/20 41/24 42/2 42/9 53/5 53/7 74/25 75/20 76/2</p> <p>proof [1] 19/15</p> <p>properly [1] 11/2</p> <p>property [56] 7/19 7/21 7/22 8/21 8/24 9/4 9/5 9/7 9/14 9/17 9/18 10/9 10/14 10/16 11/16 12/11 12/20 12/21 13/3 13/6 13/16 17/9 17/20 28/11 28/14 28/15 28/15 28/18 28/20 29/6 29/11 29/17 29/21 30/8 30/17 33/9 38/13 39/2 49/5 49/18 50/5 50/9 50/14 54/23 57/19 73/23 78/16 81/16 82/2 84/5 84/6 84/9 84/12 91/24 92/12 92/22</p> <p>proposed [1] 4/6</p> <p>proposition [1] 17/22</p> <p>prove [1] 12/7</p> <p>proven [1] 18/3</p> <p>provide [2] 16/22 20/7</p> <p>provided [5] 3/17 9/14 19/12 26/24 61/16</p> <p>providing [1] 26/19</p> <p>provision [4] 61/23 62/7 63/18 69/25</p> <p>provisions [3] 37/9 64/7 65/1</p> <p>public [1] 46/23</p> <p>publish [4] 5/6 43/22 44/5 44/8</p> <p>Pull [1] 6/8</p> <p>pulled [1] 9/5</p> <p>purchase [4] 28/10 28/25 29/5 49/9</p> <p>purchased [2] 8/20 10/16</p> <p>purchasing [2] 18/18 36/15</p> <p>pure [2] 18/10 21/5</p> <p>purpose [9] 12/3 40/1 40/10 56/16 59/5 78/18 78/23 85/13 85/13</p> <p>purposes [2] 7/18 9/3</p> <p>pursuant [3] 17/12 19/12 69/2</p> <p>pursue [1] 12/13</p> <p>put [4] 5/3 43/8 67/16 81/16</p> <hr/> <p>Q</p> <p>quarter [1] 91/18</p> <p>question [21] 16/13 24/11 26/15 30/4 34/25 38/19 38/21 43/17 45/18 46/7 49/9 49/11 49/15 49/20 50/1 55/11 82/20 83/1 85/1 86/13 95/8</p> <p>questioned [2] 18/21</p>	<p>18/24</p> <p>questioning [2] 21/20 88/18</p> <p>questions [12] 19/3 21/23 23/6 40/8 59/23 60/22 69/10 71/9 86/7 92/15 95/7 95/17</p> <p>quick [2] 21/25 67/8</p> <p>quite [2] 48/20 56/6</p> <p>quote [3] 20/25 37/7 37/8</p> <hr/> <p>R</p> <p>raise [1] 23/13</p> <p>rate [1] 15/14</p> <p>raw [1] 28/20</p> <p>reached [1] 67/12</p> <p>read [11] 5/2 39/19 45/23 45/24 47/22 47/24 48/4 48/6 55/15 63/20 65/14</p> <p>reading [2] 4/7 88/4</p> <p>ready [9] 3/4 7/1 7/3 54/1 72/8 72/9 73/12 96/5 96/17</p> <p>reaffirm [1] 67/19</p> <p>reaffirmation [3] 63/9 66/20 87/18</p> <p>reaffirmations [1] 66/10</p> <p>real [3] 17/3 21/25 92/12</p> <p>really [5] 6/7 53/16 59/6 65/11 81/21</p> <p>Realtor [1] 78/20</p> <p>reason [4] 23/6 29/16 29/16 33/16</p> <p>reasons [1] 29/17</p> <p>recall [40] 18/23 33/11 33/14 42/15 42/18 42/20 43/4 43/14 43/17 47/7 49/4 49/11 49/17 49/21 50/4 50/13 51/3 51/13 53/13 54/9 54/13 54/22 55/3 55/19 55/23 55/25 56/1 58/7 65/10 69/16 70/19 71/2 73/15 75/22 76/21 77/24 78/1 78/14 79/22 86/14</p> <p>receive [12] 26/7 40/12 41/3 41/5 41/7 41/12 46/5 46/8 50/9 59/14 77/8 78/5</p> <p>received [14] 13/5 16/4 41/11 43/2 43/15 46/11 46/14 46/14 54/24 54/25 68/3 90/22 92/2 92/3</p> <p>receiving [3] 40/24 43/20 45/20</p> <p>recessed [2] 53/24 72/6</p> <p>recites [1] 60/14</p> <p>recognize [4] 54/19 54/21 63/14 68/22</p> <p>recollection [3] 45/19 65/13 65/21</p> <p>record [4] 5/22 16/3 23/20 72/18</p>	<p>recorded [2] 1/24 5/18</p> <p>RECORDER [1] 1/24</p> <p>RECORDING [1] 98/4</p> <p>Recross [2] 2/15 95/10</p> <p>Recross-Examination [2] 2/15 95/10</p> <p>redirect [6] 2/10 2/14 69/11 69/13 92/16 92/18</p> <p>refer [1] 28/14</p> <p>reference [1] 39/18</p> <p>referring [2] 7/19 7/23</p> <p>reflected [1] 31/22</p> <p>refresh [2] 65/12 94/4</p> <p>refused [1] 19/1</p> <p>regarding [2] 15/19 93/24</p> <p>regularly [1] 15/25</p> <p>related [4] 1/11 17/14 50/13 79/2</p> <p>relates [1] 17/2</p> <p>relationship [5] 47/6 47/11 67/24 75/11 93/2</p> <p>release [8] 63/9 63/24 66/14 66/22 67/20 67/20 87/18 87/24</p> <p>relied [2] 94/16 95/15</p> <p>relief [1] 16/17</p> <p>relying [1] 93/21</p> <p>remain [1] 80/21</p> <p>remedies [3] 12/8 12/13 16/23</p> <p>remedy [3] 13/21 14/2 84/22</p> <p>remember [13] 7/8 29/12 42/11 53/16 54/4 55/2 57/7 57/8 59/6 60/21 67/25 76/19 90/16</p> <p>remote [1] 21/12</p> <p>rent [2] 84/9 92/6</p> <p>rents [1] 84/11</p> <p>repaid [1] 91/21</p> <p>repeat [3] 23/7 24/11 48/13</p> <p>rephrase [4] 38/21 49/25 49/25 85/1</p> <p>replacement [1] 91/20</p> <p>report [2] 68/15 68/16</p> <p>REPORTING [1] 1/25</p> <p>represent [1] 19/2</p> <p>representations [3] 63/22 66/2 87/22</p> <p>representative [2] 14/10 73/20</p> <p>representatives [1] 21/16</p> <p>represented [2] 42/6 42/8</p> <p>representing [1] 79/11</p> <p>request [1] 20/21</p> <p>required [1] 4/16</p> <p>reserve [1] 86/1</p> <p>residential [1] 20/25</p> <p>resign [2] 80/6 81/3</p> <p>resigned [1] 10/21</p> <p>respect [2] 13/13 62/10</p> <p>response [2] 45/25 71/11</p>	<p>responses [1] 5/18</p> <p>responsibility [1] 70/16</p> <p>responsible [1] 21/21</p> <p>rest [1] 96/10</p> <p>restaurant [17] 9/10 9/14 40/17 40/21 40/25 41/4 41/11 46/15 46/16 46/18 47/21 48/11 48/16 48/24 49/2 70/10 70/14</p> <p>restaurants [10] 9/12 25/12 27/7 27/13 27/16 36/11 36/15 36/19 37/20 59/11</p> <p>result [3] 25/14 25/16 82/11</p> <p>resume [1] 54/1</p> <p>retire [1] 69/8</p> <p>retired [1] 24/23</p> <p>retirement [1] 92/8</p> <p>return [4] 43/3 43/16 45/21 68/11</p> <p>revert [2] 83/10 85/16</p> <p>reverting [1] 83/12</p> <p>review [3] 42/9 42/13 56/23</p> <p>reviewing [1] 40/4</p> <p>revocable [1] 20/1</p> <p>revoked [1] 61/10</p> <p>rewrite [1] 16/15</p> <p>right [27] 3/3 4/4 6/23 14/19 14/23 15/1 15/6 23/12 23/14 24/2 31/8 32/7 34/23 44/11 53/23 54/3 65/16 71/7 71/23 72/5 73/2 85/4 87/11 87/15 88/5 89/13 95/9</p> <p>right-hand [1] 32/7</p> <p>rights [3] 12/4 19/24 19/24</p> <p>Road [1] 8/2</p> <p>Roman [1] 88/11</p> <p>room [2] 3/8 22/20</p> <p>roughly [1] 91/20</p> <p>rule [7] 3/24 14/1 15/12 16/18 16/21 18/8 84/19</p> <p>Russo [1] 12/1</p> <hr/> <p>S</p> <p>said [17] 18/20 18/23 23/7 31/15 35/1 43/14 44/13 48/18 48/21 69/5 81/9 83/4 85/10 88/18 88/19 91/22 95/3</p> <p>sale [2] 28/25 29/5</p> <p>same [4] 14/23 17/7 22/9 39/5</p> <p>sanitize [1] 86/5</p> <p>Sapphires [1] 8/2</p> <p>say [15] 5/11 15/10 16/12 17/24 22/19 40/15 43/12 46/14 47/22 51/1 55/25 57/6 58/13 58/15 88/14</p> <p>saying [2] 94/13 94/14</p> <p>says [18] 32/10 37/2 37/5 45/18 51/19 51/20 52/6 58/17 61/16 61/22 61/23 61/24 61/25 61/26 61/27 61/28 61/29 61/30 61/31 61/32 61/33 61/34 61/35 61/36 61/37 61/38 61/39 61/40 61/41 61/42 61/43 61/44 61/45 61/46 61/47 61/48 61/49 61/50 61/51 61/52 61/53 61/54 61/55 61/56 61/57 61/58 61/59 61/60 61/61 61/62 61/63 61/64 61/65 61/66 61/67 61/68 61/69 61/70 61/71 61/72 61/73 61/74 61/75 61/76 61/77 61/78 61/79 61/80 61/81 61/82 61/83 61/84 61/85 61/86 61/87 61/88 61/89 61/90 61/91 61/92 61/93 61/94 61/95 61/96 61/97 61/98 61/99 61/100</p>
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S	settlement [1] 50/10 seven [1] 6/17 seventh [3] 36/6 36/20 40/19 several [4] 24/13 33/12 33/15 37/7 severed [1] 65/9 SH [1] 61/7 SH 000335 [1] 61/7 SHAC [14] 7/24 8/1 8/3 8/5 8/11 10/15 11/7 13/22 68/4 68/4 80/17 81/16 82/10 84/22 shall [1] 37/12 she [2] 44/7 68/20 She's [2] 3/5 81/18 Sheila [9] 8/20 28/6 32/21 51/19 51/22 52/7 52/14 52/16 53/2 short [1] 53/20 shot [1] 96/9 should [3] 12/12 21/3 95/25 show [14] 8/18 8/19 10/12 10/17 10/21 11/24 12/23 15/8 16/3 16/24 18/9 19/5 19/6 28/24 showgirls [1] 81/19 shows [1] 87/10 side [1] 22/21 sign [3] 35/15 41/7 55/20 signatory [1] 37/10 signature [17] 32/17 35/5 35/8 35/11 35/16 35/24 40/7 41/19 41/20 41/21 51/18 63/11 63/11 63/14 77/1 89/25 89/25 signed [36] 10/10 11/6 11/9 11/21 15/20 18/16 28/6 31/22 32/25 34/12 34/18 39/14 41/17 42/21 43/16 45/22 48/15 50/16 51/21 51/22 51/25 55/3 56/13 56/24 57/18 57/20 58/2 58/3 58/5 59/2 62/4 62/16 76/20 77/4 83/12 94/19 signing [7] 43/3 46/5 46/9 50/13 71/4 77/7 78/6 similar [1] 91/15 simple [3] 18/10 21/5 82/5 since [6] 7/5 47/22 73/9 77/19 77/22 92/3 sir [33] 22/1 23/23 23/23 35/22 36/9 47/17 47/24 49/2 50/25 51/8 53/20 58/14 59/8 59/22 61/6 65/22 69/4 71/13 71/20 72/21 77/15 77/21 77/24 78/5 78/12 78/18 82/25 83/23 84/19 84/21 85/4 85/18 85/20	sit [3] 46/4 82/8 83/17 situation [2] 17/19 55/21 SJC [11] 7/15 7/25 7/25 10/19 10/24 11/9 14/11 80/2 83/24 84/5 84/8 SJCV [1] 15/24 skip [2] 17/17 17/17 slightly [1] 22/3 small [3] 65/6 65/18 88/11 so [78] 3/7 4/6 4/25 5/2 5/8 5/22 6/5 6/24 6/25 8/8 8/11 10/23 12/21 14/15 15/9 16/8 16/12 19/24 20/14 23/5 25/13 25/21 26/7 26/23 28/13 31/4 32/11 33/1 33/18 33/19 34/21 35/17 36/2 36/4 37/19 38/17 40/13 40/20 40/24 42/23 44/4 46/4 46/24 47/10 47/22 47/23 48/20 49/9 50/21 52/13 54/20 55/17 55/20 55/21 58/25 59/4 61/2 65/18 65/24 68/1 72/10 74/11 75/17 76/20 78/23 80/6 81/25 82/8 86/5 86/6 86/7 86/24 87/14 87/14 89/21 90/12 91/19 94/12 SOCIAL [1] 98/9 sold [8] 11/22 25/9 25/9 65/7 65/10 91/18 93/2 93/4 solidify [1] 56/20 solved [1] 12/16 some [7] 5/16 24/21 25/20 27/19 29/20 78/1 80/6 somehow [4] 15/18 15/23 17/21 20/9 something [1] 93/19 somewhat [1] 78/1 sorry [30] 6/10 20/10 20/12 29/1 30/2 30/6 36/24 38/15 41/6 42/7 43/9 43/12 44/14 45/1 55/25 58/22 64/11 64/15 64/22 69/4 69/22 71/25 79/20 81/9 81/16 83/6 86/25 88/9 89/9 94/25 sounds [1] 16/17 Southwest [3] 30/15 30/24 31/1 spaced [1] 21/17 SPANISH [60] 1/5 7/14 7/20 7/22 7/23 8/12 8/13 10/17 10/22 10/23 11/8 11/19 11/23 14/3 14/11 17/12 19/22 20/3 28/11 28/14 28/17 29/6 29/10 29/17 29/21 30/7 33/9 38/12 49/5 49/5 49/12 49/18 50/5 50/14 50/14 53/13 53/15	54/23 54/24 55/1 56/2 56/10 58/7 68/11 68/17 70/18 73/23 73/23 78/16 80/1 80/7 80/12 81/4 81/6 82/15 83/18 83/23 84/6 92/20 93/4 speak [1] 18/21 specific [1] 58/1 specifically [8] 16/23 43/2 46/1 48/5 59/12 63/17 71/4 80/15 spell [2] 23/19 72/18 spelled [1] 12/5 spiel [1] 14/23 sponte [1] 15/4 spot [1] 15/22 spurious [1] 16/10 stage [1] 40/21 stall [1] 78/23 stand [1] 72/10 standard [1] 18/3 start [4] 7/3 51/7 74/25 96/7 started [3] 19/15 21/24 71/21 starting [2] 8/19 63/19 starts [2] 5/17 89/5 state [4] 23/19 53/1 72/18 74/18 stated [1] 18/12 statement [7] 2/3 2/4 7/5 7/12 15/2 19/19 20/5 statements [1] 20/5 status [1] 84/11 stay [2] 21/17 95/22 steal [1] 21/4 step [1] 95/20 sterilize [1] 59/22 stickers [1] 19/2 still [8] 6/6 12/9 19/20 19/20 39/8 47/10 69/16 83/24 stipulate [1] 44/4 stipulated [3] 3/9 4/9 5/17 stipulating [1] 14/14 stock [1] 17/20 stores [1] 25/18 stretching [1] 43/9 Strike [1] 42/7 structure [3] 12/15 80/1 82/1 stuck [1] 89/10 sua [1] 15/4 subject [4] 20/24 37/12 57/22 57/24 submit [1] 19/16 subsequently [3] 25/4 25/7 58/5 substantial [1] 91/16 Subway [2] 25/12 25/13 Subways [1] 25/15 success [1] 15/9 successor [3] 12/12 36/14 40/20 such [1] 62/11 sued [1] 78/9	summer [2] 82/1 87/13 supper [3] 27/16 27/16 27/18 support [2] 18/5 91/24 supposed [2] 3/6 44/10 sure [22] 32/12 42/13 42/14 42/18 43/14 49/16 50/2 50/22 50/23 51/3 53/17 56/6 58/4 59/12 65/4 82/13 84/1 89/14 90/16 92/23 92/24 92/25 surrounding [4] 3/10 77/25 78/14 79/22 sustained [2] 82/21 84/25 swear [2] 72/10 72/13 sworn [3] 23/13 23/16 72/15 system [1] 17/9
T	tab [2] 29/2 44/24 take [19] 21/23 30/8 30/16 31/14 40/5 44/10 47/24 51/10 61/3 61/9 62/22 72/1 72/3 81/5 84/21 88/17 89/1 90/17 96/20 takes [2] 6/13 48/5 taking [2] 53/20 80/22 talk [3] 15/21 55/18 70/21 talked [1] 70/4 talking [7] 40/15 40/17 41/10 42/23 49/16 54/8 81/22 talks [1] 64/20 target [1] 16/16 tax [2] 68/11 98/10 taxes [1] 92/12 telephones [1] 25/8 tell [15] 4/11 18/14 18/15 24/21 27/6 36/11 36/12 44/20 60/6 68/2 72/23 75/6 77/4 94/4 94/24 ten [2] 53/21 53/23 tenant [1] 84/5 tenants [1] 8/22 terms [13] 20/24 31/21 37/14 38/5 49/8 61/24 63/22 70/1 79/9 83/8 87/22 90/9 92/1 testified [9] 9/12 23/17 29/15 38/2 47/5 70/25 72/16 76/13 90/14 testify [3] 6/13 9/1 9/1 testifying [2] 46/5 73/19 testimony [8] 10/21 14/17 16/19 26/19 26/24 45/12 73/15 90/12 than [6] 7/3 17/23 19/18 57/2 57/4 87/11 thank [36] 4/6 7/13 14/12 14/13 15/1 15/8	take [19] 21/23 30/8 30/16 31/14 40/5 44/10 47/24 51/10 61/3 61/9 62/22 72/1 72/3 81/5 84/21 88/17 89/1 90/17 96/20 takes [2] 6/13 48/5 taking [2] 53/20 80/22 talk [3] 15/21 55/18 70/21 talked [1] 70/4 talking [7] 40/15 40/17 41/10 42/23 49/16 54/8 81/22 talks [1] 64/20 target [1] 16/16 tax [2] 68/11 98/10 taxes [1] 92/12 telephones [1] 25/8 tell [15] 4/11 18/14 18/15 24/21 27/6 36/11 36/12 44/20 60/6 68/2 72/23 75/6 77/4 94/4 94/24 ten [2] 53/21 53/23 tenant [1] 84/5 tenants [1] 8/22 terms [13] 20/24 31/21 37/14 38/5 49/8 61/24 63/22 70/1 79/9 83/8 87/22 90/9 92/1 testified [9] 9/12 23/17 29/15 38/2 47/5 70/25 72/16 76/13 90/14 testify [3] 6/13 9/1 9/1 testifying [2] 46/5 73/19 testimony [8] 10/21 14/17 16/19 26/19 26/24 45/12 73/15 90/12 than [6] 7/3 17/23 19/18 57/2 57/4 87/11 thank [36] 4/6 7/13 14/12 14/13 15/1 15/8		

<p>T</p> <p>thank... [30] 21/8 21/9 22/23 23/2 23/19 23/23 24/4 31/4 31/8 34/1 39/10 54/5 54/6 71/7 71/12 71/14 71/15 72/17 72/21 79/6 82/23 85/20 88/8 88/12 89/11 90/20 92/14 94/10 95/6 95/21</p> <p>that [402]</p> <p>that's [35] 4/3 5/12 8/3 12/9 15/14 15/22 19/21 20/16 32/1 33/7 33/23 34/8 35/5 36/17 37/22 39/19 40/23 47/10 52/15 66/2 70/25 71/3 76/12 76/16 80/14 81/14 83/21 84/7 85/10 85/10 86/2 88/19 93/6 93/13 96/15</p> <p>their [14] 8/21 9/15 10/2 10/14 15/9 16/5 16/12 17/25 19/21 19/22 19/23 20/3 20/19 25/18</p> <p>them [17] 4/7 4/7 5/2 5/3 5/5 10/5 12/8 19/4 25/10 31/14 38/14 61/2 68/9 70/15 74/24 79/5 96/16</p> <p>themselves [1] 18/21</p> <p>then [27] 4/7 5/10 5/16 7/9 7/25 11/18 11/22 13/24 14/9 25/4 25/18 25/23 29/10 31/5 38/9 48/1 52/15 57/7 59/23 62/7 66/14 69/20 76/24 80/6 83/11 87/17 89/25</p> <p>theory [3] 17/16 18/1 18/7</p> <p>there [65] 5/4 8/22 9/13 9/21 10/7 10/9 10/10 10/11 10/12 11/1 11/6 11/8 11/13 12/15 15/18 17/3 17/4 18/12 22/4 25/7 25/13 28/5 28/21 30/3 33/11 33/14 33/15 33/19 35/11 35/24 37/1 38/14 41/9 42/13 44/21 45/3 46/24 46/25 49/7 57/19 58/2 58/10 61/8 63/2 64/21 65/9 65/18 65/18 66/7 67/14 69/17 69/21 74/13 75/10 82/2 82/4 83/4 86/6 86/16 86/16 90/16 91/15 91/16 95/3 96/6</p> <p>there's [15] 5/19 11/3 11/20 12/8 12/24 13/16 15/8 15/13 34/15 35/8 61/2 66/14 83/1 86/16 89/12</p> <p>therein [1] 37/16</p> <p>thereto [3] 3/14 3/16 37/10</p> <p>these [6] 15/13 38/5 69/8 71/5 75/14 79/9</p>	<p>they [46] 8/20 8/24 9/2 9/3 9/5 9/6 9/12 9/18 11/16 11/18 12/8 12/13 12/16 12/21 15/9 15/15 15/16 16/1 16/4 16/8 16/9 16/12 16/14 16/24 17/14 17/17 17/17 17/23 19/16 19/16 19/23 19/24 20/2 21/5 21/6 25/4 25/20 48/22 50/16 55/19 55/20 56/4 56/5 77/8 88/22 96/17</p> <p>they'll [1] 9/1</p> <p>They're [1] 15/15</p> <p>thing [2] 3/7 90/8</p> <p>things [3] 21/25 79/4 90/16</p> <p>think [20] 5/17 5/19 6/6 7/18 8/2 8/17 17/22 20/17 22/18 40/6 40/9 48/1 48/5 54/12 66/25 70/25 79/25 80/9 95/2 96/7</p> <p>third [18] 3/15 10/18 10/19 10/19 13/8 13/13 16/14 35/18 41/8 41/9 55/16 56/5 56/21 65/10 69/24 80/2 80/2 80/3</p> <p>this [172]</p> <p>those [17] 5/18 5/20 15/24 17/21 21/15 25/21 25/22 27/18 32/9 33/16 47/2 50/24 52/19 60/22 64/7 67/20 93/24</p> <p>though [6] 15/20 15/21 29/13 63/25 87/25 95/22</p> <p>thought [4] 6/5 43/17 43/19 91/20</p> <p>three [11] 6/25 7/3 8/23 14/4 18/13 20/5 40/7 58/5 59/1 90/18 93/17</p> <p>thrilled [1] 20/19</p> <p>through [17] 5/8 5/23 6/1 8/8 10/8 12/1 20/18 25/11 39/19 47/22 47/25 48/4 50/10 55/15 65/14 78/20 88/25</p> <p>Thursday [1] 22/14</p> <p>time [49] 6/21 9/3 9/17 17/13 19/4 19/14 21/21 22/6 22/11 22/16 23/24 28/20 33/5 33/8 36/16 40/5 42/7 42/10 48/5 48/11 48/14 48/23 50/8 50/14 51/4 53/19 55/9 56/19 57/21 57/23 59/9 60/17 61/14 61/20 62/4 62/19 64/4 65/9 65/18 67/24 68/19 72/22 75/14 77/3 78/21 79/11 79/16 85/20 91/15</p> <p>timeline [1] 8/17</p> <p>times [6] 4/17 18/21 18/23 22/21 60/21 84/10</p> <p>title [7] 17/2 17/6 17/14 17/15 17/18 17/23 91/1</p> <p>today [12] 7/16 14/9</p>	<p>15/12 26/19 46/4 47/10 60/3 73/19 82/8 83/17 94/13 96/9</p> <p>together [1] 89/10</p> <p>told [3] 6/5 11/2 96/16</p> <p>too [4] 19/1 60/5 71/14 71/16</p> <p>took [7] 13/21 29/21 31/10 36/17 49/7 54/9 65/9</p> <p>top [1] 66/20</p> <p>TRAN [1] 1/1</p> <p>transaction [20] 18/25 25/8 49/7 49/12 49/17 50/18 51/5 53/12 55/20 55/22 58/6 73/22 76/10 79/16 87/12 89/20 90/23 92/1 93/24 94/1</p> <p>transactions [2] 62/9 62/11</p> <p>TRANSCRIBED [1] 1/25</p> <p>TRANSCRIBER [1] 98/16</p> <p>transcript [7] 1/9 24/17 44/17 44/25 45/11 98/3 98/9</p> <p>transcripts [2] 4/24 5/1</p> <p>transfer [2] 17/9 55/4</p> <p>transferred [7] 8/24 9/2 12/20 17/11 18/17 29/10 29/16</p> <p>transferring [2] 55/23 56/1</p> <p>trial [8] 1/15 3/11 7/6 7/18 8/16 8/18 12/6 15/4</p> <p>tricked [1] 15/16</p> <p>TRO [1] 20/22</p> <p>true [10] 38/7 47/10 61/14 61/20 62/4 62/16 82/16 84/21 85/10 88/24</p> <p>truncated [1] 52/12</p> <p>trust [196]</p> <p>Trust's [2] 11/19 13/22</p> <p>trustee [11] 27/3 35/14 38/25 46/12 51/20 51/22 52/23 56/14 56/22 61/16 61/17</p> <p>trustees [3] 53/3 62/8 90/1</p> <p>trusts [3] 52/13 52/19 52/23</p> <p>truthfully [1] 90/14</p> <p>trying [6] 22/19 23/8 30/4 41/19 45/10 58/23</p> <p>turn [12] 28/23 31/25 32/10 32/24 35/8 44/23 54/15 63/6 66/17 69/21 76/17 95/12</p> <p>Twenty [1] 25/1</p> <p>twice [1] 14/16</p> <p>two [10] 9/8 21/25 27/18 40/6 45/3 52/13 52/19 52/23 57/10 74/20</p> <p>two-page [1] 40/6</p> <p>type [1] 43/2</p>	<p>typically [1] 75/25</p> <p>typo [1] 52/24</p> <p>U</p> <p>unable [1] 48/22</p> <p>unambiguous [1] 18/11</p> <p>unanimity [1] 17/6</p> <p>unaware [1] 92/13</p> <p>uncontroverted [2] 17/10 20/14</p> <p>under [24] 9/19 9/20 10/14 12/8 13/6 27/8 31/18 36/21 37/2 37/5 37/8 37/20 46/16 48/16 51/18 53/8 57/16 59/12 61/24 70/1 78/4 84/22 85/4 93/22</p> <p>underlying [1] 3/13</p> <p>underneath [1] 12/4</p> <p>understand [11] 22/8 23/7 23/9 28/15 57/1 57/24 57/24 69/4 77/13 77/15 82/13</p> <p>understanding [13] 3/9 23/12 55/14 56/16 76/12 76/16 81/15 83/20 83/21 84/7 84/8 85/15 94/12</p> <p>understood [3] 40/19 82/1 94/17</p> <p>until [4] 19/7 53/24 72/6 96/17</p> <p>up [14] 7/9 21/18 21/21 25/17 25/18 38/6 49/8 57/10 59/23 67/16 72/10 86/9 87/10 90/8</p> <p>update [1] 19/16</p> <p>upon [3] 69/7 88/16 95/15</p> <p>upstate [1] 25/2</p> <p>us [20] 6/22 7/16 16/16 23/1 23/7 23/9 23/24 24/21 24/24 27/6 36/11 36/12 48/1 59/22 70/7 72/22 78/21 94/24 96/20 96/21</p> <p>use [3] 7/8 96/1 96/3</p> <p>used [2] 52/11 60/15</p> <p>V</p> <p>vacate [1] 20/22</p> <p>vaccine [1] 96/9</p> <p>vague [2] 38/20 78/1</p> <p>valid [3] 13/2 13/12 21/1</p> <p>validity [3] 3/12 3/15 3/19</p> <p>various [2] 60/14 79/4</p> <p>VEGAS [4] 3/1 7/21 27/18 98/12</p> <p>Ventures [10] 7/15 7/25 10/19 10/24 11/9 14/11 80/2 83/24 84/5 84/8</p> <p>veracity [1] 18/8</p> <p>verified [1] 18/4</p> <p>Vernon [1] 79/12</p> <p>version [1] 44/5</p>	<p>versus [1] 8/5</p> <p>very [11] 15/5 17/25 18/2 20/17 21/8 36/25 52/6 68/18 71/12 82/5 85/24</p> <p>video [2] 23/13 68/20</p> <p>view [1] 18/7</p> <p>viewed [1] 15/13</p> <p>violated [1] 19/6</p> <p>VISUAL [1] 98/4</p> <p>void [1] 18/5</p> <p>W</p> <p>Wait [1] 5/11</p> <p>waiting [1] 3/5</p> <p>waive [1] 71/5</p> <p>waived [2] 16/21 84/14</p> <p>waives [1] 16/8</p> <p>waiving [1] 71/4</p> <p>Walmart [5] 25/9 25/12 25/13 25/14 25/17</p> <p>want [29] 4/4 16/14 18/1 21/4 21/5 21/16 21/22 24/20 28/9 28/10 28/24 32/1 47/25 52/13 57/9 58/1 61/5 64/7 64/17 69/17 74/24 80/21 80/22 82/13 86/4 86/25 96/1 96/3 96/20</p> <p>wanted [2] 8/16 96/10</p> <p>wants [2] 22/16 95/22</p> <p>warranties [3] 63/22 66/2 87/23</p> <p>was [196]</p> <p>Washington [2] 74/18 81/22</p> <p>wasn't [4] 69/3 75/15 88/19 95/24</p> <p>way [6] 15/4 15/6 17/8 76/7 78/10 96/7</p> <p>ways [1] 12/15</p> <p>we [71] 3/3 3/4 4/8 4/16 4/25 5/2 5/3 5/3 5/4 5/6 5/16 6/24 7/5 7/19 8/3 8/8 8/9 14/4 20/7 20/19 21/11 21/24 23/4 25/21 25/22 27/15 27/15 28/9 29/1 31/14 32/9 38/4 38/4 43/19 43/22 44/10 45/10 47/13 54/8 54/9 54/12 57/9 59/22 64/10 68/18 68/19 68/23 69/5 69/5 71/20 72/10 72/24 74/20 74/24 78/23 82/6 85/16 91/13 91/14 91/19 91/19 91/20 91/20 91/21 91/22 91/22 91/23 93/2 93/2 96/7 96/23</p> <p>we'd [1] 14/9</p> <p>we'll [7] 12/7 21/23 22/18 51/7 57/10 71/18 72/23</p> <p>we're [21] 4/17 7/3 8/11 13/1 13/7 13/11 13/15 13/20 13/25 15/7 23/8 23/9 28/13 28/14 39/5 39/8 40/11 41/8 43/700</p>
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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

SPANISH HEIGHTS ACQUISITION)
COMPANY LLC,)
)
Plaintiff,)
)
vs.)
)
CBC PARTNERS I LLC,)
)
)
Defendant.)
)
AND RELATED PARTIES)

CASE NO. A-20-813439-B
DEPT NO. XI

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE
TUESDAY, FEBRUARY 2, 2021

PRELIMINARY INJUNCTION HEARING AND TRIAL - DAY 2

APPEARANCES:

FOR THE PLAINTIFFS: JOSEPH A. GUTIERREZ, ESQ.

FOR CBC PARTNERS I: MICHAEL R. MUSHKIN, ESQ.

RECORDED BY: JILL HAWKINS, COURT RECORDER
TRANSCRIBED BY: JD REPORTING, INC.

I N D E X

W I T N E S S E S

WITNESSES FOR THE PLAINTIFF:

JAY BLOOM

Direct Examination by Mr. Gutierrez

5

WITNESSES FOR THE DEFENSE:

JAY BLOOM

Direct Examination by Mr. Mushkin

47

1 **LAS VEGAS, CLARK COUNTY, NEVADA, FEBRUARY 2, 2021, 9:59 A.M.**

2 * * * * *

3 THE COURT: And we are missing Mr. Coppedge today,
4 but we have quite capable help.

5 Don't take it off.

6 MR. MUSHKIN: I'm just switching masks.

7 THE COURT: Okay. You're putting on the one we can
8 actually hear you through.

9 MR. MUSHKIN: Yes, ma'am.

10 THE COURT: Okay.

11 MR. MUSHKIN: And may I take my coat off again?

12 THE COURT: You may take your coat off any time you'd
13 like. You don't even have to ask permission.

14 Mr. Bloom, if at any time --

15 Oh, I like your mask. That's nice.

16 THE WITNESS: Thank you.

17 THE COURT: If at any time you need to take a break,
18 you just let us know. Okay?

19 THE WITNESS: Thank you. I'm feeling much better
20 than yesterday.

21 THE COURT: All right. Well, sometimes when you get
22 the vaccine it's the second or third day that it hits is what I
23 heard.

24 Okay. Raise your right hand.

25 **JAY BLOOM**

1 [having been called as a witness and being first duly sworn,
2 testified as follows:]

3 THE CLERK: Thank you. Please seated. Please state
4 and spell your name for the record.

5 THE WITNESS: Jay Bloom. J-a-y, B-l-o-o-m.

6 MR. GUTIERREZ: Your Honor, I'm just looking for our
7 second binder for him.

8 MR. MUSHKIN: Your Honor, if I may, more of an
9 administrative matter, as you recall, in my opening statement I
10 was concerned about the parol evidence rule.

11 THE COURT: Uh-huh.

12 MR. MUSHKIN: I want to lodge my objection now. I'll
13 try and make it throughout the course of the testimony, but any
14 time --

15 THE COURT: Luckily, I'm the fact finder. So I can
16 sift through all that stuff.

17 MR. MUSHKIN: I understand, Your Honor.

18 THE COURT: Okay.

19 MR. MUSHKIN: With that said, to the extent that
20 Mr. Bloom attempts to contradict the terms of the contract, I
21 would object under the parol evidence rule.

22 THE COURT: I certainly understand that, but I would
23 encourage you to make that objection orally so that it can be
24 part of the record, and I will take that into the calculus that
25 is in the back of my mind on how I'm evaluating things.

1 MR. MUSHKIN: I will do so, Your Honor. Thank you.

2 THE COURT: Thank you.

3 THE COURT RECORDER: Mr. Bloom.

4 THE WITNESS: Yes.

5 THE COURT RECORDER: You're going to have to scoot up
6 closer. I know that the chair is stuck on that thing, but once
7 you get over it, you'll be all right.

8 THE WITNESS: Okay. Is that better?

9 THE COURT RECORDER: Yeah.

10 THE WITNESS: Okay. The mask doesn't help.

11 THE COURT: Believe me, we know.

12 MR. GUTIERREZ: Okay. Are you ready, Your Honor?

13 THE COURT: I've been ready.

14 MR. GUTIERREZ: Okay.

15 THE COURT: I've been here since 9:00 o'clock
16 working. I've been sitting in the same place.

17 DIRECT EXAMINATION

18 BY MR. GUTIERREZ:

19 Q Good morning, Mr. Bloom. Can you tell us where you
20 currently live.

21 A 5148 Spanish Heights Drive, Las Vegas, Nevada.

22 Q And we've been calling the 5148 Spanish Heights Drive
23 property the property or Spanish Heights property for purposes
24 of this case. Are you okay using those definitions going
25 forward?

1 A Yes.

2 Q And who do you live at the Spanish Heights property
3 with?

4 A I live with my wife, my son and my wife has recently
5 brought my mother-in-law and her husband in to live with us as
6 well.

7 Q Okay. And how long have you lived at the Spanish
8 Heights property?

9 A A little over three years I believe.

10 Q And is the Spanish Heights property your primary
11 family residence?

12 A Yes.

13 Q And at some point did you purchase the Spanish
14 Heights property?

15 A Yes.

16 Q And can you tell us about the circumstances for
17 having bought the Spanish Heights property.

18 MR. MUSHKIN: Objection to the form of the question.
19 Vague and ambiguous as to "you."

20 THE COURT: Overruled.

21 THE WITNESS: I -- my wife actually found it through
22 a Realtor online. It had been listed for quite a period of
23 time. We contacted the Realtor. The Realtor put us in touch
24 with a representative Alan Hallberg for CBC Partners, and there
25 were extended negotiations and discussions which ultimately

1 lead to the purchase of the real property.

2 Q And did you purchase the Spanish Heights property in
3 your own name personally or through a company that you control?

4 A I purchased it into a special purpose entity created
5 for that purpose.

6 Q And what's the name of that company?

7 A Spanish Heights Acquisition Company.

8 Q And at the time of the purchase, who was the
9 owners -- who owned Spanish Heights Acquisition Company?

10 A It was originally formed to be owned one third by
11 CBC, one third by SJC, which is my entity, and one third by the
12 Antos Trust, which was the seller.

13 Mr. Hallberg came back and said after speaking with
14 lawyers he can't hold ownership or that CBC can't hold
15 ownership of the property.

16 MR. MUSHKIN: Objection. Hearsay, Your Honor.

17 THE COURT: Overruled.

18 THE WITNESS: And therefore he resigned CBC's
19 membership interest in Spanish Heights Acquisition Company.
20 And we redid -- we redid -- and SJC resigned its interest as
21 well. And then after the transaction where the Antos Trust
22 transferred the property to Spanish Heights, it was the Antos
23 Trust transferred 50 percent of the interest in Spanish Heights
24 Acquisition Company to SJC -- actually, 51 percent.

25 MR. GUTIERREZ: Okay.

1 THE WITNESS: And retained 49 percent interest for
2 itself.

3 BY MR. GUTIERREZ:

4 Q And what is SJC Ventures?

5 A SJC Ventures is an entity that -- that holds a number
6 of different -- it's a holding company. It holds a number of
7 different projects that I'm involved in.

8 Q And who manages SJC Ventures?

9 A I'm the manager of SJC Ventures.

10 Q Okay. And as part of this transaction, Mr. Bloom,
11 did SJC Ventures pledge a part of its beneficial interest in a
12 judgment that First 100, LLC has?

13 A Yes.

14 Q And can you explain that portion of the transaction.

15 A Yes. The original proposal was a pledge of -- by the
16 Antoses of their 49 percent interest in the property, and SJC
17 would pledge 51 percent of its 51 percent interest in the
18 property.

19 Subsequent negotiations resulted in the culmination
20 of, as CBC Partners was looking for their money back and not
21 the property, the discussions led to a proposal where in lieu
22 of the interest in the -- membership interest in SJC -- in
23 SHAC, Spanish Heights Acquisition Company --

24 I'll stay away from SHAC for the Court.

25 THE COURT: Thanks.

1 THE WITNESS: -- it would -- it would instead secure
2 its obligation through an assignment of a portion of its
3 beneficial interest and proceeds collection -- realized through
4 collection efforts on the judgment.

5 BY MR. GUTIERREZ:

6 Q How did you know that CBC wanted -- or tell us the
7 basis of your understanding that CBC wanted to get paid money
8 versus acquire the property.

9 A In my conversations, it was -- it was very clear to
10 me through direct representations that there's no -- there's no
11 interest in the property. They just want to get their money
12 back.

13 Q When you say they, are you talking about CBC?

14 A CBC.

15 Q Okay. Now, who owned the property when you were
16 thinking about purchasing it in 2017?

17 A The Antos Trust.

18 Q And was it your understanding that the Spanish
19 Heights property was the Antoses' primary residence when they
20 bought the property?

21 A Yes.

22 Q Okay. And can you tell us about the discussions you
23 had with Ken Antos when you were deciding whether or not to
24 purchase the property?

25 A At the time we were discussing purchasing the

1 property, it was -- discussions were primarily with CBC. I
2 didn't speak to the Antoses very often. They had pretty much
3 thrown up their hands with regard to the property.

4 Q Well, who did you speak with at CBC during this first
5 transaction?

6 A Mr. Hallberg.

7 Q Okay. Were you ever told during this time frame, and
8 we're talking about 2017 before Spanish Heights Acquisition
9 Company bought the property, were you ever told during this
10 time frame that the original note for the Antos' debt was for a
11 commercial restaurant loan for a company called KCI
12 Investments?

13 A No.

14 Q And when you were introduced to -- well, let's back
15 up.

16 What kind of due diligence did you do when you were
17 going to purchase the Spanish Heights property?

18 A There really wasn't a lot of due diligence. A lot of
19 it was reliance on representations. So there's a warranties
20 and representations section, I believe, and there were
21 representations made in the conversations which gave us the
22 basis for moving forward in the transaction.

23 Q And during this time frame, what was your
24 understanding as to the relationship between the Antos Trust
25 and CBC?

1 A I understood the Antos Trust held or the Antos Trust
2 had a third mortgage that was held by CBC.

3 Q Did Mr. Antos or CBC ever provide you with the
4 underlying note or guarantees that memorialized the loan
5 between CBC and the Antoses?

6 A Not prior to the culmination of the transaction.

7 Q And what representations --

8 MR. MUSHKIN: Your Honor, I will object as under the
9 parol evidence rule as this reflects the clear reps and
10 warranties within the document.

11 THE COURT: Overruled.

12 BY MR. GUTIERREZ:

13 Q Mr. Bloom, what representations were made to you
14 about the third position deed of trust on the property?

15 A The representations were that it related to a third
16 mortgage. You know, yeah. It just -- it was always a third
17 mortgage throughout the entire negotiations.

18 Q Okay. Now, the deed of trust mentions for good and
19 valuable consideration on it. Did Ken Antos ever explain to
20 you what the consideration for the Antos Trust was for pledging
21 the deed of trust on the property?

22 A No. Consistent with his testimony here and in his
23 deposition -- he testified in his deposition that there was no
24 consideration. He testified here in live testimony that there
25 was no consideration, and I'm not aware of any consideration

1 that the Antos Trust was provided --

2 MR. MUSHKIN: Same objection, Your Honor.

3 THE WITNESS: -- from Ken Antos.

4 THE COURT: Overruled.

5 BY MR. GUTIERREZ:

6 Q Mr. Bloom, since this case, this litigation has begun
7 last year, did you have a chance -- have you now had a chance
8 to review the underlying promissory note?

9 A I have.

10 Q To KCI?

11 A I have, yes.

12 Q Where did you learn about the -- in your review of
13 the underlying note.

14 A I learned that it was originally a commercial loan to
15 a restaurant in which Mr. Antos had an interest and that it was
16 guaranteed by Mr. Antos and Mrs. Antos individually. I learned
17 that there were 10 subsequent modifications. I learned that
18 there was a deed of trust issued by the Antos Trust in 2014, I
19 believe that, although the Antos Trust was not a guarantor or a
20 borrower under the note. So my -- you know, what I've learned
21 is that the deed of trust doesn't create the obligation. It
22 secures an obligation under another document.

23 And in this instance, in 2014, the Antos Trust is
24 neither a borrower nor a guarantor or had any obligation for
25 which a 2014 deed of trust could secure.

1 Q So going to the --

2 MR. MUSHKIN: Your Honor, same objection. His
3 testimony conflicts the clear written terms of the note.

4 THE COURT: The objection is overruled.

5 BY MR. GUTIERREZ:

6 Q Mr. Bloom, and now I want to talk about that timeline
7 with the third deed of trust and then the amended deed of trust
8 on the property. You're familiar with both of those documents;
9 correct?

10 A Correct.

11 Q Now, tell us your understanding of what the deed of
12 trust was -- that was issued in 2014, what obligation it was
13 securing.

14 A Well, so the deed of trust was supposed to secure the
15 guarantee of the Antos Trust, but there was no guarantee of the
16 Antos Trust. So there was nothing for the deed of trust to
17 secure.

18 So if you look at the chronology of the documents
19 that we've received for the first time through discovery in
20 this matter, there's a 2014 deed of trust against a commercial
21 restaurant loan which has no nexus to the Antos Trust, the
22 owner of the property. So there's nothing in 2014 for the deed
23 of trust to secure.

24 In 2016, there's a reaffirmation, but again there's,
25 at that point, after, I don't know, 10 note modifications or

1 amendments, there was never an amendment that added the Antos
2 Trust as a guarantor or a borrower.

3 Now, I did see a modification that added Preferred
4 Restaurant Brands as a borrower later on through the course of
5 additional advances to the restaurant.

6 But in 2016 there's a reaffirmation of a nonexisting
7 guarantee and an amendment to the deed of trust.

8 We also learned through this litigation that there's
9 a 2017 guarantee that the Antos Trust, but no subsequent deed
10 of trust issued once there finally was a guarantee.

11 So I think the Antos Trust guaranteed it but never
12 pledge the property before selling the property to Spanish
13 Heights Acquisition Company.

14 Q Now I want to turn your attention, Mr. Bloom, to
15 Exhibit 1, which is the 2017 forbearance agreement.

16 Do you have that in front of you?

17 A (No audible response.)

18 Q Do you have that in front of you, Mr. Bloom?

19 A I do.

20 Q Okay. Mr. Bloom, what's your understanding of what
21 this forbearance agreement was to document?

22 A So in the course of our discussions, while I was
23 under the understanding that there was a third mortgage, there
24 was an action by -- or there was the potential of an action by
25 CBC to foreclose under their, what I thought was a third

1 mortgage. And, in fact -- and this document was for them to
2 forbear taking any actions against the third mortgage against
3 the property that I was interested in buying.

4 Q And, Mr. Bloom, if you could turn to Exhibit 7, which
5 is Exhibit B to the forbearance agreement.

6 Are you familiar with this document?

7 A Yes, I believe so.

8 Q Okay. And if you can turn to page 81 under this
9 exhibit.

10 Can you tell us what the obligations were by CBC
11 under this forbearance agreement.

12 A CBC was to make payments on the first and second
13 mortgage to prevent the default of the first and second
14 mortgage.

15 Q Did CBC continue to make payments under the first and
16 second mortgage during the forbearance period?

17 A For January, February and March of 2020, they did
18 not.

19 MR. MUSHKIN: I'm sorry, Your Honor. I didn't hear
20 that answer.

21 THE COURT: Could you repeat yourself, sir.

22 THE WITNESS: For January, February and March
23 of 2020, during the forbearance period, CBC did not make
24 payments to the first or the second.

25 / / /

1 BY MR. GUTIERREZ:

2 Q And after the forbearance agreement was executed, did
3 the Antos Trust provide you with a deed of trust on the
4 property that was recorded?

5 A Not until this litigation, no.

6 Q Now, Mr. Bloom, I want to turn your attention to the
7 pledge agreement, which is Exhibit 10. I'm sorry. I believe
8 it's Exhibit 8, yeah, Exhibit 8.

9 Now, can you tell us what the purpose was for this
10 pledge agreement?

11 MR. MUSHKIN: Objection to the question to the extent
12 it contradicts the clear meaning of the document, Your Honor.

13 THE COURT: Overruled.

14 THE WITNESS: So this was the pledge of the Antos'
15 49 percent interest in Spanish Heights Acquisition Company as
16 signed by Kenneth and Sheila Antos living trust as pledgors.

17 BY MR. GUTIERREZ:

18 Q And if you turn to page 97 in this document, it's
19 exhibit -- is that your signature on behalf of Spanish Heights
20 Acquisition Company?

21 A It is.

22 Q Okay. And there's been references about potentially
23 SJC pledging its interest in SHAC to CBC, but is SJC a signer
24 on this document at any point?

25 A No. The SJC signature block was removed for

1 execution.

2 Q Okay. And tell us why it was removed.

3 A It was removed in favor of a security agreement by
4 offering a position in SJC's beneficial interest in any
5 proceeds realized by SJC's collection under a First 100
6 judgment.

7 Q And if you turn to Exhibit 10, is that the security
8 agreement that you're discussing?

9 A Yes, it is.

10 Q Okay. And if you turn to Exhibit 11, can you tell us
11 what this document is.

12 A This is a payment direction letter where First 100
13 and SJC authorize Maier Gutierrez & Associates as attorneys for
14 First 100 to direct payment to CBC directly upon collection of
15 proceeds from the judgment.

16 Q Okay. And this is consistent with the security
17 agreement we saw in Exhibit 10; is that correct?

18 A Correct.

19 Q Okay. And who is the manager of Spanish Heights
20 Acquisition Company?

21 A I am the sole, exclusive and irrevocable manager.

22 Q When you say you, are you talking about you
23 individually, or SJC Ventures?

24 A SJC Ventures and me as the manager of SJC.

25 Q Okay.

1 Now, Mr. Bloom, what was the condition of the Spanish
2 Heights property when you purchased it in 2017?

3 A Cosmetically it was in decent shape. Mechanically it
4 had some problems with HVAC and some of the systems, home
5 automation and pool, that kind of thing.

6 Q Did you make improvements to the property after you
7 bought it?

8 A Yes.

9 Q And how much money did you put in improvements to the
10 property?

11 A In excess of a hundred thousand dollars.

12 Q Were you required in any document to make over a
13 hundred thousand dollars in improvements?

14 A My recollection is that we had agreed to do a hundred
15 thousand. I think the document said I may do a hundred
16 thousand, but, no, more than 125,000. So I stayed within the
17 parameters of the documents.

18 Q And, Mr. Bloom, if you can go back to Exhibit 7,
19 which is Exhibit B to the forbearance agreement, and go to
20 page 82.

21 A I'm sorry. Page 82?

22 Q Yes, under Exhibit 7.

23 A Okay.

24 Q And Section C discusses SHAC's obligation to maintain
25 property after conveyance to SHAC. Do you see that?

1 A Yes.

2 Q And does that refresh your recollection as far as the
3 obligations for SHAC for improvements on the property?

4 A Yeah. So SHAC made certain repairs and improvements,
5 and the estimate was to be about a hundred thousand, and that
6 SHAC will not spend more than -- or Spanish Heights Acquisition
7 Corp., will not spend more than 125,000 for such repairs
8 without consent.

9 Q Okay. And is there a lease on the Spanish Heights
10 property?

11 A Yes.

12 Q And who is the tenant?

13 A SJC Ventures.

14 Q And what's the term of the lease?

15 A I'm sorry?

16 Q What is the term of the lease?

17 A It was two years with two successive two-year
18 extensions at the option of the tenant.

19 Q And if you turn to Exhibit 15, is that the lease for
20 the property?

21 A Yes, it is.

22 Q Okay. And if you turn to Exhibit 16, I want to talk
23 to you about the amendment to the forbearance agreement that
24 stated December 1st, 2019. Let me know when you have that in
25 front of you.

1 A I have it in front of me.

2 Q Okay. And then tell us the purpose of the amended
3 forbearance agreement.

4 A So this was to serve several purposes. It extended
5 the CBC agreement to forbear from any collection activity
6 against what I understood at the time was a third mortgage. It
7 also acknowledged the extension of the lease and the exercise
8 of the two extensions to continue the lease for the two
9 successive two-year terms.

10 Q And if you turn to page 160 under this exhibit, is
11 that the acknowledgment of the lease extension?

12 A Yes. And B1, the last sentence, The parties
13 acknowledge that the conditions to which SJC options were
14 subject have been satisfied and that the SJC options have been
15 exercised.

16 Q And the next page, is that the -- and this was signed
17 off by CBC Partners; is that correct?

18 A By John Otter, the president of CBC.

19 Q Okay. Now, Mr. Bloom, did CBC follow all of its
20 obligations under the amended forbearance agreement?

21 A To the best of my knowledge it did with the exception
22 of the balloon payment, which we discovered was not really an
23 obligation of the Antos Trust when we bought the property.

24 Q I'm sorry. I was asking about CBC. Did CBC comply
25 with its obligations?

1 A Oh, did CBC. I'm sorry.

2 Q Yeah.

3 A No. CBC didn't, as I mentioned before, did not make
4 the January, February and March 2020 payments under their
5 obligations under the forbearance agreement.

6 Q And has Spanish Heights Acquisition Company been
7 servicing the first and second mortgages on the property?

8 A Yes, for almost a year now.

9 Q And has Spanish Heights also been paying the HOA dues
10 and insurance on the property?

11 A Yes.

12 Q Okay. Now, one of the allegations that's been made
13 in this case by CBC, Mr. Bloom, is that you failed to set up a
14 funding account, as stated in the agreements. What is your
15 position on that claim?

16 A So this is again a chronology issue that Mr. Mushkin
17 seems to have --

18 THE COURT: Sir, don't give me any personal attacks,
19 please. Just answer the question.

20 THE WITNESS: There was originally, at the beginning
21 of the discussions, the initial conversation was that Spanish
22 Heights Acquisition Company would establish a security account
23 to assure payments under -- payment obligations that arise
24 under the -- under the agreement. I went to Bank of America.
25 They could not provide the kind of account that CBC was asking

1 for. I told CBC and offered instead to just prepay the
2 expenses negating the need for a security account. CBC agreed.
3 There was a prepayment of the expenses, and there was no
4 requirement for a security account at that point because its
5 function was mooted with the prepayment.

6 Q Did CBC ever contact you after 2017 to discuss not
7 setting up that account?

8 A No. And we did the same thing on the extension as
9 well -- well, for the second year of the lease term, the
10 initial lease term.

11 Q Now, CBC has claimed that SHAC defaulted by not
12 making the balloon payment under the forbearance agreement.
13 What's your response to that claim?

14 A So the default -- there is a default on the note.
15 The note though is a commercial loan to a restaurant with
16 personal guarantees by the Antoses. So CBC does have a
17 defaulted note, or I guess their successor has a defaulted
18 commercial loan to a restaurant with personal guarantees by the
19 Antoses.

20 Q Mr. Bloom, I'm going to turn to discussion of the
21 doctrine of merger. You testified earlier about Spanish
22 Heights Acquisition Company originally being a third, a third
23 ownership; is that correct?

24 A Right. Correct.

25 Q And in 2017, what was the ownership after CBC

1 rescinded its ownership in Spanish Heights Acquisition Company?

2 A The ownership was 51 percent SJC and 49 percent Antos
3 Trust.

4 Q Now, at some point in 2020, did you become aware that
5 CBC was attempting or acquired the ownership interest from the
6 Antos Trust in Spanish Heights Acquisition Company?

7 A Yes. CBC I acquired the interest from the Antoses,
8 almost in the form of a deed in lieu of foreclosure type
9 structure where the Antoses signed over their 49 percent
10 interest --

11 MR. MUSHKIN: Objection to the form of the
12 question --

13 THE WITNESS: -- in the real property.

14 MR. MUSHKIN: -- your Honor.

15 THE COURT: Overruled.

16 MR. MUSHKIN: Directly contradicts the documents.

17 THE WITNESS: The Antoses --

18 THE COURT: Overruled.

19 THE WITNESS: The Antoses signed over their
20 49 percent interest, and the only consideration the Antoses
21 would've gotten for that was the satisfaction of the
22 obligation.

23 BY MR. GUTIERREZ:

24 Q And were you sent a letter from -- well, from Mushkin
25 and Coppedge on behalf of CBC where they informed you of the

1 Antos Trust transferring the interest to CBC Partners I?

2 A Yes.

3 Q Okay. I want to show you what's been admitted as
4 Exhibit 74.

5 THE COURT: No, you can't approach. Use the Elmo.

6 MR. GUTIERREZ: Okay. I'm going to need help on the
7 Elmo, Your Honor. I haven't used this in a while. Maybe
8 Ramsey can help us out.

9 THE COURT: I can't let you approach anymore. I'm
10 really sorry.

11 MR. GUTIERREZ: I'm going to need Ramsey to approach
12 me to help me with the Elmo.

13 THE COURT: Ramsey is going to turn on the Elmo for
14 you.

15 (Pause in the proceedings.)

16 THE COURT: And I know this document is admitted
17 because it's not one of the two or three that aren't. So...

18 MR. GUTIERREZ: Yes, Judge. This is admitted
19 Document 74.

20 THE COURT: Can you blow it up a little bit so people
21 can see. Do you know how to use it?

22 MR. GUTIERREZ: No, Judge. I am --

23 THE COURT: Really?

24 MR. GUTIERREZ: I've seen it used a few times, but
25 I've never really used it.

1 THE COURT: Boy, you're young.

2 (Pause in the proceedings.)

3 BY MR. GUTIERREZ:

4 Q Mr. Bloom, do you see this letter on your monitor?

5 A I do.

6 Q It's an April 1st, 2020, letter from the law firm
7 Mushkin & Coppedge, and it's Exhibit 74, Bates stamp
8 5148SH 000887. Do you see the Bates stamp, Mr. Bloom?

9 A Yes. Yes, I do.

10 Q Do you recall receiving this letter?

11 A I do.

12 Q And what did this letter tell you as the manager of
13 Spanish Heights Acquisition Company?

14 A That the interest of the Antos Trust for 49 percent
15 in Spanish Heights Acquisition Company has transferred to CBC
16 Partners I, the lender, under the pledge agreement.

17 Q Okay. So was it your understanding that as of April
18 1st, 2020, Spanish Heights Acquisition Company was owned a
19 51 percent by SJC and 49 percent by CBC Partners I?

20 A Correct.

21 Q Did you ever sign an assignment of interest document
22 on behalf of SJC's 51 percent interest in SHAC over to anybody?

23 A No, I did not.

24 Q Okay. So as you sit here today, SJC remains a
25 51 percent owner in Spanish Heights Acquisition Company?

1 A Yes. That's correct.

2 Q What was your understanding of what this notice to
3 vacate letter was attempting to do?

4 A The notice to vacate was trying to take physical
5 possession of the house.

6 Q And the defendant is claiming that in this case they
7 could foreclose on the property and is stating that 5.5 million
8 is owed as a balloon payment. What is your position on that
9 claim?

10 A Well, again you have a 2014 deed of trust that
11 secures no obligation at the time the deed of trust was issued
12 because there was no --

13 MR. MUSHKIN: Same objection, Your Honor.

14 THE COURT: Overruled.

15 You can answer.

16 THE WITNESS: There was no guarantee by the Antos
17 Trust under the note, and the Antos Trust was not the borrower.
18 Then in 2016 you have the reaffirmation, but you have a
19 defective deed of trust in November in 2014, which remains
20 defective in 2016. We finally get to a guarantee in 2017 which
21 obligates the Antos Trust, but there's no subsequent pledge of
22 the collateral. The Antos Trust then transfers the property,
23 and there's no encumbrance on the property that's -- would not
24 be defective that would allow a foreclosure to occur.

25 / / /

1 BY MR. GUTIERREZ:

2 Q Have you heard of a company called 5148 Spanish
3 Heights, LLC?

4 A I have.

5 Q What do you know about 5148 Spanish Heights, LLC, in
6 relation to its involvement in this case?

7 A Well, I know Mr. Mushkin testified that it's his
8 company. I understand that he purchased the CBC commercial
9 loan to the KCI restaurant as guaranteed by the Antoses
10 individually, and that he funded it with money that he
11 borrowed, I believe, from Laurentiu Russo I think the name is,
12 who is -- owns a neighboring -- two neighboring properties
13 actually.

14 Q Has CBC continued trying to foreclose on the property
15 even though it sold its note to 5148 Spanish Heights, LLC?

16 A Yes. It sold CBC -- CBC I sold its note in April
17 of 2020. And then three months later in July of 2020, CBC I
18 issued a notice of default.

19 Q And for the record, the CBC notice of default from
20 July 2020 is an admitted Exhibit 144.

21 And, Mr. Bloom, why should CBC and its successor 5148
22 Spanish Heights, LLC, be prevented from foreclosing on the
23 Spanish Heights property?

24 A Well, CBC and its successor don't have a valid deed
25 of trust. The deed of trust is not the obligation. It secures

1 an obligation under another -- another instrument.

2 In this case, it's a commercial restaurant loan --

3 MR. MUSHKIN: Same objection, Your Honor.

4 THE COURT: Overruled.

5 THE WITNESS: In this case it's a commercial
6 restaurant loan to KCI where Preferred Restaurant Brands
7 through one of the amendments to the note was later added as a
8 borrower as guaranteed by the Antoses individually. But at no
9 time prior to the issuance of the deed of trust did the Antos
10 Trust ever have an obligation under the note. So the deed of
11 trust secures the pledger's obligation in this case, the
12 obligation is zero.

13 MR. GUTIERREZ: Thank you, Mr. Bloom.

14 I'll pass the witness, Your Honor.

15 THE COURT: Cross-examination.

16 MR. MUSHKIN: Your Honor, I'd like --

17 THE COURT: Does anybody need a break before we
18 start?

19 MR. MUSHKIN: No, I don't. I'd like to make a motion
20 before we start, Judge.

21 THE COURT: Okay. Hold on a second.

22 Sir, do you need a break before we start
23 cross-examination?

24 (No audible response.)

25 THE COURT: Mr. Bloom?

1 THE WITNESS: I'm sorry.

2 THE COURT: Do you need a break before we start
3 cross?

4 THE WITNESS: I think I'm okay.

5 THE COURT: Okay. Your motion.

6 MR. MUSHKIN: Your Honor, in the opening of this case
7 I was pretty clear the burden is on the plaintiff. This is
8 their third witness, and they've passed.

9 THE COURT: They haven't rested yet.

10 MR. MUSHKIN: Well, Your Honor --

11 THE COURT: They haven't rested yet. There's things
12 that happen before you make this motion. I'm not there yet.

13 MR. MUSHKIN: Okay.

14 THE COURT: If you want to reserve your examination
15 of Mr. Bloom and I then ask Mr. Gutierrez that question --

16 MR. MUSHKIN: I would like to reserve my examination
17 until you ask that question.

18 THE COURT: Okay.

19 MR. MUSHKIN: I apologize, Your Honor. I jumped
20 to --

21 THE COURT: So you don't want to examine Mr. Bloom at
22 this time. You want to reserve it for your own case in chief?

23 MR. MUSHKIN: Well, I'd like to reserve it until I
24 have the opportunity to make my motion.

25 THE COURT: Okay. Let me say it a different way. If

1 you pass now and I ask Mr. Gutierrez if he rests or if he has
2 any additional evidence, which is what I ask before he rests,
3 and then he then says he rests, then it would be time to make
4 your motion. If that happens, you are then in your case in
5 chief, and you have to call Mr. Bloom if you want to examine
6 him in your case in chief. You don't get to cross-examine him
7 after Mr. Gutierrez rests. So you pick your poison.

8 Do you want to ask him questions now, or do you just
9 want to reserve it all for when you do your --

10 MR. MUSHKIN: I'll reserve, Your Honor.

11 THE COURT: Okay. So, Mr. Bloom, you can step down.

12 THE WITNESS: Okay.

13 THE COURT: Do you have any additional evidence or
14 witnesses that you would like to submit at this time?

15 MR. GUTIERREZ: No, Your Honor. The plaintiff will
16 rest.

17 THE COURT: Okay. All right. So the plaintiff has
18 rested.

19 Now, do you have something you want to do,
20 Mr. Mushkin?

21 MR. MUSHKIN: Yes, I do, Your Honor.

22 THE COURT: Sorry. I have this procedure. I've got
23 to get it right.

24 MR. MUSHKIN: And I apologize for jumping the gun
25 just a little bit.

1 Court's indulgence just one minute.

2 Your Honor, when I opened, I was pretty clear that
3 the documents were not controverted. Plaintiff has now rested.
4 They've claimed no ambiguity. They've given you no authority
5 other than Mr. Bloom's testimony that somehow a defense of the
6 trust would give him standing to negate the deed of trust.
7 Documents have all been admitted. The trust gave a certificate
8 of trust. The trust became a credit borrower. The trust gave
9 a guarantee. The trust said in its documents that it received
10 direct and indirect consideration for the -- a benefit.

11 THE COURT: And Mr. Antos testified to that.

12 MR. MUSHKIN: And Mr. Antos testified to that. And
13 more importantly, Judge, and the reason their motion fails on
14 its face is they have made no showing that it would be
15 unreasonable for CBC and its successor 5148 to rely on the
16 representations of the trust. They have skipped over one of
17 the elements that they would have to prove, that somehow they
18 were harmed.

19 Now, let's take a look at the forbearance agreement
20 itself and the reps and warranties where Mr. Bloom reps and
21 warrants that he got everything he asked for. Let's look at
22 the amended forbearance agreement where he reaffirms. And
23 finally, Judge, you must look to the testimony that you heard
24 today that makes absolutely no sense. It completely ignores
25 the obligation to the Antos parties, as does the motion.

1 Your Honor, you may recall in the original motion
2 there was a statement that now that the authenticity of the
3 documents has been called into question. If you recall, I was
4 quite exercised about that before.

5 THE COURT: Because we'd admitted them at the first
6 evidentiary hearing, and I told you, yeah, I understand, but
7 we've still got to go through the process.

8 MR. MUSHKIN: And now we've done it again.

9 THE COURT: I know. I am here with you, but I'm
10 not --

11 MR. MUSHKIN: No challenge to authenticity.

12 THE COURT: My problem is I'm at a 50(a) standard
13 right now, which is a different standard than I have to make if
14 we finish the evidence. That's my current concern. Now, I
15 understand the argument you're making. I'm going to let you
16 finish, but that's part of the concern I have.

17 MR. MUSHKIN: I understand, Judge.

18 Now let's look at 50(a), okay. What is the standard
19 of 50(a)? Have they proven -- now, mindful of what the
20 testimony is that somehow it was misrepresented, that's their
21 testimony. Now, there was a misrepresentation. Even though
22 the documents all over say KCI Preferred Brands, et cetera,
23 et cetera. Have they been able to present any evidence of
24 misrepresentation to this Court unequivocally? No. No
25 evidence of misrepresentation.

1 What they're trying to do, Judge, is avoid the
2 obligations that they contracted for, and their defense is
3 somehow that there's a defect that they have a right to claim.
4 They have no right to claim said defect, Your Honor. They've
5 waived it twice in writing. They've acknowledged it.

6 So under Rule 50 and the parol evidence rule, they
7 have to provide you competent evidence of a material --
8 material breach I guess is what they're saying. They're saying
9 they don't owe it at all. It's an all or nothing here, and
10 they have to -- they have to somehow -- somehow get this Court
11 to believe that the documents and the title report and
12 everything that's now been submitted to the Court is somehow
13 wrong. And respectfully, Judge, they haven't even sniffed it.
14 The only thing they have is convoluted testimony from Mr. Bloom
15 that says that he can't -- that he doesn't have to pay. Your
16 Honor, there is one document that closes the loop entirely, and
17 they brought it out. I believe it's 74, Judge.

18 THE COURT: Is that the letter?

19 MR. MUSHKIN: That's the letter.

20 THE COURT: Okay.

21 MR. MUSHKIN: Mr. Bloom testified that this says that
22 the Antoses transferred their interest. That's not what it
23 says. I don't know if he didn't bother to read the letter or
24 he just doesn't like to tell the truth to the Court.

25 THE COURT: We're avoiding personal attacks, but I

1 understand the credibility --

2 MR. MUSHKIN: No, this is -- this is that, Your
3 Honor, I am --

4 THE COURT: Credibility is one thing, but accusing
5 somebody of being a liar is that step we can't take. So I need
6 you to focus on --

7 MR. MUSHKIN: So the veracity of a witness is
8 important, Judge.

9 THE COURT: It is true. That is true. So you have
10 to use careful words when you do that.

11 MR. MUSHKIN: I will use very careful words, Judge.
12 The -- it's funny because I got those words from Mr. Coppedge,
13 and I'm going to go yell at him.

14 This witness testified that he made the payments in
15 January, February and March. The record shows the opposite.
16 The record shows that those payments were made by CBC or their
17 successor. That is a direct misrepresentation to the Court.
18 He testified that he was servicing. The first payment that he
19 made, Judge, wasn't until June paying April. We have the
20 checks.

21 But this document says it all, Judge. It does not
22 say that Mr. Antos has transferred his. It says that they are
23 seeking an assignment from Mr. Bloom and an assignment from
24 Mr. Antos, both of which were attached to that letter, and,
25 Judge, it's pretty clear they are trying to exercise their

1 rights under the pledge agreement.

2 Now let's go to the pledge agreement for just a
3 minute, Judge.

4 THE COURT: What number is that?

5 MR. MUSHKIN: I'm getting there.

6 MS. FOLEY: 8.

7 THE COURT: Thank you.

8 And you did a good job yesterday.

9 MS. FOLEY: Thank you.

10 MR. MUSHKIN: The first line of the pledge agreement,
11 Judge, SJC Ventures is a party to the pledge.

12 THE COURT: But remember there wasn't a signature.

13 MR. MUSHKIN: Oh, we're going to get to that one,
14 Judge.

15 THE COURT: All right. I'm just remembering.

16 MR. MUSHKIN: We're going to get to that one.

17 THE COURT: There's this document from -- we've
18 talked about this one before.

19 MR. MUSHKIN: No, we have, Judge.

20 THE COURT: I know.

21 MR. MUSHKIN: Because the truth, Judge, neither
22 signature is right, and you're going to see.

23 THE COURT: I know. I know.

24 MR. MUSHKIN: So the delivery of pledge collateral is
25 at paragraph 3, and that's what that letter was doing was

1 exercising the delivery of pledge collateral.

2 Now, let's go to the signature line. Judge, it's not
3 executed properly by Spanish Heights Acquisition Company
4 because Mr. Bloom is not the manager of Spanish Heights
5 Acquisition Company.

6 Mr. Bloom is the manager of SJCVC.

7 THE COURT: Which is the manager.

8 MR. MUSHKIN: SJCVC is the manager.

9 THE COURT: I know.

10 MR. MUSHKIN: So what you have is the classic
11 misexecution. How do you cure it? Well, that's real simple,
12 Judge. This document is in September. So we look first to the
13 forbearance agreement itself, and the forbearance agreement
14 itself recites a hundred percent of the interest of SHAC. Then
15 we go to the amended forbearance agreement. It reaffirms --

16 THE COURT: What exhibit number is that one?

17 MR. MUSHKIN: The amended is --

18 MS. FOLEY: 16.

19 THE COURT: Thank you.

20 MR. MUSHKIN: Thank you.

21 SJC and Antos continue to pledge, and this one,
22 Judge, just like the original forbearance agreement is signed
23 by SJCVC.

24 Now, I want to go to one other provision in this
25 agreement that was looked at and again is illustrative of the

1 lack of candor in the testimony before the Court.

2 The page 7 of that document at paragraph B in bold
3 print, Your Honor.

4 THE COURT: 7? B?

5 MR. MUSHKIN: Page 7. It's 000160.

6 THE COURT: I'm there.

7 MR. MUSHKIN: Acknowledgment and condition applicable
8 to lease agreement options to extend have terminated. And then
9 it goes on to say the parties have exercised, et cetera, have
10 terminated, bold print, and it's pretty clear why, Judge, and
11 that is because this document extends everything to March
12 31st where it says it's over, end of relationship. You have
13 to pay by the 31st. There is a provision in the consent to
14 lease, a prior document, that gives CBC the right to terminate
15 the lease agreement as well. But this makes it even more clear
16 terminating the lease.

17 Now, so what you have, and, Your Honor, frankly
18 occupancy is not an issue today. Today is only a motion to
19 stop the foreclosure and a preliminary injunction.

20 THE COURT: And for dec relief on certain of the five
21 things in the trial that --

22 MR. MUSHKIN: Yes, ma'am.

23 THE COURT: -- we have -- you have stipulated to.

24 MR. MUSHKIN: Yes.

25 So, but my 50(b) motion is simply to the preliminary

1 injunction issue. And what I want to conclude with in terms of
2 my comments are the --

3 Court's indulgence one minute.

4 So the testimony that was given was that CBC hadn't
5 performed and that SHAC had performed; do you recall that
6 testimony, Your Honor?

7 THE COURT: I do recall that testimony.

8 MR. MUSHKIN: There is no testimony, and there is no
9 question that there has -- the various obligations of the SJCV
10 party have not been met. There have not been a quiet-title
11 action. They've produced no applications for financing.
12 They've not retired the debt. They have not paid the --
13 there's just step after step that was not done, but yet the
14 testimony before you is that somehow they performed and CBC
15 haven't. They have no evidence of that. So in order to obtain
16 extraordinary relief by way of a preliminary injunction, they
17 must make this showing.

18 Respectfully, Judge, they have not gotten close.
19 There is no showing that anything other than a due obligation
20 secured by a deed of trust on the property, parol evidence rule
21 bars all of this stuff that was testified to. There's been no
22 emails produced. The prior testimony that somehow there was
23 wrong language or it was substituted, it violates the parol
24 evidence rule. It goes against the clear meaning of an
25 unambiguous contract, Judge. Respectfully, the preliminary

1 injunction should be off the table.

2 THE COURT: Thank you.

3 Mr. Gutierrez.

4 MR. GUTIERREZ: Thank you, Your Honor.

5 I think the first issue raised in the 50(a) motion
6 was on standing, and, Your Honor, Spanish Heights Acquisition
7 Company acquired the property, and they said there was no harm
8 to the company. Well, the harm is if they acquired a property
9 with a deed of trust that's invalid. So they have standing to
10 make this objection. You know, the standard under 50(a) is
11 that we haven't met our burden, which we believe the evidence
12 we presented not only through the testimony, but the documents
13 has met this burden.

14 The next issue is consideration. The testimony about
15 consideration was clear. Both Mr. Hallberg and Mr. Antos got
16 up and said, yeah, there is no consideration. That's what they
17 said. They said, well, there may have been indirect benefit to
18 the trust beneficiaries. Where was the consideration? They
19 both testified. That's the evidence before the Court.

20 They discuss -- you know, Mr. Bloom discussed in his
21 testimony the misrepresentation regarding the third deed of
22 trust and what it allegedly secured. He can't waive what he
23 does not know, and that's an issue that is before the Court.
24 It's a factual dispute that's before this Court.

25 The next issue they went down to is on CBC's failure

1 to make payments under January, February and March of 2020.
2 It's our position that was a material breach on their end that
3 excused any performance on First 100's position. If they came
4 back later and made those payments and didn't pay any late fees
5 and interest, that doesn't excuse the fact that they initially
6 breached by failing to make those payments, and that's the
7 issue -- that's what's before this Court at this stage.

8 There was a lot of, you know, arguments about on --
9 by Mr. Mushkin on evidence that's not before the Court, but the
10 evidence we have is the testimony of Mr. Hallberg and from
11 Mr. Antos when we walked through the history of this
12 transaction, and it's clear it's a commercial restaurant loan
13 that was never -- that was secured by the Antoses individually.
14 That was secured. There were 10 amendments where they then
15 added an additional borrower. So they knew what they were
16 doing when they added an additional borrower. But then they go
17 and they never actually add the Antos Trust as an additional
18 guarantor until 2017, which is after the two deeds of trust
19 have already issued.

20 So I even asked Mr. Hallberg yesterday about the
21 effect of his 2014 agreement. Is this a guarantee? He's like
22 I don't think it is. He knew, and these documents were all
23 prepared by their attorneys in Washington.

24 So, Your Honor, we have several issues and factual
25 disputes that are before this Court that I believe this honor

1 has -- Your Honor as both the trier of fact in the trier of law
2 will make these determinations at the end of trial, and I don't
3 think these obviously address the other two legal arguments
4 that will be made, which would prevent a foreclosure. You have
5 the doctrine of merger, which is a legal argument that's going
6 to be made, and you have clear testimony from Mr. Hallberg and
7 documents that show that the Antoses assigned to their interest
8 in Spanish Heights Acquisition Company to CBC Partners I and
9 that they acquired it.

10 And Mr. Hallberg said yesterday we have a 49 percent
11 interest in Spanish Heights Acquisition Company. Okay, well
12 now that's a legal issue before this Court of whether or not
13 the doctrine of merger applies in this context because they
14 have now become both the borrower and the lender. Did that
15 interest merge?

16 Same with the one action rule. They selected the
17 remedy in acquiring ownership of the property, almost like a
18 deed in lieu of foreclosure. Does that now prevent them from
19 foreclosing?

20 Those legal issues are before Your Honor that would
21 prevent foreclosure. So how can any ruling on a 50(a), a
22 directed verdict at this stage would be premature. I believe
23 Your Honor can weigh the facts and the evidence and apply it
24 with the law that's before this Court.

25 And if you have any questions, Your Honor, I'd be

1 more than happy to --

2 THE COURT: I don't.

3 Mr. Mushkin, anything else?

4 MR. MUSHKIN: Very briefly, Judge.

5 NRS 106.320 defines a future advance of loan money to
6 a borrower pursuant to an agreement that made after the
7 agreement is executed. Specifically called out by statute.

8 106.005 states in pertinent part the deeds of trust
9 create consideration in the promise, but a promise to create a
10 trust in the future is enforceable only if it is under the
11 requirements to enforce the note.

12 Your Honor, the plaintiff has said that the trust is
13 not a borrower. The document that we've provided you shows the
14 trust became a credit party. The plaintiffs have said the
15 trust is not the guarantor. We have provided you the exhibit
16 that shows the trust became the guarantor. In fact, the trust
17 became a guarantor as a part of the transaction.

18 I'd like to take you to one last exhibit, Your Honor,
19 and then I'll hopefully allow you to rule in my favor on the
20 motion.

21 The emails have been admitted, and Mr. Bloom
22 testified about an email that I would direct the Court's
23 attention to.

24 THE COURT: What exhibit number?

25 MS. FOLEY: 104. It's going to be a --

1 THE COURT: Hold on.

2 MS. FOLEY: -- a specific page.

3 THE COURT: Dulce is going to send me to it.

4 MR. MUSHKIN: Hang on.

5 THE COURT: I've got to get the exhibit first. And
6 then I'll go to the page you tell me. 104.

7 THE CLERK: Okay. This is --

8 MR. MUSHKIN: And it is at 003618.

9 THE CLERK: Okay. Because it's a thousand pages. So
10 I can't email (indiscernible) so I have to get the page.

11 3618?

12 MR. MUSHKIN: 003618.

13 THE CLERK: Mine only goes up to --

14 MS. FOLEY: There should be three 104s in the folder.

15 THE COURT: Can you use the Elmo?

16 MR. MUSHKIN: Yes.

17 THE CLERK: Sorry.

18 THE COURT: Dulce can't email the document to me
19 because it's too big.

20 MR. MUSHKIN: It's one page, Judge.

21 THE COURT: No. I mean the exhibit is thousands of
22 pages.

23 MR. MUSHKIN: No. No. I -- you know you asked me if
24 I can use the Elmo. Of course, I can.

25 THE COURT: You know what an Elmo is.

1 MR. MUSHKIN: Your Honor, I'm a high-tech kind of
2 guy. Not.

3 THE MARSHAL: Do we need to blow them up, Judge?

4 MR. MUSHKIN: Yeah.

5 THE COURT: He's got it. He knows what he's doing.

6 THE MARSHAL: Okay.

7 THE COURT: Mr. Gutierrez knows how to do a
8 PowerPoint, but Mr. Mushkin knows how to work the Elmo.

9 MR. MUSHKIN: That might say something about our age,
10 Judge.

11 MS. FOLEY: Together we could do a whole show.

12 MR. MUSHKIN: So, Judge, let's kind of go through
13 this real quick.

14 First of all, and this literally goes to the
15 credibility of the witness that it -- it defies all logic.

16 THE COURT: But you know on a 50(a) I'm not supposed
17 to weigh credibility.

18 MR. MUSHKIN: Your Honor, 50(a) says they have to
19 meet a burden. How can the Court not weigh credibility if
20 there's a burden to reach? It makes no sense.

21 So all I want to do is show that the timing and the
22 timeline of events in this case make it impossible for the
23 security in the judgment to have replaced the collateral of the
24 pledge of the Spanish Heights Acquisition Company.

25 The first paragraph are SHAC as buyer obligations.

1 The second is the third lender obligations. And if you notice,
2 at the bottom of this it -- oh, I'll go down a little farther,

3 My thoughts in this proposal give the
4 third lender a full recovery of its note
5 balance --

6 THE COURT: You've got to push it up a little bit
7 further.

8 MR. MUSHKIN: Sorry.

9 THE COURT: It's okay.

10 MR. MUSHKIN: Oh, there it is.

11 -- a full recovery of its note balance,
12 plus all protective advances past and future;
13 interim cash flow; provides interim
14 additional full collateral where given the
15 current value of the property, the third
16 position lender is currently unsecured.

17 Do you see that, Your Honor?

18 THE COURT: I do.

19 MR. MUSHKIN: That's in July. So under the rules,
20 they have to make a showing of a likelihood of success on the
21 merits. With the parol evidence rule, Your Honor, and the
22 testimony of both Mr. Antos and Mr. Hallberg, the plaintiff has
23 failed to do so, and I respectfully request that this Court
24 rule against them on the issue of a preliminary injunction.

25 THE COURT: Thank you.

1 While there is significant evidence that would
2 support the argument that Mr. Mushkin is making, it would force
3 the Court to weigh the credibility and the evidence at this
4 time. I cannot do that under 50(a).

5 So I am denying the motion for you to finish the case
6 and then make your final arguments.

7 So would you like a break before we start your case
8 in chief?

9 MR. MUSHKIN: Your Honor, I'd just as soon go back on
10 until about noon and then break for lunch.

11 THE COURT: All right.

12 MR. MUSHKIN: Unless the staff or anybody else needs
13 a break.

14 THE COURT: Do you guys need a break?

15 (No audible response.)

16 THE COURT: They say no.

17 Next witness.

18 MR. MUSHKIN: Mr. Bloom.

19 THE COURT: Mr. Bloom. Come on back up. You've
20 already been sworn today so I'm not going to swear you again.

21 And tomorrow we'll start at 9:30 if we don't finish
22 today because I have a 9:00 o'clock hearing.

23 **JAY BLOOM**

24 (having been recalled as a witness and previously sworn,
25 testified as follows:)

JD Reporting, Inc.

DIRECT EXAMINATION

BY MR. MUSHKIN:

Q Mr. Bloom, let's go over your testimony. You testified that you and your wife and your son and your in-laws live in the house; is that correct?

A That's correct.

Q There are other people that live in the house too, aren't there?

A No.

Q Well, that's not what you testified to at your deposition. Have the living arrangements changed?

A Yes.

Q What's changed?

A We had somebody that worked for us that no longer does has moved out.

Q Your testimony at your deposition you had two other people living there.

A Yes.

Q Who were those people?

A Albert Ramirez (phonetic) has moved out, and James Burn (phonetic) has moved out.

Q And what did those people do for you?

A Albert Ramirez was a business partner, and James Burn helped around the house.

Q Your testimony is that SJCVC is the owner today of

1 51 percent of the interest in Spanish Heights Acquisition
2 Company; is that correct?

3 A That's correct.

4 Q And you've testified that SJCVC holds other projects?

5 A Correct.

6 Q What are those projects?

7 MR. GUTIERREZ: I'm going to object as to the
8 relevance, Your Honor.

9 THE COURT: Overruled.

10 You can answer.

11 THE WITNESS: They range from real estate projects to
12 entertainment projects to renewable energy projects. There's
13 a -- there's a number of them.

14 BY MR. MUSHKIN:

15 Q Well, let's go through them, sir.

16 Before you do that, why would you -- why did you
17 refuse to answer this question at the time of your deposition?

18 A Well, because the specifics of the projects are
19 covered by confidentiality agreements that would preclude my
20 answering the level of detail that you were asking about.

21 Q Well, I asked you for the confidentiality agreement.
22 Do you recall that in your deposition?

23 A No, I don't recall that.

24 Q Well, let's go to your deposition.

25 THE COURT: So, Mr. Gutierrez, do you have a copy of

1 the deposition you want to share with the witness, or do you
2 want us to do it on the Elmo?

3 MR. MUSHKIN: I'd like to publish the deposition,
4 Your Honor.

5 THE COURT: You can't publish it. Well, publish it
6 electronically. He can't take it. It's paper. I know.

7 MR. MUSHKIN: I'm an old -- I'm an old dog.

8 THE COURT: I can't do the whole Nevada thing of
9 unsealing the hermetically sealed envelope with the bar napkin.

10 MS. FOLEY: They are numbered 130 and 131 in the
11 dropbox.

12 THE CLERK: Is it Volume I or II?

13 MS. FOLEY: He'll start with Volume I.

14 MR. GUTIERREZ: Your Honor, I have a copy of -- my
15 copy I can give to Mr. Bloom for his review if that's okay with
16 the Court.

17 THE COURT: Mr. Bloom, go run back over there to your
18 table, and your counsel will hand you your depo, and you can
19 come on back up.

20 But I'm not going to let him approach because I get
21 too crowded in the well, and I need to keep everybody at least
22 6 feet away from everybody else.

23 MR. GUTIERREZ: This is Volume I.

24 THE COURT: Can you get him Volume 2 too since it
25 sounds like we're going there too.