

IN THE SUPREME COURT OF THE STATE OF NEVADA

SPANISH HEIGHTS ACQUISITION
COMPANY, LLC; SJC VENTURES
HOLDING COMPANY, LLC, d/b/a SJC
VENTURES, LLC,

Petitioners,

v.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA, IN AND FOR THE
COUNTY OF CLARK, AND THE
HONORABLE JOANNA KISHNER,
DISTRICT JUDGE

Respondents,

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

Real Parties In
Interest.

**APPENDIX VOLUME I TO
EMERGENCY PETITION FOR
WRIT OF MANDAMUS OR
PROHIBITION DIRECTING THE**

**EIGHTH JUDICIAL DISTRICT
COURT CLARK COUNTY,**

**NEVADA, HONORABLE JOANNA
KISHNER, DISTRICT JUDGE, TO**

**REVERSE THE DENIAL OF AN
INJUNCTIVE RELIEF ORDER**

WITH RESPECT TO

RESIDENTIAL PROPERTY

FORECLOSURE SALE SET FOR

FEBRUARY 1, 2022

**RELIEF REQUESTED WITHIN 14
DAYS**

Dist. Ct. Case No.: A-20-813439-B

ORIGINAL PETITION

From the Eighth Judicial District Court, Clark County
The Honorable Joanna Kishner, District Judge

JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

DANIELLE J. BARRAZA, ESQ.

Nevada Bar No. 13822

MAIER GUTIERREZ & ASSOCIATES

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Las Vegas, Nevada 89148

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djb@mgalaw.com

Attorneys for Petitioners

DATE	DESCRIPTION	VOLUME	PAGES
01/25/2022	Appendix of Exhibits to Defendants/Counterclaimants' Opposition to Plaintiffs' Application for Temporary Restraining Order and Motion for Preliminary Injunction on an Order Shortening Time	II/III/IV	PA0356-PA0835
04/09/2020	Complaint	I	PA0005-PA0014
04/27/2020	Defendant CBC Partners I, LLC's Answer to Complaint; and 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	I	PA0017-PA0040
09/03/2020	Defendant Sheila Antos and Kenneth Antos, as Trustees of the	I	PA0116-PA0140

	Kenneth & Sheila Antos Living Trust and the Kenneth M. Antois & Sheila M. Neumann-Antos Trust Answer to First Amended Complaint and Counterclaim		
06/10/2020	Defendants CBC Partners I, LLC, CBC Partners, LLC, and 5148 Spanish Heights, LLC Answer to First Amended Complaint	I	PA0079-PA0096
01/25/2022	Defendants/Counterclaimants' Opposition to Plaintiffs' Application for Temporary Restraining Order and Motion for Preliminary Injunction on an Order Shortening Time	II	PA0342-PA0355
04/06/2021	Findings of Fact and Conclusions of Law	I	PA0160-PA0180
05/15/2020	First Amended Complaint	I	PA0041-PA0060
10/14/2010	Grant, Bargain, Sale Deed	I	PA0001-PA0004

01/05/2021	Notice of Entry of Order	I	PA0141-PA0148
04/20/2021	Notice of Entry of Order	I	PA0181-PA0204
01/19/2022	Plaintiffs' Application for Temporary Restraining Order and Motion for Preliminary Injunction on an Order Shortening Time	II	PA0250-PA0322
01/26/2022	Plaintiffs' Reply in Support of Application for Temporary Restraining Order and Motion for Preliminary Injunction on and Order Shortening Time	IV	PA0836-PA0873
01/25/2022	Receiver's Response to Plaintiffs' Application for Temporary Restraining Order and Motion for Preliminary Injunction on an Order Shortening Time	II	PA0323-PA0341
07/10/2020	Spanish Heights Acquisition Company, LLC, SJC Ventures, LLC, SJC Ventures Holding	I	PA0097-PA0115

	Company, LLC, and Jay Bloom's Answer to Counterclaim		
05/15/2020	Summons – 5148 Spanish Heights, LLC	I	PA0064-PA0066
04/09/2020	Summons – CBC Partners I, LLC	I	PA0015-PA0016
05/15/2020	Summons – CBC Partners I, LLC	I	PA0070-PA0072
05/15/2020	Summons – CBC Partners, LLC	I	PA0061-PA0063
05/15/20	Summons – Dacia, LLC	I	PA0076-PA0078
05/15/2020	Summons – Kenneth Antos, as Trustee of the Kenneth & Sheila Antos Living Trust and the Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila M. Neumann-Antos Trust	I	PA0067-PA0069
05/15/2020	Summons – Sheila Neumann- Antos, as Trustee of the Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila M. Neumann-Antos Trust	I	PA0073-PA0075

01/05/2021	Temporary Restraining Order	I	PA0149-PA0153
12/16/2021	Transcript of Proceedings – Motion to Quash Trial Subpoena and for Protective Order on Order Shortening Time	I	PA0205-PA0249
02/03/2021	Voluntary Petition for Non- Individuals Filing for Bankruptcy	I	PA0154-PA0159

CERTIFICATE OF SERVICE

I certify that on the 28th day of January 2022, this document was electronically filed with the Nevada Supreme Court. Electronic service of the foregoing: **APPENDIX VOLUME I TO EMERGENCY PETITION FOR WRIT OF MANDAMUS OR PROHIBITION DIRECTING THE EIGHTH JUDICIAL DISTRICT COURT CLARK COUNTY, NEVADA, HONORABLE JOANNA KISHNER, DISTRICT JUDGE, TO REVERSE THE DENIAL OF AN INJUNCTIVE RELIEF ORDER WITH RESPECT TO RESIDENTIAL PROPERTY FORECLOSURE SALE SET FOR FEBRUARY 1, 2022** shall be made in accordance with the Master Service List as follows:

Michael R. Mushkin, Esq.
MUSHKIN & COPPEDGE
6070 South Eastern Avenue, Suite 270
Las Vegas, Nevada 89119
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Email: Michael@mccnvlaw.com
Attorney for Real Parties in Interest

Candace C. Carlyon, Esq.
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265 E. Warm Springs Road, Suite 107
Las Vegas, Nevada 89119
Tel: 702.685.4444
Email: CCarlyon@CarlyonCica.com
TOSteen@CarlyonCica.com
Attorneys for Larry L. Bertsch, Receiver

DATED this 28th day of January 2022.

/s/ Brandon Lopipero

An Employee of MAIER GUTIERREZ & ASSOCITES

A.P. N.: 163-29-615-007
R.P.T.T.: \$ EXEMPT #7

Escrow #10-05-0444-KMD

Mail tax bill to and when recorded mail to:
Kenneth M. Antos and Shelia Antos Living
Trust dated April 26, 2007
5148 Spanish Heights Drive
Las Vegas, NV 89148

Inst #: 201010140002674
Fees: \$16.00 N/C Fee: \$0.00
RPTT: \$0.00 Ex: #007
10/14/2010 11:14:33 AM
Receipt #: 540369
Requestor:
NEVADA TITLE LAS VEGAS
Recorded By: GILKS Pgs: 4
DEBBIE CONWAY
CLARK COUNTY RECORDER

GRANT, BARGAIN, SALE DEED

THIS INDENTURE WITNESSETH, That **Kenneth M. Antos and Shelia M. Neumann-Antos, husband and wife, as joint tenants**, for a valuable consideration, the receipt of which is hereby acknowledged, do hereby Grant, Bargain, Sell and Convey to **Kenneth M. Antos and Shelia M. Neumann-Antos, Trustees of The Kenneth and Shelia Antos Living Trust dated April 26, 2007, and any amendments thereto**, all that real property situated in the County of Clark, State of Nevada, bounded and described as follows:

**SEE LEGAL DESCRIPTION ATTACHED HERETO
AND MADE A PART HEREOF AS EXHIBIT "A".**

SUBJECT TO:

1. Taxes for the current fiscal year, not delinquent, including personal property taxes of any former owner, if any:
2. Restrictions, conditions, reservations, rights, rights of way and easements now of record, if any, or any that actually exist on the property.

TOGETHER WITH all singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

IN WITNESS WHEREOF, this instrument has been executed this 7 day of October, 2010.

Kenneth M. Antos

Kenneth M. Antos

Sheila M. Neumann-Antos

State of NEVADA }
County of Clark } ss:

This instrument was acknowledged before me
on

10/7/10

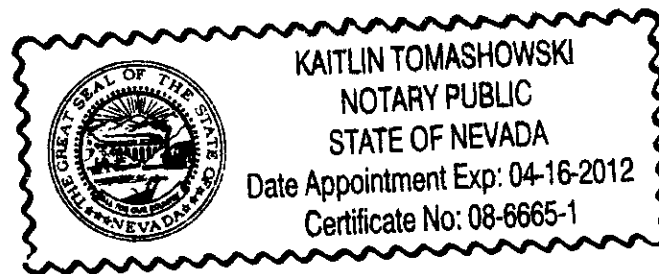
by Kenneth M. Antos and Sheila M. Neumann-Antos

Kaitlin Tomashowski
NOTARY PUBLIC

My Commission

Expires:

4/16/12



Kaitlin Tomashowski
Cert. 08-6665-1
Exp. 04-16-2012

EXHIBIT "A"

LOT SEVEN (7) IN BLOCK FIVE (5) OF SPANISH HILLS ESTATES UNIT 5A, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 107, OF PLATS, PAGE 58, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

**State of Nevada
Declaration of Value Form**

1. Assessor Parcel Number(s)

- a) 163-29-615-007
b) _____
c) _____
d) _____

2. Type of Property:

- a. ☐ Vacant Land b. ☒ Sgl. Fam. Residence
c. ☐ Condo/Twnhse d. ☐ 2-4 Plex
e. ☐ Apt. Bldg. f. ☐ Comm'l/Ind'l
g. ☐ Agricultural h. ☐ Mobile Home
☐ Other _____

**FOR RECORDER'S OPTIONAL USE
ONLY**

Book: _____ Page _____
Date of Recording: _____
Notes: _____

3 a. Total Value/Sales Price of Property

\$

b. Deed in Lieu of Foreclosure Only (value of property)

\$

c. Transfer Tax Value:

\$

d. Real Property Transfer Tax Due

\$

4. **If Exemption Claimed:**

a. Transfer Tax Exemption, per NRS 375.090, Section:

#7

b. Explain Reason for Exemption: Transfer without consideration to a trust

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. **Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.**

Signature: _____ Capacity: GRANTOR/SELLER

Signature: *K. M. Antos* Capacity: AGENT

SELLER (GRANTOR) INFORMATION
(REQUIRED)

BUYER (GRANTEE) INFORMATION
(REQUIRED)

Print Name: Kenneth M. Antos
Shelia M. Neumann-Antos

Print Name: Kenneth M. Antos and Sheila M. Neumann-Antos, Trustees of the Kenneth and Shelia Antos Living Trust dated April 26, 2007, and any amendments thereto

Address: 5148 Spanish Heights Drive
City: Las Vegas
State: NV Zip: 89148

Address: 5148 Spanish Heights Drive
City: Las Vegas
State: NV Zip: 89148

COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)

Print Name: Nevada Title Company Esc. #: 10-05-0444-KMD
Address: 2500 N. Buffalo Drive, Suite 150
City: Las Vegas State: NV Zip: 89128

(AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED)

DISTRICT COURT CIVIL COVER SHEET

Clark County, Nevada
Case No. _____
(Assigned by Clerk's Office)

CASE NO: A-20-813439-C
Department 24

I. Party Information *(provide both home and mailing addresses if different)*

Plaintiff(s) (name/address/phone): SPANISH HEIGHTS ACQUISITION COMPANY, LLC, a Nevada Limited Liability Company; SJC VENTURES LLC, a Domestic Limited Liability Company Attorney (name/address/phone): Joseph A. Gutierrez, Esq., Danielle J. Barraza, Esq., Maier Gutierrez & Associates, 8816 Spanish Ridge Avenue, Las Vegas, Nevada 89148 (702) 629-7900	Defendant(s) (name/address/phone): CBC PARTNERS I, LLC, a foreign Limited Liability Company; DOES I through X; and ROE CORPORATIONS I through X, inclusive, Attorney (name/address/phone):
--	--

II. Nature of Controversy *(please select the one most applicable filing type below)*

Civil Case Filing Types

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input checked="" type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate <i>(select case type and estate value)</i> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

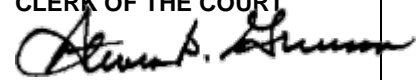
April 9, 2020

Date

/s/ Danielle J. Barraza

Signature of initiating party or representative

See other side for family-related case filings.



COMP

JOSEPH A. GUTIERREZ, ESQ.
Nevada Bar No. 9046
DANIELLE J. BARRAZA, ESQ.
Nevada Bar No. 13822
MAIER GUTIERREZ & ASSOCIATES
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djb@mgalaw.com

CASE NO: A-20-813439-C
Department 24

Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

SPANISH HEIGHTS ACQUISITION
COMPANY, LLC, a Nevada Limited Liability
Company; SJC VENTURES LLC, a Domestic
Limited Liability Company

Plaintiffs,

vs.

CBC PARTNERS I, LLC, a foreign Limited
Liability Company; DOES I through X; and
ROE CORPORATIONS I through X, inclusive,

Defendants.

Case No.:

Dept. No.:

COMPLAINT

EXEMPT FROM ARBITRATION:

1. Request for Declaratory Relief
2. Action Concerning Real Property

Plaintiffs Spanish Heights Acquisition Company, LLC, and SJC Ventures LLC, by and through their attorney of record, MAIER GUTIERREZ & ASSOCIATES, hereby complain and allege against Defendants as follows:

PARTIES

1. That at all times pertinent hereto, Plaintiff Spanish Heights Acquisition Company, LLC, is a Limited Liability Company duly registered and in good standing in the State of Nevada.

2. That at all times pertinent hereto, Plaintiff Spanish Heights Acquisition Company, LLC owns the property located at 5148 Spanish Heights Drive, Las Vegas, Nevada 89148, with Assessor's Parcel

1 Number 163-29-615-007 ("Property") .

2 3. That at all times pertinent hereto, Plaintiff SJC Ventures LLC is a Limited Liability Company
3 duly registered and in good standing in the State of Nevada.

4 4. That at all times pertinent hereto, Plaintiff SJC Ventures LLC has been a lawful tenant of the
5 Property pursuant to a binding lease agreement.

6 5. That at all times pertinent hereto, Defendant CBC Partners I, LLC is a foreign company doing
7 business in Clark County, State of Nevada.

8 6. That the following alleged incidents occurred in Clark County, Nevada.

9 7. The true names and capacities of Defendants DOES I through X and/or ROES I through X,
10 whether individual, company, associate, or otherwise, are unknown to the Plaintiff at the time of filing
11 of this Complaint, and Plaintiff therefore sues said Defendants by such fictitious names. Plaintiff is
12 informed, believes and therefore alleges that each of the Defendants, designated as DOES I through
13 X and/or ROES I through X are or may be, legally responsible for the events referred to in this action,
14 and caused damages to the Plaintiff, as herein alleged, and Plaintiff will ask leave of this Court to
15 amend the Complaint to insert the true names and capacities of such Defendants, when the same have
16 been ascertained, and to join them in this action, together with the proper charges and allegations.

17 **GENERAL ALLEGATIONS**

18 8. As documented by a Deed recorded at the Clark County Recorder's Office on November 3,
19 2017, Plaintiff Spanish Heights Acquisition Company, LLC owns the residential Property at issue.

20 9. As documented by a real property lease, SJC Ventures LLC is the lawful tenant of the Property,
21 with Plaintiff Spanish Heights Acquisition Company, LLC being the lawful Landlord.

22 10. Defendant CBC Partners I, LLC claims to be the holder of a Secured Promissory Note ("Note")
23 dated June 22, 2012, which is purportedly secured by a Deed of Trust, Assignment of Rents, Security
24 Agreement and Fixture Filing against the Property, made as of December 17, 2014. Subsequently a
25 First Modification to Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing was
26 recorded in the Property records through the Clark County Recorder's Office on December 19, 2016.
27 Thus, defendant CBC Partners I, LLC purports to have been a secured lender with an interest in the
28 Property.

1 11. Defendant CBC Partners I, LLC also purports to have secured certain remedies in the event of
2 a default on the Note through a Forbearance Agreement dated September 27, 2017, and an
3 Amendment to Forbearance Agreement dated December 1, 2019 (collectively the “Forbearance
4 Agreement”) which extended Spanish Heights Acquisition Company, LLC’s purported obligations
5 under the Note through March 31, 2020.

6 12. One of the purported remedies under the Forbearance Agreement that Defendant CBC Partners
7 I, LLC claims to have is a right to exercise a pledged membership interest in Spanish Heights
8 Acquisition Company, LLC, through a separately-executed Pledge Agreement dated September 27,
9 2017.

10 13. On March 16, 2020, defendant CBC Partners I, LLC sent Spanish Heights Acquisition
11 Company, LLC a “Notice of Default” correspondence which prematurely claimed that there was a
12 default under the Forbearance Agreement even though the only performance deadline set forth in the
13 Forbearance Agreement was March 31, 2020.

14 14. On March 23, 2020, Spanish Heights Acquisition Company, LLC sent correspondence to
15 defendant CBC Partners I, LLC which reminded defendant CBC Partners I, LLC that the forbearance
16 period set forth in the Forbearance Agreement was unambiguously extended until March 31, 2020,
17 and CBC Partners I, LLC has no right to unilaterally modify the terms of the Forbearance Agreement
18 to manufacture an earlier performance deadline.

19 15. Defendant CBC Partners I, LLC acknowledged its mistake by issuing an “Amended Notice of
20 Default” on April 1, 2020, admittedly “correcting the default date to March 31, 2020.”

21 16. However, the Amended Notice of Default violated Nevada Governor Sisolak’s Declaration of
22 Emergency Directive 008, issued on March 29, 2020 in response to the coronavirus/COVID-19
23 pandemic, which states as follows:

24 No lockout, **notice to vacate**, notice to pay or quit, eviction, **foreclosure action, or**
25 **other proceeding involving residential or commercial real estate based upon a**
26 **tenant or mortgagee's default of any contractual obligations imposed by a rental**
27 **agreement or mortgage** may be initiated under any provision of Nevada law effective
28 March 29, 2020, at 11:59 p.m., until the state of emergency under the March 12, 2020

1 Declaration of Emergency terminates, expires, or this Directive is rescinded by order
2 of the Governor. (emphasis added).

3 17. Through correspondence dated April 1, 2020, Defendant CBC Partners I, LLC elected to select
4 its claimed remedy by seeking to exercise its purported rights under the Pledge Agreement by having
5 the pledged collateral shares of Spanish Heights Acquisition Company, LLC transferred to CBC
6 Partners I, LLC's nominee, CBC Partners, LLC.

7 18. Upon information and belief, sometime after receiving the April 1, 2020 correspondence from
8 defendant CBC Partners I, LLC, representatives of the Kenneth & Sheila Antos Living Trust and
9 Kenneth Ms. Antos Sheila M. Neumann-Antos Trust assigned any right, title, interest, and
10 membership interest they had in Spanish Heights Acquisition Company, LLC to CBC Partners, LLC,
11 thus effectuating defendant CBC Partners I, LLC's remedy selection. Accordingly, CBC Partners I,
12 LLC is purporting to be a part-owner of the Property, by means of owning a partial membership
13 interest in Spanish Heights Acquisition Company, LLC.

14 19. On April 3, 2020, defendant CBC Partners I, LLC issued a "Notice to Vacate" to SJC Ventures,
15 LLC, the tenant of the Property. Defendant CBC Partners I, LLC issued this "Notice to Vacate" on
16 April 3, 2020, even though:

- 17 a) Section 13(a) of the Pledge Agreement provides for a cure period of fifteen (15) days from
18 the date of written notice of default;
- 19 b) There exists a valid lease agreement with SJC Ventures, acknowledged twice by CBC
20 Partners; and
- 21 c) Four days prior, Governor Sisolak's March 29, 2020 Emergency Directive placed a
22 moratorium on both foreclosure and eviction actions, which specifically precluded Notices
23 to Vacate.

24 20. Upon information and belief, defendant CBC Partners I, LLC is attempting to exercise both
25 legal title (ownership of the Property) and equitable title (lien encumbering the Property), in violation
26 of the Merger Doctrine.

27 21. On April 4, 2020, April 6, 2020, and April 7, 2020, Spanish Heights Acquisition Company
28 (through its majority owner) sent correspondence to defendant CBC Partners I, LLC, demanding that

1 defendant CBC Partners I, LLC rescind its illegal foreclosure action notices that were issued after
2 Governor Sisolak's Emergency Directive placing a moratorium on foreclosure actions.

3 22. To date, defendant CBC Partners I, LLC has refused to rescind its illegal foreclosure action
4 notices, thus prompting this litigation.

5 23. To date, defendant CBC Partners I, LLC is attempting to violate the Merger Doctrine by
6 attempting to hold both legal title and equitable title in the Property, thus prompting this litigation.
7 Absent the application of de facto Merger, Defendant purports to be both Lender and Borrower for
8 the same real property collateral.

9 24. To date, defendant CBC Partners 1, LLC is attempting to violate the One Action Rule, having
10 elected its remedy to accept equity in the entity pledged as additional collateral, it is now barred from
11 further selecting a foreclosure remedy against the real property as it indicated in its April 8, 2020
12 correspondence is its intention to do under its former note (again extinguished under the de facto
13 merger).

14 **FIRST CAUSE OF ACTION**

15 **(Declaratory Relief as to CBC Partners I, LLC's Obligation to Abide by Governor Sisolak's** 16 **Emergency Directive Placing a Moratorium on Foreclosure and Eviction Actions)**

17 25. That Plaintiffs incorporate by reference paragraphs 1 through 24 as though fully set forth
18 herein.

19 26. A true and justiciable controversy exists between the Plaintiffs and the Defendant concerning
20 the rights, status, and legal relations of the parties to this action.

21 27. The Plaintiffs' interests are adverse to those of the Defendant.

22 28. The Plaintiffs' rights, status, and legal relations in relation to the Defendant are affected by
23 statute, including NRS 107.

24 29. The Plaintiffs' rights, status, and legal relations in relation to the Defendant are also effected
25 by the State of Nevada, Executive Department, Declaration of Emergency Directive 008, dated March
26 29, 2020, which placed a moratorium on foreclosure actions as it relates to residential or commercial
27 real estate.

28 30. This matter is filed in part under the Uniform Declaratory Judgment Act.

1 31. Pursuant to NRS 30.040, the Plaintiffs are entitled to declaratory relief as to rights, statutes,
2 and legal relations at issue in this matter and a declaration that the State of Nevada, Executive
3 Department, Declaration of Emergency Directive 008, dated March 29, 2020, which placed a
4 moratorium on foreclosure actions, is enforceable by the Plaintiffs against the Defendant.

5 32. Plaintiffs have found it necessary to employ the undersigned attorney to bring suit. Therefore,
6 Plaintiffs are seeking recovery of any and all expenses incurred including, without limitation, all
7 attorneys' fees and interest thereon.

8 **SECOND CAUSE OF ACTION**

9 **(Declaratory Relief Regarding the Application of the One Action Rule)**

10 33. That Plaintiffs incorporate by reference paragraphs 1 through 32 as though fully set forth
11 herein.

12 34. A true and justiciable controversy exists between the Plaintiffs and the Defendant concerning
13 the rights, status, and legal relations of the parties to this action.

14 35. The Plaintiffs' interests are adverse to those of the Defendant.

15 36. The Plaintiffs' rights, status, and legal relations in relation to the Defendant are affected by
16 statute, including NRS 107.

17 37. This matter is filed in part under the Uniform Declaratory Judgment Act.

18 38. Pursuant to NRS 40.430 and 30.040, the Plaintiffs are entitled to declaratory relief as to rights,
19 statutes, and legal relations at issue in this matter and a declaration that the defendant CBC Partners
20 I, LLC is precluded from pursuing any foreclosure action against the subject real property pursuant to
21 the One Action Rule.

22 39. Plaintiffs have found it necessary to employ the undersigned attorney to bring suit. Therefore,
23 Plaintiffs are seeking recovery of any and all expenses incurred including, without limitation, all
24 attorneys' fees and interest thereon.

25 **THIRD CAUSE OF ACTION**

26 **(Declaratory Relief Regarding the Applicability of the Doctrine of Merger)**

27 40. That Plaintiffs incorporate by reference paragraphs 1 through 39 as though fully set forth
28 herein.

1 41. A true and justiciable controversy exists between the Plaintiffs and the Defendant concerning
2 the rights, status, and legal relations of the parties to this action.

3 42. The Plaintiffs' interests are adverse to those of the Defendant.

4 43. The Plaintiffs' rights, status, and legal relations in relation to the Defendant are affected by
5 statute, including NRS 107.

6 44. This matter is filed in part under the Uniform Declaratory Judgment Act.

7 45. Pursuant to NRS 30.040, the Plaintiffs are entitled to declaratory relief as to rights, statutes,
8 and legal relations at issue in this matter and a declaration that the purported Note that defendant CBC
9 Partners I, LLC claims to be secured by a Deed of Trust recorded against the Property has been
10 extinguished via the Merger Doctrine in light of CBC Partners I, LLC attempting to exercise purported
11 rights to become legal owner of the Property.

12 46. Plaintiffs have found it necessary to employ the undersigned attorney to bring suit. Therefore,
13 Plaintiffs are seeking recovery of any and all expenses incurred including, without limitation, all
14 attorneys' fees and interest thereon.

15 **FOURTH CAUSE OF ACTION**

16 **(Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction)**

17 47. That Plaintiffs incorporate by reference paragraphs 1 through 46 as though fully set forth
18 herein.

19 48. Plaintiffs have multiple justiciable controversies with Defendant.

20 49. On the basis of the facts described herein, Plaintiffs have a reasonable probability of success
21 on the merits of their claims and have no other adequate remedies of law.

22 50. Plaintiffs have a probable right to relief and will suffer immediate, severe, and irreparable
23 injury unless the Defendant, its respective agents, servants, employers, principals, assignees,
24 transferees, and/or beneficiaries, and all those in active concert and participation with Defendant are
25 immediately restrained and enjoined from: (1) engaging in any further foreclosure activities against
26 the Property or eviction activity against the tenants; (2) proceeding on the current Notices of Default
27 and/or Notice to Vacate (including the tolling of any time under the Notice or Agreements); and (3)
28 attempting to foreclose on the Property through an extinguished purported interest.

1 51. The actions of Defendant described herein have resulted in immediate harm to, among other
2 things, Plaintiffs' Property interests and tenant rights.

3 52. Plaintiffs are entitled to injunctive relief to end such actions and prevent further harm.

4 53. Plaintiffs have been required to retain the services of an attorney to file and prosecute this
5 action and have thereby been damaged. Accordingly, Plaintiffs seek an award of reasonable attorneys'
6 fees and costs incurred in this action.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

9 1. For an entry of Declaratory Judgment pursuant to NRS 107 and 30.040 that the State
10 of Nevada, Executive Department, Declaration of Emergency Directive 008, dated March 29, 2020,
11 which placed a moratorium on eviction and foreclosure actions, is enforceable by the Plaintiffs
12 against the Defendant and therefore Defendant's Notice of Default and Notice to Vacate are in
13 violation of the Governor's Executive Order 008 and are null and void ab initio;

14 2. For an entry of Declaratory Judgment pursuant to NRS 107 and 30.040 that the
15 purported Note that defendant CBC Partners I, LLC claims to be secured by a Deed of Trust recorded
16 against the Property has been extinguished via the Merger Doctrine in light of CBC Partners I, LLC
17 exercising its purported rights to become partial legal owner of the Property;

18 3. For an entry of Declaratory Judgment pursuant to NRS 40.430 and 30.040 that
19 defendant CBC Partners I, LLC is precluded from pursuing any foreclosure action against the subject
20 real property pursuant to the One Action Rule;

21 4. Judgment in favor of Plaintiffs on the complaint and all claims for relief asserted
22 therein;

23 5. For such injunctive relief as necessary;

24 6. For an award of reasonable attorneys' fees and costs incurred by Plaintiffs;

25 7. For an award of pre and post-judgment interest; and

26 ///

27 ///

28 ///

SUMM

JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

DANIELLE J. BARRAZA, ESQ.

Nevada Bar No. 13822

MAIER GUTIERREZ & ASSOCIATES

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CASE NO: A-20-813439-C
Department 24

Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

SPANISH HEIGHTS ACQUISITION
COMPANY, LLC, a Nevada Limited Liability
Company; SJC VENTURES LLC, a Domestic
Limited Liability Company

Plaintiffs,

vs.

CBC PARTNERS I, LLC, a foreign Limited
Liability Company; DOES I through X; and
ROE CORPORATIONS I through X, inclusive,

Defendants.

Case No.:

Dept. No.:

SUMMONS - CIVIL

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ
THE INFORMATION BELOW.**

CBC PARTNERS I, LLC

A civil complaint has been filed by the plaintiffs against you for the relief set forth in the
complaint.

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on
you, exclusive of the day of service, you must do the following:

(a) File with the Clerk of the Court, whose address is shown below, a formal

1 written response to the Complaint in accordance with the rules of the Court,
2 with the appropriate filing fee.

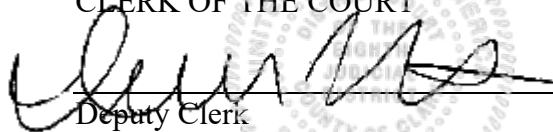
3 (b) Serve a copy of your response upon the attorney whose name and address is
4 shown below.

5 2. Unless you respond, your default will be entered upon application of the plaintiffs and
6 failure to so respond will result in a judgment of default against you for the relief demanded in the
7 complaint, which could result in the taking of money or property or other relief requested in the
8 complaint.

9 3. If you intend to seek the advice of an attorney in this matter, you should do so promptly
10 so that your response may be filed on time.

11 4. The State of Nevada, its political subdivisions, agencies, officers, employees, board
12 members, commission members and legislators each have 45 days after service of this Summons
13 within which to file and Answer or other responsive pleading to the complaint.

14 STEVEN D. GRIERSON
15 CLERK OF THE COURT

16 

4/9/2020

17 Deputy Clerk
18 Regional Justice Court
19 200 Lewis Avenue
20 Las Vegas, Nevada 89155

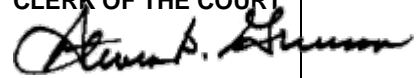
Imelda Murrieta

21 Respectfully submitted,

22 **MAIER GUTIERREZ & ASSOCIATES**

23 /s/ Joseph A. Gutierrez

24 JOSEPH A. GUTIERREZ, ESQ.
25 Nevada Bar No. 9046
26 DANIELLE J. BARRAZA, ESQ.
27 Nevada Bar No. 13822
28 8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Attorneys for Plaintiffs



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5148 Spanish Heights, LLC and
CBC Partners I, LLC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

SPANISH HEIGHTS ACQUISITION
COMPANY, LLC, a Nevada Limited Liability
Company; SJC VENTURES, LLC, a Domestic
limited liability company,

Plaintiffs,

v.

CBC PARTNERS I, LLC, a foreign limited
liability company; DOES I through X; and ROE
CORPORATIONS I through X, inclusive,

Defendants.

5148 SPANISH HEIGHTS, LLC, a Nevada
limited liability company; and CBC PARTNERS
I, LLC, a Washington limited liability company,

Counterclaimants,

v.

SPANISH HEIGHTS ACQUISITION
COMPANY, LLC, a Nevada Limited Liability
Company; SJC VENTURES, LLC, a Delaware
limited liability company; SJC VENTURES
HOLDING COMPANY, LLC, a Delaware
limited liability company; JAY BLOOM,
individually and as Manager, DOE
DEFENDANTS 1-10; and ROE DEFENDANTS
11-20,

Counterdefendants.

Case No. A-20-813439-B

Dept. No.: 11

**DEFENDANT CBC PARTNERS I,
LLC'S ANSWER TO COMPLAINT;**

and

**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**

1 **DEFENDANT CBC PARTNERS I, LLC’S ANSWER TO COMPLAINT**

2 Defendant, CBC Partners I, LLC (“Defendant”), by and through its Michael R. Mushkin,
3 of the law firm of Mushkin & Coppedge, for its Answer to Plaintiffs’ Complaint hereby admits,
4 denies, and affirmatively alleges as follows in response to the Complaint on file in the above-
5 entitled action:

6 **PARTIES**

7 1. In answering Paragraph 1 of the Complaint, Defendant is without knowledge
8 sufficient to form a belief as to the truth of the allegations and therefore denies the allegations
9 contained therein.

10 2. In answering Paragraph 2 of the Complaint, Defendant admits that there is a
11 property located at 5148 Spanish Heights Drive, Las Vegas, Nevada 89148, with Assessor’s
12 Parcel Number of 163-29-615-007 and Defendant is without knowledge sufficient to form a belief
13 as to the truth of the remainder of the allegations and therefore denies the allegations contained
14 therein.

15 3. In answering Paragraph 3 of the Complaint, Defendant is without knowledge
16 sufficient to form a belief as to the truth of the allegations and therefore denies the allegations
17 contained therein.

18 4. In answering Paragraph 4 of the Complaint, Defendant denies the allegations
19 contained therein.

20 5. In answering Paragraph 5 of the Complaint, Defendant denies the allegations
21 contained therein.

22 6. In answering Paragraph 6 of the Complaint, Defendant is without knowledge
23 sufficient to form a belief as to the truth of the allegations and therefore denies the allegations
24 contained therein.

25 7. In answering Paragraph 7 of the Complaint, Defendant is without knowledge
26 sufficient to form a belief as to the truth of the allegations and therefore denies the allegations
27 contained therein.

28 8. In answering Paragraph 8 of the Complaint, Defendant admits a Deed of Sale was

1 recorded on November 3, 2017 in the Office of the Clark County Recorder and Defendant is
2 without knowledge sufficient to form a belief as to the truth of the remainder of the allegations
3 and therefore denies the allegations contained therein.

4 9. In answering Paragraph 9 of the Complaint, Defendant denies the allegations
5 contained therein.

6 10. In answering Paragraph 10 of the Complaint, Defendant admits that it was a
7 secured lender with an interest in the Property until April 1, 2020 at which time 5148 Spanish
8 Heights, LLC, a Nevada limited liability company became the holder of a Secured Promissory
9 Note dated June 22, 2012 which is secured by a Deed of Trust, Assignment of Rents, Security
10 Agreement and Fixture Filing against the Property, made as of December 17, 2014 with a First
11 Modification to Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing was
12 recorded in the Property records through the Clark County Recorder's Office on December 19,
13 2016.

14 11. In answering Paragraph 11 of the Complaint, Defendant admits the allegations
15 contained therein.

16 12. In answering Paragraph 12 of the Complaint, Defendant admits the allegations
17 contained therein.

18 13. In answering Paragraph 13 of the Complaint, Defendant admits that on March 16,
19 2020 a Notice of Non-Monetary Default was sent to Plaintiffs delineating several documents to
20 be provided. Defendant denies the remainder of the allegations contained therein.

21 14. In answering Paragraph 14 of the Complaint, Defendant admits that on March 23,
22 2020, Spanish Heights Acquisition Company, LLC, sent a letter to Defendant; however,
23 Defendant denies the allegations contained in the letter.

24 15. In answering Paragraph 15 of the Complaint, Defendant denies the allegations
25 contained therein.

26 16. In answering Paragraph 16 of the Complaint, Defendant denies the allegations
27 contained therein.

28 17. In answering Paragraph 1 of the Complaint, Defendant is without knowledge

1 sufficient to form a belief as to the truth of the allegations and therefore denies the allegations
2 contained therein.

3 18. In answering Paragraph 18 of the Complaint, Defendant admits that
4 representatives of the Kenneth & Sheila Antos Living Trust and Kenneth Ms. Antos Sheila M.
5 Neumann-Antos Trust assigned any right, title, interest, and membership interest they had in
6 Spanish Heights Acquisition Company, LLC to CBC Partners, LLC. Defendant denies the
7 remainder of the allegations contained therein.

8 19. In answering Paragraph 19 of the Complaint, Defendant denies the allegations
9 contained therein.

10 20. In answering Paragraph 20 of the Complaint, Defendant denies the allegations
11 contained therein.

12 21. In answering Paragraph 21 of the Complaint, Defendant admits receiving
13 correspondence from Spanish Heights Acquisition Company, however, Defendant denies the
14 allegations contained in the correspondence.

15 22. In answering Paragraph 22 of the Complaint, Defendant denies the allegations
16 contained therein.

17 23. In answering Paragraph 23 of the Complaint, Defendant denies the allegations
18 contained therein.

19 24. In answering Paragraph 24 of the Complaint, Defendant denies the allegations
20 contained therein.

21 **FIRST CAUSE OF ACTION**

22 **(Declaratory Relief as to CBC Partners I, LLC's Obligation to Abide by Governor**
23 **Sisolak's Emergency Directive Placing a Moratorium on Foreclosure and Eviction Actions)**

24 25. In answering Paragraph 25 of the Complaint, Defendant repeats and realleges all
25 answers as though fully set forth herein.

26 26. In answering Paragraph 26 of the Complaint, Defendant denies the allegations
27 contained therein.

28 27. In answering Paragraph 27 of the Complaint, Defendant admits the allegations

1 contained therein.

2 28. In answering Paragraph 28 of the Complaint, Defendant is without knowledge
3 sufficient to form a belief as to the truth of the allegations and therefore denies the allegations
4 contained therein.

5 29. In answering Paragraph 29 of the Complaint, Defendant denies the allegations
6 contained therein.

7 30. In answering Paragraph 30 of the Complaint, Defendant is without knowledge
8 sufficient to form a belief as to the truth of the allegations and therefore denies the allegations
9 contained therein.

10 31. In answering Paragraph 31 of the Complaint, Defendant is without knowledge
11 sufficient to form a belief as to the truth of the allegations and therefore denies the allegations
12 contained therein.

13 32. In answering Paragraph 32 of the Complaint, Defendant denies the allegations
14 contained therein.

15 **SECOND CAUSE OF ACTION**

16 **(Declaratory Relief Regarding the Application of the One Action Rule)**

17 33. In answering Paragraph 33 of the Complaint, Defendant repeats and realleges all
18 answers as though fully set forth herein.

19 34. In answering Paragraph 34 of the Complaint, Defendant denies the allegations
20 contained therein.

21 35. In answering Paragraph 35 of the Complaint, Defendant admits the allegations
22 contained therein.

23 36. In answering Paragraph 36 of the Complaint, Defendant is without knowledge
24 sufficient to form a belief as to the truth of the allegations and therefore denies the allegations
25 contained therein.

26 37. In answering Paragraph 37 of the Complaint, Defendant is without knowledge
27 sufficient to form a belief as to the truth of the allegations and therefore denies the allegations
28 contained therein.

38. In answering Paragraph 38 of the Complaint, Defendant denies the allegations contained therein.

39. In answering Paragraph 39 of the Complaint, Defendant denies the allegations contained therein.

THIRD CAUSE OF ACTION

(Declaratory Relief Regarding the Applicability of the Doctrine of Merger)

40. In answering Paragraph 40 of the Complaint, Defendant repeats and realleges all answers as though fully set forth herein.

41. In answering Paragraph 41 of the Complaint, Defendant denies the allegations contained therein.

42. In answering Paragraph 42 of the Complaint, Defendant admits the allegations contained therein.

43. In answering Paragraph 43 of the Complaint, Defendant is without knowledge sufficient to form a belief as to the truth of the allegations and therefore denies the allegations contained therein.

44. In answering Paragraph 44 of the Complaint, Defendant is without knowledge sufficient to form a belief as to the truth of the allegations and therefore denies the allegations contained therein.

45. In answering Paragraph 45 of the Complaint, Defendant denies the allegations contained therein.

46. In answering Paragraph 46 of the Complaint, Defendant denies the allegations contained therein.

FOURTH CAUSE OF ACTION

(Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction)

47. In answering Paragraph 47 of the Complaint, Defendant repeats and realleges all answers as though fully set forth herein.

48. In answering Paragraph 48 of the Complaint, Defendant denies the allegations contained therein.

49. In answering Paragraph 49 of the Complaint, Defendant denies the allegations contained therein.

50. In answering Paragraph 50 of the Complaint, Defendant denies the allegations contained therein.

51. In answering Paragraph 51 of the Complaint, Defendant denies the allegations contained therein.

52. In answering Paragraph 52 of the Complaint, Defendant denies the allegations contained therein.

53. In answering Paragraph 53 of the Complaint, Defendant denies the allegations contained therein.

AFFIRMATIVE DEFENSES

1. Defendant denies each and every allegation contained in the Complaint not otherwise specifically admitted or denied herein.

2. Plaintiffs have failed to state a claim against Defendant upon which relief may be granted.

3. Plaintiffs' claims are barred because the grant of relief would unjustly enrich them.

4. Plaintiff's claims are barred because they failed to satisfy a condition precedent and/or a condition subsequent.

5. Defendant's actions upon which Plaintiffs' Complaint is based were reasonable, justified, undertaken in good faith, and lawful.

6. Plaintiffs' claims against Defendant are barred as a matter of law as Plaintiffs' Complaint makes numerous blatantly false claims.

7. Plaintiffs have failed to mitigate their damages.

8. Plaintiffs' claims are barred by the doctrine of laches.

9. Plaintiffs' claims are barred by the doctrine of unclean hands.

10. Plaintiff's claims are barred by a failure of consideration.

11. Plaintiffs are estopped from asserting the claims set forth in the Complaint because of improper conduct, acts, or omissions.

1 12. Plaintiffs' claims are barred by lack of authority.

2 13. Plaintiffs' claims are barred because Plaintiffs did not suffer any damages and, to
3 the extent Plaintiffs have suffered any losses, they are speculative and vague.

4 14. Defendant has incurred attorneys' fees and costs in the defense of this action and
5 is entitled to full reimbursement thereof.

6 15. Defendant hereby incorporates those affirmative defenses enumerated in NRCP 8
7 as if fully set forth herein. Such defenses are herein incorporated by reference for the specific
8 purpose of not waiving any such defense. In the event further investigation or discovery reveals
9 the applicability of any such defenses, Defendant reserves the right to seek leave of the Court to
10 amend this Answer to the Complaint and to specifically assert any such defense. Such defenses
11 are herein incorporated by reference for the specific purpose of not waiving any such defense.

12 WHEREFORE, Defendant prays for judgment as follows:

13 1) That Plaintiffs take nothing by way of their claims, and the same be dismissed with
14 prejudice;

15 2) That Defendant be awarded its attorneys' fees and costs incurred in the defense of
16 this action; and

17 3) Such other and further relief as the Court deems just and proper.

18
19
20 **COUNTERCLAIMANTS 5148 SPANISH HEIGHTS, LLC AND CBC PARTNERS I, LLC**
21 **COUNTERCLAIM AGAINST SPANISH HEIGHTS ACQUISITION COMPANY, LLC,**
22 **SJC VENTURES, LLC, SJC VENTURES HOLDING COMPANY, LLC, AND JAY**
 BLOOM

23 Counterclaimants, 5148 Spanish Heights, LLC, and CBC Partners I, LLC, allege as
24 follows:

25 **JURISDICTION AND VENUE**

26 1. Pursuant to Nevada's long arm statute codified at NRS 14.065, a Court of this
27 State may exercise jurisdiction over a party to a civil action on any basis not inconsistent with the
28 Constitution of Nevada or the Constitution of the United States.

2. Venue is proper pursuant to Nev. Rev. Stat. § 13.040.

THE PARTIES

3. Counterclaimant, 5148 Spanish Heights, LLC is and at all relevant times a Nevada limited liability company, doing business in Clark County, Nevada.

4. Counterclaimant, CBC Partners I, LLC, is and at all relevant times a Washington limited liability company.

5. Counterdefendant Spanish Heights Acquisition Company, LLC (“SHAC”), is and at all relevant times a Nevada limited liability company.

6. Counterdefendant SJC Ventures, LLC, (“SJCv”) is and at all relevant times a Delaware limited liability company, doing business in Clark County, Nevada.

7. Counterdefendant SJC Ventures Holding Company, LLC, (“Holding”) is and at all relevant times a Delaware limited liability company;

8. Counterdefendant Jay Bloom (“Bloom”), is an individual residing in Clark County, Nevada.

9. Upon information and belief, Counterdefendant Bloom is the manager of SJCV and Holding and Holding is the manager of SHAC.

10. Plaintiff is informed and believes, that at all time herein mentioned, each of the Defendants was and are the agent, servant, representative, independent contractor, partner, joint venturer, alter ego and/or employee of each or some of the other co-defendants, and in doing those acts herein referred to, was acting within the course and scope of its authority as such agent, servant, representative, independent contractor, partner, joint venturer, alter ego, and/or employee, and with the express and/or implied approval, permission, knowledge, consent and ratification of all said co-defendants.

11. Upon information and belief, Doe Defendants 1 through 10 are individuals unknown to Plaintiff who, therefore, sue said Defendants by fictitious names who may be liable for damages with the named Defendants on the allegations set forth in this Complaint or may have received fraudulent transfers, which are avoidable pursuant to Nev. Rev. Stat. Chapter 112. Plaintiff will seek leave of Court to amend this Complaint to reflect the true names and identities

1 of the Doe Defendants when known.

2 12. Upon information and belief, Roe Defendants 11 through 20 are entities unknown
3 to Plaintiffs who, therefore, sue said Defendants by fictitious names which may be liable for
4 damages with the named Defendant on the allegations set forth in this Complaint or may have
5 received fraudulent transfers, which are avoidable pursuant to Nev. Rev. State. Chapter 112.
6 Plaintiff will amend this Complaint to reflect the true names and identities of the Roe Defendants
7 when known.

8 **FACTUAL ALLEGATIONS RELATED TO ALL CLAIMS**

9 **The Initial Promissory Note**

10 13. On or about April 16, 2007 nonparties Kenneth M. Antos and Sheila M. Neumann-
11 Antos transferred to Kenneth M. Antos and Sheila M. Neumann-Antos, Trustees of the Kenneth
12 and Shelia Antos Living Trust dated April 26, 2007 (“Antos”) real property located in Clark
13 County, Nevada commonly known as 5148 Spanish Heights Drive, Las Vegas, Nevada 89148
14 (the “Property”).

15 14. On or about June 22, 2012, Antos with nonparties KCI Investments, LLC a Nevada
16 limited liability company (“KCI”) entered into a Secured Promissory Note with CBC Partners I,
17 LLC, a Washington limited liability company (“CBCI”).

18 15. The June 22, 2012, Secured Promissory Note (the “Note”) was modified and
19 amended several times.

20 16. On or about December 29, 2014, a Deed of Trust, Assignment of Rents, Security
21 Agreement and Fixture Filing (“Deed of Trust”) was recorded against the Property in the Clark
22 County Recorder’s Office as Instrument No. 201412290002856, for the purpose of securing the
23 Note. The balance due is approximately \$5,578,459.15 (\$2,935,001.14 for principal, pre-
24 forbearance protection payments of \$1,326,744.55, interest and late charges of \$1,315,105.24 and
25 interest accrued at the rate of 20% in the amount of \$1,608.22 per day from April 1, 2020, Exhibit
26 A-0003-004).

27 17. This Deed of Trust is subordinate to two (2) additional Deeds of Trust recorded
28 against the Property. The First Mortgage to City National is in the principal amount of

1 \$3,240,000.00 with monthly payment of \$19,181.07. The Second Mortgage to Northern Trust
2 Bank is in the principal amount of \$599,000.00 with monthly payments of \$3,034.00.

3 18. The Deed of Trust was subsequently modified on July 22, 2015 and on December
4 19, 2016 as recorded in the Clark County Recorder's Office Instrument No.'s 201507220001146
5 and 201612190002739 respectively.

6 **The Forbearance Agreement**

7 19. On or about September 27, 2017, Antos, SHAC and Counterdefendant SJC
8 Ventures, LLC ("SJCVC") entered into a Forbearance Agreement of the Note, acknowledging
9 default and affirming CBCI has fully performed.

10 20. As part of the Forbearance Agreement Antos conveyed the Property to SHAC and
11 SHAC leased the property to SJCVC.

12 21. As part of the Forbearance Agreement SHAC would lease the Property to SJCVC
13 the lease contained a Consent to Lease between SHAC and CBCI.

14 22. Paragraph 2 of the Consent to Lease states: "In the event CBCI... or otherwise
15 exercises its rights under the Forbearance Agreement, CBCI may terminate the Lease."

16 23. Pursuant to the terms of the Forbearance Agreement SHAC was to make certain
17 payments to CBCI and other parties. In addition, a balloon payment of the total amount owing
18 was due on August 31, 2019.

19 24. As part of the Forbearance Agreement there were certain requirements of SHAC
20 attached as Exhibit B to the Forbearance Agreement. Among the certain requirements was the
21 understanding that the First Lien holder would pay the real property taxes, that CBCI would pay
22 the 1st and 2nd Mortgage payments to prevent default, that SHAC would make certain repairs and
23 improvements to the Property in approximately the amount of \$100,000.00, SHAC would deposit
24 \$150,000.00 with Bank of America and replenish the account and provide CBCI with an Account
25 Control Agreement; SHAC would maintain the Property, and SHAC would pay for a customary
26 homeowner's insurance policy and all Homeowner's Association dues.

27 **The Pledge Agreement**

28 25. On or about August 4, 2017, SHAC was organized with the initial members being

1 SJCVC, nonparty CBC Partners, LLC, and Antos.

2 26. On or about August 9, 2017 nonparty CBC Partners resigned as a member of
3 SHAC.

4 27. In addition to the certain requirements of the Forbearance Agreement there was
5 certain pledged collateral. Among the pledged collateral Antos and SJCVC pledged 100% of the
6 membership interest in SHAC, the Pledge Agreement.

7 28. The Pledge Agreement was between Antos and SJCVC as Pledgors and CBCI as
8 the Secured Party and was dated September 27, 2017.

9 29. Pursuant to the Pledge Agreement, Antos and SJCVC and pledged all right, title and
10 interest in and to 100% of their membership inters of SHAC to CBCI.

11 30. In addition to pledging membership interest the Pledgors agreed to not “sell, assign
12 (by operation of law or otherwise) or otherwise dispose of, or grant any option with respect to,
13 any of the Pledged Collateral...”

14 **SHAC’s Operating Agreement**

15 31. On or about August 9, 2017 CBC Partners resigned as a member of SHAC.

16 32. On or about August 10, 2017 Holdings signed a resignation of member of SHAC.

17 33. SHAC’s Operating Agreement was purportedly effective as of September 30,
18 2017, with the members being Holdings as Investor or Investor Member and Antos being the
19 Seller Member.

20 34. SHAC’s Operating Agreement states that the “management and control of the
21 Company shall be vested exclusively and irrevocably with the Investor Member.”

22 35. Pursuant to Exhibit B of SHAC’s Operating Agreement, Holdings commitment
23 was to be \$150,000.00.

24 Upon information and belief Holdings never made the initial commitment.

25 36. In addition, Pursuant to Paragraph 8.02(a) of SHAC’s Operating Agreement,
26 Holdings, among other things, was to

27 a. “Provide for the funding of a (sic) **annual** expense reserve account in the
28 amount in the amount of \$150,000.00 within ninety days from which non member CBCI is

1 authorized to issue payment against its obligations due from Seller Member should Investor
2 Member fail to effect such payments..." (emphasis added).

3 b. "Provide for a second funding of an annual expense reserve account one
4 year later in the **additional** amount of \$150,000.00 within ninety days of the first anniversary of
5 the signing from which non Member CBCI is authorized to issue payment against its Note should
6 Investor Member fail to effect such payments..." (emphasis added).

7 c. "Cause the Company to effect repairs to the premises to bring it back to
8 top quality standard and working repair."

9 d. "Cause the Company to pay all HOA assessments and fines."

10 e. "At the earlier of 2 years... pay off in full the CBC revicable (sic) as relates
11 to the property."

12 f. At the earlier of 2 years... either assume service of or retire either or both
13 of the 1st and 2nd position lenders."

14 37. Upon information and belief, Holdings never provided funding of the initial or
15 subsequent reserve account, repaired the property to top quality standard, paid the HOA
16 assessments and fines, pay in full CBC receivables or assumed service of the 1st and 2nd position
17 lenders.

18 **Additional Facts**

19 38. On or about December 1, 2019, CBCI, Antos, SHAC and SJCVC entered into an
20 Amendment to Forbearance Agreement, extending the date of the balloon payment to March 31,
21 2020.

22 39. On or about February 21, 2020, after receiving an offer of purchase of the
23 Promissory Note and Deed of Trust, CBCI began reviewing their documents to ensure that all the
24 obligations of SHAC and SJCVC were delineated to the purchasers of the Note.

25 40. On March 12, 2020, Spanish Hills Community Association recorded a Health and
26 Safety Lien against the Property. This Lien is for Nuisances and Hazardous Activities.

27 41. On or about March 16, 2020, CBCI mailed a Notice of Non-Monetary Defaults to
28 SHAC and SJCVC, wherein CBCI requested outstanding documentation from SHAC and SJCVC.

1 Among the documentation requested was:

2 a. Evidence of homeowner's insurance coverage Pursuant to Paragraph
3 1(A)(6) of Amendment to Forbearance Agreement and Related Agreements;

4 b. Evidence of repairs pursuant to Paragraph 3(c)(1) of Exhibit B to
5 Forbearance Agreement;

6 c. Evidence of Bank of America account balance of \$150,000.00 pursuant to
7 Paragraph 6(c) of Exhibit B to Forbearance Agreement; Evidence of SJC Ventures filing of
8 applications for mortgages to refinance 5148 Spanish Heights Drive, pursuant to paragraph I(C)
9 of Amendment to Forbearance Agreement and Related Agreements.

10 42. On or about March 23, 2020, counsel for CBCI received a letter from counsel for
11 SHAC and Jay Bloom. This letter ignored the outstanding documents and stated there could be
12 no default until March 31, 2020.

13 43. On March 26, 2020, an inspection was performed on the Property. This inspection
14 showed that the Property had water damage and required numerous repairs.

15 44. As of March 31, 2020, the Note, real property taxes and homeowners' association
16 dues have not been paid.

17 45. On April 1, 2020, a Notice of Default and Demand for Payment was sent to SHAC
18 and SJCVC. This letter had a typo on the date of final balloon payment being due on March 31,
19 2021. This was corrected and emailed to SHAC's and SJCVC's counsel noting that the default date
20 was corrected to March 31, 2020.

21 46. On April 1, 2020, under separate cover, counsel for CBCI sent a Notice to SHAC,
22 SJCVC, and Antos that CBCI would exercise its rights under the Pledge Agreement by transferring
23 the pledged collateral to CBCI's nominee CBC Partners, LLC.

24 47. On April 1, 2020, CBC Partners received the Assignment of Company and
25 Membership Interest of SHAC from Antos.

26 48. On April 1, 2020 CBCI sold its Secured Promissory Note and all related
27 Agreements to 5148 Spanish Heights, LLC.

28 49. On April 3, 2020, a Notice to Vacate was sent to SJCVC, this letter clearly indicated

1 that an accommodation would be made under these difficult times.

2 50. On April 6, 2020, counsel for CBCI sent to counsel for SJCVC and SHAC
3 delineating the timeline of the Notices and indicating that each correspondence concluded with
4 an invitation to discuss resolution of this dispute.

5 **FIRST CLAIM FOR RELIEF**

6 **Breach of Contract (Forbearance Agreement)**

7 **Against SHAC, SJCVC, and Holdings**

8 51. Counterclaimants repeats and realleges each and every allegation set forth in
9 Paragraphs 1 through 50 above and incorporates the same by reference as though fully set forth
10 herein.

11 52. Counterdefendants owe obligations to Counterclaimants under the Secured
12 Promissory Note, Forbearance Agreement along with Exhibit B to the Forbearance Agreement,
13 the Amended to Forbearance Agreement (the "Agreements") and Nevada Law.

14 53. Counterdefendants' actions are in breach of the duties owed to Counterclaimants
15 and Counterdefendants have violated the Agreements.

16 54. Counterdefendants did not compensate Counterclaimants under the terms of the
17 Agreement.

18 55. Although demand for payment has been made, Counterdefendants have failed to
19 make said payment and are indebted to Counterclaimants in an amount in excess of fifteen
20 thousand dollars (\$15,000.00), the exact amount of which will be the subject of proof at trial.

21 56. Counterclaimants are entitled to be compensated for the reasonable attorneys' fees
22 and costs incurred in the prosecution of this action.

23 **SECOND CLAIM FOR RELIEF**

24 **Breach of the Covenant of Good Faith and Fair Dealing (Forbearance Agreement)**

25 **Against SHAC, SJCVC, and Holdings**

26 57. Counterclaimant repeats and realleges each and every allegation set forth in
27 Paragraphs 1 through 56 above and incorporates the same by reference as though fully set forth
28 herein.

58. It is well settled in Nevada that every contract imposes upon the contracting parties the duty of good faith and fair dealing.

59. Counterdefendants owed Counterclaimants a duty of good faith and fair dealing.

60. Counterdefendants breached the duty of good faith and fair dealing when they performed in a manner that was unfaithful to the purpose of the Agreements and to the justified expectations of Counterclaimants by failing to satisfy the outstanding balance owed to Counterclaimants.

61. As a direct and proximate result of Counterdefendants' breach of the implied covenant of good faith and fair dealing, Counterclaimants have been damaged in an amount in excess of fifteen thousand dollars (\$15,000.00), the exact amount of which will be the subject of proof at trial.

62. Counterdefendants' breaches of their contractual duties were intentionally done to injure Counterclaimants with a willful and conscious disregard for Counterclaimants' rights, constituting oppression, fraud and/or malice.

63. Counterclaimant, in addition to compensatory damages, is entitled to recover all attorney's fees it has reasonably incurred and to recover punitive damages for the sake of example and by way of punishing Counterdefendants to deter similar conduct in the future.

THIRD CLAIM FOR RELIEF

Unlawful Detainer NRS 40.250 – Against SJCv and Bloom

64. Counterclaimants repeats and realleges each and every allegation set forth in Paragraphs 1 through 63 above and incorporates the same by reference as though fully set forth herein.

65. Pursuant to the Amendment to Forbearance Agreement all options to extend the lease have expired.

66. Pursuant to the terms of the Consent to Lease Counterdefendants have terminated the Lease Agreement.

67. SJCv and Bloom continue to occupy the Property.

68. As a direct and proximate result of Counterdefendants' continued occupation of

1 the Property, Counterclaimants have been damaged in an amount in excess of fifteen thousand
2 dollars (\$15,000.00), the exact amount of which will be the subject of proof at trial.

3 69. Counterclaimants are entitled to be compensated for the reasonable attorneys' fees
4 and costs incurred in the prosecution of this action.

5 **FOURTH CLAIM FOR RELIEF**

6 **Fraud in the Inducement – Against SJCVC, Holding, and Bloom**

7 70. Counterclaimants repeats and realleges each and every allegation set forth in
8 Paragraphs 1 through 69 above and incorporates the same by reference as though fully set forth
9 herein.

10 71. Counterdefendants entered into the Consent to Lease and Pledge Agreement with
11 Counterclaimants with no intention of performing.

12 72. Specifically, Counterdefendants agreed to make certain repairs and improvements
13 to the Property in approximately the amount of \$100,000.00, deposit \$150,000.00 with Bank of
14 America and replenish the account and provide Counterclaimants with an Account Control
15 Agreement; maintain the Property, and would pay for a customary homeowner's insurance policy
16 and all Homeowner's Association dues; evidence of Counterclaimants filing applications for
17 mortgages to refinance the Property, among other things.

18 73. When Counterclaimants requested the proof that these requirements had been met
19 Counterdefendants did not respond with any documentation.

20 74. As a direct and proximate result of Counterdefendants' continued reckless
21 disregard of their contractual obligations, Counterclaimants have been damaged in an amount in
22 excess of fifteen thousand dollars (\$15,000.00), the exact amount of which will be the subject of
23 proof at trial.

24 75. The conduct of SJCVC, Holding and Bloom was intentionally done to injure
25 Counterclaimants with a willful and conscious disregard for Counterclaimants' rights,
26 constituting oppression, fraud and/or malice.

27 76. Counterclaimant, in addition to compensatory damages, is entitled to recover all
28 attorney's fees it has reasonably incurred and to recover punitive damages for the sake of example

1 and by way of punishing Counterclaimants SJCVC, Holding and Bloom to deter similar conduct in
2 the future.

3 **FIFTH CLAIM FOR RELIEF**

4 **Abuse of Process/Fraud Upon the Court – Against SJCVC and Bloom**

5 77. Counterclaimants repeats and realleges each and every allegation set forth in
6 Paragraphs 1 through 76 above and incorporates the same by reference as though fully set forth
7 herein.

8 78. Counterdefendants have made a material misrepresentation to the Court.

9 79. Specifically, in Bloom's Declaration filed on April 23, 2020, Paragraph 11 he
10 states: "SJC Ventures LLC had (and still has and has never pledged or transferred) a 51% interest
11 in Spanish Heights Acquisition Company, LLC."

12 80. The September 27, 2017 Pledge Agreement clearly names SJC Ventures, LLC as
13 a Pledgor.

14 81. Bloom signed the Pledge Agreement as manager.

15 82. Bloom is the manager of SJCVC not SHAC.

16 83. In reliance upon SJCVC and Bloom's false representations and as a direct and
17 proximate result of Counterdefendants wrongful conduct, Plaintiff has suffered damages in an
18 amount in an amount in excess of fifteen thousand dollars (\$15,000.00), the exact amount of
19 which will be the subject of proof at trial.

20 84. The conduct of SJCVC and Bloom was intentionally done to injure
21 Counterclaimants with a willful and conscious disregard for Counterclaimants' rights,
22 constituting oppression, fraud and/or malice.

23 85. Plaintiff, in addition to compensatory damages, is entitled to recover all attorney's
24 fees it has reasonably incurred and to recover punitive damages for the sake of example and by
25 way of punishing Counterclaimants SJCVC and Bloom to deter similar conduct in the future.

26 **SIXTH CLAIM FOR RELIEF**

27 **Breach of Fiduciary Duty – Against SJCVC, Holdings, and Bloom**

28 86. Counterclaimants repeats and realleges each and every allegation set forth in

1 Paragraphs 1 through 85 above and incorporates the same by reference as though fully set forth
2 herein.

3 87. By virtue of the agreements between the parties and Counterdefendants
4 representations to Counterclaimants, Counterdefendants entered a special relationship with
5 Counterclaimants, whereby, among other things, Counterdefendants were bound to act for the
6 benefit of Counterclaimants.

7 88. Such relationship imposed a fiduciary duty upon Counterdefendants of the utmost
8 good faith.

9 89. By virtue of Counterdefendants' conduct with respect to the Counterclaimants,
10 including but not limited to falsely representing that it would: a) Provide an expense reserve
11 account; b) Provide an additional expense reserve account; c) repair the Property; d) pay all HOA
12 assessments and fines; d) assume service of or retire the 1st and 2nd position mortgages; and e)
13 payoff CBC.

14 90. Counterdefendants have breached and/or conspired to breach the fiduciary duties
15 it owed to Counterclaimants.

16 91. As a direct and proximate result of the conduct of Counterdefendants,
17 Counterclaimants have suffered damages in an amount more than \$15,000.00.

18 92. Counterdefendants' breaches of their fiduciary duties were intentionally done to
19 injure Counterclaimants with a willful and conscious disregard for Counterclaimants' rights,
20 constituting oppression, fraud and/or malice.

21 93. Counterclaimant, in addition to compensatory damages, is entitled to recover all
22 attorney's fees it has reasonably incurred and to recover punitive damages for the sake of example
23 and by way of punishing Counterdefendants to deter similar conduct in the future.

24 **SEVENTH CLAIM FOR RELIEF**

25 **Breach of Contract (Operating Agreement)**

26 **SJCV, Holdings, and Bloom**

27 94. Counterclaimants repeats and realleges each and every allegation set forth in
28 Paragraphs 1 through 93 above and incorporates the same by reference as though fully set forth

1 herein.

2 95. Counterdefendants owe obligations to Counterclaimants under the Operating
3 Agreement of SHAC and Nevada Law.

4 96. Counterdefendants' actions are in breach of the duties owed to Counterclaimants
5 and Counterdefendants have violated the Agreements.

6 97. Counterdefendants did not compensate Counterclaimants under the terms of the
7 Agreement.

8 98. Although demand for payment has been made, Counterdefendants have failed to,
9 among other breaches, make said payment and are indebted to Counterclaimants in an amount in
10 excess of fifteen thousand dollars (\$15,000.00), the exact amount of which will be the subject of
11 proof at trial.

12 99. Counterclaimants are entitled to be compensated for the reasonable attorneys' fees
13 and costs incurred in the prosecution of this action.

14 **EIGHTH CLAIM FOR RELIEF**

15 **Breach of Covenant of Good Faith and Fair Dealing (Operating Agreement)**

16 **SJCV, Holdings, and Bloom**

17 100. Counterclaimants repeats and realleges each and every allegation set forth in
18 Paragraphs 1 through 99 above and incorporates the same by reference as though fully set forth
19 herein.

20 101. It is well settled in Nevada that every contract imposes upon the contracting parties
21 the duty of good faith and fair dealing.

22 102. Counterdefendants owed Counterclaimants a duty of good faith and fair dealing.

23 103. Counterdefendants breached the duty of good faith and fair dealing when they
24 performed in a manner that was unfaithful to the purpose of the Operating Agreement of SHAC
25 and to the justified expectations of Counterclaimants by failing to comply with the terms in the
26 Operating Agreement.

27 104. As a direct and proximate result of Counterdefendants' breach of the implied
28 covenant of good faith and fair dealing, Counterclaimants have been damaged in an amount in

1 excess of fifteen thousand dollars (\$15,000.00), the exact amount of which will be the subject of
2 proof at trial.

3 105. Counterdefendants' breaches of their duties were intentionally done to injure
4 Counterclaimants with a willful and conscious disregard for Counterclaimants' rights,
5 constituting oppression, fraud and/or malice.

6 106. Counterclaimant, in addition to compensatory damages, is entitled to recover all
7 attorney's fees it has reasonably incurred and to recover punitive damages for the sake of example
8 and by way of punishing Counterdefendants to deter similar conduct in the future.

9 **NINTH CLAIM FOR RELIEF**

10 **Breach of Contract (Pledge Agreement)**

11 **SJCV, Holdings, and Bloom**

12 107. Counterclaimants repeats and realleges each and every allegation set forth in
13 Paragraphs 1 through 106 above and incorporates the same by reference as though fully set forth
14 herein.

15 108. Counterdefendants owe obligations to Counterclaimants under the Pledge
16 Agreement and Nevada Law.

17 109. Counterdefendants' actions are in breach of the duties owed to Counterclaimants
18 and Counterdefendants have violated the Agreements.

19 110. Although demand for performance has been made, Counterdefendants have failed
20 to perform and are indebted to Counterclaimants in an amount in excess of fifteen thousand
21 dollars (\$15,000.00), the exact amount of which will be the subject of proof at trial.

22 111. Counterclaimants are entitled to be compensated for the reasonable attorneys' fees
23 and costs incurred in the prosecution of this action.

24 **TENTH CLAIM FOR RELIEF**

25 **Breach of Covenant of Good Faith and Fair Dealing (Pledge Agreement)**

26 **SJCV, Holdings, and Bloom**

27 112. Counterclaimants repeats and realleges each and every allegation set forth in
28 Paragraphs 1 through 111 above and incorporates the same by reference as though fully set forth

1 herein.

2 113. It is well settled in Nevada that every contract imposes upon the contracting parties
3 the duty of good faith and fair dealing.

4 114. Counterdefendants owed Counterclaimants a duty of good faith and fair dealing.

5 115. Counterdefendants breached the duty of good faith and fair dealing when they
6 performed in a manner that was unfaithful to the purpose of the Pledge Agreement and to the
7 justified expectations of Counterclaimants by failing to surrender their membership interest of
8 SHAC pursuant to the Pledge Agreement.

9 116. As a direct and proximate result of Counterdefendants' breach of the implied
10 covenant of good faith and fair dealing, Counterclaimants have been damaged in an amount in
11 excess of fifteen thousand dollars (\$15,000.00), the exact amount of which will be the subject of
12 proof at trial.

13 117. Counterdefendants' breaches of their contractual duties were intentionally done to
14 injure Counterclaimants with a willful and conscious disregard for Counterclaimants' rights,
15 constituting oppression, fraud and/or malice.

16 118. Counterclaimant, in addition to compensatory damages, is entitled to recover all
17 attorney's fees it has reasonably incurred and to recover punitive damages for the sake of example
18 and by way of punishing Counterdefendants to deter similar conduct in the future.

19 **ELEVENTH CLAIM FOR RELIEF**

20 **Unjust Enrichment – Against all Counterdefendants**

21 119. Plaintiffs hereby repeat and reallege each allegation contained in paragraphs 1
22 through 118 of this Complaint and incorporate the same herein by reference as though fully set
23 forth.

24 120. Counterdefendants have failed to perform material obligations under the Secured
25 Promissory Note, Deed of Trust, Pledge Agreement, and Consent to Lease.

26 121. As a direct and proximate result of Counterdefendants failure to perform,
27 Counterdefendants have been unjustly enriched in an amount in excess of \$15,000.00, the amount
28 to be proven at trial.

122. Plaintiff is entitled to recover its reasonable attorney's fees and costs of this action.

TWELFTH CLAIM FOR RELIEF

Declaratory Relief – Against all Counterdefendants

123. Plaintiffs hereby repeat and reallege each allegation contained in paragraphs 1 through 122 of this Complaint and incorporate the same herein by reference as though fully set forth.

124. Disputes and controversies have arisen between Counterclaimants and Counterdefendants relative to the Contracts and the Agreements.

125. NRS 30.030 provides that "Courts of record within their respective jurisdictions shall have power to declare rights, status and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree."

126. Based upon the language of NRS30.030, this Court has the power to declare the rights, status and other legal relations between Counterclaimants and Counterdefendants.

127. Plaintiff is entitled to be compensated for the reasonable attorneys' fees and costs incurred in the prosecution of this action.

PRAYER

WHEREFORE, Counterclaimants requests that this Court enter judgment against Counterdefendants as follows:

1. That this Court award Counterclaimants damages against Counterdefendants in an amount more than \$15,000;

2. That this Court award Counterclaimants their reasonable attorney's fees and costs;

3. That this Court award Counterclaimants punitive damages from Counterdefendants in an amount sufficient to punish Counterdefendants and to make an example of Counterdefendants to deter similar conduct in the future; and

///

4. That Counterclaimants be awarded such other and further relief as the Court may deem just and proper.

DATED this 24 day of April, 2020

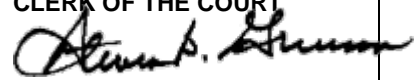
MUSHKIN & COPPEDGE

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Defendant CBC Partners I, LLC'S Answer to Complaint and 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** was submitted electronically for filing and/or service with the Eighth Judicial District Court on this 27th day of April, 2020. Electronic service of the foregoing document shall be upon all parties listed on the Odyssey eFileNV service contact list:

An Employee of
MUSHKIN & COPPEDGE



ACOM

JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

DANIELLE J. BARRAZA, ESQ.

Nevada Bar No. 13822

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Attorneys for Plaintiffs

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.

Case No.: A-20-813439-B

Dept. No.: 11

FIRST AMENDED COMPLAINT

EXEMPT FROM ARBITRATION:

- 1. Request for Declaratory Relief**
- 2. Action Concerning Real Property**

Plaintiffs Spanish Heights Acquisition Company, LLC, and SJC Ventures Holding Company, LLC, by and through their attorney of record, MAIER GUTIERREZ & ASSOCIATES, hereby file this First Amended Complaint. This First Amended Complaint is filed as of right, within 21 days of service of the first answering of defendant's responsive pleading. Nev. R. Civ. P. 15(a)(1)(B). In support of

1 this First Amended Complaint, Plaintiffs complain and allege against defendants as follows:

2 **PARTIES**

3 1. That at all times pertinent hereto, Plaintiff Spanish Heights Acquisition Company, LLC, is a
4 Limited Liability Company duly registered and in good standing in the State of Nevada.

5 2. That at all times pertinent hereto, Plaintiff Spanish Heights Acquisition Company, LLC owns
6 the property located at 5148 Spanish Heights Drive, Las Vegas, Nevada 89148, with Assessor's Parcel
7 Number 163-29-615-007 ("Property").

8 3. That at all times pertinent hereto, Plaintiff SJC Ventures Holding Company, LLC (hereinafter
9 referred to as "SJC Ventures Holding, LLC") is a Limited Liability Company duly registered and in
10 good standing in the State of Delaware.

11 4. That at all times pertinent hereto, Plaintiff SJC Ventures Holding, LLC has been the sole,
12 exclusive and irrevocable Manager of Spanish Heights Acquisition Company, LLC.

13 5. That at all times pertinent hereto, Plaintiff SJC Ventures Holding, LLC has been a lawful
14 tenant of the Property pursuant to a binding lease agreement.

15 6. That at all times pertinent hereto, Defendant CBC Partners I, L LC is a foreign company doing
16 business in Clark County, State of Nevada without having registered as a foreign entity to do business
17 in Nevada.

18 7. That at all times pertinent hereto, Defendant CBC Partners, LLC is a foreign company doing
19 business in Clark County, State of Nevada without having registered as a foreign entity to do business
20 in Nevada.

21 8. That at all times pertinent hereto, Defendant 5148 Spanish Heights, LLC is a Nevada Limited
22 Liability Company doing business in Clark County, State of Nevada.

23 9. That at all times pertinent hereto, Kenneth Antos and Sheila Neumann-Antos are Trustees of
24 the Defendant Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila M.
25 Neumann-Antos Trust (collectively referred to herein as the "Antos Trust"), which at all relevant
26 times conducted activities in Clark County, State of Nevada.

27 10. That at all times pertinent hereto, Defendant DACIA, LLC is a foreign Limited Liability
28 Company doing business in Clark County, State of Nevada.

11. That the following alleged incidents occurred in Clark County, Nevada.

12. The true names and capacities of Defendants DOES I through X and/or ROES I through X, whether individual, company, associate, or otherwise, are unknown to the Plaintiff at the time of filing of this Complaint, and Plaintiff therefore sues said Defendants by such fictitious names. Plaintiff is informed, believes and therefore alleges that each of the Defendants, designated as DOES I through X and/or ROES I through X are or may be, legally responsible for the events referred to in this action, and caused damages to the Plaintiff, as herein alleged, and Plaintiff will ask leave of this Court to amend the Complaint to insert the true names and capacities of such Defendants, when the same have been ascertained, and to join them in this action, together with the proper charges and allegations.

GENERAL ALLEGATIONS

13. As documented by a Deed recorded at the Clark County Recorder's Office on November 3, 2017, Plaintiff Spanish Heights Acquisition Company, LLC owns the residential Property at issue.

14. As documented by the Operating Agreement of Spanish Heights Acquisition Company, LLC, SJC Ventures Holding, LLC is the lawful sole, exclusive and irrevocable Manager of Spanish Heights Acquisition Company, LLC.

15. As documented by a real property lease, SJC Ventures Holding, LLC is the lawful tenant of the Property, with Plaintiff Spanish Heights Acquisition Company, LLC being the lawful Landlord.

16. Defendant CBC Partners I, LLC claims to be the issuer of a Third Position Secured Promissory Note ("Note") dated June 22, 2012, which is purportedly secured by a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing against the Property, made as of December 17, 2014. Subsequently, a First Modification to Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing was recorded in the Property records through the Clark County Recorder's Office on December 19, 2016. Thus, defendant CBC Partners I, LLC purports to have been a secured lender with a subordinated interest in the Property.

17. Defendant CBC Partners I, LLC also purports to have secured certain remedies in the event of a default on the Note through a Forbearance Agreement dated September 27, 2017, and an Amendment to Forbearance Agreement dated December 1, 2019 (collectively the "Forbearance Agreement") which extended Spanish Heights Acquisition Company, LLC's purported obligations

1 under the Note through March 31, 2020.

2 18. One of the purported remedies under the Forbearance Agreement that Defendant CBC Partners
3 I, LLC claims to have is a right to exercise a pledged membership interest in Spanish Heights
4 Acquisition Company, LLC, through a separately-executed Pledge Agreement dated September 27,
5 2017 (“Pledge Agreement”).

6 19. CBC Partners argues that it has the right to exercise this pledge of Spanish Heights Acquisition
7 Company, LLC’s Membership Interest against both Antos Trust’s 49% interest and SJC Ventures
8 Holding, LLC’s 51% Membership Interest.

9 20. SJC Ventures Holding, LLC argues that, as a non-party and non-signatory to the “Antos”
10 Pledge Agreement, CBC Partners I, LLC only has a remedy against the Antos’ 49% Membership
11 interest in Spanish Heights Acquisition Company, LLC and in no way has a pledge of non-party, non-
12 signatory SJC Ventures Holding, LLC’s 51% Membership Interest in Spanish Heights Acquisition
13 Company, LLC.

14 21. A separate purported remedy under the Forbearance Agreement that Defendant CBC Partners
15 I, LLC claims to have is a right to exercise a security interest in SJC Ventures Holding’s beneficial
16 interest in any proceeds realized by way of collections activity relating to a judgment obtained by SJC,
17 through a separately-executed “SJC” Security Agreement dated September 27, 2017 (“Security
18 Agreement”).

19 22. At the time the Forbearance Agreement was executed, the Antos Trust owned a 49%
20 membership interest in Spanish Heights Acquisition Company, LLC, and SJC Ventures Holding, LLC
21 owned a 51% membership interest in Spanish Heights Acquisition Company, LLC.

22 23. Although the Antos Trust is a signatory to the “Antos” Pledge Agreement, SJC Ventures
23 Holding, LLC is not a signatory to the “Antos” Pledge Agreement.

24 24. Although SJC Ventures Holding, LLC is a signatory to the “SJC” Security Agreement, the
25 Antos Trust is not a signatory to the “SJC” Security Agreement.

26 25. SJC Ventures Holding maintains that it was bound (until the Note’s extinguishment) by the
27 “SJC” Security Agreement to which it is signatory and not bound by the “Antos” Pledge Agreement
28 to which it is not signatory.

1 26. The Forbearance Agreement also indicates that “[d]uring the Forbearance Period, [CBC
2 Partners I, LLC] shall continue to make payments to the first mortgagee and second mortgagee to
3 prevent the default of the 1st Mortgage and the 2nd Mortgage.”

4 27. Upon information and belief, starting on or around January 2020, CBC Partners I, LLC
5 breached the Forbearance Agreement by failing to continue to make payments to the first and second
6 mortgagee.

7 28. On March 16, 2020, defendant CBC Partners I, LLC sent Spanish Heights Acquisition
8 Company, LLC a “Notice of Default” correspondence which prematurely claimed that there was a
9 default under the Forbearance Agreement even though the only performance deadline set forth in the
10 Forbearance Agreement was March 31, 2020.

11 29. On March 23, 2020, Spanish Heights Acquisition Company, LLC sent correspondence to
12 defendant CBC Partners I, LLC which reminded defendant CBC Partners I, LLC that the forbearance
13 period set forth in the Forbearance Agreement was unambiguously extended until March 31, 2020,
14 and CBC Partners I, LLC has no right to unilaterally modify the terms of the Forbearance Agreement
15 to manufacture an earlier performance deadline.

16 30. Defendant CBC Partners I, LLC acknowledged its mistake by issuing an “Amended Notice of
17 Default” on April 1, 2020, admittedly “correcting the default date to March 31, 2020.”

18 31. However, the Amended Notice of Default violated Nevada Governor Sisolak’s Declaration of
19 Emergency Directive 008, issued on March 29, 2020 in response to the coronavirus/COVID-19
20 pandemic, which states as follows:

21 No lockout, **notice to vacate**, notice to pay or quit, eviction, **foreclosure action, or**
22 **other proceeding involving residential or commercial real estate based upon a**
23 **tenant or mortgagee's default of any contractual obligations imposed by a rental**
24 **agreement or mortgage** may be initiated under any provision of Nevada law effective
25 March 29, 2020, at 11:59 p.m., until the state of emergency under the March 12, 2020
26 Declaration of Emergency terminates, expires, or this Directive is rescinded by order
27 of the Governor. This provision does not prohibit the eviction of persons who seriously
28 endanger the public or other residents, engage in criminal activity, or cause significant

1 damage to the property. (Emphasis added).

2 32. Through correspondence dated April 1, 2020, Defendant CBC Partners I, LLC elected to select
3 its claimed remedy by seeking to exercise its purported rights under the Pledge Agreement by having
4 the Antos Trust's pledged collateral shares of Spanish Heights Acquisition Company, LLC transferred
5 to CBC Partners I, LLC's nominee, CBC Partners, LLC.

6 33. Upon information and belief, on April 1, 2020, representatives of the Antos Trust assigned
7 any right, title, interest, and membership interest they had in Spanish Heights Acquisition Company,
8 LLC to CBC Partners, LLC, thus effectuating defendant CBC Partners I, LLC's remedy selection.
9 Accordingly, CBC Partners I, LLC is purporting to be a part-owner of the Property, by means of
10 purportedly owning the Antos' 49% membership interest in Spanish Heights Acquisition Company,
11 LLC, owner of the real property.

12 34. Upon information and belief, upon assigning its membership interest in Spanish Heights
13 Acquisition Company, LLC to CBC Partners I, LLC, the Antos Trust never signed any agreement
14 which waived or excluded the applicability of the Merger Doctrine.

15 35. Upon information and belief, no other consideration was conferred upon the Antos Trust in
16 consideration of its surrender of its alternative collateral Membership Interest, other than the
17 extinguishment of the CBC Partners 1, LLC Note in consideration of its tender of its 49% equitable
18 interest in Spanish Heights Acquisition Company, LLC, the entity holding ownership of the real
19 property collateral for that Note.

20 36. Upon information and belief, CBC Partners I, LLC purports to have sold its, at the time
21 extinguished but, claimed Note sometime between April 8, 2020 and April 10, 2020 to defendant 5148
22 Spanish Heights, LLC.

23 37. On April 3, 2020, defendant CBC Partners I, LLC issued a "Notice to Vacate" to SJC Ventures,
24 LLC, the tenant of the Property. Defendant CBC Partners I, LLC issued this "Notice to Vacate" on
25 April 3, 2020, even though:

26 a) Section 13(a) of the Pledge Agreement provides for a cure period of fifteen (15) days from
27 the date of written notice of default;

28 b) There exists a valid lease agreement with SJC Ventures, acknowledged twice by CBC

Partners; and

- c) Four days prior, Governor Sisolak's March 29, 2020 Emergency Directive placed a moratorium on both foreclosure and eviction actions, which specifically precluded by name ALL "Notices to Vacate."

38. Upon information and belief, defendant CBC Partners I, LLC is attempting to exercise both legal title (ownership of the Property) and equitable title (lien encumbering the Property), in violation of the Merger Doctrine.

39. On April 8, 2020, CBC Partners I, LLC's counsel sent correspondence claiming that "the default notice will not be withdrawn and the foreclosure process will continue." This correspondence was sent even though CBC Partners I, LLC simultaneously argues to this Court that neither notice constitutes an Eviction or Foreclosure proceeding.

40. Further, CBC Partners I, LLC seeks to avoid injunctive relief to prevent foreclosure while simultaneously arguing it is not pursuing foreclosure or eviction activity.

41. Additionally, CBC Partners I, LLC seeks to argue that its foreclosure and eviction actions are acceptable under the Governor's exemption to the moratorium on foreclosures and evictions, while simultaneously arguing it is not pursuing foreclosure or eviction activity.

42. On April 4, 2020, April 6, 2020, and April 7, 2020, Spanish Heights Acquisition Company (at the direction of its majority owner and sole, exclusive and irrevocable Manager) sent correspondence to defendant CBC Partners I, LLC, demanding that defendant CBC Partners I, LLC rescind its illegal foreclosure and eviction action notices that were issued after Governor Sisolak's Emergency Directive placing a moratorium on foreclosure actions.

43. CBC Partners I, LLC simultaneously refused to rescind its illegal foreclosure and eviction action notices and also denied its actions were foreclosure and eviction actions, thus prompting this litigation.

44. Upon information and belief, defendant CBC Partners I, LLC contends it is exempt from following Governor Sisolak's Emergency Directive 008 because it alleges certain activities purportedly exist which CBC Partners asserts are qualifying as exemptions from the Governor's Emergency Executive Order as the purported activities pose imminent threat to the community or are

1 illegal.

2 45. CBC Partners 1, LLC relies on alleged “health and safety” violations from July 2019 assessed
3 by the Home Owners Association as the basis for its claimed exceptions from the Governor’s
4 moratorium on foreclosure and eviction activities.

5 46. Among the “health and safety” items cited by the HOA are:

- 6 a. Failure to provide a guest list 10 days prior to an event in 2019
- 7 b. Utilizing a resident transponder to provide access to residents and guests unlawfully
8 denied access to the real property in 2019, and
- 9 c. Allegations that fireworks were set off from and an incendiary device was used at the
10 Property in July of 2019.

11 47. All violations are presently disputed and are before the Nevada Real Estate Division.

12 48. In reality, the property owned by defendant DACIA, LLC (located at 5212 Spanish Heights
13 Drive) which is in the same neighborhood as the Property at issue, set off fireworks and was the
14 location of the use of the incendiary device in July of 2019.

15 49. To date, defendant CBC Partners I, LLC is attempting to violate the Merger Doctrine by
16 attempting to hold both legal title and equitable title in the Property, thus prompting this litigation.
17 Absent the application of de facto Merger, Defendant purports to be both Lender and Borrower for
18 the same real property collateral on the same Note.

19 50. To date, defendant CBC Partners 1, LLC is attempting to violate the One Action Rule, having
20 elected its remedy to accept equity in the entity pledged as additional collateral, it is now barred from
21 further selecting a foreclosure remedy against the real property as it indicated in its April 8, 2020
22 correspondence is its intention to do so under its former note (again extinguished under the de facto
23 merger).

24 **FIRST CAUSE OF ACTION**

25 **(Declaratory Relief as to the Obligation to Abide by Governor Sisolak’s Emergency Directive** 26 **Placing a Moratorium on Foreclosure and Eviction Actions) – Against All Defendants**

27 51. Plaintiffs incorporate by reference paragraphs 1 through 50 as though fully set forth herein.

28 52. A true and justiciable controversy exists between the Plaintiffs and the Defendants concerning

1 the rights, status, and legal relations of the parties to this action.

2 53. The Plaintiffs' interests are adverse to those of the Defendants.

3 54. The Plaintiffs' rights, status, and legal relations in relation to the Defendants are affected by
4 statute, including NRS 107.

5 55. The Plaintiffs' rights, status, and legal relations in relation to the Defendants are also effected
6 by the State of Nevada, Executive Department, Declaration of Emergency Directive 008, dated March
7 29, 2020, which placed a moratorium on foreclosure actions as it relates to residential or commercial
8 real estate.

9 56. This matter is filed in part under the Uniform Declaratory Judgment Act.

10 57. Pursuant to NRS 30.040, the Plaintiffs are entitled to declaratory relief as to rights, statutes,
11 and legal relations at issue in this matter and a declaration that the State of Nevada, Executive
12 Department, Declaration of Emergency Directive 008, dated March 29, 2020, which placed a
13 moratorium on foreclosure actions, is enforceable by the Plaintiffs against the Defendants.

14 58. Plaintiffs have found it necessary to employ the undersigned attorney to bring suit. Therefore,
15 Plaintiffs are seeking recovery of any and all expenses incurred including, without limitation, all
16 attorneys' fees and interest thereon.

17 **SECOND CAUSE OF ACTION**

18 **(Declaratory Relief Regarding CBC Partners 1, LLC's Lack Of Rights To Foreclose Or Evict**
19 **As It Admits It Sold And No Longer Possesses The Purported Note)**

20 **– Against CBC Partners I, LLC**

21 59. Plaintiffs incorporate by reference paragraphs 1 through 58 as though fully set forth herein.

22 60. A true and justiciable controversy exists between the Plaintiffs and the Defendant concerning
23 the rights, status, and legal relations of the parties to this action.

24 61. The Plaintiffs' interests are adverse to those of the Defendant.

25 62. The Plaintiffs' rights, status, and legal relations in relation to the Defendant are affected by
26 statute, including NRS 107.

27 63. CBC Partners 1, LLC acknowledges that it no longer possesses or has any interest in the
28 underlying Third Position Note.

1 64. As such, CBC Partners 1, LLC has no authority to conduct any foreclosure or eviction action
2 under NRS 107.

3 65. This matter is filed in part under the Uniform Declaratory Judgment Act.

4 66. Pursuant to NRS 30.040, the Plaintiffs are entitled to declaratory relief as to rights, statutes,
5 and legal relations at issue in this matter and a declaration that CBC Partners 1, LLC admits that, as
6 of at least April 8, 2020, it does not maintain any secured interest in the property as a lender and as
7 such has no authority to continue any foreclosure or eviction action, and is enforceable by the Plaintiffs
8 against the Defendant.

9 67. Plaintiffs have found it necessary to employ the undersigned attorney to bring suit. Therefore,
10 Plaintiffs are seeking recovery of any and all expenses incurred including, without limitation, all
11 attorneys' fees and interest thereon.

12 **THIRD CAUSE OF ACTION**

13 **(Declaratory Relief Regarding the Application of the One Action Rule) – Against CBC**

14 **Partners I, LLC and 5148 Spanish Heights, LLC**

15 68. Plaintiffs incorporate by reference paragraphs 1 through 67 as though fully set forth herein.

16 69. A true and justiciable controversy exists between the Plaintiffs and the Defendants concerning
17 the rights, status, and legal relations of the parties to this action.

18 70. The Plaintiffs' interests are adverse to those of the Defendants CBC Partners I, LLC and 5148
19 Spanish Heights, LLC.

20 71. The Plaintiffs' rights, status, and legal relations in relation to the Defendants are affected by
21 statute, including NRS 107.

22 72. This matter is filed in part under the Uniform Declaratory Judgment Act.

23 73. Pursuant to NRS 40.430 and 30.040, the Plaintiffs are entitled to declaratory relief as to rights,
24 statutes, and legal relations at issue in this matter and a declaration that the defendants CBC Partners
25 I, LLC and 5148 Spanish Heights, LLC are precluded from pursuing any foreclosure action against
26 the subject real property pursuant to the One Action Rule.

27 74. Plaintiffs have found it necessary to employ the undersigned attorney to bring suit. Therefore,
28 Plaintiffs are seeking recovery of any and all expenses incurred including, without limitation, all

1 attorneys' fees and interest thereon.

2 **FOURTH CAUSE OF ACTION**

3 **(Declaratory Relief Regarding the Applicability of the Doctrine of Merger) – Against**
4 **CBC Partners I, LLC and 5148 Spanish Heights, LLC**

5 75. Plaintiffs incorporate by reference paragraphs 1 through 74 as though fully set forth herein.

6 76. A true and justiciable controversy exists between the Plaintiffs and the Defendants concerning
7 the rights, status, and legal relations of the parties to this action.

8 77. The Plaintiffs' interests are adverse to those of the Defendants CBC Partners I, LLC and 5148
9 Spanish Heights, LLC.

10 78. The Plaintiffs' rights, status, and legal relations in relation to the Defendants are affected by
11 statute, including NRS 107.

12 79. This matter is filed in part under the Uniform Declaratory Judgment Act.

13 80. Pursuant to NRS 30.040, the Plaintiffs are entitled to declaratory relief as to rights, statutes,
14 and legal relations at issue in this matter and a declaration that the purported Note that defendants
15 CBC Partners I, LLC and 5148 Spanish Heights, LLC claim to be secured by a Deed of Trust recorded
16 against the Property has been extinguished via the Merger Doctrine in light of CBC Partners I, LLC
17 attempting to exercise purported rights to become legal owner of the Property.

18 81. Plaintiffs have found it necessary to employ the undersigned attorney to bring suit. Therefore,
19 Plaintiffs are seeking recovery of any and all expenses incurred including, without limitation, all
20 attorneys' fees and interest thereon.

21 **FIFTH CAUSE OF ACTION**

22 **(Declaratory Relief Regarding the Status of SJC Ventures Holding, LLC as Sole and**
23 **Exclusive Manager of Spanish Heights Acquisition Company, LLC)**

24 **– Against All Defendants**

25 82. Plaintiffs incorporate by reference paragraphs 1 through 81 as though fully set forth herein.

26 83. A true and justiciable controversy exists between the Plaintiffs and the Defendant concerning
27 the rights, status, and legal relations of the parties to this action.

28 84. The Plaintiffs' interests are adverse to those of the Defendants.

1 85. This matter is filed in part under the Uniform Declaratory Judgment Act.

2 86. Pursuant to NRS 30.040, the Plaintiffs are entitled to declaratory relief as to rights, statutes,
3 and legal relations at issue in this matter and a declaration that SJC Ventures Holding, LLC is named
4 the Sole and Exclusive Irrevocable Manager of Spanish Heights Acquisition Company, LLC under
5 such company's Operating Agreement.

6 87. No event has occurred which would abdicate SJC Ventures Holding, LLC's position as sole,
7 irrevocable and exclusive Manager of Spanish Heights Acquisition Company, LLC.

8 88. As such, SJC Ventures Holding, LLC is recognized and continues to be the Sole and Exclusive
9 Irrevocable Manager of Spanish Heights Acquisition Company, LLC under such company's
10 Operating Agreement

11 89. Plaintiffs have found it necessary to employ the undersigned attorney to bring suit. Therefore,
12 Plaintiffs are seeking recovery of any and all expenses incurred including, without limitation, all
13 attorneys' fees and interest thereon.

14 **SIXTH CAUSE OF ACTION**

15 **(Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction) –**
16 **Against CBC Partners I, LLC and 5148 Spanish Heights, LLC**

17 90. Plaintiffs incorporate by reference paragraphs 1 through 89 as though fully set forth herein.

18 91. Plaintiffs have multiple justiciable controversies with Defendants CBC Partners I, LLC. and
19 5148 Spanish Heights, LLC.

20 92. On the basis of the facts described herein, Plaintiffs have a reasonable probability of success
21 on the merits of their claims and have no other adequate remedies of law.

22 93. Plaintiffs have a probable right to relief and will suffer immediate, severe, and irreparable
23 injury unless the Defendants, their respective agents, servants, employers, principals, assignees,
24 transferees, and/or beneficiaries, and all those in active concert and participation with Defendants are
25 immediately restrained and enjoined from: (1) engaging in any further foreclosure activities against
26 the Property or eviction activity against the tenants; (2) proceeding on the current Notices of Default
27 and/or Notice to Vacate (including the tolling of any time under the Notice or Agreements); and (3)
28 attempting to foreclose on the Property through an extinguished purported interest.

1 94. The actions of Defendant CBC Partners I, LLC described herein have resulted in immediate
2 harm to, among other things, Plaintiffs' Property interests and tenant rights.

3 95. Plaintiffs are entitled to injunctive relief to end such actions and prevent further harm.

4 96. Plaintiffs have been required to retain the services of an attorney to file and prosecute this
5 action and have thereby been damaged. Accordingly, Plaintiffs seek an award of reasonable attorneys'
6 fees and costs incurred in this action.

7 **SEVENTH CAUSE OF ACTION**

8 **(Declaratory Relief Regarding the Antos Trust's Purported Assignment of Membership** 9 **Interest in Spanish Heights Acquisition Company, LLC) – Against the Antos Trust**

10 97. Plaintiffs incorporate by reference paragraphs 1 through 96 as though fully set forth herein.

11 98. A true and justiciable controversy exists between the Plaintiffs and the Defendant Antos Trust
12 concerning the rights, status, and legal relations of the parties to this action.

13 99. The Plaintiffs' interests are adverse to those of the Defendant the Antos Trust.

14 100. The Plaintiffs' rights, status, and legal relations in relation to the Defendant are affected by
15 statute, including NRS 107.

16 101. This matter is filed in part under the Uniform Declaratory Judgment Act.

17 102. Pursuant to NRS 30.040, the Plaintiffs are entitled to declaratory relief as to rights, statutes,
18 and legal relations at issue in this matter and a declaration that upon purportedly assigning its
19 membership interest in Spanish Heights Acquisition Company, LLC to CBC Partners I, LLC,
20 defendant the Antos Trust did not agree to waive or exclude the applicability of the Merger Doctrine,
21 and further, the Antos Trust was provided no consideration for their equitable interest in the property
22 other than the extinguishment of the Note under the De Facto Merger occurring on April 1, 2020.

23 103. Plaintiffs have found it necessary to employ the undersigned attorney to bring suit.
24 Therefore, Plaintiffs are seeking recovery of any and all expenses incurred including, without
25 limitation, all attorneys' fees and interest thereon.

26 **EIGHTH CAUSE OF ACTION**

27 **(Breach of Contract as to the Forbearance Agreement) – Against CBC Partners I, LLC**

28 104. Plaintiffs incorporate by reference paragraphs 1 through 103 as though fully set forth herein.

1 105. On or around September 27, 2017, defendant CBC Partners I, LLC executed the Forbearance
2 Agreement, which upon information and belief is a valid contract.

3 106. On or around December 1, 2019, defendant CBC Partners I, LLC executed the Amendment
4 to Forbearance Agreement and Related Agreements, which served as an amendment to the
5 Forbearance Agreement and which extended the forbearance period through March 31, 2020.

6 107. Pursuant to the plain language of the Forbearance Agreement: “[d]uring the Forbearance
7 Period, [CBC Partners I, LLC] shall continue to make payments to the first mortgagee and second
8 mortgagee to prevent the default of the 1st Mortgage and the 2nd Mortgage.”

9 108. Upon information and belief, starting on or around January 2020, CBC Partners I, LLC
10 materially breached the Forbearance Agreement by failing to continue to make payments to the first
11 and second mortgagee.

12 109. CBC Partners I, LLC also materially breached the Forbearance Agreement by issuing a
13 “Notice of Default” correspondence on March 16, 2020 which prematurely claimed that there was a
14 default under the Forbearance Agreement even though the only performance deadline set forth in the
15 Forbearance Agreement was March 31, 2020.

16 110. CBC Partners I, LLC’s material breach discharged the non-breaching party’s duty to
17 perform, thus Plaintiffs had no further duty to perform under the Forbearance Agreement.

18 111. As a direct and proximate result of CBC Partners I, LLC’s material breach of contract, to the
19 to the extent that Plaintiffs’ damages can be calculated with certainty, Plaintiffs have been and will be
20 damaged in an amount in excess of \$15,000.00.

21 112. As a direct and proximate result of the aforementioned actions and/or omissions of CBC
22 Partners I, LLC, Plaintiffs have been required to engage the services of an attorney, incurring
23 attorneys’ fees and costs to bring this action, and Plaintiffs are therefore entitled to reasonable
24 attorneys’ fees and costs incurred in this action.

25 **NINTH CAUSE OF ACTION**

26 **(Contractual Breach of the Covenant of Good Faith and Fair Dealing) – Against CBC**
27 **Partners I, LLC**

28 113. Plaintiffs incorporate by reference paragraphs 1 through 112 as though fully set forth herein.

1 114. On or around September 27, 2017, defendant CBC Partners I, LLC executed the Forbearance
2 Agreement, which upon information and belief is a valid contract.

3 115. On or around December 1, 2019, defendant CBC Partners I, LLC executed the Amendment
4 to Forbearance Agreement and Related Agreements, which served as an amendment to the
5 Forbearance Agreement and which extended the forbearance period through March 31, 2020.

6 116. Pursuant to the plain language of the Forbearance Agreement: “[d]uring the Forbearance
7 Period, [CBC Partners I, LLC] shall continue to make payments to the first mortgagee and second
8 mortgagee to prevent the default of the 1st Mortgage and the 2nd Mortgage.”

9 117. Defendant CBC Partners I, LLC owed a duty of good faith to Plaintiffs.

10 118. Plaintiffs reasonably expected that defendant CBC Partners I, LLC would fulfill its
11 responsibilities under the Forbearance Agreement by continuing to make payments to the first and
12 second mortgagee.

13 119. Upon information and belief, starting on or around January 2020, while collecting payments
14 due each month from Spanish Heights Acquisition Company, LLC, CBC Partners I, LLC, materially
15 breached the Forbearance Agreement by failing to continue to make its payments to the first and
16 second mortgagee.

17 120. CBC Partners I, LLC also materially breached the Forbearance Agreement by issuing a
18 “Notice of Default” correspondence on March 16, 2020 which prematurely claimed that there was a
19 default under the Forbearance Agreement even though the only performance deadline set forth in the
20 Forbearance Agreement was March 31, 2020.

21 121. Accordingly, Plaintiffs’ justified expectations were denied.

22 122. As a direct and proximate result of CBC Partners I, LLC’s contractual breach of the duty of
23 good faith and fair dealing, to the to the extent that Plaintiffs’ damages can be calculated with
24 certainty, Plaintiffs have been and will be damaged in an amount in excess of \$15,000.00.

25 123. As a direct and proximate result of the aforementioned actions and/or omissions of CBC
26 Partners I, LLC, Plaintiffs have been required to engage the services of an attorney, incurring
27 attorneys’ fees and costs to bring this action, and Plaintiffs are therefore entitled to reasonable
28 attorneys’ fees and costs incurred in this action.

1 **TENTH CAUSE OF ACTION**

2 **(Declaratory Relief as to Plaintiffs' Lack of Liability for Fireworks Set off And The Use Of An**
3 **Incendiary Device By a Different Property) – Against DACIA, LLC**

4 124. Plaintiffs incorporate by reference paragraphs 1 through 123 as though fully set forth herein.

5 125. A true and justiciable controversy exists between the Plaintiffs and the Defendant concerning
6 the rights, status, and legal relations of the parties to this action.

7 126. The Plaintiffs' interests are adverse to those of the Defendant DACIA, LLC.

8 127. The Plaintiffs' rights, status, and legal relations in relation to the Defendant are affected by
9 statute, including NRS 107.

10 128. This matter is filed in part under the Uniform Declaratory Judgment Act.

11 129. It is Plaintiffs' understanding that CBC Partners I, LLC contends it is exempt from following
12 Governor Sisolak's Emergency Directive 008 because it alleges fireworks were set off from and an
13 incendiary device was used at the Property in July of 2019.

14 130. In reality, the property owned by defendant DACIA, LLC, which is in the same
15 neighborhood as the Property at issue, set off fireworks and used an incendiary device in July of 2019.

16 131. Pursuant to NRS 30.040, the Plaintiffs are entitled to declaratory relief as to rights, statutes,
17 and legal relations at issue in this matter and a declaration that CBC Partners I, LLC is not entitled to
18 claim an exemption to Governor Sisolak's Emergency Directive 008 based on fireworks that were not
19 set off from or an incendiary device used at the Property but that were actually set off by property
20 owned by defendant DACIA, LLC in July of 2019 – to the extent such fireworks or incendiary device
21 even constitute the type of serious endangerment to the public or other residents or criminal activity
22 referenced in the Governor's Emergency Directive, which has not been established.

23 132. Plaintiffs have found it necessary to employ the undersigned attorney to bring suit.
24 Therefore, Plaintiffs are seeking recovery of any and all expenses incurred including, without
25 limitation, all attorneys' fees and interest thereon.

26 **ELEVENTH CAUSE OF ACTION**

27 **(Indemnity) – Against DACIA, LLC**

28 133. Plaintiffs incorporate by reference paragraphs 1 through 132 as though fully set forth herein.

1 134. Plaintiffs are informed and believe, and based thereon allege, that they are in no way
2 responsible for causing any fireworks to be set off from or the use of an incendiary device at the
3 Property in July of 2019, and that any such fireworks were set off from the property owned by DACIA,
4 LLC.

5 135. Therefore, if the Court determines that an exemption to Governor Sisolak's Emergency
6 Directive 008 exists as a result of fireworks being set off or the use of an incendiary device in July of
7 2019, then Plaintiffs are informed and believe, and on that basis allege, that the conduct, in whole or
8 in part of DACIA, LLC, as the owner of the Property that actually set off fireworks or used of an
9 incendiary device at in July 2019, contributed to the happening of the fireworks being set off or the
10 use of an incendiary device in the neighborhood.

11 136. By reason of the foregoing allegations, if the Court determines that an exemption to
12 Governor Sisolak's Emergency Directive 008 exists as a result of fireworks being set off or the use of
13 an incendiary device in July of 2019, then Plaintiffs are entitled to be indemnified by defendant
14 DACIA, LLC, for its fair share of any judgment or fines imposed rendered against Plaintiffs as a result
15 of that decision.

16 **TWELFTH CAUSE OF ACTION**

17 **(Contribution) – Against DACIA, LLC**

18 137. Plaintiffs incorporate by reference paragraphs 1 through 136 as though fully set forth herein.

19 138. A right to contribution exists “where two or more persons become jointly or severally liable
20 in tort for the same injury to [a] person ... even though judgment has not been recovered against all or
21 any of them.” NRS 17.225(1).

22 139. Plaintiffs are informed and believe, and based thereon allege, that they are in no way
23 responsible for causing any fireworks to be set off from or the use of an incendiary device at the
24 Property in July of 2019, and that any such fireworks were set off from the property owned by DACIA,
25 LLC.

26 140. Therefore, if the Court determines that an exemption to Governor Sisolak's Emergency
27 Directive 008 exists as a result of fireworks being set off or the use of an incendiary device in July of
28 2019, then Plaintiffs are informed and believe, and on that basis allege, that the conduct, in whole or

1 in part of DACIA, LLC, as the owner of the Property that actually set off fireworks or used an
2 incendiary device in July 2019, contributed to and caused the happening of the fireworks being set off
3 in or the use of an incendiary device in the neighborhood.

4 141. By reason of the foregoing allegations, if the Court determines that an exemption to
5 Governor Sisolak's Emergency Directive 008 exists as a result of fireworks being set off or the use of
6 an incendiary device in July of 2019, then Plaintiffs are entitled to a judgment, over and against
7 defendant DACIA, LLC, for its fair share of any judgment rendered against Plaintiffs as a result of
8 that decision.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

11 1. For an entry of Declaratory Judgment pursuant to NRS 107 and 30.040 that the State
12 of Nevada, Executive Department, Declaration of Emergency Directive 008, dated March 29, 2020,
13 which placed a moratorium on eviction and foreclosure actions, is enforceable by the Plaintiffs
14 against the Defendant and therefore Defendant's Notice of Default and Notice to Vacate are in
15 violation of the Governor's Executive Order 008 and are null and void ab initio;

16 2. For an entry of Declaratory Judgment pursuant to NRS 107 and 30.040 that CBC
17 Partners 1, LLC, as of at least April 8, 2020, by its own admission, is not a secured creditor against
18 the subject real property, has no basis under which it can claim rights to undertake either a non-
19 judicial foreclosure or eviction, has no basis under which it may continue any further foreclosure or
20 eviction activity and is enforceable by the Plaintiffs against the Defendant and therefore Defendant's
21 Notice of Default and Notice to Vacate are null and void ab initio;

22 3. For an entry of Declaratory Judgment pursuant to NRS 107 and 30.040 that the
23 purported Note that defendant CBC Partners I, LLC claims to be secured by a Deed of Trust recorded
24 against the Property has been extinguished via the Merger Doctrine in light of CBC Partners I, LLC
25 exercising its purported rights to become partial legal owner of the Property;

26 4. For an entry of Declaratory Judgment pursuant to NRS 40.430 and 30.040 that
27 defendant CBC Partners I, LLC is precluded from pursuing any foreclosure action against the subject
28 real property pursuant to the One Action Rule;

1 5. For an entry of Declaratory Judgment that SJC Ventures Holding, LLC is recognized
2 as the sole, exclusive and irrevocable Manager of SJC Ventures Holding, LLC as per the Four
3 Corners of the SJC Ventures Holding, LLC Operating Agreement;

4 6. For an entry of Declaratory Judgment pursuant to NRS 40.430 and 30.040 that upon
5 purportedly assigning its membership interest in Spanish Heights Acquisition Company, LLC to
6 CBC Partners I, LLC, defendant the Antos Trust did not agree to waive or exclude the applicability
7 of the Merger Doctrine;

8 7. For an entry of Declaratory Judgment pursuant to NRS 40.430 and 30.040 that CBC
9 Partners I, LLC is not entitled to claim an exemption to Governor Sisolak's Emergency Directive
10 008 based on last year's allegations of Spanish Heights Acquisitions Company, LLC's alleged failure
11 to provide a guest list 10 days in advance of an event, using a residents transponder to allow entry to
12 residents and guests wrongfully detained at the gate, or for fireworks or use of an incendiary device
13 that were not set off from the Property but that were actually set off by property owned by defendant
14 DACIA, LLC in July of 2019 – to the extent such fireworks on the Fourth of July 2019 or the use of
15 an incendiary device during 2019, even constitute the type of serious endangerment to the public or
16 other residents or criminal activity referenced in the Governor's Emergency Directive, which has not
17 been established;

18 8. For an entry of Declaratory Judgment pursuant to NRS 40.430 and 30.040 that the
19 lease agreement between Spanish Heights Acquisitions Company, LLC, as landlord and SJC
20 Ventures Holding, LLC as tenant is valid and binding unto all parties and is not subject to being
21 voided or terminated prior to the expiration of the two extensions recognized by all parties;

22 9. Judgment in favor of Plaintiffs on the complaint and all claims for relief asserted
23 therein;

24 10. For such injunctive relief as necessary;

25 11. For an award of reasonable attorneys' fees and costs incurred by Plaintiffs;

26 12. For an award of pre and post-judgment interest; and

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SUMM

JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

DANIELLE J. BARRAZA, ESQ.

Nevada Bar No. 13822

MAIER GUTIERREZ & ASSOCIATES

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Attorneys for Plaintiffs

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.

Case No.: A-20-813439-B

Dept. No.: 11

SUMMONS - CIVIL

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ
THE INFORMATION BELOW.**

CBC PARTNERS, LLC

A civil complaint has been filed by the plaintiffs against you for the relief set forth in the

1 complaint.

2 1. If you intend to defend this lawsuit, within 20 days after this Summons is served on
3 you, exclusive of the day of service, you must do the following:

4 (a) File with the Clerk of the Court, whose address is shown below, a formal
5 written response to the Complaint in accordance with the rules of the Court,
6 with the appropriate filing fee.

7 (b) Serve a copy of your response upon the attorney whose name and address is
8 shown below.

9 2. Unless you respond, your default will be entered upon application of the plaintiffs and
10 failure to so respond will result in a judgment of default against you for the relief demanded in the
11 complaint, which could result in the taking of money or property or other relief requested in the
12 complaint.

13 3. If you intend to seek the advice of an attorney in this matter, you should do so promptly
14 so that your response may be filed on time.

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4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators each have 45 days after service of this Summons within which to file and Answer or other responsive pleading to the complaint.

STEVEN D. GRIERSON
CLERK OF THE COURT
CLERK OF THE COURT

5/18/2020

Deputy Clerk **Laurie Williams** Date _____
Regional Justice Court
200 Lewis Avenue
Las Vegas, Nevada 89155

Respectfully submitted,

MAIER GUTIERREZ & ASSOCIATES

/s/ Joseph A. Gutierrez

JOSEPH A. GUTIERREZ, ESQ.
Nevada Bar No. 9046
DANIELLE J. BARRAZA, ESQ.
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SUMM

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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.

Case No.: A-20-813439-B

Dept. No.: 11

SUMMONS - CIVIL

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ
THE INFORMATION BELOW.**

5148 SPANISH HEIGHTS, LLC

A civil complaint has been filed by the plaintiffs against you for the relief set forth in the

1 complaint.

2 1. If you intend to defend this lawsuit, within 20 days after this Summons is served on
3 you, exclusive of the day of service, you must do the following:

4 (a) File with the Clerk of the Court, whose address is shown below, a formal
5 written response to the Complaint in accordance with the rules of the Court,
6 with the appropriate filing fee.

7 (b) Serve a copy of your response upon the attorney whose name and address is
8 shown below.

9 2. Unless you respond, your default will be entered upon application of the plaintiffs and
10 failure to so respond will result in a judgment of default against you for the relief demanded in the
11 complaint, which could result in the taking of money or property or other relief requested in the
12 complaint.

13 3. If you intend to seek the advice of an attorney in this matter, you should do so promptly
14 so that your response may be filed on time.

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1 4. The State of Nevada, its political subdivisions, agencies, officers, employees, board
2 members, commission members and legislators each have 45 days after service of this Summons
3 within which to file and Answer or other responsive pleading to the complaint.

STEVEN D. GRIERSON
CLERK OF THE COURT
CLERK OF THE COURT

Laurie Williams

Deputy Clerk Laurie Williams
Regional Justice Court
200 Lewis Avenue
Las Vegas, Nevada 89155

Date

5/18/2020

9 Respectfully submitted,

10 **MAIER GUTIERREZ & ASSOCIATES**

12 /s/ Joseph A. Gutierrez

JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

DANIELLE J. BARRAZA, ESQ.

Nevada Bar No. 13822

8816 Spanish Ridge Avenue

Las Vegas, Nevada 89148

Attorneys for Plaintiffs

SUMM

JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

DANIELLE J. BARRAZA, ESQ.

Nevada Bar No. 13822

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Facsimile: 702.629.7925

E-mail: jag@mgalaw.com
djb@mgalaw.com

Attorneys for Plaintiffs

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.

Case No.: A-20-813439-B

Dept. No.: 11

SUMMONS - CIVIL

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ
THE INFORMATION BELOW.**

**KENNETH ANTOS, AS TRUSTEE OF THE KENNETH & SHEILA ANTOS LIVING
TRUST AND THE KENNETH M. ANTOS & SHEILA M. NEUMANN-ANTOS TRUST**

A civil complaint has been filed by the plaintiffs against you for the relief set forth in the

1 complaint.

2 1. If you intend to defend this lawsuit, within 20 days after this Summons is served on
3 you, exclusive of the day of service, you must do the following:

4 (a) File with the Clerk of the Court, whose address is shown below, a formal
5 written response to the Complaint in accordance with the rules of the Court,
6 with the appropriate filing fee.

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8 shown below.

9 2. Unless you respond, your default will be entered upon application of the plaintiffs and
10 failure to so respond will result in a judgment of default against you for the relief demanded in the
11 complaint, which could result in the taking of money or property or other relief requested in the
12 complaint.

13 3. If you intend to seek the advice of an attorney in this matter, you should do so promptly
14 so that your response may be filed on time.

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1 4. The State of Nevada, its political subdivisions, agencies, officers, employees, board
2 members, commission members and legislators each have 45 days after service of this Summons
3 within which to file and Answer or other responsive pleading to the complaint.

STEVEN D. GRIERSON
CLERK OF THE COURT

CLERK OF THE COURT

Laurie Williams

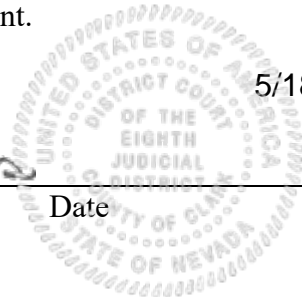
Deputy Clerk **Laurie Williams**

Date

Regional Justice Court

200 Lewis Avenue

Las Vegas, Nevada 89155



5/18/2020

Respectfully submitted,

MAIER GUTIERREZ & ASSOCIATES

/s/ Joseph A. Gutierrez

JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

DANIELLE J. BARRAZA, ESQ.

Nevada Bar No. 13822

8816 Spanish Ridge Avenue

Las Vegas, Nevada 89148

Attorneys for Plaintiffs

SUMM

JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

DANIELLE J. BARRAZA, ESQ.

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djb@mgalaw.com

Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

SPANISH HEIGHTS ACQUISITION
COMPANY, LLC, a Nevada Limited Liability
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COMPANY, LLC, d/b/a SJC VENTURES, LLC,
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foreign Limited Liability Company; 5148
SPANISH HEIGHTS, LLC, a Nevada Limited
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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.

Case No.: A-20-813439-B

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SUMMONS - CIVIL

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CBC PARTNERS I, LLC

A civil complaint has been filed by the plaintiffs against you for the relief set forth in the

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3 you, exclusive of the day of service, you must do the following:

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11 complaint, which could result in the taking of money or property or other relief requested in the
12 complaint.

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14 so that your response may be filed on time.

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1 4. The State of Nevada, its political subdivisions, agencies, officers, employees, board
2 members, commission members and legislators each have 45 days after service of this Summons
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STEVEN D. GRIERSON
CLERK OF THE COURT
CLERK OF THE COURT

5/18/2020


Deputy Clerk **Laurie Williams** Date
Regional Justice Court
200 Lewis Avenue
Las Vegas, Nevada 89155



9 Respectfully submitted,

10 **MAIER GUTIERREZ & ASSOCIATES**

12 /s/ Joseph A. Gutierrez

13 JOSEPH A. GUTIERREZ, ESQ.
14 Nevada Bar No. 9046
DANIELLE J. BARRAZA, ESQ.
15 Nevada Bar No. 13822
8816 Spanish Ridge Avenue
16 Las Vegas, Nevada 89148
Attorneys for Plaintiffs

SUMM

JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

DANIELLE J. BARRAZA, ESQ.

Nevada Bar No. 13822

MAIER GUTIERREZ & ASSOCIATES

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Las Vegas, Nevada 89148

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Facsimile: 702.629.7925

E-mail: jag@mgalaw.com
djb@mgalaw.com

Attorneys for Plaintiffs

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
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Company; DOES I through X; and ROE
CORPORATIONS I through X, inclusive,

Defendants.

Case No.: A-20-813439-B

Dept. No.: 11

SUMMONS - CIVIL

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**SHEILA NEUMANN-ANTOS, AS TRUSTEE OF THE KENNETH & SHEILA ANTOS
LIVING TRUST AND THE KENNETH M. ANTOS & SHEILA M. NEUMANN-ANTOS
TRUST**

A civil complaint has been filed by the plaintiffs against you for the relief set forth in the

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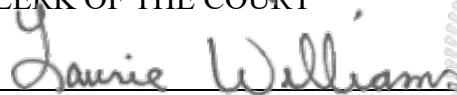
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2 members, commission members and legislators each have 45 days after service of this Summons
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STEVEN D. GRIERSON
CLERK OF THE COURT
CLERK OF THE COURT

5/18/2020


Deputy Clerk **Laurie Williams** Date
Regional Justice Court
200 Lewis Avenue
Las Vegas, Nevada 89155

Respectfully submitted,

MAIER GUTIERREZ & ASSOCIATES

/s/ Joseph A. Gutierrez

JOSEPH A. GUTIERREZ, ESQ.
Nevada Bar No. 9046
DANIELLE J. BARRAZA, ESQ.
Nevada Bar No. 13822
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Attorneys for Plaintiffs

SUMM

JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

DANIELLE J. BARRAZA, ESQ.

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djb@mgalaw.com

Attorneys for Plaintiffs

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.

Case No.: A-20-813439-B

Dept. No.: 11

SUMMONS - CIVIL

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
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THE INFORMATION BELOW.**

DACIA, LLC

A civil complaint has been filed by the plaintiffs against you for the relief set forth in the

1 complaint.

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3 you, exclusive of the day of service, you must do the following:

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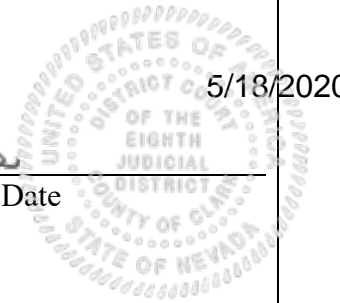
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1 4. The State of Nevada, its political subdivisions, agencies, officers, employees, board
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3 within which to file and Answer or other responsive pleading to the complaint.

STEVEN D. GRIERSON
CLERK OF THE COURT
CLERK OF THE COURT

Laurie Williams

Deputy Clerk Laurie Williams Date
Regional Justice Court
200 Lewis Avenue
Las Vegas, Nevada 89155

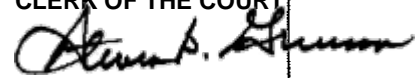


9 Respectfully submitted,

10 **MAIER GUTIERREZ & ASSOCIATES**

12 /s/ Joseph A. Gutierrez

JOSEPH A. GUTIERREZ, ESQ.
Nevada Bar No. 9046
DANIELLE J. BARRAZA, ESQ.
Nevada Bar No. 13822
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Attorneys for Plaintiffs



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Telephone: 702-454-3333
Facsimile: 702-386-4979
Michael@mccnvlaw.com
jcoppedge@mccnvlaw.com

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

Case No. A-20-813439-B

Dept. No.: 11

DEFENDANTS

**CBC PARTNERS I, LLC, CBC
PARTNERS, LLC, AND 5148
SPANISH HEIGHTS, LLC ANSWER
TO FIRST AMENDED COMPLAINT**

CAPTION CONTINUES BELOW

1 5148 SPANISH HEIGHTS, LLC, a Nevada
2 limited liability company; and CBC PARTNERS
I, LLC, a Washington limited liability company,

3 Counterclaimants,

4 v.

5
6 SPANISH HEIGHTS ACQUISITION
7 COMPANY, LLC, a Nevada Limited Liability
8 Company; SJC VENTURES, LLC, a Delaware
9 limited liability company; SJC VENTURES
10 HOLDING COMPANY, LLC, a Delaware
11 limited liability company; JAY BLOOM,
individually and as Manager, DOE
DEFENDANTS 1-10; and ROE DEFENDANTS
11-20,

12 Counterdefendants.

13 **DEFENDANT CBC PARTNERS I, LLC, CBC PARTNERS, LLC, AND 5148 SPANISH**
14 **HEIGHTS, LLC ANSWER TO FIRST AMENDED COMPLAINT**

15 Defendant, CBC Partners I, LLC, CBC Partners, LLC, AND 5148 Spanish Heights, LLC
16 (“Defendants”), by and through their attorney Michael R. Mushkin, of the law firm of Mushkin
17 & Coppedge, for its Answer to Plaintiffs’ First Amended Complaint (“FAC”) hereby admits,
18 deny, and affirmatively alleges as follows in response to the FAC on file in the above-entitled
19 action:

20 **PARTIES**

21 1. In answering Paragraph 1 of the FAC, Defendants are without knowledge
22 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
23 contained therein.

24 2. In answering Paragraph 2 of the FAC, Defendants admit that there is a property
25 located at 5148 Spanish Heights Drive, Las Vegas, Nevada 89148, with Assessor’s Parcel
26 Number of 163-29-615-007 and Defendants are without knowledge sufficient to form a belief as
27 to the truth of the remainder of the allegations and therefore deny the allegations contained
28 therein.

1 3. In answering Paragraph 3 of the FAC, Defendants are without knowledge
2 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
3 contained therein.

4 4. In answering Paragraph 4 of the FAC, Defendants are without knowledge
5 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
6 contained therein.

7 5. In answering Paragraph 5 of the FAC, Defendants are without knowledge
8 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
9 contained therein.

10 6. In answering Paragraph 6 of the FAC, Defendants admit that CBC Partners I, LLC
11 is a foreign company; however Defendants deny that CBC Partners I, LLC is doing business in
12 Clark County, State of Nevada pursuant to NRS 80.015 and therefore is not required to register
13 as a foreign entity in Nevada.

14 7. In answering Paragraph 7 of the FAC, Defendants admit that CBC Partners, LLC
15 is a foreign company; however Defendants deny that CBC Partners, LLC is doing business in
16 Clark County, State of Nevada pursuant to NRS 80.015 and therefore is not required to register
17 as a foreign entity in Nevada.

18 8. In answering Paragraph 8 of the FAC, Defendants admit the allegations contained
19 therein.

20 9. In answering Paragraph 9 of the FAC, Defendants admit the allegations contained
21 therein.

22 10. In answering Paragraph 10 of the FAC, Defendants are without knowledge
23 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
24 contained therein.

25 11. In answering Paragraph 11 of the FAC, Defendants are without knowledge
26 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
27 contained therein.

28 12. In answering Paragraph 12 of the FAC, Defendants are without knowledge

1 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
2 contained therein.

3 **GENERAL ALLEGATIONS**

4 13. In answering Paragraph 13 of the FAC, Defendants are without knowledge
5 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
6 contained therein.

7 14. In answering Paragraph 14 of the FAC, Defendants are without knowledge
8 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
9 contained therein.

10 15. In answering Paragraph 15 of the FAC, Defendants are without knowledge
11 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
12 contained therein.

13 16. In answering Paragraph 16 of the FAC, Defendants are without knowledge
14 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
15 contained therein.

16 17. In answering Paragraph 17 of the FAC, Defendants are without knowledge
17 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
18 contained therein.

19 18. In answering Paragraph 18 of the FAC, Defendants are without knowledge
20 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
21 contained therein.

22 19. In answering Paragraph 19 of the FAC, Defendants are without knowledge
23 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
24 contained therein.

25 20. In answering Paragraph 20 of the FAC, Defendants deny the allegations contained
26 therein.

27 21. In answering Paragraph 21 of the FAC, Defendants are without knowledge
28 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations

1 contained therein.

2 22. In answering Paragraph 22 of the FAC, Defendants are without knowledge
3 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
4 contained therein.

5 23. In answering Paragraph 23 of the FAC, Defendants are without knowledge
6 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
7 contained therein.

8 24. In answering Paragraph 24 of the FAC, Defendants are without knowledge
9 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
10 contained therein.

11 25. In answering Paragraph 25 of the FAC, Defendants are without knowledge
12 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
13 contained therein.

14 26. In answering Paragraph 26 of the FAC, Defendants admit the allegations contained
15 therein.

16 27. In answering Paragraph 27 of the FAC, Defendants deny the allegations contained
17 therein.

18 28. In answering Paragraph 28 of the FAC, Defendants deny the allegations contained
19 therein.

20 29. In answering Paragraph 29 of the FAC, Defendants deny the allegations contained
21 therein.

22 30. In answering Paragraph 30 of the FAC, Defendants deny the allegations contained
23 therein.

24 31. In answering Paragraph 31 of the FAC, Defendants deny the allegations contained
25 therein.

26 32. In answering Paragraph 32 of the FAC, Defendants deny the allegations contained
27 therein.

28 33. In answering Paragraph 33 of the FAC, Defendants are without knowledge

1 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
2 contained therein.

3 34. In answering Paragraph 34 of the FAC, Defendants are without knowledge
4 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
5 contained therein.

6 35. In answering Paragraph 35 of the FAC, Defendants are without knowledge
7 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
8 contained therein.

9 36. In answering Paragraph 36 of the FAC, Defendants are without knowledge
10 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
11 contained therein.

12 37. In answering Paragraph 37 of the FAC, Defendants admit that a Notice to Vacate
13 was issued and Defendants are without knowledge sufficient to form a belief as to the truth of the
14 remainder of the allegations and therefore deny the allegations contained therein.

15 38. In answering Paragraph 38 of the FAC, Defendants deny the allegations contained
16 therein.

17 39. In answering Paragraph 39 of the FAC, Defendants admit the allegations contained
18 therein.

19 40. In answering Paragraph 40 of the FAC, Defendants are without knowledge
20 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
21 contained therein.

22 41. In answering Paragraph 41 of the FAC, Defendants are without knowledge
23 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
24 contained therein.

25 42. In answering Paragraph 42 of the FAC, Defendants admit the allegations contained
26 therein.

27 43. In answering Paragraph 43 of the FAC, Defendants are without knowledge
28 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations

1 contained therein.

2 44. In answering Paragraph 44 of the FAC, Defendants are without knowledge
3 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
4 contained therein.

5 45. In answering Paragraph 45 of the FAC, Defendants admit the allegations contained
6 therein.

7 46. In answering Paragraph 46 of the FAC, Defendants admit the allegations contained
8 therein.

9 47. In answering Paragraph 47 of the FAC, Defendants are without knowledge
10 sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny
11 the allegations contained therein.

12 48. In answering Paragraph 48 of the FAC, Defendants are without knowledge
13 sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny
14 the allegations contained therein.

15 49. In answering Paragraph 49 of the FAC, Defendants deny the allegations contained
16 therein.

17 50. In answering Paragraph 50 of the FAC, Defendants deny the allegations contained
18 therein.

19 **FIRST CAUSE OF ACTION**

20 **(Declaratory Relief as to the Obligation to Abide by Governor Sisolak's Emergency**

21 **Directive Placing a Moratorium on Foreclosure and Eviction Actions)**

22 **Against all Defendants**

23 51. In answering Paragraph 51 of the FAC, Defendants repeat and reallege all answers
24 as though fully set forth herein.

25 52. In answering Paragraph 52 of the FAC, Defendants admit the allegations contained
26 therein.

27 53. In answering Paragraph 53 of the FAC, Defendants admit the allegations contained
28 therein.

1 54. In answering Paragraph 54 of the FAC, Defendants are without knowledge
2 sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny
3 the allegations contained therein.

4 55. In answering Paragraph 55 of the FAC, Defendants are without knowledge
5 sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny
6 the allegations contained therein.

7 56. In answering Paragraph 56 of the FAC, Defendants are without knowledge
8 sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny
9 the allegations contained therein.

10 57. In answering Paragraph 57 of the FAC, Defendants are without knowledge
11 sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny
12 the allegations contained therein.

13 58. In answering Paragraph 58 of the FAC, Defendants deny the allegations contained
14 therein.

15 **SECOND CAUSE OF ACTION**

16 **(Declaratory Relief Regarding CBC Partners I, LLC's Lack of Rights to Foreclose or to**
17 **Evict as it Admits it Sold and no longer Possesses the Purported Note)**

18 **Against CBC Partners I, LLC**

19 59. In answering Paragraph 59 of the FAC, Defendants repeat and reallege all answers
20 as though fully set forth herein.

21 60. In answering Paragraph 60 of the FAC, Defendants are without knowledge
22 sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny
23 the allegations contained therein.

24 61. In answering Paragraph 61 of the FAC, Defendants admit the allegations contained
25 therein.

26 62. In answering Paragraph 62 of the FAC, Defendants are without knowledge
27 sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny
28 the allegations contained therein.

1 63. In answering Paragraph 63 of the FAC, Defendants admit the allegations contained
2 therein.

3 64. In answering Paragraph 64 of the FAC, Defendants are without knowledge
4 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
5 contained therein.

6 65. In answering Paragraph 65 of the FAC, Defendants are without knowledge
7 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
8 contained therein.

9 66. In answering Paragraph 66 of the FAC, Defendants are without knowledge
10 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
11 contained therein.

12 67. In answering Paragraph 67 of the FAC, Defendants deny the allegations contained
13 therein.

14 **THIRD CAUSE OF ACTION**

15 **(Declaratory Relief of the Application of the One Action Rule)**

16 **Against CBC Partners I, LLC and 5148 Spanish Heights, LLC**

17 68. In answering Paragraph 68 of the FAC, Defendants repeat and reallege all answers
18 as though fully set forth herein.

19 69. In answering Paragraph 69 of the FAC, Defendants are without knowledge
20 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
21 contained therein.

22 70. In answering Paragraph 70 of the FAC, Defendants admit the allegations contained
23 therein.

24 71. In answering Paragraph 71 of the FAC, Defendants are without knowledge
25 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
26 contained therein.

27 72. In answering Paragraph 72 of the FAC, Defendants are without knowledge
28 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations

1 contained therein.

2 73. In answering Paragraph 73 of the FAC, Defendants are without knowledge
3 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
4 contained therein.

5 74. In answering Paragraph 74 of the FAC, Defendants deny the allegations contained
6 therein.

7 **FOURTH CAUSE OF ACTION**

8 **(Declaratory Relief Regarding the Applicability of the Doctrine of Merger)**

9 **Against CBC Partners I, LLC and 5148 Spanish Heights, LLC**

10 75. In answering Paragraph 75 of the FAC, Defendant repeat and reallege all answers
11 as though fully set forth herein.

12 76. In answering Paragraph 76 of the FAC, Defendants are without knowledge
13 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
14 contained therein.

15 77. In answering Paragraph 77 of the FAC, Defendants admit the allegations contained
16 therein.

17 78. In answering Paragraph 78 of the FAC, Defendants are without knowledge
18 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
19 contained therein.

20 79. In answering Paragraph 79 of the FAC, Defendants are without knowledge
21 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
22 contained therein.

23 80. In answering Paragraph 80 of the FAC, Defendants are without knowledge
24 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
25 contained therein.

26 81. In answering Paragraph 81 of the FAC, Defendants deny the allegations contained
27 therein.

1 **FIFTH CAUSE OF ACTION**

2 **(Declaratory Relief Regarding the Status of SJC Ventures Holding, LLC as Sole and**
3 **Exclusive Manager of Spanish Heights Acquisition Company, LLC)**

4 **Against all Defendants**

5 82. In answering Paragraph 82 of the FAC, Defendants repeat and reallege all answers
6 as though fully set forth herein.

7 83. In answering Paragraph 83 of the FAC, Defendants are without knowledge
8 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
9 contained therein.

10 84. In answering Paragraph 84 of the FAC, Defendants admit the allegations contained
11 therein.

12 85. In answering Paragraph 85 of the FAC, Defendants are without knowledge
13 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
14 contained therein.

15 86. In answering Paragraph 86 of the FAC, Defendants are without knowledge
16 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
17 contained therein.

18 87. In answering Paragraph 87 of the FAC, Defendants deny the allegations contained
19 therein.

20 88. In answering Paragraph 88 of the FAC, Defendants deny the allegations contained
21 therein.

22 89. In answering Paragraph 89 of the FAC, Defendants deny the allegations contained
23 therein.

24 **SIXTH CAUSE OF ACTION**

25 **(Temporary Restraining Order, Preliminary Injunction, and permanent Injunction)**

26 **Against CBC Partners I, LLC and 5148 Spanish Heights, LLC**

27 90. In answering Paragraph 90 of the FAC, Defendants repeat and reallege all answers
28 as though fully set forth herein.

1 91. In answering Paragraph 91 of the FAC, Defendants are without knowledge
2 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
3 contained therein.

4 92. In answering Paragraph 92 of the FAC, Defendants deny the allegations contained
5 therein.

6 93. In answering Paragraph 93 of the FAC, Defendants deny the allegations contained
7 therein.

8 94. In answering Paragraph 94 of the FAC, Defendants deny the allegations contained
9 therein.

10 95. In answering Paragraph 95 of the FAC, Defendants deny the allegations contained
11 therein.

12 96. In answering Paragraph 96 of the FAC, Defendants deny the allegations contained
13 therein.

14 **SEVENTH CAUSE OF ACTION**

15 **(Declaratory Relief Regarding the Antos Trust's Purported Assignment of Membership**
16 **Interest in Spanish Heights Acquisition Company)**

17 **Against the Antos Trust**

18 97. In answering Paragraph 97 of the FAC, Defendants repeat and reallege all answers
19 as though fully set forth herein.

20 98. In answering Paragraph 98 of the FAC, Defendants are without knowledge
21 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
22 contained therein.

23 99. In answering Paragraph 99 of the FAC, Defendants are without knowledge
24 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
25 contained therein.

26 100. In answering Paragraph 100 of the FAC, Defendants are without knowledge
27 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
28 contained therein.

101. In answering Paragraph 101 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

102. In answering Paragraph 102 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

103. In answering Paragraph 103 of the FAC, Defendants deny the allegations contained therein.

EIGHTH CAUSE OF ACTION

(Breach of Contract as to the Forbearance Agreement)

Against CBC partners I, LLC

104. In answering Paragraph 104 of the FAC, Defendants repeat and reallege all answers as though fully set forth herein.

105. In answering Paragraph 105 of the FAC, Defendants admit the allegations contained therein.

106. In answering Paragraph 106 of the FAC, Defendants admit the allegations contained therein.

107. In answering Paragraph 107 of the FAC, Defendants admit the allegations contained therein.

108. In answering Paragraph 108 of the FAC, Defendants deny the allegations contained therein.

109. In answering Paragraph 109 of the FAC, Defendants deny the allegations contained therein.

110. In answering Paragraph 110 of the FAC, Defendants deny the allegations contained therein.

111. In answering Paragraph 111 of the FAC, Defendants deny the allegations contained therein.

112. In answering Paragraph 112 of the FAC, Defendants deny the allegations

1 contained therein.

2 **NINTH CAUSE OF ACTION**

3 **(Contractual Breach of the Covenant of Good Faith and Fair Dealing)**

4 **Against CBC Partners I, LLC**

5 113. In answering Paragraph 113 of the FAC, Defendants repeat and reallege all
6 answers as though fully set forth herein.

7 114. In answering Paragraph 114 of the FAC, Defendants admit the allegations
8 contained therein.

9 115. In answering Paragraph 115 of the FAC, Defendants admit the allegations
10 contained therein.

11 116. In answering Paragraph 116 of the FAC, Defendants admit the allegations
12 contained therein.

13 117. In answering Paragraph 117 of the FAC, Defendants admit the allegations
14 contained therein.

15 118. In answering Paragraph 118 of the FAC, Defendants admit the allegations
16 contained therein.

17 119. In answering Paragraph 119 of the FAC, Defendants deny the allegations
18 contained therein.

19 120. In answering Paragraph 120 of the FAC, Defendants deny the allegations
20 contained therein.

21 121. In answering Paragraph 121 of the FAC, Defendants deny the allegations
22 contained therein.

23 122. In answering Paragraph 122 of the FAC, Defendants deny the allegations
24 contained therein.

25 123. In answering Paragraph 123 of the FAC, Defendants deny the allegations
26 contained therein.

1 **TENTH CAUSE OF ACTION**

2 **(Declaratory Relief as to Plaintiffs' Lack of Liability for Fireworks Set Off and the Use of**
3 **an Incendiary Device by a Different Property)**

4 **Against Dacia, LLC**

5 124. In answering Paragraph 124 of the FAC, Defendants repeat and reallege all
6 answers as though fully set forth herein.

7 125. In answering Paragraph 125 of the FAC, Defendants deny the allegations
8 contained therein.

9 126. In answering Paragraph 126 of the FAC, Defendants deny the allegations
10 contained therein.

11 127. In answering Paragraph 127 of the FAC, Defendants deny the allegations
12 contained therein.

13 128. In answering Paragraph 128 of the FAC, Defendants deny the allegations
14 contained therein.

15 129. In answering Paragraph 129 of the FAC, Defendants deny the allegations
16 contained therein.

17 130. In answering Paragraph 130 of the FAC, Defendants deny the allegations
18 contained therein.

19 131. In answering Paragraph 131 of the FAC, Defendants deny the allegations
20 contained therein.

21 132. In answering Paragraph 132 of the FAC, Defendants deny the allegations
22 contained therein.

23 **ELEVENTH CAUSE OF ACTION**

24 **(Indemnity)**

25 **Against Dacia, LLC**

26 133. In answering Paragraph 133 of the FAC, Defendants repeat and reallege all
27 answers as though fully set forth herein.

28 134. In answering Paragraph 134 of the FAC, Defendants deny the allegations

1 contained therein.

2 135. In answering Paragraph 135 of the FAC, Defendants deny the allegations
3 contained therein.

4 136. In answering Paragraph 136 of the FAC, Defendants deny the allegations
5 contained therein.

6 **TWELFTH CAUSE OF ACTION**

7 **(Contribution)**

8 **Against Dacia, LLC**

9 137. In answering Paragraph 137 of the FAC, Defendants repeat and reallege all
10 answers as though fully set forth herein.

11 138. In answering Paragraph 138 of the FAC, Defendants are without knowledge
12 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
13 contained therein.

14 139. In answering Paragraph 139 of the FAC, Defendants deny the allegations
15 contained therein.

16 140. In answering Paragraph 140 of the FAC, Defendants deny the allegations
17 contained therein.

18 141. In answering Paragraph 141 of the FAC, Defendants deny the allegations
19 contained therein.

20 **AFFIRMATIVE DEFENSES**

21 1) Defendant deny each and every allegation contained in the First Amended
22 Complaint not otherwise specifically admitted or denied herein.

23 2) Plaintiffs have failed to state a claim against Defendant upon which relief may be
24 granted.

25 3) Plaintiffs' claims are barred because the grant of relief would unjustly enrich them.

26 4) Plaintiff's claims are barred because they failed to satisfy a condition precedent
27 and/or a condition subsequent.

28 5) Defendant's actions upon which Plaintiffs' First Amended Complaint is based

1 were reasonable, justified, undertaken in good faith, and lawful.

2 6) Plaintiffs' claims against Defendant are barred as a matter of law as Plaintiffs'
3 Complaint makes numerous blatantly false claims.

4 7) Plaintiffs have failed to mitigate their damages.

5 8) Plaintiffs' claims are barred by the doctrine of laches.

6 9) Plaintiffs' claims are barred by the doctrine of unclean hands.

7 10) Plaintiff's claims are barred by a failure of consideration.

8 11) Plaintiffs are estopped from asserting the claims set forth in the Complaint because
9 of improper conduct, acts, or omissions.

10 12) Plaintiffs' claims are barred by lack of authority.

11 13) Plaintiffs' claims are barred because Plaintiffs did not suffer any damages and, to
12 the extent Plaintiffs have suffered any losses, they are speculative and vague.

13 14) Defendant has incurred attorneys' fees and costs in the defense of this action and
14 is entitled to full reimbursement thereof.

15 15) Defendant hereby incorporates those affirmative defenses enumerated in NRCP 8
16 as if fully set forth herein. Such defenses are herein incorporated by reference for the specific
17 purpose of not waiving any such defense. In the event further investigation or discovery reveals
18 the applicability of any such defenses, Defendant reserves the right to seek leave of the Court to
19 amend this Answer to the Complaint and to specifically assert any such defense. Such defenses
20 are herein incorporated by reference for the specific purpose of not waiving any such defense.

21 16) Pursuant to NRCP 11, all possible affirmative defenses may not have been alleged
22 herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of the
23 Answer to First Amended Complaint. Therefor Defendant reserves the right to amend this
24 Answer, including adding affirmative defenses, based upon discovery, review of documents, and
25 development of evidence in this case.

26 WHEREFORE, Defendant prays for judgment as follows:

27 1. That Plaintiffs take nothing by way of their claims, and the same be dismissed with
28 prejudice;

2. That Defendant be awarded its attorneys' fees and costs incurred in the defense of this action; and

3. Such other and further relief as the Court deems just and proper.

DATED this 11 day of June, 2020

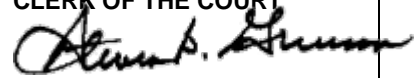
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Defendants CBC Partners I, LLC, CBC Partners, LLC, and 5148 Spanish Heights, LLC Answer to First Amended Complaint** was submitted electronically for filing and/or service with the Eighth Judicial District Court on this 10th day of June, 2020. Electronic service of the foregoing document shall be upon all parties listed on the Odyssey eFileNV service contact list:

An Employee of
MUSHKIN & COPPEDGE



AACC

JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

DANIELLE J. BARRAZA, ESQ.

Nevada Bar No. 13822

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*Attorneys for Spanish Heights Acquisition Company,
LLC, SJC Ventures, LLC, SJC Ventures Holding
Company, LLC, and Jay Bloom*

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.

Case No.: A-20-813439-B

Dept. No.: 11

**SPANISH HEIGHTS ACQUISITION
COMPANY, LLC, SJC VENTURES, LLC,
SJC VENTURES HOLDING COMPANY,
LLC, AND JAY BLOOM'S ANSWER TO
COUNTERCLAIM**

1 5148 SPANISH HEIGHTS, LLC, a Nevada
2 limited liability company; and CBC
3 PARTNERS I, LLC, a Washington limited
4 liability company,

5 Counterclaimants,

6 v.

7 SPANISH HEIGHTS ACQUISITION
8 COMPANY, LLC, a Nevada Limited Liability
9 Company; SJC VENTURES, LLC, a Delaware
10 limited liability company; SJC VENTURES
11 HOLDING COMPANY, LLC, a Delaware
12 limited liability company; JAY BLOOM,
13 individually and as Manager, DOE
14 DEFENDANTS 1-10; and ROE
15 DEFENDANTS 11-20,

16 Counterdefendants.

17 Counterdefendants Spanish Heights Acquisition Company, LLC, SJC Ventures LLC, SJC
18 Ventures Holding Company, LLC, and Jay Bloom (“Counterdefendants”), by and through their
19 attorneys of record, MAIER GUTIERREZ & ASSOCIATES, answer the counterclaim of
20 defendants/counterclaimants CBC Partners I, LLC and 5148 Spanish Heights, LLC
21 (“Counterclaimants”) as follows:

22 Counterdefendants deny each and every allegation in the complaint except those allegations
23 which are hereinafter admitted, qualified, or otherwise answered.

24 JURISDICTION AND VENUE

- 25 1. Answering paragraph 1 of the counterclaim, Counterdefendants admit the allegations.
- 26 2. Answering paragraph 2 of the counterclaim, Counterdefendants admit the allegations.

27 THE PARTIES

28 3. Answering paragraph 3 of the counterclaim, Counterdefendants admit that 5148
Spanish Heights, LLC is registered as a Nevada limited liability company. As to the remaining
allegations, Counterdefendants are without sufficient knowledge or information upon which to form
a belief as to the truth of the allegation contained in said paragraph, and therefore generally and
specifically deny the allegations contained therein.

1 4. Answering paragraph 4 of the counterclaim, Counterdefendants admit that CBC
2 Partners I, LLC is registered as a Washington limited liability company, doing business in Nevada
3 without having registered as a foreign entity to do business in Nevada.

4 5. Answering paragraph 5 of the counterclaim, Counterdefendants admit that Spanish
5 Heights Acquisition Company, LLC (“SHAC”), is, and at all relevant times was, a Nevada limited
6 liability company.

7 6. Answering paragraph 6 of the counterclaim, Counterdefendants admit that SJC
8 Ventures, LLC (“SJCVC”) is, and at all relevant times was, a Nevada limited liability.

9 7. Answering paragraph 7 of the counterclaim, Counterdefendants admit that SJC
10 Ventures Holding Company, LLC (“Holding”) is, and at all relevant times was, a Delaware limited
11 liability company.

12 8. Answering paragraph 8 of the counterclaim, Counterdefendants admit that Jay Bloom
13 (“Bloom”) is an individual residing in Clark County, Nevada.

14 9. Answering paragraph 9 of the counterclaim, Counterdefendants admit that Bloom is
15 the manager of SJCVC and Holding, and Holding (with Bloom as its manager) is the sole, exclusive,
16 and irrevocable managing entity of SHAC.

17 10. Answering paragraph 10 of the counterclaim, to the extent the allegations are
18 Counterclaimants’ legal conclusions, no response is required. To the extent a response is required,
19 Counterdefendants generally and specifically deny the allegations contained therein.

20 11. Answering paragraph 11 of the counterclaim, Counterdefendants are without sufficient
21 knowledge or information upon which to form a belief as to the truth of the allegation contained in
22 said paragraph, and therefore generally and specifically deny the allegations contained therein.

23 12. Answering paragraph 12 of the counterclaim, Counterdefendants are without sufficient
24 knowledge or information upon which to form a belief as to the truth of the allegation contained in
25 said paragraph, and therefore generally and specifically deny the allegations contained therein.

26 **FACTUAL ALLEGATIONS RELATED TO ALL CLAIMS**

27 13. Answering paragraph 13 of the counterclaim, Counterdefendants are without sufficient
28 knowledge or information upon which to form a belief as to the truth of the allegation contained in

1 said paragraph, and therefore generally and specifically deny the allegations contained therein.

2 14. Answering paragraph 14 of the counterclaim, this paragraph references a document
3 which speaks for itself, therefore no response is necessary. To the extent a response is required,
4 Counterdefendants are without sufficient knowledge or information upon which to form a belief as to
5 the truth of the allegation contained in said paragraph, and therefore generally and specifically deny
6 the allegations contained therein.

7 15. Answering paragraph 15 of the counterclaim, this paragraph references a document
8 which speaks for itself, therefore no response is necessary. To the extent a response is required,
9 Counterdefendants are without sufficient knowledge or information upon which to form a belief as to
10 the truth of the allegation contained in said paragraph, and therefore generally and specifically deny
11 the allegations contained therein.

12 16. Answering paragraph 16 of the counterclaim, this paragraph references a document
13 which speaks for itself, therefore no response is necessary. To the extent a response is required,
14 Counterdefendants admit that a Deed of Trust, Assignment of Rents, Security Assignment and Fixture
15 Filing (“Deed of Trust”) was recorded against the Property in the Clark County Recorder’s Office as
16 Instrument No. 201412290002856 on or about December 29, 2014. As to the remaining allegations,
17 Counterdefendants are without sufficient knowledge or information upon which to form a belief as to
18 the truth of the allegation contained in said paragraph, and therefore generally and specifically deny
19 the allegations contained therein.

20 17. Answering paragraph 17 of the counterclaim, this paragraph references a document
21 which speaks for itself, therefore no response is necessary. To the extent a response is required,
22 Counterdefendants admit that there are two (2) additional Deeds of Trust recorded against the
23 Property. As to the remaining allegations, Counterdefendants are without sufficient knowledge or
24 information upon which to form a belief as to the truth of the allegation contained in said paragraph,
25 and therefore generally and specifically deny the allegations contained therein.

26 18. Answering paragraph 18 of the counterclaim, this paragraph references a document
27 which speaks for itself, therefore no response is necessary. To the extent a response is required,
28 Counterdefendants admit that a “First Modification to Deed of Trust, Assignments of Rents, Security

1 Agreement and Fixture Filing” was recorded against the Property on December 19, 2016. As to the
2 remaining allegations, Counterdefendants are without sufficient knowledge or information upon
3 which to form a belief as to the truth of the allegation contained in said paragraph, and therefore
4 generally and specifically deny the allegations contained therein.

5 19. Answering paragraph 19 of the counterclaim, this paragraph references a document
6 which speaks for itself, therefore no response is necessary. To the extent a response is required,
7 Counterdefendants are without sufficient knowledge or information upon which to form a belief as to
8 the truth of the allegation contained in said paragraph, and therefore generally and specifically deny
9 the allegations contained therein.

10 20. Answering paragraph 20 of the counterclaim, this paragraph references a document
11 which speaks for itself, therefore no response is necessary. To the extent a response is required,
12 Counterdefendants admit that the Property was conveyed to SHAC and SHAC leased the Property to
13 SJCVC. As to the remaining allegations, Counterdefendants are without sufficient knowledge or
14 information upon which to form a belief as to the truth of the allegation contained in said paragraph,
15 and therefore generally and specifically deny the allegations contained therein.

16 21. Answering paragraph 21 of the counterclaim, this paragraph references a document
17 which speaks for itself, therefore no response is necessary. To the extent a response is required,
18 Counterdefendants admit that SHAC leased the Property to SJCVC.

19 22. Answering paragraph 22 of the counterclaim, this paragraph references a document
20 which speaks for itself, therefore no response is necessary. To the extent a response is required,
21 Counterdefendants deny that this paragraph represents the full language of the Consent to Lease.

22 23. Answering paragraph 23 of the counterclaim, this paragraph references a document
23 which speaks for itself, therefore no response is necessary. To the extent a response is required,
24 Counterdefendants deny that this paragraph represents the full language of the Forbearance
25 Agreement.

26 24. Answering paragraph 24 of the counterclaim, this paragraph references a document
27 which speaks for itself, therefore no response is necessary. To the extent a response is required,
28 Counterdefendants deny that this paragraph represents the full language of the Forbearance

1 Agreement.

2 25. Answering paragraph 25 of the counterclaim, Counterdefendants admit the allegations.

3 26. Answering paragraph 26 of the counterclaim, Counterdefendants admit the allegations.

4 27. Answering paragraph 27 of the counterclaim, this paragraph references a document
5 which speaks for itself, therefore no response is necessary. To the extent a response is required,
6 Counterdefendants deny the allegations.

7 28. Answering paragraph 28 of the counterclaim, this paragraph references a document
8 which speaks for itself, therefore no response is necessary. To the extent a response is required,
9 Counterdefendants deny the allegations.

10 29. Answering paragraph 29 of the counterclaim, this paragraph references a document
11 which speaks for itself, therefore no response is necessary. To the extent a response is required,
12 Counterdefendants deny the allegations.

13 30. Answering paragraph 30 of the counterclaim, this paragraph references a document
14 which speaks for itself, therefore no response is necessary. To the extent a response is required,
15 Counterdefendants deny the allegations.

16 31. Answering paragraph 31 of the counterclaim, Counterdefendants admit the allegations.

17 32. Answering paragraph 32 of the counterclaim, Counterdefendants admit the allegations.

18 33. Answering paragraph 33 of the counterclaim, this paragraph references a document
19 which speaks for itself, therefore no response is necessary. To the extent a response is required,
20 Counterdefendants deny that this paragraph represents the full and accurate language of the SHAC
21 Operating Agreement.

22 34. Answering paragraph 34 of the counterclaim, this paragraph references a document
23 which speaks for itself, therefore no response is necessary. To the extent a response is required,
24 Counterdefendants admit the allegations.

25 35. Answering paragraph 35 of the counterclaim, this paragraph references a document
26 which speaks for itself, therefore no response is necessary. To the extent a response is required,
27 Counterdefendants deny the allegations.

28 36. Answering paragraph 36 of the counterclaim, this paragraph references a document

1 which speaks for itself, therefore no response is necessary. To the extent a response is required,
2 Counterdefendants deny that this paragraph represents the full and accurate language of the SHAC
3 Operating Agreement.

4 37. Answering paragraph 37 of the counterclaim, Counterdefendants deny the allegations.

5 38. Answering paragraph 38 of the counterclaim, this paragraph references a document
6 which speaks for itself, therefore no response is necessary. To the extent a response is required,
7 Counterdefendants deny that this paragraph represents the full and accurate language of the
8 Amendment to Forbearance Agreement.

9 39. Answering paragraph 39 of the counterclaim, Counterdefendants are without sufficient
10 knowledge or information upon which to form a belief as to the truth of the allegation contained in
11 said paragraph, and therefore generally and specifically deny the allegations contained therein.

12 40. Answering paragraph 40 of the counterclaim, this paragraph references a document
13 which speaks for itself, therefore no response is necessary. To the extent a response is required,
14 Counterdefendants admit that on or about March 12, 2020, Spanish Hills Community Association
15 recorded an improper Health and Safety Lien against the Property which is replete with false
16 information regarding alleged “nuisances” and “hazardous activities.”

17 41. Answering paragraph 41 of the counterclaim, this paragraph references a document
18 which speaks for itself, therefore no response is necessary. To the extent a response is required,
19 Counterdefendants admit that on or about March 16, 2020, after CBCI had already breached the
20 Forbearance Agreement, CBCI caused to be mailed an improper notice of non-monetary default to
21 SHAC and SJVC.

22 42. Answering paragraph 42 of the counterclaim, this paragraph references a document
23 which speaks for itself, therefore no response is necessary. To the extent a response is required,
24 Counterdefendants admit that on or about March 23, 2020, counsel for SHAC and Jay Bloom sent
25 correspondence to counsel for CBCI. Counterdefendants deny the remaining allegations.

26 43. Answering paragraph 43 of the counterclaim, Counterdefendants are without sufficient
27 knowledge or information upon which to form a belief as to the truth of the allegation contained in
28 said paragraph, and therefore generally and specifically deny the allegations contained therein.

1 44. Answering paragraph 44 of the counterclaim, Counterdefendants are without sufficient
2 knowledge or information upon which to form a belief as to the truth of the allegation contained in
3 said paragraph, and therefore generally and specifically deny the allegations contained therein.

4 45. Answering paragraph 45 of the counterclaim, this paragraph references a document
5 which speaks for itself, therefore no response is necessary. To the extent a response is required,
6 Counterdefendants admit that on or about April 1, 2020, an improper Notice of Default and Demand
7 for Payment was sent to SHAC and SJCV. Counterdefendants deny the remaining allegations.

8 46. Answering paragraph 46 of the counterclaim, this paragraph references a document
9 which speaks for itself, therefore no response is necessary. To the extent a response is required,
10 Counterdefendants admit that on or about April 1, 2020, an improper correspondence was sent to
11 SHAC and SJCV, claiming that CBCI was transferring the pledged collateral to CBCI's nominee CBC
12 Partners, LLC. Counterdefendants deny the remaining allegations.

13 47. Answering paragraph 47 of the counterclaim, Counterdefendants are without sufficient
14 knowledge or information upon which to form a belief as to the truth of the allegation contained in
15 said paragraph, and therefore generally and specifically deny the allegations contained therein.

16 48. Answering paragraph 48 of the counterclaim, Counterdefendants are without sufficient
17 knowledge or information upon which to form a belief as to the truth of the allegation contained in
18 said paragraph, and therefore generally and specifically deny the allegations contained therein.

19 49. Answering paragraph 49 of the counterclaim, Counterdefendants admit that on April
20 3, 2020, an improper and illegal Notice to Vacate was sent to SJCV, which forced SHAC and SJVC
21 to commence this litigation due to the obvious violation of Nevada Governor Steve Sisolak's
22 Emergency Directive 008.

23 50. Answering paragraph 50 of the counterclaim, Counterdefendants admit that further
24 improper correspondence was sent from CBCI's counsel to counsel for SJCV and SHAC on April 6,
25 2020. Counterdefendants deny the remaining allegations.

26 ///

27 ///

28 ///

1 **FIRST CLAIM FOR RELIEF**

2 **Breach of Contract (Forbearance Agreement)**

3 **Against SHAC, SJCVC, and Holdings**

4 51. Answering paragraph 51 of the counterclaim, Counterdefendants repeat and reallege
5 their answers to paragraphs 1 through 50 above, and incorporate the same herein by reference as
6 though fully set forth herein.

7 52. Answering paragraph 52 of the counterclaim, Counterdefendants deny the allegations.

8 53. Answering paragraph 53 of the counterclaim, Counterdefendants deny the allegations.

9 54. Answering paragraph 54 of the counterclaim, Counterdefendants deny the allegations.

10 55. Answering paragraph 55 of the counterclaim, Counterdefendants deny the allegations.

11 56. Answering paragraph 56 of the counterclaim, Counterdefendants deny the allegations.

12 **SECOND CLAIM FOR RELIEF**

13 **Breach of the Covenant of Good Faith and Fair Dealing (Forbearance Agreement)**

14 **Against SHAC, SJCVC, and Holdings**

15 57. Answering paragraph 57 of the counterclaim, Counterdefendants repeat and reallege
16 their answers to paragraphs 1 through 56 above, and incorporate the same herein by reference as
17 though fully set forth herein.

18 58. Answering paragraph 58 of the counterclaim, this paragraph only contains a legal
19 conclusion and no actual facts, therefore no response is required.

20 59. Answering paragraph 59 of the counterclaim, to the extent the allegations are
21 Counterclaimants' legal conclusions, no response is required. To the extent an answer is required,
22 Counterdefendants are without sufficient knowledge or information upon which to form a belief as to
23 the truth of the allegation contained in said paragraph, and therefore generally and specifically deny
24 the allegations contained therein.

25 60. Answering paragraph 60 of the counterclaim, Counterdefendants deny the allegations.

26 61. Answering paragraph 61 of the counterclaim, Counterdefendants deny the allegations.

27 62. Answering paragraph 62 of the counterclaim, Counterdefendants deny the allegations.

28 63. Answering paragraph 63 of the counterclaim, Counterdefendants deny the allegations.

1 **THIRD CLAIM FOR RELIEF**

2 **Unlawful Detainer NRS 40.250 – Against SJCV and Bloom**

3 64. Answering paragraph 64 of the counterclaim, Counterdefendants repeat and reallege
4 their answers to paragraphs 1 through 63 above, and incorporate the same herein by reference as
5 though fully set forth herein.

6 65. Answering paragraph 65 of the counterclaim, Counterdefendants deny the allegations.

7 66. Answering paragraph 66 of the counterclaim, Counterdefendants deny the allegations.

8 67. Answering paragraph 67 of the counterclaim, Counterdefendants admit that SJCV and
9 Bloom continue to occupy the Property and the Property is being used as Bloom's personal family
10 residence.

11 68. Answering paragraph 68 of the counterclaim, Counterdefendants deny the allegations.

12 69. Answering paragraph 69 of the counterclaim, Counterdefendants deny the allegations.

13 **FOURTH CLAIM FOR RELIEF**

14 **Fraud in the Inducement – Against SJCV, Holding, and Bloom**

15 70. Answering paragraph 70 of the counterclaim, Counterdefendants repeat and reallege
16 their answers to paragraphs 1 through 69 above, and incorporate the same herein by reference as
17 though fully set forth herein.

18 71. Answering paragraph 71 of the counterclaim, Counterdefendants deny the allegations.

19 72. Answering paragraph 72 of the counterclaim, these allegations are unintelligible and
20 as a result, Counterdefendants deny the allegations.

21 73. Answering paragraph 73 of the counterclaim, Counterdefendants admit that after CBC
22 had already breached the Forbearance Agreement, improper demands were made upon
23 Counterdefendants to provide certain documentation. Counterdefendants deny the remaining
24 allegations.

25 74. Answering paragraph 74 of the counterclaim, Counterdefendants deny the allegations.

26 75. Answering paragraph 75 of the counterclaim, Counterdefendants deny the allegations.

27 76. Answering paragraph 76 of the counterclaim, Counterdefendants deny the allegations.

28 ///

1 **FIFTH CLAIM FOR RELIEF**

2 **Abuse of Process/Fraud Upon the Court – Against SJCVC and Bloom**

3 77. Answering paragraph 77 of the counterclaim, Counterdefendants repeat and reallege
4 their answers to paragraphs 1 through 76 above, and incorporate the same herein by reference as
5 though fully set forth herein.

6 78. Answering paragraph 78 of the counterclaim, Counterdefendants deny the allegations.

7 79. Answering paragraph 79 of the counterclaim, this paragraph references a document
8 which speaks for itself, therefore no response is necessary. To the extent a response is required,
9 Counterdefendants admit the allegations but deny that such statements in Bloom’s Declaration filed
10 on April 23, 2020 constitute a “material misrepresentation to the Court.”

11 80. Answering paragraph 80 of the counterclaim, this paragraph references a document
12 which speaks for itself, therefore no response is necessary. To the extent a response is required,
13 Counterdefendants deny that SJC Ventures, LLC was a pledger or a signatory to the Pledge
14 Agreement.

15 81. Answering paragraph 81 of the counterclaim, Counterdefendants admit that Bloom
16 signed the Pledge Agreement on behalf of SHAC only. Counterdefendants deny all other allegations.

17 82. Answering paragraph 82 of the counterclaim, Counterdefendants admit that Bloom is
18 the manager of SJCVC and of Holding, and Holding (with Bloom as its manager) is the sole, exclusive,
19 and irrevocable managing entity of SHAC.

20 83. Answering paragraph 83 of the counterclaim, Counterdefendants deny the allegations.

21 84. Answering paragraph 84 of the counterclaim, Counterdefendants deny the allegations.

22 85. Answering paragraph 85 of the counterclaim, Counterdefendants deny the allegations.

23 **SIXTH CLAIM FOR RELIEF**

24 **Breach of Fiduciary Duty – Against SJCVC, Holdings, and Bloom**

25 86. Answering paragraph 86 of the counterclaim, Counterdefendants repeat and reallege
26 their answers to paragraphs 1 through 85 above, and incorporate the same herein by reference as
27 though fully set forth herein.

28 87. Answering paragraph 87 of the counterclaim, Counterdefendants deny the allegations.

- 1 88. Answering paragraph 88 of the counterclaim, Counterdefendants deny the allegations.
- 2 89. Answering paragraph 89 of the counterclaim, Counterdefendants deny the allegations.
- 3 90. Answering paragraph 90 of the counterclaim, Counterdefendants deny the allegations.
- 4 91. Answering paragraph 91 of the counterclaim, Counterdefendants deny the allegations.
- 5 92. Answering paragraph 92 of the counterclaim, Counterdefendants deny the allegations.
- 6 93. Answering paragraph 93 of the counterclaim, Counterdefendants deny the allegations.

7 **SEVENTH CLAIM FOR RELIEF**

8 **Breach of Contract (Operating Agreement)**

9 **SJCV, Holdings, and Bloom**

10 94. Answering paragraph 94 of the counterclaim, Counterdefendants repeat and reallege
11 their answers to paragraphs 1 through 93 above, and incorporate the same herein by reference as
12 though fully set forth herein.

- 13 95. Answering paragraph 95 of the counterclaim, Counterdefendants deny the allegations.
- 14 96. Answering paragraph 96 of the counterclaim, Counterdefendants deny the allegations.
- 15 97. Answering paragraph 97 of the counterclaim, Counterdefendants deny the allegations.
- 16 98. Answering paragraph 98 of the counterclaim, Counterdefendants deny the allegations.
- 17 99. Answering paragraph 99 of the counterclaim, Counterdefendants deny the allegations.

18 **EIGHTH CLAIM FOR RELIEF**

19 **Breach of the Covenant of Good Faith and Fair Dealing (Operating Agreement)**

20 **SJCV, Holdings, and Bloom**

21 100. Answering paragraph 100 of the counterclaim, Counterdefendants repeat and reallege
22 their answers to paragraphs 1 through 99 above, and incorporate the same herein by reference as
23 though fully set forth herein.

24 101. Answering paragraph 101 of the counterclaim, this paragraph only contains a legal
25 conclusion and no actual facts, therefore no response is required.

26 102. Answering paragraph 102 of the counterclaim, to the extent the allegations are
27 Counterclaimants' legal conclusions, no response is required. To the extent an answer is required,
28 Counterdefendants are without sufficient knowledge or information upon which to form a belief as to

1 the truth of the allegation contained in said paragraph, and therefore generally and specifically deny
2 the allegations contained therein.

3 103. Answering paragraph 103 of the counterclaim, Counterdefendants deny the
4 allegations.

5 104. Answering paragraph 104 of the counterclaim, Counterdefendants deny the
6 allegations.

7 105. Answering paragraph 105 of the counterclaim, Counterdefendants deny the
8 allegations.

9 106. Answering paragraph 106 of the counterclaim, Counterdefendants deny the
10 allegations.

11 **NINTH CLAIM FOR RELIEF**

12 **Breach of Contract (Pledge Agreement)**

13 **SJCV, Holdings, and Bloom**

14 107. Answering paragraph 107 of the counterclaim, Counterdefendants repeat and reallege
15 their answers to paragraphs 1 through 106 above, and incorporate the same herein by reference as
16 though fully set forth herein.

17 108. Answering paragraph 108 of the counterclaim, Counterdefendants deny the
18 allegations.

19 109. Answering paragraph 109 of the counterclaim, Counterdefendants deny the
20 allegations.

21 110. Answering paragraph 110 of the counterclaim, Counterdefendants deny the
22 allegations.

23 111. Answering paragraph 111 of the counterclaim, Counterdefendants deny the
24 allegations.

25 **TENTH CLAIM FOR RELIEF**

26 **Breach of Covenant of Good Faith and Fair Dealing (Pledge Agreement)**

27 **SJCV, Holdings, and Bloom**

28 112. Answering paragraph 112 of the counterclaim, Counterdefendants repeat and reallege

1 their answers to paragraphs 1 through 111 above, and incorporate the same herein by reference as
2 though fully set forth herein.

3 113. Answering paragraph 113 of the counterclaim, this paragraph only contains a legal
4 conclusion and no actual facts, therefore no response is required.

5 114. Answering paragraph 114 of the counterclaim, to the extent the allegations are
6 Counterclaimants' legal conclusions, no response is required. To the extent an answer is required,
7 Counterdefendants are without sufficient knowledge or information upon which to form a belief as to
8 the truth of the allegation contained in said paragraph, and therefore generally and specifically deny
9 the allegations contained therein.

10 115. Answering paragraph 115 of the counterclaim, Counterdefendants deny the
11 allegations.

12 116. Answering paragraph 116 of the counterclaim, Counterdefendants deny the
13 allegations.

14 117. Answering paragraph 117 of the counterclaim, Counterdefendants deny the
15 allegations.

16 118. Answering paragraph 118 of the counterclaim, Counterdefendants deny the
17 allegations.

18 **ELEVENTH CLAIM FOR RELIEF**

19 **Unjust Enrichment – Against all Counterdefendants**

20 119. Answering paragraph 119 of the counterclaim, Counterdefendants repeat and reallege
21 their answers to paragraphs 1 through 118 above, and incorporate the same herein by reference as
22 though fully set forth herein.

23 120. Answering paragraph 120 of the counterclaim, Counterdefendants deny the
24 allegations..

25 121. Answering paragraph 121 of the counterclaim, Counterdefendants deny the
26 allegations.

27 122. Answering paragraph 122 of the counterclaim, Counterdefendants deny the
28 allegations.

1 **TWELFTH CLAIM FOR RELIEF**

2 **Declaratory Relief – Against all Counterdefendants**

3 123. Answering paragraph 123 of the counterclaim, Counterdefendants repeat and reallege
4 their answers to paragraphs 1 through 122 above, and incorporate the same herein by reference as
5 though fully set forth herein.

6 124. Answering paragraph 124 of the counterclaim, Counterdefendants admit that disputes
7 and controversies have arisen between Counterclaimants and Counterdefendants relative to the
8 Contracts and Agreements.

9 125. Answering paragraph 125 of the counterclaim, this paragraph only contains a legal
10 conclusion and no actual facts, therefore no response is required.

11 126. Answering paragraph 126 of the counterclaim, this paragraph only contains a legal
12 conclusion and no actual facts, therefore no response is required.

13 127. Answering paragraph 127 of the counterclaim, Counterdefendants deny the
14 allegations, and point out that nowhere in the Twelfth Claim for Relief did Counterclaimants set forth
15 what, if any, declaratory relief they are actually seeking.

16 **ANSWER TO PRAYER FOR RELIEF**

17 Answering the allegations contained in the entirety of Counterclaimants' prayer for relief,
18 Counterdefendants deny that Counterclaimants are entitled to the relief being sought therein or to any
19 relief in this matter.

20 **AFFIRMATIVE DEFENSES**

21 Counterdefendants, without altering the burdens of proof the parties must bear, assert the
22 following affirmative defenses to Counterclaimants' counterclaim, and all causes of action alleged
23 therein, and specifically incorporate into these affirmative defenses their answers to the preceding
24 paragraphs of the counterclaim as if fully set forth herein.

25 **First Affirmative Defense**

26 The counterclaim, and all the claims for relief alleged therein, fails to state a claim against
27 Counterdefendants upon which relief can be granted.

28 ///

1 **Second Affirmative Defense**

2 Counterclaimants have not been damaged directly, indirectly, proximately or in any manner
3 whatsoever by any conduct of Counterdefendants.

4 **Third Affirmative Defense**

5 The occurrences referred to in the counterclaim and all alleged damages, if any, resulting
6 therefrom, were caused by Counterclaimants' own acts, deeds, negligence, conduct, and/or failure or
7 omission to act under the circumstances.

8 **Fourth Affirmative Defense**

9 Counterclaimants have failed to mitigate their damages, if any, as required by law and are
10 barred from recovering by reason thereof.

11 **Fifth Affirmative Defense**

12 Any harm or claim of damage of Counterclaimants or claim for relief of Counterclaimants, as
13 alleged or stated in the counterclaim, is barred by the running of the statute of limitations, doctrines
14 of laches, estoppel, and/or waiver, as to all or part of Counterclaimants' claims.

15 **Sixth Affirmative Defense**

16 Counterclaimants' claims for relief are barred, in whole or in part, by the doctrines of
17 rescission, frustration of purpose, and/or unclean hands.

18 **Seventh Affirmative Defense**

19 Counterclaimants lack standing to bring their counterclaims against Counterdefendants.

20 **Eighth Affirmative Defense**

21 The occurrences referred to in the counterclaim and all alleged damages, if any, resulting
22 therefrom, were caused by a third party of which Counterdefendants had no control.

23 **Ninth Affirmative Defense**

24 Counterclaimants' claims are barred, in whole or in part, by failure of contract or by
25 Counterdefendants' own breach(es) of contract.

26 **Tenth Affirmative Defense**

27 Counterclaimants' claims are barred, in whole or in part, by their failure to perform or satisfy
28 required conditions precedent and by their own bad acts.

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Eleventh Affirmative Defense

Counterclaimants are not in possession and/or control of the documents and/or witnesses necessary to prove its alleged causes of action against Counterdefendants.

Twelfth Affirmative Defense

The claims, and each of them, are barred by the failure of Counterclaimants to plead those claims with sufficient particularity.

Thirteenth Affirmative Defense

Counterclaimants are attempting to deprive Counterdefendants of Counterdefendants' property without due process of law.

Fourteenth Affirmative Defense

Any recovery by Counterclaimants must be settled, reduced, abated, set-off, or apportioned to the extent that any other party's actions or non-party's actions, including those of Counterclaimants, caused or contributed to Counterclaimants' damages, if any.

Fifteenth Affirmative Defense

Counterclaimants have waived any right of recovery against Counterdefendants.

Sixteenth Affirmative Defense

Counterdefendants owe no duty to Counterclaimants.

Seventeenth Affirmative Defense

Counterclaimants have failed to allege sufficient facts and cannot carry the burden of proof imposed on them by law to recover attorney's fees incurred to bring this action, and have failed to plead attorneys' fees as special damages.

Eighteenth Affirmative Defense

Counterdefendants allege that the occurrences referred to in the counterclaim, and all alleged damages, if any, resulting therefrom, were caused by the acts or omissions of a third party over whom Counterdefendants had no control.

Nineteenth Affirmative Defense

Counterclaimants' counterclaim is void and invalid as a matter of law.

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1 **Twentieth Affirmative Defense**

2 Pursuant to Nevada Rules of Civil Procedure, all possible affirmative defenses may not have
3 been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the
4 filing of this answer and, therefore, Defendant reserves the right to amend this answer to allege
5 additional affirmative defenses if subsequent investigation warrants.

6 WHEREFORE, Counterdefendants pray for judgment as follows:

- 7 1. Counterclaimants take nothing by way of their counterclaim;
8 2. The counterclaim, and all causes of action against Counterdefendants alleged therein,
9 be dismissed with prejudice;
10 3. For reasonable attorney fees and costs to be awarded to Counterdefendants; and
11 4. For such other and further relief the Court may deem just and proper.

12 DATED this 10th day of July, 2020.

13 Respectfully submitted,

14 **MAIER GUTIERREZ & ASSOCIATES**

15 /s/ Danielle J. Barraza
16 JOSEPH A. GUTIERREZ, ESQ.
17 Nevada Bar No. 9046
18 DANIELLE J. BARRAZA, ESQ.
19 Nevada Bar No. 13822
20 8816 Spanish Ridge Avenue
21 Las Vegas, Nevada 89148
22 *Attorneys for Spanish Heights Acquisition*
23 *Company, LLC, SJC Ventures, LLC, SJC*
24 *Ventures Holding Company, LLC, and Jay*
25 *Bloom*
26
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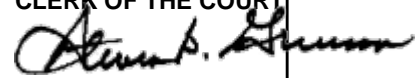
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*Attorneys for Defendants
Sheila Antos and Kenneth Antos,
As Trustees of the Kenneth & Sheila
Antos Living Trust and the Kenneth M.
Antos & Sheila M. Neumann-Antos Trust*

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.

Case No. A-20-813439-B

Dept. No.: 11

**DEFENDANTS SHEILA ANTOS AND
KENNETH ANTOS, AS TRUSTEES
OF THE KENNETH & SHEILA
ANTOS LIVING TRUST AND THE
KENNETH M. ANTOS & SHEILA M.
NEUMANN-ANTOS TRUST
ANSWER TO FIRST AMENDED
COMPLAINT AND
COUNTERCLAIM**

EXEMPT FROM ARBITRATION:

1. Request for Declaratory Relief
2. Action Concerning Real Property

CAPTION CONTINUES BELOW

1 5148 SPANISH HEIGHTS, LLC, a Nevada
2 limited liability company; and CBC PARTNERS
3 I, LLC, a Washington limited liability company,

4 Counterclaimants,

5 v.

6 SPANISH HEIGHTS ACQUISITION
7 COMPANY, LLC, a Nevada Limited Liability
8 Company; SJC VENTURES, LLC, a Delaware
9 limited liability company; SJC VENTURES
10 HOLDING COMPANY, LLC, a Delaware
11 limited liability company; JAY BLOOM,
12 individually and as Manager, DOE
13 DEFENDANTS 1-10; and ROE DEFENDANTS
14 11-20,

15 Counterdefendants.

16 KENNETH ANTOS and SHEILA NEUMANN-
17 ANTOS, as Trustees of the Kenneth & Sheila
18 Antos Living Trust and the Kenneth M. Antos &
19 Sheila M. Nuemann-Antos Trust,

20 Counterclaimants,

21 v.

22 SJC VENTURES HOLDING COMPANY,
23 LLC, d/b/a SJC VENTURES, LLC a Delaware
24 limited liability Company, DOES I though X;
25 and ROE CORPORATIONS I through X,
26 inclusive,

27 Counterdefendants.

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**DEFENDANTS SHEILA ANTOS AND KENNETH ANTOS, AS TRUSTEES OF THE
KENNETH & SHEILA ANTOS LIVING TRUST AND THE KENNETH M. ANTOS &
SHEILA M. NEUMANN-ANTOS TRUST ANSWER TO FIRST AMENDED
COMPLAINT AND COUNTERCLAIM**

Defendants, Sheila Antos and Kenneth Antos, as Trustees of the Kenneth & Sheila Antos
Living Trust and the Kenneth M. Antos & Sheila M. Neumann-Antos Trust Answer to First

1 Amended Complaint ("Defendants"), by and through their attorney Michael R. Mushkin, of the
2 law firm of Mushkin & Coppedge, for their Answer to Plaintiffs' First Amended Complaint
3 ("FAC") hereby admits, deny, and affirmatively alleges as follows in response to the FAC on file
4 in the above-entitled action:

5 **PARTIES**

6 1. In answering Paragraph 1 of the FAC, Defendants are without knowledge
7 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
8 contained therein.

9 2. In answering Paragraph 2 of the FAC, Defendants admit that there is a property
10 located at 5148 Spanish Heights Drive, Las Vegas, Nevada 89148, with Assessor's Parcel
11 Number of 163-29-615-007 and Defendants are without knowledge sufficient to form a belief as
12 to the truth of the remainder of the allegations and therefore deny the allegations contained
13 therein.

14 3. In answering Paragraph 3 of the FAC, Defendants are without knowledge
15 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
16 contained therein.

17 4. In answering Paragraph 4 of the FAC, Defendants are without knowledge
18 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
19 contained therein.

20 5. In answering Paragraph 5 of the FAC, Defendants are without knowledge
21 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
22 contained therein.

23 6. In answering Paragraph 6 of the FAC, Defendants are without knowledge
24 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
25 contained therein.

26 7. In answering Paragraph 7 of the FAC, Defendants are without knowledge
27 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
28 contained therein.

1 8. In answering Paragraph 8 of the FAC, Defendants are without knowledge
2 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
3 contained therein.

4 9. In answering Paragraph 9 of the FAC, Defendants admit the allegations contained
5 therein.

6 10. In answering Paragraph 10 of the FAC, Defendants are without knowledge
7 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
8 contained therein.

9 11. In answering Paragraph 11 of the FAC, Defendants are without knowledge
10 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
11 contained therein.

12 12. In answering Paragraph 12 of the FAC, Defendants are without knowledge
13 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
14 contained therein.

15 **GENERAL ALLEGATIONS**

16 13. In answering Paragraph 13 of the FAC, Defendants are without knowledge
17 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
18 contained therein.

19 14. In answering Paragraph 14 of the FAC, Defendants are without knowledge
20 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
21 contained therein.

22 15. In answering Paragraph 15 of the FAC, Defendants are without knowledge
23 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
24 contained therein.

25 16. In answering Paragraph 16 of the FAC, Defendants are without knowledge
26 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
27 contained therein.

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1 17. In answering Paragraph 17 of the FAC, Defendants are without knowledge
2 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
3 contained therein.

4 18. In answering Paragraph 18 of the FAC, Defendants are without knowledge
5 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
6 contained therein.

7 19. In answering Paragraph 19 of the FAC, Defendants are without knowledge
8 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
9 contained therein.

10 20. In answering Paragraph 20 of the FAC, Defendants deny the allegations contained
11 therein.

12 21. In answering Paragraph 21 of the FAC, Defendants are without knowledge
13 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
14 contained therein.

15 22. In answering Paragraph 22 of the FAC, Defendants are without knowledge
16 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
17 contained therein.

18 23. In answering Paragraph 23 of the FAC, Defendants are without knowledge
19 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
20 contained therein.

21 24. In answering Paragraph 24 of the FAC, Defendants are without knowledge
22 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
23 contained therein.

24 25. In answering Paragraph 25 of the FAC, Defendants are without knowledge
25 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
26 contained therein.

27 26. In answering Paragraph 26 of the FAC, Defendants admit the allegations contained
28 therein.

1 27. In answering Paragraph 27 of the FAC, Defendants deny the allegations contained
2 therein.

3 28. In answering Paragraph 28 of the FAC, Defendants deny the allegations contained
4 therein.

5 29. In answering Paragraph 29 of the FAC, Defendants deny the allegations contained
6 therein.

7 30. In answering Paragraph 30 of the FAC, Defendants deny the allegations contained
8 therein.

9 31. In answering Paragraph 31 of the FAC, Defendants deny the allegations contained
10 therein.

11 32. In answering Paragraph 32 of the FAC, Defendants deny the allegations contained
12 therein.

13 33. In answering Paragraph 33 of the FAC, Defendants are without knowledge
14 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
15 contained therein.

16 34. In answering Paragraph 34 of the FAC, Defendants are without knowledge
17 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
18 contained therein.

19 35. In answering Paragraph 35 of the FAC, Defendants are without knowledge
20 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
21 contained therein.

22 36. In answering Paragraph 36 of the FAC, Defendants are without knowledge
23 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
24 contained therein.

25 37. In answering Paragraph 37 of the FAC, Defendants admit that a Notice to Vacate
26 was issued and Defendants are without knowledge sufficient to form a belief as to the truth of the
27 remainder of the allegations and therefore deny the allegations contained therein.

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1 38. In answering Paragraph 38 of the FAC, Defendants deny the allegations contained
2 therein.

3 39. In answering Paragraph 39 of the FAC, Defendants are without knowledge
4 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
5 contained therein.

6 40. In answering Paragraph 40 of the FAC, Defendants are without knowledge
7 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
8 contained therein.

9 41. In answering Paragraph 41 of the FAC, Defendants are without knowledge
10 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
11 contained therein.

12 42. In answering Paragraph 42 of the FAC, Defendants are without knowledge
13 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
14 contained therein.

15 43. In answering Paragraph 43 of the FAC, Defendants are without knowledge
16 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
17 contained therein.

18 44. In answering Paragraph 44 of the FAC, Defendants are without knowledge
19 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
20 contained therein.

21 45. In answering Paragraph 45 of the FAC, Defendants are without knowledge
22 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
23 contained therein.

24 46. In answering Paragraph 46 of the FAC, Defendants are without knowledge
25 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
26 contained therein.

27 47. In answering Paragraph 47 of the FAC, Defendants are without knowledge
28 sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny

1 the allegations contained therein.

2 48. In answering Paragraph 48 of the FAC, Defendants are without knowledge
3 sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny
4 the allegations contained therein.

5 49. In answering Paragraph 49 of the FAC, Defendants deny the allegations contained
6 therein.

7 50. In answering Paragraph 50 of the FAC, Defendants deny the allegations contained
8 therein.

9 **FIRST CAUSE OF ACTION**

10 **(Declaratory Relief as to the Obligation to Abide by Governor Sisolak's Emergency**

11 **Directive Placing a Moratorium on Foreclosure and Eviction Actions)**

12 **Against all Defendants**

13 51. In answering Paragraph 51 of the FAC, Defendants repeat and reallege all answers
14 as though fully set forth herein.

15 52. In answering Paragraph 52 of the FAC, Defendants are without knowledge
16 sufficient to form a belief a to the truth of the remainder of the allegations and therefore deny the
17 allegations contained therein.

18 53. In answering Paragraph 53 of the FAC, Defendants admit the allegations contained
19 therein.

20 54. In answering Paragraph 54 of the FAC, Defendants are without knowledge
21 sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny
22 the allegations contained therein.

23 55. In answering Paragraph 55 of the FAC, Defendants are without knowledge
24 sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny
25 the allegations contained therein.

26 56. In answering Paragraph 56 of the FAC, Defendants are without knowledge
27 sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny
28 the allegations contained therein.

57. In answering Paragraph 57 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny the allegations contained therein.

58. In answering Paragraph 58 of the FAC, Defendants deny the allegations contained therein.

SECOND CAUSE OF ACTION

(Declaratory Relief Regarding CBC Partners I, LLC's Lack of Rights to Foreclose or to Evict as it Admits it Sold and no longer Possesses the Purported Note)

Against CBC Partners I, LLC

59. In answering Paragraph 59 of the FAC, Defendants repeat and reallege all answers as though fully set forth herein.

60. In answering Paragraph 60 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny the allegations contained therein.

61. In answering Paragraph 61 of the FAC, Defendants admit the allegations contained therein.

62. In answering Paragraph 62 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny the allegations contained therein.

63. In answering Paragraph 63 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny the allegations contained therein.

64. In answering Paragraph 64 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

65. In answering Paragraph 65 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

66. In answering Paragraph 66 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

67. In answering Paragraph 67 of the FAC, Defendants deny the allegations contained therein.

THIRD CAUSE OF ACTION

(Declaratory Relief of the Application of the One Action Rule)

Against CBC Partners I, LLC and 5148 Spanish Heights, LLC

68. In answering Paragraph 68 of the FAC, Defendants repeat and reallege all answers as though fully set forth herein.

69. In answering Paragraph 69 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

70. In answering Paragraph 70 of the FAC, Defendants admit the allegations contained therein.

71. In answering Paragraph 71 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

72. In answering Paragraph 72 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

73. In answering Paragraph 73 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

74. In answering Paragraph 74 of the FAC, Defendants deny the allegations contained therein.

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/ / /

1 **FOURTH CAUSE OF ACTION**

2 **(Declaratory Relief Regarding the Applicability of the Doctrine of Merger)**

3 **Against CBC Partners I, LLC and 5148 Spanish Heights, LLC**

4 75. In answering Paragraph 75 of the FAC, Defendant repeat and reallege all answers
5 as though fully set forth herein.

6 76. In answering Paragraph 76 of the FAC, Defendants are without knowledge
7 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
8 contained therein.

9 77. In answering Paragraph 77 of the FAC, Defendants admit the allegations contained
10 therein.

11 78. In answering Paragraph 78 of the FAC, Defendants are without knowledge
12 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
13 contained therein.

14 79. In answering Paragraph 79 of the FAC, Defendants are without knowledge
15 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
16 contained therein.

17 80. In answering Paragraph 80 of the FAC, Defendants are without knowledge
18 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
19 contained therein.

20 81. In answering Paragraph 81 of the FAC, Defendants deny the allegations contained
21 therein.

22 **FIFTH CAUSE OF ACTION**

23 **(Declaratory Relief Regarding the Status of SJC Ventures Holding, LLC as Sole and**

24 **Exclusive Manager of Spanish Heights Acquisition Company, LLC)**

25 **Against all Defendants**

26 82. In answering Paragraph 82 of the FAC, Defendants repeat and reallege all answers
27 as though fully set forth herein.

28 83. In answering Paragraph 83 of the FAC, Defendants are without knowledge

1 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
2 contained therein.

3 84. In answering Paragraph 84 of the FAC, Defendants admit the allegations contained
4 therein.

5 85. In answering Paragraph 85 of the FAC, Defendants are without knowledge
6 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
7 contained therein.

8 86. In answering Paragraph 86 of the FAC, Defendants are without knowledge
9 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
10 contained therein.

11 87. In answering Paragraph 87 of the FAC, Defendants deny the allegations contained
12 therein.

13 88. In answering Paragraph 88 of the FAC, Defendants deny the allegations contained
14 therein.

15 89. In answering Paragraph 89 of the FAC, Defendants deny the allegations contained
16 therein.

17 **SIXTH CAUSE OF ACTION**

18 **(Temporary Restraining Order, Preliminary Injunction, and permanent Injunction)**

19 **Against CBC Partners I, LLC and 5148 Spanish Heights, LLC**

20 90. In answering Paragraph 90 of the FAC, Defendants repeat and reallege all answers
21 as though fully set forth herein.

22 91. In answering Paragraph 91 of the FAC, Defendants are without knowledge
23 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
24 contained therein.

25 92. In answering Paragraph 92 of the FAC, Defendants deny the allegations contained
26 therein.

27 93. In answering Paragraph 93 of the FAC, Defendants deny the allegations contained
28 therein.

94. In answering Paragraph 94 of the FAC, Defendants deny the allegations contained therein.

95. In answering Paragraph 95 of the FAC, Defendants deny the allegations contained therein.

96. In answering Paragraph 96 of the FAC, Defendants deny the allegations contained therein.

SEVENTH CAUSE OF ACTION
(Declaratory Relief Regarding the Antos Trust’s Purported Assignment of Membership
Interest in Spanish Heights Acquisition Company)
Against the Antos Trust

97. In answering Paragraph 97 of the FAC, Defendants repeat and reallege all answers as though fully set forth herein.

98. In answering Paragraph 98 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

99. In answering Paragraph 99 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

100. In answering Paragraph 100 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

101. In answering Paragraph 101 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

102. In answering Paragraph 102 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

///

1 103. In answering Paragraph 103 of the FAC, Defendants deny the allegations
2 contained therein.

3 **EIGHTH CAUSE OF ACTION**

4 **(Breach of Contract as to the Forbearance Agreement)**

5 **Against CBC partners I, LLC**

6 104. In answering Paragraph 104 of the FAC, Defendants repeat and reallege all
7 answers as though fully set forth herein.

8 105. In answering Paragraph 105 of the FAC, Defendants admit the allegations
9 contained therein.

10 106. In answering Paragraph 106 of the FAC, Defendants admit the allegations
11 contained therein.

12 107. In answering Paragraph 107 of the FAC, Defendants admit the allegations
13 contained therein.

14 108. In answering Paragraph 108 of the FAC, Defendants deny the allegations
15 contained therein.

16 109. In answering Paragraph 109 of the FAC, Defendants deny the allegations
17 contained therein.

18 110. In answering Paragraph 110 of the FAC, Defendants deny the allegations
19 contained therein.

20 111. In answering Paragraph 111 of the FAC, Defendants deny the allegations
21 contained therein.

22 112. In answering Paragraph 112 of the FAC, Defendants deny the allegations
23 contained therein.

24 **NINTH CAUSE OF ACTION**

25 **(Contractual Breach of the Covenant of Good Faith and Fair Dealing)**

26 **Against CBC Partners I, LLC**

27 113. In answering Paragraph 113 of the FAC, Defendants repeat and reallege all
28 answers as though fully set forth herein.

1 114. In answering Paragraph 114 of the FAC, Defendants admit the allegations
2 contained therein.

3 115. In answering Paragraph 115 of the FAC, Defendants admit the allegations
4 contained therein.

5 116. In answering Paragraph 116 of the FAC, Defendants admit the allegations
6 contained therein.

7 117. In answering Paragraph 117 of the FAC, Defendants admit the allegations
8 contained therein.

9 118. In answering Paragraph 118 of the FAC, Defendants admit the allegations
10 contained therein.

11 119. In answering Paragraph 119 of the FAC, Defendants deny the allegations
12 contained therein.

13 120. In answering Paragraph 120 of the FAC, Defendants deny the allegations
14 contained therein.

15 121. In answering Paragraph 121 of the FAC, Defendants deny the allegations
16 contained therein.

17 122. In answering Paragraph 122 of the FAC, Defendants deny the allegations
18 contained therein.

19 123. In answering Paragraph 123 of the FAC, Defendants deny the allegations
20 contained therein.

21 124. In answering Paragraph 124 of the FAC, Defendants repeat and reallege all
22 answers as though fully set forth herein.

23 125. In answering Paragraph 125 of the FAC, Defendants deny the allegations
24 contained therein.

25 126. In answering Paragraph 126 of the FAC, Defendants deny the allegations
26 contained therein.

27 127. In answering Paragraph 127 of the FAC, Defendants deny the allegations
28 contained therein.

1 128. In answering Paragraph 128 of the FAC, Defendants deny the allegations
2 contained therein.

3 129. In answering Paragraph 129 of the FAC, Defendants deny the allegations
4 contained therein.

5 130. In answering Paragraph 130 of the FAC, Defendants deny the allegations
6 contained therein.

7 131. In answering Paragraph 131 of the FAC, Defendants deny the allegations
8 contained therein.

9 132. In answering Paragraph 132 of the FAC, Defendants deny the allegations
10 contained therein.

11 133. In answering Paragraph 133 of the FAC, Defendants repeat and reallege all
12 answers as though fully set forth herein.

13 134. In answering Paragraph 134 of the FAC, Defendants deny the allegations
14 contained therein.

15 135. In answering Paragraph 135 of the FAC, Defendants deny the allegations
16 contained therein.

17 136. In answering Paragraph 136 of the FAC, Defendants deny the allegations
18 contained therein.

19 137. In answering Paragraph 137 of the FAC, Defendants repeat and reallege all
20 answers as though fully set forth herein.

21 138. In answering Paragraph 138 of the FAC, Defendants are without knowledge
22 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations
23 contained therein.

24 139. In answering Paragraph 139 of the FAC, Defendants deny the allegations
25 contained therein.

26 140. In answering Paragraph 140 of the FAC, Defendants deny the allegations
27 contained therein.

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141. In answering Paragraph 141 of the FAC, Defendants deny the allegations contained therein.

AFFIRMATIVE DEFENSES

1) Defendant deny each and every allegation contained in the First Amended Complaint not otherwise specifically admitted or denied herein.

2) Plaintiffs have failed to state a claim against Defendants upon which relief may be granted.

3) Plaintiffs' claims are barred because the grant of relief would unjustly enrich them.

4) Plaintiff's claims are barred because they failed to satisfy a condition precedent and/or a condition subsequent.

5) Defendants' actions upon which Plaintiffs' First Amended Complaint is based were reasonable, justified, undertaken in good faith, and lawful.

6) Plaintiffs' claims against Defendant are barred as a matter of law as Plaintiffs' Complaint makes numerous blatantly false claims.

7) Plaintiffs have failed to mitigate their damages.

8) Plaintiffs' claims are barred by the doctrine of laches.

9) Plaintiffs' claims are barred by the doctrine of unclean hands.

10) Plaintiff's claims are barred by a failure of consideration.

11) Plaintiffs are estopped from asserting the claims set forth in the Complaint because of improper conduct, acts, or omissions.

12) Plaintiffs' claims are barred by lack of authority.

13) Plaintiffs' claims are barred because Plaintiffs did not suffer any damages and, to the extent Plaintiffs have suffered any losses, they are speculative and vague.

14) Defendants have incurred attorneys' fees and costs in the defense of this action and is entitled to full reimbursement thereof.

15) Defendants hereby incorporates those affirmative defenses enumerated in NRCP 8 as if fully set forth herein. Such defenses are herein incorporated by reference for the specific purpose of not waiving any such defense. In the event further investigation or discovery reveals

1 the applicability of any such defenses, Defendant reserves the right to seek leave of the Court to
2 amend this Answer to the Complaint and to specifically assert any such defense. Such defenses
3 are herein incorporated by reference for the specific purpose of not waiving any such defense.

4 16) Pursuant to NRCP 11, all possible affirmative defenses may not have been alleged
5 herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of the
6 Answer to First Amended Complaint. Therefor Defendants reserve the right to amend this
7 Answer, including adding affirmative defenses, based upon discovery, review of documents, and
8 development of evidence in this case.

9 **COUNTERCLAIMANTS, KENNETH ANTOS AND SHEILA NEUMANN-ANTOS, AS**
10 **TRUSTEES OF THE KENNETH & SHEILA ANTOS LIVING TRUST AND THE**
11 **KENNETH M. ANTOS & SHEILA M. NEUMANN-ANTOS TRUST COUNTERCLAIM**
12 **AGAINST SJC VENUTURES HOLDING COMPANY, LLC, D/B/A SJC VENTURES,**
13 **LLC A DELAWARE**

14 Counterclaimants, Kenneth Antos and Sheila Neumann-Antos, as Trustees of the
15 Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila M. Neumann-"Antos
16 Trust, allege as follows:

17 **JURISDICTION AND VENUE**

18 1. Pursuant to Nevada's long arm statute codified at NRS 14.065, a Court of this
19 State may exercise jurisdiction over a party to a civil action on any basis not inconsistent with
20 the Constitution of Nevada or the Constitution of the United States.

21 2. Venue is proper pursuant to Nev. Rev. Stat. § 13.040.

22 **THE PARTIES**

23 3. Counterclaimants, Kenneth Antos and Sheila Neumann-Antos, as Trustees of the
24 Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila M. Neumann-Antos
25 Trust, are individuals, residing in Clark County, Nevada.

26 4. Counterdefendant, SJC Ventures, LLC a Delaware limited liability company, upon
27 information and belief, Jay Bloom is the Manager, of SJC Ventures, LLC a Delaware limited
28

1 liability company. Upon information and belief, Jay Bloom is a resident of Clark County, Nevada.

2 5. Upon information and belief, Jay Bloom is the sole member of SJC Ventures, LLC.

3 6. Operating Agreement calls for investor member to perform the following:

4 a. "Provide for the funding of a (sic) **annual** expense reserve account in the
5 amount of \$150,000.00 within ninety days from which non member CBCI is authorized to issue
6 payment against its obligations due from Seller Member should Investor Member fail to effect
7 such payments..." (emphasis added).

8 b. "Provide for a second funding of an annual expense reserve account one
9 year later in the additional amount of \$150,000.00 within ninety days of the first anniversary of
10 the signing from which non Member CBCI is authorized to issue payment against its Note should
11 Investor Member fail to effect such payments..." (emphasis added).

12 c. "Cause the Company to effect repairs to the premises to bring it back to
13 top quality standard and working repair."

14 d. "Cause the Company to pay all HOA assessments and fines."

15 e. "At the earlier of 2 years... pay off in full the CBC revicable (sic) as relates
16 to the property."

17 f. At the earlier of 2 years... either assume service of or retire either or both
18 of the 1st and 2nd position lenders."

19 7. On or about April 16, 2007 nonparties Kenneth M. Antos and Sheila M. Neumann-
20 Antos transferred to Kenneth M. Antos and Sheila M. Neumann-Antos, Trustees of the Kenneth
21 and Shelia Antos Living Trust dated April 26, 2007 ("Antos") real property located in Clark
22 County, Nevada commonly known as 5148 Spanish Heights Drive, Las Vegas, Nevada 89148
23 (the "Property").
24
25
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28

1 8. On or about June 22, 2012, Antos with nonparties KCI Investments, LLC a Nevada
2 limited liability company ("KCI") entered into a Secured Promissory Note with CBC Partners I,
3 LLC, a Washington limited liability company ("CBCI").
4

5 9. The June 22, 2012, Secured Promissory Note (the "Note") was modified and
6 amended several times.

7 10. On or about December 29, 2014, a Deed of Trust, Assignment of Rents, Security
8 Agreement and Fixture Filing ("Deed of Trust") was recorded against the Property in the Clark
9 County Recorder's Office as Instrument No. 201412290002856, for the purpose of securing the
10 Note. The balance due is approximately \$5,578,459.15 (\$2,935,001.14 for principal, pre-
11 forbearance protection payments of \$1,326,744.55, interest and late charges of \$1,315,105.24 and
12 interest accrued at the rate of 20% in the amount of \$1,608.22 per day from April 1, 2020, *May*
13 *14, 2020 Evidentiary Hearing Exhibit A-003-004*).
14

15 11. This Deed of Trust is subordinate to two (2) additional Deeds of Trust recorded
16 against the Property. The First Mortgage to City National is in the principal amount of
17 \$3,240,000.00 with monthly payment of \$19,181.07. The Second Mortgage to Northern Trust
18 Bank is in the principal amount of \$599,000.00 with monthly payments of \$3,034.00.
19

20 12. The Deed of Trust was subsequently modified on July 22, 2015 and on December
21 19, 2016 as recorded in the Clark County Recorder's Office Instrument No.'s 201507220001146
22 and 201612190002739 respectively.
23

24 13. On or about September 27, 2017, Antos, SHAC and Counterdefendant SJC
25 Ventures, LLC ("SJCVC") entered into a Forbearance Agreement of the Note, acknowledging
26 default and affirming CBCI has fully performed.
27

28 ///

1 14. As part of the Forbearance Agreement Antos conveyed the Property to SHAC and
2 SHAC leased the property to SJCVC.

3 15. As part of the Forbearance Agreement SHAC would lease the Property to SJCVC
4 the lease contained a Consent to Lease between SHAC and CBCI.

5 16. Paragraph 2 of the Consent to Lease states: "In the event CBCI... or otherwise
6 exercises its rights under the Forbearance Agreement, CBCI may terminate the Lease."

7 17. Pursuant to the terms of the Forbearance Agreement SHAC was to make certain
8 payments to CBCI and other parties. In addition, a balloon payment of the total amount owing
9 was due on August 31, 2019.

10 18. As part of the Forbearance Agreement there were certain requirements of SHAC
11 attached as Exhibit B to the Forbearance Agreement. Among the certain requirements was the
12 understanding that the First Lien holder would pay the real property taxes, that CBCI would pay
13 the 1st and 2nd Mortgage payments to prevent default, that SHAC would make certain repairs and
14 improvements to the Property in approximately the amount of \$100,000.00, SHAC would deposit
15 \$150,000.00 with Bank of America and replenish the account and provide CBCI with an Account
16 Control Agreement; SHAC would maintain the Property, and SHAC would pay for a customary
17 homeowner's insurance policy and all Homeowner's Association dues.

18 19. On or about August 4, 2017, SHAC was organized with the initial members being
19 SJCVC, CBC Partners, LLC, and Antos.

20 20. On or about August 9, 2017, CBC Partners resigned as a member of SHAC.

21 21. In addition to the certain requirements of the Forbearance Agreement there was
22 certain pledged collateral. Among the pledged collateral Antos and SJCVC pledged 100% of the
23 membership interest in SHAC, the Pledge Agreement.

22. The Pledge Agreement was between Antos and SJCVC as Pledgors and CIBC as the Secured Party and was dated September 27, 2017.

23. Pursuant to the Pledge Agreement, Antos and SJCV and pledged all right, title and interest in and to 100% of their membership inters of SHAC to CBCI.

24. In addition to pledging membership interest the Pledgors agreed to not “sell, assign (by operation of law or otherwise) or otherwise dispose of, or grant any option with respect to, any of the Pledged Collateral...”

25. SJC Ventures, LLC has done none of the required acts to fulfill its obligations under the Operating Agreement and Pledge Agreements.

26. Plaintiff/Counterdefendant, SJC Ventures, LLC is in default of the Operating Agreement.

27. Defendant/Counterclaimant, 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 have been damaged in an amount in excess of \$15,000.00 and is entitled to rescission.

FIRST CLAIM FOR RELIEF

Breach of Contract

28. Defendants/Counterclaimants repeat and reallege each and every allegation set forth in Paragraphs 1 through 27 above and incorporates the same by reference as though fully set forth herein.

29. Counterdefendant has breached the Operating Agreement by failing to perform the terms of the Agreement.

/ / /

30. Counterdefendant's actions are in breach of the duties owed to Counterclaimants and Counterdefendant has violated the Agreements.

31. Counterdefendant did not compensate Counterclaimants under the terms of the Agreement, and Defendants/Counterclaimants are entitled to rescission of the Agreement and mandatory damages in excess of \$15,000.00.

32. Counterclaimants are entitled to be compensated for the reasonable attorneys' fees and costs incurred in the prosecution of this action.

SECOND CLAIM FOR RELIEF

Breach of Covenant of Good Faith and Fair Dealing

33. Defendants/Counterclaimants hereby repeat and reallege each allegation contained in paragraphs 1 through 20 of this Countercomplaint and incorporate the same herein by reference as though fully set forth herein.

34. It is well settled in Nevada that every contract imposes upon the contracting parties the duty of good faith and fair dealing.

35. Counterdefendant owed Counterclaimants a duty of good faith and fair dealing.

36. Counterdefendant breached the duty of good faith and fair dealings when they performed in a manner that was unfaithful to the purpose of the Agreements and to the justified expectations of Counterclaimants by failing to satisfy the outstanding balance owed to Counterclaimants.

37. As a direct and proximate result of Counterdefendant's breach of the implied covenant of good faith and fair dealing, Counterclaimants have been damaged in any amount in excess of fifteen thousand dollars (\$15,000.00), the exact amount of which will be the subject of proof at trial.

38. Counterdefendant's breaches of their contractual duties were intentionally done to injure Counterclaimants with a willful and conscious disregard for Counterclaimants' rights,

1 constituting oppression, fraud and/or malice.

2 39. Counterclaimants, in addition to compensatory damages, is entitled to recover all
3 attorney's fees it has reasonably incurred and to recover punitive damages for the sake of
4 example and by way of punishing Counterdefendant to deter similar conduct in the future.

5 **THIRD CLAIM FOR RELIEF**

6 **Alter Ego**

7 40. Defendants/Counterclaimants hereby repeat and reallege each allegation
8 contained in paragraphs 1 through 39 of this Countercomplaint and incorporate the same herein
9 by reference as though fully set forth herein.

10 41. Defendants/Counterclaimants are informed and believe and thereupon allege that
11 Counterdefendant, SJC Ventures, LLC was at all times relevant hereto a Delaware Limited
12 Liability Company.

13 42. Plaintiff is informed and believes and thereupon alleges that, in addition to being
14 the Manager of said corporation, Counterdefendant, Jay Bloom, was also the sole owner of said
15 company, and that at all times material hereto said company and businesses existed only as the
16 alter egos of Bloom, and that said company and businesses functioned merely as shells,
17 instrumentalities, and conduits through which Bloom has carried out his business under the
18 corporate and business name exactly as he would have conducted business without
19 incorporation; that Bloom exercised complete control and dominion over said corporations and
20 businesses to such an extent that no practical or real separateness has existed between these
21 named Counterclaimants; that Bloom has at all times material hereto used this legal fiction to
22 avoid payment of the obligations sued upon herein by Counterclaimant, for which Bloom is
23 liable personally by reason of these acts.

24 **PRAYER**

25 WHEREFORE, Defendant prays for judgment as follows:

26 1. That Plaintiffs take nothing by way of their claims, and the same be dismissed with
27 prejudice;

28 2. That Defendants be awarded their attorneys' fees and costs incurred in the defense

1 of this action;


2 3. That Defendants/Counterclaimants be awarded rescission of the Spanish Heights
3 Acquisition Company, LLC's Operating Agreement.

4 4. That Defendants/Counterclaimants be awarded damages in excess of \$15,000.00
5 as proven at trial.

6 5. Such other and further relief as the Court deems just and proper.

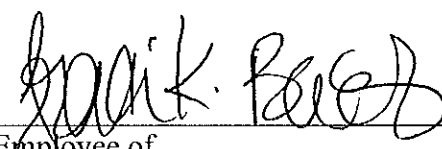
7 DATED this 30 day of September, 2020

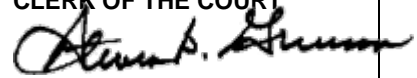
8 MUSHKIN & COPPEDGE

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10 
11 MICHAEL R. MUSHKIN, ESQ.
12 Nevada Bar No. 2421
13 L. JOE COPPEDGE, ESQ.
14 Nevada Bar No. 4954
15 6070 South Eastern Ave Ste 270
16 Las Vegas, NV 89119

17 **CERTIFICATE OF SERVICE**

18 I hereby certify that the foregoing **Defendants Sheila Antos and Kenneth Antos, as**
19 **Trustees of the Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila**
20 **M. Neumann-Antos Trust Answer to First Amended Complaint** was submitted electronically
21 for filing and/or service with the Eighth Judicial District Court on this 30 day of September,
22 2020. Electronic service of the foregoing document shall be upon all parties listed on the Odyssey
eFileNV service contact list:

23
24 
25 An Employee of
26 MUSHKIN & COPPEDGE
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NEOJ

JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

DANIELLE J. BARRAZA, ESQ.

Nevada Bar No. 13822

MAIER GUTIERREZ & ASSOCIATES

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djb@mgalaw.com

Attorneys for Plaintiffs

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

NOTICE OF ENTRY OF ORDER

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD.

YOU AND EACH OF YOU will please take notice that a **TEMPORARY RESTRAINING**

1 **ORDER** was hereby entered on the 5th day of January, 2021. A copy of which is attached hereto.

2 DATED this 5th day of January, 2021.

3 Respectfully submitted,

4 **MAIER GUTIERREZ & ASSOCIATES**

5 /s/ Danielle J. Barraza

6 JOSEPH A. GUTIERREZ, ESQ.

7 Nevada Bar No. 9046

8 DANIELLE J. BARRAZA, ESQ.

9 Nevada Bar No. 13822

8816 Spanish Ridge Avenue

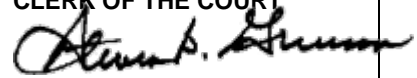
Las Vegas, Nevada 89148

Attorneys for Plaintiffs

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Michael R. Mushkin, Esq.
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6070 South Eastern Avenue, Suite 270
Las Vegas, Nevada 89119
*Attorneys for Defendants CBC Partners I, LLC, CBC Partners, LLC,
5148 Spanish Heights, LLC, and Dacia LLC*

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TRO

JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

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Attorneys for Plaintiffs

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.

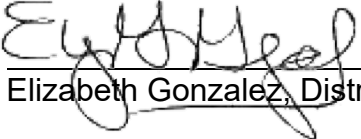
10 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants, together with
11 any and all of their affiliates, agents, employees, and attorneys, are immediately and until after the
12 hearing on Plaintiffs’ motion for preliminary injunction, ordered to vacate and not proceed with the
13 foreclosure 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 NRC 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 
14 Elizabeth Gonzalez, District Court Judge

January 5, 2021

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

20 JOSEPH A. GUTIERREZ, ESQ.
21 Nevada Bar No. 9046
22 DANIELLE J. BARRAZA, ESQ.
23 Nevada Bar No. 13822
24 8816 Spanish Ridge Avenue
25 Las Vegas, Nevada 89148
26 *Attorneys for Plaintiffs*

MICHAEL R. MUSHKIN, ESQ.
Nevada Bar No. 2421
L. JOE COPPEDGE, ESQ.
Nevada Bar No. 4954
6070 South Eastern Avenue, Suite 270
Las Vegas, Nevada 89119
*Attorneys for Defendants CBC Partners I, LLC,
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

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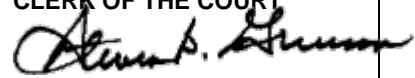
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<TRO re renewed motion for injunctive relief.docx>

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TRO

JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

DANIELLE J. BARRAZA, ESQ.

Nevada Bar No. 13822

MAIER GUTIERREZ & ASSOCIATES

8816 Spanish Ridge Avenue

Las Vegas, Nevada 89148

Telephone: 702.629.7900

Facsimile: 702.629.7925

E-mail: jag@mgalaw.com
djb@mgalaw.com

Attorneys for Plaintiffs

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
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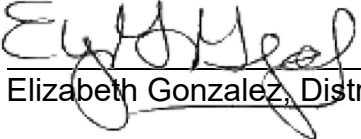
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MUSHKIN & COPPEDGE

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/s/ Michael R. Mushkin

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Fill in this information to identify your case:

United States Bankruptcy Court for the:

DISTRICT OF NEVADA

Case number (if known)

Chapter **11**☐ Check if this an amended filing**Official Form 201****Voluntary Petition for Non-Individuals Filing for Bankruptcy**

04/20

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

1. Debtor's name **SPANISH HEIGHTS ACQUISITION COMPANY, LLC**

2. All other names debtor used in the last 8 years

Include any assumed names, trade names and *doing business as* names

3. Debtor's federal Employer Identification Number (EIN) **82-2350707**

4. Debtor's address

Principal place of business

Mailing address, if different from principal place of business

**5148 Spanish Heights Drive
Las Vegas, NV 89148-1422**

Number, Street, City, State & ZIP Code

P.O. Box, Number, Street, City, State & ZIP Code

Clark

County

Location of principal assets, if different from principal place of business

Number, Street, City, State & ZIP Code

5. Debtor's website (URL)

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))☐ Partnership (excluding LLP)☐ Other. Specify:

Debtor **SPANISH HEIGHTS ACQUISITION COMPANY, LLC**
Name

Case number (if known)

7. Describe debtor's business A. Check one:

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. Check all that apply

- ☐ Tax-exempt entity (as described in 26 U.S.C. §501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. §80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. §80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor.
See <http://www.uscourts.gov/four-digit-national-association-naics-codes>.

8. Under which chapter of the Bankruptcy Code is the debtor filing?

Check one:

- ☐ Chapter 7
- ☐ Chapter 9

☒ Chapter 11. Check all that apply:

A debtor who is a "small business debtor" must check the first sub-box. A debtor as defined in § 1182(1) who elects to proceed under subchapter V of chapter 11 (whether or not the debtor is a "small business debtor") must check the second sub-box.

- ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,725,625. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
- ☐ The debtor is a debtor as defined in 11 U.S.C. § 1182(1), its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$7,500,000, **and it chooses to proceed under Subchapter V of Chapter 11**. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return, or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
- ☐ A plan is being filed with this petition.
- ☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
- ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
- ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

- ☒ No.
- ☐ Yes.

If more than 2 cases, attach a separate list.

District	When	Case number
District	When	Case number

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

- ☒ No
- ☐ Yes.

List all cases. If more than 1, attach a separate list

Debtor	Relationship
District	When
	Case number, if known

Debtor **SPANISH HEIGHTS ACQUISITION COMPANY, LLC**
Name

Case number (if known)

11. Why is the case filed in this district?*Check all that apply:*

- ☒ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
- ☐ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?☒ No☐ Yes.

Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (Check all that apply.)☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? _____

☐ It needs to be physically secured or protected from the weather.☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).☐ Other _____**Where is the property?**

Number, Street, City, State & ZIP Code _____

Is the property insured?☐ No☐ Yes. Insurance agency _____

Contact name _____

Phone _____

Statistical and administrative information**13. Debtor's estimation of available funds***Check one:*

- ☒ Funds will be available for distribution to unsecured creditors.
- ☐ After any administrative expenses are paid, no funds will be available to unsecured creditors.

14. Estimated number of creditors☒ 1-49☐ 50-99☐ 100-199☐ 200-999☐ 1,000-5,000☐ 5001-10,000☐ 10,001-25,000☐ 25,001-50,000☐ 50,001-100,000☐ More than 100,000**15. Estimated Assets**☐ \$0 - \$50,000☐ \$50,001 - \$100,000☐ \$100,001 - \$500,000☐ \$500,001 - \$1 million☒ \$1,000,001 - \$10 million☐ \$10,000,001 - \$50 million☐ \$50,000,001 - \$100 million☐ \$100,000,001 - \$500 million☐ \$500,000,001 - \$1 billion☐ \$1,000,000,001 - \$10 billion☐ \$10,000,000,001 - \$50 billion☐ More than \$50 billion**16. Estimated liabilities**☒ \$0 - \$50,000☐ \$50,001 - \$100,000☐ \$100,001 - \$500,000☐ \$500,001 - \$1 million☐ \$1,000,001 - \$10 million☐ \$10,000,001 - \$50 million☐ \$50,000,001 - \$100 million☐ \$100,000,001 - \$500 million☐ \$500,000,001 - \$1 billion☐ \$1,000,000,001 - \$10 billion☐ \$10,000,000,001 - \$50 billion☐ More than \$50 billion

Fill in this information to identify the case:Debtor name **SPANISH HEIGHTS ACQUISITION COMPANY, LLC**United States Bankruptcy Court for the: **DISTRICT OF NEVADA**

Case number (if known): _____

☐ Check if this is an
amended filing**Official Form 204****Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders**

12/15

A list of creditors holding the 20 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 20 largest unsecured claims.

Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
NV Energy PO Box 30150 Reno, NV 89520-3086						\$610.00
NVEnergy PO Box 30150 Reno, NV 89520-3086		Power Bill				\$518.00
SJC Ventures LLC c/o US Corp Agents INC. 500 N. Rainbow Blvd. #300 Las Vegas, NV 89107						\$8,250.00

Debtor **SPANISH HEIGHTS ACQUISITION COMPANY, LLC**
Name

Case number (if known)

Request for Relief, Declaration, and Signatures

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

**17. Declaration and signature
of authorized
representative of debtor**

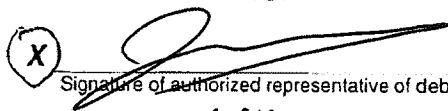
The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I have been authorized to file this petition on behalf of the debtor.

I have examined the information in this petition and have a reasonable belief that the information is true and correct.

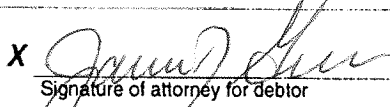
I declare under penalty of perjury that the foregoing is true and correct.

Executed on 2/3/2021
MM/DD/YYYY

(X) 
Signature of authorized representative of debtor

L. Blum
Printed name

Title Mgr of SJC & mgr of Spanish Heights**18. Signature of attorney**

X 
Signature of attorney for debtor

Date 2/3/2021
MM/DD/YYYY

James D. Greene
Printed name

Greene Infuso, LLP
Firm name

3030 South Jones Boulevard
Suite 101
Las Vegas, NV 89146
Number, Street, City, State & ZIP Code

Contact phone (702) 570-6000Email address JGreene@greeneinfusolaw.com2647 NV

Bar number and State

**WRITTEN CONSENT OF THE SOLE MANAGER AND MAJORITY
MEMBER OF SPANISH HEIGHTS ACQUISITION CO., LLC**

The undersigned, being the sole manager and majority member of Spanish Heights Acquisition Co., LLC ("Company"), does hereby waive any and all requirements for calling, giving notice of, and holding a special meeting and, in lieu of such meeting, does hereby consent to, approve of and adopt the following resolutions:

RESOLVED that it is in the best interests of the Company, its creditors, its members and other interested parties to authorize the Manager of the Company, if it is determined to be best to do so, to cause to be filed a petition seeking relief under the provisions of Chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Nevada ("Bankruptcy Court"), which shall commence the "Chapter 11 Filing"; and it is

FURTHER RESOLVED that the Manager of the Company, Jay Bloom in his capacity as Manager and owner of SJC Ventures Holdings, LLC ("Manager"), is hereby appointed to act as the designated representative of the Company in connection with the Chapter 11 Filing, to execute any and all appropriate papers and to take any actions he deems appropriate to prosecute the bankruptcy case resulting from the Chapter 11 Filing ("Bankruptcy Case");

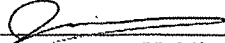
FURTHER RESOLVED that all actions taken by the Manager of the Company with respect to the Chapter 11 Filing and all matters and actions taken during, and in connection with, the Bankruptcy Case are hereby in all respects authorized, approved, ratified, confirmed and adopted as the acts of the Company; and it is

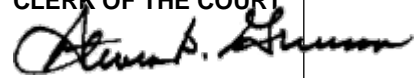
FURTHER RESOLVED that the Manager is authorized to retain the law firm of Greene Infuso, LLP ("Counsel") as counsel for the Company in connection with consultations regarding, and preparation for the Chapter 11 Filing and for conducting the Bankruptcy Case, and to execute an appropriate engagement agreement with Counsel, to pay Counsel an appropriate retainer, and to cause to be filed an appropriate application with the Bankruptcy Court for authority to retain Counsel pursuant to applicable provisions of the Bankruptcy Code; and it is

FURTHER RESOLVED that the Company is authorized and directed to employ any other firm(s) as professionals or consultants to the Company as are deemed necessary to represent and assist the Company in carrying out its duties under the Bankruptcy Code and, in connection therewith, the Company is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers prior to and following the Chapter 11 Filing, and to cause to be filed appropriate applications to retain the services of such firms(s).

IN WITNESS WHEREOF, the undersigned has executed this Written Consent of the Sole Manager and Majority Member of Spanish Heights Acquisition Co., LLC effective as of this 31st day of December, 2020.

SPANISH HEIGHTS ACQUISITIONS CO. LLC
A Nevada limited liability company


By: SJC Ventures Holdings, LLC
Its Manager and Majority Member



1 FFCL

2
3 **DISTRICT COURT**

4 **CLARK COUNTY, NEVADA**

5 SPANISH HEIGHTS ACQUISITION
6 COMPANY, LLC, a Nevada Limited Liability
7 Company; SJC VENTURES HOLDING
8 COMPANY, LLC, d/b/a SJC VENTURES,
9 LLC, a Delaware Limited Liability Company,

10 Plaintiffs,

11 v.

12 CBC PARTNERS I, LLC, a foreign Limited
13 Liability Company; CBC PARTNERS, LLC, a
14 foreign Limited Liability Company; 5148
15 SPANISH HEIGHTS, LLC, a Nevada Limited
16 Liability Company; KENNETH ANTOS AND
17 SHEILA NEUMANN-ANTOS, as Trustees of
18 the Kenneth & Sheila Antos Living Trust and
19 the Kenneth M. Antos & Sheila M. Neumann-
20 Antos Trust; DACIA, LLC, a foreign Limited
21 Liability Company; DOES I through X; and
22 ROE CORPORATIONS I through X,
23 inclusive,

24 Defendants.

Case No. A-20-813439-B

Dept. No.: XI

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

25 5148 SPANISH HEIGHTS, LLC, a Nevada
26 limited liability company; and CBC
27 PARTNERS I, LLC, a Washington limited
28 liability company,

Counterclaimants,

v.

SPANISH HEIGHTS ACQUISITION
COMPANY, LLC, a Nevada Limited Liability
Company; SJC VENTURES, LLC, a Delaware
limited liability company; SJC VENTURES
HOLDING COMPANY, LLC, a Delaware
limited liability company; JAY BLOOM,
individually and as Manager, DOE

1 DEFENDANTS 1-10; and ROE
2 DEFENDANTS 11-20,
3 Counterdefendants.

4 FINDINGS OF FACT AND CONCLUSIONS OF LAW

5 This matter having come on for preliminary injunction and consolidated non-jury trial on
6 related issues pursuant to NRCP 65(a)(2)¹ before the Honorable Elizabeth Gonzalez beginning
7 on February 1, 2021, February 2, 2021 , February 3, 2021,² and March 15, 2021; Plaintiffs
8 SPANISH HEIGHTS ACQUISITION COMPANY, LLC, (“Spanish Heights”)³ and SJC
9 VENTURES HOLDING COMPANY, LLC, d/b/a SJC VENTURES, LLC (“SJCVC”) appearing
10 by and through their representative Jay Bloom and their counsel of record JOSEPH A.
11 GUTIERREZ, ESQ. and DANIELLE J. BARRAZA, ESQ. of the law firm of MAIER
12

13
14
15 ¹ Pursuant to NRCP 65(a)(2), the parties have stipulated that the following legal issues surrounding the
16 claims and counterclaims are advanced for trial to be heard in conjunction with the hearing on the preliminary
17 injunction hearing:

- 18 a) Contractual interpretation and/or validity of the underlying “Secured Promissory Note” between
19 CBC Partners I, LLC, and KCI Investments, LLC, and all modifications (Counterclaim First, Fourth,
20 Ninth, and Twelfth Claim for Relief);
21 b) Interpretation and/or validity of the claimed third-position Deed of Trust and all modifications
22 thereto, and determination as to whether any consideration was provided in exchange for the Deed of Trust
23 (Counterclaim First, Fourth, Ninth, and Twelfth Claim for Relief);
24 c) Contractual interpretation and/or validity of the Forbearance Agreement, Amended Forbearance
25 Agreement and all associated documents/contracts (Counterclaim First, Fourth, Ninth, and Twelfth Claim
26 for Relief);
27 d) Whether the Doctrine of Merger applies to the claims at issue (Amended Complaint Fourth,
28 Seventh Cause of Action); and
e) Whether the One Action Rule applies to the claims at issue (Amended Complaint Third Cause of
Action).

The injunctive relief claims are contained in the Amended Complaint Sixth Cause of Action.

² The Court was advised on February 3, 2021, that Spanish Heights filed for bankruptcy protection. The
Court suspended these proceedings and stayed the matter for 30 days as to all parties for Defendants to seek relief
from the stay. As no order lifting the stay has been entered by the Bankruptcy Court, nothing in this order creates
any obligations or liabilities directly related to Spanish Heights; however, factual findings related to Spanish Heights
are included in this decision. The term “Plaintiffs” as used in these Findings of fact and Conclusions of Law is not
intended to imply any action by this Court against the debtor, Spanish Heights.

³ As a result of the bankruptcy filing, Spanish Heights did not participate in these proceedings on March 15,
2021.

1 GUTIERREZ & ASSOCIATES and Defendants CBC PARTNERS I, LLC, CBC PARTNERS,
2 LLC, appearing by and through its representative Alan Hallberg (“Hallberg”); 5148 SPANISH
3 HEIGHTS, LLC, KENNETH ANTOS and SHEILA NEUMANN-ANTOS, as Trustees of the
4 Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila M. Neumann-Antos
5 Trust; DACIA, LLC, (collectively “Defendants”) all Defendants appearing by and through their
6 counsel of record MICHAEL R. MUSHKIN, ESQ. and L. JOE COPPEDGE, ESQ. of the law
7 firm of MUSHKIN & COPPEDGE; the Court having read and considered the pleadings filed by
8 the parties; having reviewed the evidence admitted during the trial; having heard and carefully
9 considered the testimony of the witnesses called to testify and weighing their credibility; having
10 considered the oral and written arguments of counsel, and with the intent of rendering a decision
11 on the limited claims before the Court at this time, pursuant to NRCp 52(a) and 58; the Court
12 makes the following findings of fact and conclusions of law:

15 **I. Procedural Posture**

16 On April 9, 2020, the original complaint was filed and a Temporary Restraining Order
17 was issued without notice by the then assigned judge.⁴

19 Spanish Heights and SJCV initiated this action against CBC PARTNERS I, LLC, CBC
20 PARTNERS, LLC, 5148 SPANISH HEIGHTS, LLC, KENNETH ANTOS AND SHEILA
21 NEUMANN-ANTOS, as Trustees of the Kenneth & Sheila Antos Living Trust and the Kenneth
22 M. Antos & Sheila M. Neumann-Antos Trust (“Antos Trust”); DACIA, LLC, with the First
23 Amended Complaint being filed on May 15, 2020.

25 By Order filed May 29, 2020, the Court granted Plaintiffs’ Motion for Preliminary
26 Injunction on a limited basis that remained in effect until after expiration of the Governor’s
27

28 ⁴ This matter was reassigned to this department after an April 13, 2020, Request for Transfer to Business Court was made by the Defendants.

1 Emergency Directive 008.

2 On June 10, 2020, defendants CBC PARTNERS I, LLC, CBC PARTNERS, LLC, and
3 5148 Spanish Heights, LLC, filed their answer to the first amended complaint.

4 Defendants CBC PARTNERS I, LLC, and 5148 Spanish Heights, LLC, have also filed a
5 counterclaim against plaintiffs, and Jay Bloom.

6
7 On September 3, 2020, Defendant Antos Trust filed an answer and counterclaim against
8 SJCVC, which SJCVC answered on September 28, 2020.⁵

9 **II. Findings of Fact**

10 1. This action involves residential real property located at 5148 Spanish Heights
11 Drive, Las Vegas, Nevada 89148, with Assessor's Parcel Number 163-29-615-007 ("Property").

12 2. The original owners of the Property were Kenneth and Sheila Antos as joint
13 tenants, with the original deed recorded in April 2007.

14 3. On or about October 14, 2010, Kenneth M. Antos and Sheila M. Neumann-Antos
15 (collectively, "Antos") transferred the Property to Kenneth M. Antos and Sheila M. Neumann-
16 Antos, as Trustees of the Kenneth and Shelia Antos Living Trust dated April 26, 2007 (the
17 "Antos Trust", and together with "Antos", the "Antos Parties").

18 4. Nonparty City National Bank is the beneficiary of a first-position Deed of Trust
19 recorded on the Property.

20 5. Nonparty Northern Trust Bank is the beneficiary of a second-position Deed of
21 Trust recorded on the Property.

22 6. The Property is currently owned by Spanish Heights⁶ which has entered into a
23
24

25
26
27 _____
28 ⁵ The Antos have a pending motion for summary judgment.

⁶ The manager of Spanish Heights is SJCVC.

1 written lease agreement with SJC.V.⁷

2 7. Although the Property is residential, it is not owner occupied, but is occupied by
3 Jay Bloom (“Mr. Bloom”) and his family.

4 8. On or about June 22, 2012, nonparty KCI entered into a Secured Promissory Note
5 (the “Note”) with CBC Partners I, LLC, a Washington limited liability company (“CBCI”).
6

7 9. The Note memorialized a \$300,000 commercial loan that CBCI made to Antos’
8 restaurant company KCI to be used for the restaurant business.

9 10. On or around June 22, 2012, Kenneth and Sheila Antos, in their individual
10 capacities, signed a “Guaranty” in which they personally guaranteed payment of the Note.
11

12 11. The Note was secured by a “Security Agreement” dated June 22, 2012, where the
13 security interest includes KCI’s intellectual property, goods, tools, furnishings, furniture,
14 equipment and fixtures, accounts, deposit accounts, chattel paper, and receivables.

15 12. The Property was not included as collateral for the original Note.

16 13. The Note was modified and amended several times.

17 14. On November 13, 2013, a Fourth Modification to Secured Promissory Note
18 (“Fourth Modification”) was executed.
19

20 15. Paragraph 4 of the Fourth Modification amended Paragraph 6.12 of the Note as
21 follows:

22 6.12 Antos Debt. Permit guarantor Kenneth M. Antos (“Antos”) to incur,
23 create, assume or permit to exist any debt secured by the real property
24 located at 5148 Spanish Heights Drive, Las Vegas, Nevada 89148.

25 16. Along with the Fourth Modification, the Antos Trust provided a Security
26 Agreement with Respect to Interest in Settlement Agreement and Mutual Release (the “Security
27

28 ⁷ The manager of SJC.V. is Bloom.

1 Agreement”).

2 17. This Security Agreement not only granted a security interest in a Settlement
3 Agreement, but also contained certain Representations, Warranties and Covenants of the Antos
4 Parties, including:

5 3.3 Sale, Encumbrance or Disposition. Without the prior written consent
6 of the Secured Party, Antos will not (a) allow the sale or encumbrance of
7 any portion of the Collateral and (b) incur, create, assume or permit to
8 exist any debt secured by the real property located at 5148 Spanish
9 Heights Drive, Las Vegas, NV 89148, other than the first and second
position deeds of trust or mortgages...

10 18. KCI was acquired by Preferred Restaurant Brands, Inc. formerly known as Dixie
11 Foods International, Inc. (“Dixie”).

12 19. The Note was assumed by Dixie with the Antos Parties continuing to guaranty the
13 obligation.

14 20. On or about October 31, 2014, a Seventh Modification to Secured Promissory
15 Note and Waiver of Defaults (“Seventh Modification”) was entered.

16 21. CBCI determined that prior to extension of additional credit; additional security
17 was required to replace a previously released security interest in other collateral.
18

19 22. Paragraph 18(f) of the Seventh Modification provided for a condition precedent:
20

21 Execution and delivery by Kenneth M. Antos and Sheila M. Neumann-
22 Antos, as Trustees of the Kenneth and Sheila Antos Living Trust dated
23 April 26, 2007, and any amendments thereto (the “Antos Trust”) to Lender
24 of a Deed of Trust on the real property located at 5148 Spanish Heights
Drive, Las Vegas, Nevada 89148 (the “Real Property”), in form and
substance satisfactory to Lender in its sole discretion.

25 23. On or about December 17, 2014, the Antos Trust delivered to CBCI a Certificate
26 of Trust Existence and Authority (“Certificate of Trust”).

27 24. The Certificate of Trust provides in part:

28 Kenneth M. Antos and Sheila M. Neumann-Antos, as trustees (each, a

1 “Trustee”) acting on behalf of the Trust, are each authorized and
2 empowered in the name of the Trust without the approval or consent of the
other Trustee, the beneficiaries, or any other person:

3 To execute and deliver a Deed of Trust, Assignment of Rents,
4 Security Agreement and Fixture Filing (the “Deed of Trust”), to
5 secure (i) obligations owing to Lender by KCI Investments, LLC, a
6 Nevada limited liability company, and Preferred Restaurant
7 Brands, Inc., a Florida corporation (individually and collectively,
8 “Borrower”), (ii) that certain Secured Promissory Note dated as of
9 June 22, 2012, in the maximum principal amount of \$3,250,000.00
10 (the “Note”) executed by Borrower in favor of Lender, (iii) that
11 certain Guaranty dated June 22, 2012, executed by the Grantors as
12 individuals and not in their capacity as trustees, and (iv) the other
13 documents and instruments executed or delivered in connection
14 with the foregoing.

15 25. The Certificate of Trust further provides:

16 The Deed of Trust and Lender’s provision of credit under the terms of the
17 Note will directly and indirectly benefit the Trust and its beneficiaries.

18 The Trustees of the Trust have the authority to enter into the transactions
19 with respect to which this Certificate is being delivered, and such
20 transactions will create binding obligations on the assets of the Trust.

21 26. On or about December 29, 2014, a Deed of Trust, Assignment of Rents, Security
22 Agreement and Fixture Filing (the “Deed of Trust”) was recorded against the Property in the
23 Clark County Recorder’s Office as Instrument No. 201412290002856 for the purpose of
24 securing the Note.

25 27. The revocable trust indirectly benefitted from this additional credit that was
26 issued to Antos and his business by CBCI.

27 28. The Deed of Trust is subordinate to the first mortgage to City National in the
28 principal amount of approximately \$3,240,000.00 with a monthly payment of \$19,181.07, and a
second mortgage to Northern Trust Bank in the principal amount of approximately \$599,000.00
with monthly payments of \$3,034.00.

29 29. On or about April 30, 2015, a Ninth Modification to Secured Promissory Note

1 and Waiver of Defaults (“Ninth Modification”) was executed.

2 30. Paragraph 14(c) of the Ninth Modification provides for a condition precedent as
3 follows:

4 Execution by the Trustees of the Kenneth and Sheila Antos Living Trust
5 dated April 26, 2007, and any amendments thereto, and delivery to Lender
6 of the Correction to Deed of Trust Assignment of Rents, Security
7 Agreement and Fixture Filing, in form and substance satisfactory to
8 Lender.

9 31. On July 22, 2015, a Correction to Deed of Trust, Assignment of Rent, Security
10 Agreement and Fixture Filing (“Correction to Deed of Trust”) was recorded in the Clark County
11 Recorder’s Office as Instrument No. 201507220001146.

12 32. This Correction to Deed of Trust modified Paragraph One of the Deed of Trust to
13 read:

14 One: Payment of any and all amounts (collectively, the “Guarantied
15 Obligations”) due and owing by Trustor under that certain Guaranty from
16 Kenneth Antos and Sheila Antos (individually and collectively,
17 “Guarantor”) dated June 22, 2012, in favor of Beneficiary (the
18 “Guaranty”), guarantying the indebtedness evidenced by that certain
19 Secured Promissory Note (and any renewals, extensions, modifications
20 and substitutions thereof) (collectively, the “Note”), executed by KCI
21 Investments, LLC, a Nevada limited liability company, and Preferred
22 Restaurant Brands, Inc., a Florida corporation (individually and
23 collectively, “Borrower”), dated June 22, 2012, as modified, in the
24 maximum principal sum of THREE MILLION AND NO/100 DOLLARS
25 (\$3,000,000.00), together with interest thereon, late charges and collection
26 costs as provided in the Note.

27 33. On or about December 2, 2016, CBCI sold a portion of the monetary obligations
28 of the Note in the amount of \$15,000.00 to Southridge Partners II, LP.

34. On or about December 2, 2016, CBCI and KCI entered into a Forbearance
Agreement.

35. As part of the Forbearance Agreement, the Antos Trust executed a Consent,
Reaffirmation, and General Release by the Trust wherein the Antos Trust agreed

1 to join in and be bound to the terms of the Representations and Warranties
2 contained in Sections 4 and 7, and the General Release contained in
3 Section 8 of the Agreement applicable as though the Trust were a Credit
4 Party.

5 36. On or about December 2, 2016, a Tenth Modification to Secured Promissory Note
6 (“Tenth Modification”) was entered into.

7 37. Paragraph 6(e) of the Tenth Modification provides for a condition precedent as
8 follows:

9 Delivery to Lender of a duly executed First Modification to Deed of Trust,
10 Assignment of Rents, Security Agreement and Fixture Filing, by Kenneth
11 M. Antos and Sheila M. Neumann-Antos, Trustees of the Kenneth and
12 Sheila Antos Living Trust dated April 26, 2007, and any amendments
13 thereto, as trustor, related to that certain Deed of Trust, Assignment of
14 Rents, Security Agreement and Fixture Filing made December 17, 2014,
15 and recorded in the Official Records of Clark County, Nevada, on
16 December 29, 2014, as instrument number 20141229-0002856.

17 38. On December 19, 2016, the First Modification to Deed of Trust, Assignment of
18 Rents, Security Agreement and Fixture Filing was recorded in the Clark County Recorder’s
19 Office as Instrument No. 201612190002739.

20 39. On or about July 21, 2017, Mr. Bloom proposed to service the CBCI Note in
21 exchange for the ownership in the Property. Specifically, Mr. Bloom wrote,

22 My thought is that this proposal gets the 3rd lender:

- 23 • a full recovery of its Note balance plus all protective advances past and future,
- 24 • interim cash flow and
- 25 • provides interim additional full collateral where, given the current value of the
26 property, the 3rd position lender is currently unsecured.

27 As to the Seller, he:

- 28 • gets out from under a potential deficiency judgment from the 3rd position
lender and
- unburdens himself from any additional assets that may have been pledged.

40. Spanish Heights was created to facilitate this transaction.

41. On September 27, 2017, CBCI, the Antos Trust, Spanish Heights and Mr.

1 Bloom's company, SJCVC, entered into the 2017 Forbearance Agreement.

2 42. The September 27, 2017 Forbearance Agreement indicates that Mr. Bloom's
3 company Spanish Heights intends to acquire the Property and make certain payments to CBCI
4 pursuant to the terms of the 2017 Forbearance Agreement.

5 43. Mr. Bloom testified that he was not provided with a complete set of documents
6 reflecting the prior transactions between the Antos and KCI⁸ and that misrepresentations were
7 made regarding the prior transactions by CBCI.

8 44. In the 2017 Forbearance Agreement, the Antos Parties, Spanish Heights and
9 SJCVC acknowledged default and affirmed CBCI has fully performed.

10 45. The 2017 Forbearance Agreement contains an acknowledgement that the prior
11 agreements between the Antos and CBCI are valid.

12
13
14 Par. 8.7 Enforceable Amended Note and Modified Deed of Trust/No Conflicts. The
15 Amended Note and Modified Deed of Trust and the Forbearance Agreement, are legal,
16 valid, and binding agreements of Antos Parties and the SJCVC Parties, enforceable in
17 accordance with their respective terms, and any instrument or agreement required
18 hereunder or thereunder, when executed and delivered, is (or will be) similarly legal,
19 valid, binding and enforceable. This Forbearance Agreement does not conflict with any
20 law, agreement, or obligation by which Antos Parties and the SJCVC parties is bound.

21 46. In connection with the 2017 Forbearance Agreement, on November 3, 2017, the
22 Antos Trust conveyed the Property to Spanish Heights.

23 47. A lease agreement between Spanish Heights as the Landlord, and SJCVC as the
24 Tenant, was executed by both Spanish Heights and SJCVC on or around August 15, 2017.

25 48. The lease agreement between Spanish Heights and SJCVC indicates that the lease
26 term is two years, with an option for SJCVC to exercise two additional consecutive lease

27 ⁸ The Court finds that regardless of whether all of the prior transactional documents were provided to Mr.
28 Bloom, Mr. Bloom was on notice of the prior transactions. The 2017 Forbearance Agreement clearly identifies the
nature of the prior transactions in the section entitled "The Parties and Background" which begins on page 1 of the
document.

1 extensions.

2 49. Pursuant to the terms of the 2017 Forbearance Agreement, Spanish Heights was
3 to make certain payments to CBCI and other parties. In addition, a balloon payment of the total
4 amount owing, under the Note, was due on August 31, 2019.

5 50. Pursuant to the 2017 Forbearance Agreement, SJCVC affirmed all obligations due
6 to CBCI under the Note and Modified Deed of Trust.

7 51. The 2017 Forbearance Agreement provides in pertinent part, "CBCI is free to
8 exercise all of its rights and remedies under the Note and Modified Deed of Trust..."

9 52. The 2017 Forbearance Agreement states the rights and remedies are cumulative
10 and not exclusive, and may be pursued at any time.

11 53. As part of the 2017 Forbearance Agreement, there were certain requirements of
12 Spanish Heights attached as Exhibit B to the 2017 Forbearance Agreement.

13 54. Among the requirements was the understanding that the First Lien holder would
14 pay the real property taxes, that CBCI would pay the 1st and 2nd Mortgage payments to prevent
15 default, that Spanish Heights would make certain repairs and improvements to the Property,
16 Spanish Heights would maintain the Property, and Spanish Heights would pay for a customary
17 homeowner's insurance policy and all Homeowner's Association dues.

18 55. In addition to the requirements of the 2017 Forbearance Agreement, there was
19 additional security to be provided by Spanish Heights, SJCVC, and others.

20 56. Among the additional security was a Pledge Agreement, through which the
21 members of Spanish Heights pledged 100% of the membership interest in Spanish Heights.⁹

22
23
24
25
26
27
28 ⁹ The Pledge Agreement states in pertinent part:

THIS PLEDGE AGREEMENT dated 27th (sic)(this "Agreement") is made by Kenneth & Sheila Antos

1 57. The Pledge Agreement provides in pertinent part, “Secured Party shall have the
2 right, at any time in Secured Party’s discretion after a Non-Monetary Event of Default ... to
3 transfer to or to register in the name of Secured Party or any of Secured Party’s nominees any or
4 all of the Pledged Collateral.”

5 58. Pursuant to the Pledge Agreement, upon an event of default, Pledgors (SJCVC and
6 Antos) appointed CBCI as Pledgors’ attorney-in-fact to execute any instrument which Secured
7 Party may deem necessary or advisable to accomplish the purposes of the Pledge Agreement.
8

9 59. The Pledge Agreement was signed on September 27, 2017, by the Antos and Mr.
10 Bloom as purported manager on behalf of Spanish Heights. No separate signature block for
11 SJCVC appears on the Pledge Agreement.
12

13 60. Paragraph 17 of the Pledge Agreement contained a notice provision which
14 required notice to the Pledgors to be given to Pledgors through Plaintiffs’ current counsel, Maier
15 Gutierrez & Associates.
16

17 61. As additional required security, SJCVC agreed to a Security Agreement to grant
18 CBCI a Security Interest in a Judgment described as:

19 SJCVC represents that First 100, LLC, and 1st One Hundred Holdings,
20 LLC, obtained a Judgment in the amount of \$2,221,039,718.46 against
21 Raymond Ngan and other Defendants in the matter styled *First 100, LLC,*
22 *Plaintiff(s) vs. Raymond Ngan, Defendant(s)*, Case No, A-17-753459-C in
23 the 8th Judicial District Court for Clark County, Nevada (the “Judgment”),
SJCVC represents It holds a 24,912% Membership Interest in 1st One
Hundred Holdings, LLC. SJCVC represents and warrant that no party, other

24 Living Trust (the Antos Trust”), SJC Ventures, LLC (“SJCVC”)(collectively the “Pledgors”) to CBC
25 Partners I, LLC, a Washington limited-liability company (“Secured Party” or “CBCI”).

26 ***

27 WHEREAS, Pledgors are the owners of 100%, of the membership interests (the “Membership Interests”)
28 of Spanish Heights Acquisition Company, LLC, a Nevada limited liability company (“SHAC”), which has
been organized pursuant to the terms of the Limited Liability Company Agreement of Spanish Heights
Acquisition Company, LLC.

1 than the Collection Professionals engaged to collect the Judgment, have a
2 priority to receive net Judgment proceeds attributable to SJCVC before
3 SJCVC; and that SJCVC shall receive Its interest at a minimum in pari passu
4 with other parties who hold interests in the Judgment. 1st One Hundred
5 Holdings, LLC, represents and warrant that no party, other than the
6 Collection Professionals engaged to collect the Judgment and certain other
7 creditors of 1st One Hundred Holdings, have a priority to receive net
8 Judgment proceeds prior to distributions to 1st One Hundred Holdings
9 Members; and that SJCVC shall receive Its interest at a minimum in pari
10 passu with other parties who hold interests in the Judgment.

11 62. In addition to the other consideration in the 2017 Forbearance Agreement, the
12 Antos Trust signed a Personal Guaranty Agreement, guaranteeing to CBCI the full and punctual
13 performance of all the obligations described in the 2017 Forbearance Agreement.

14 63. Pursuant to the Amendment to Forbearance Agreement and Related Agreements,
15 dated December 1, 2019 (the "Amendment to 2017 Forbearance Agreement"), SJCVC¹⁰
16 acknowledged that it pledged its membership interest in Spanish Heights as collateral for the
17 2017 Forbearance Agreement.¹¹

18 ¹⁰ An argument has been made that SJCVC did not pledge its stock under the original Pledge Agreement.
19 Given the notice provision in the original Pledge Agreement, Mr. Bloom's signature as manager on behalf of
20 Spanish Heights, rather than SJCVC, and the language of the Pledge Agreement reflecting a pledge of 100% of the
interest in membership of Spanish Heights, it appears the signature line for Mr. Bloom may have been incorrect.
Mr. Bloom is not the manager of Spanish Heights; Mr. Bloom is the manager of SJCVC, which serves as the manager
of Spanish Heights. The language in paragraphs 5 and 9 of the Amendment to the 2017 Forbearance Agreement
reaffirms SJCVC's pledge of its membership interest.

21 ¹¹ The Amendment to the 2017 Forbearance Agreement states in pertinent part:

22 WHEREAS, on or about September 27, 2017, the parties executed a Forbearance Agreement whereby
23 CBCI agreed to forbear from exercising the rights and remedies under certain loan documents executed by
24 the "Antos Parties." In addition to the Forbearance Agreement, the parties executed "Exhibit B" to the
Forbearance Agreement, a Lease Agreement, an Account Control Agreement, a Membership Pledge
Agreement, an Assignment of Rents, and a Security Agreement (collectively "the Related Agreements").

25 ***

26 5. The Membership Pledge Agreement executed by SJCVC and the Antos Trust shall remain in effect and
27 the execution of this Amendment shall not be considered a waiver of CBCI's rights under the Membership
Pledge Agreement.

28 ***

1 64. On or about December 1, 2019, CBCI, the Antos, Spanish Heights and SJC
2 entered into an Amendment to the 2017 Forbearance Agreement, extending the date of the
3 balloon payment to March 31, 2020.

4 65. The Amendment to 2017 Forbearance Agreement was signed by the Antos,
5 Bloom as purported manager on behalf of Spanish Heights, and Bloom as manager of SJC.
6

7 66. Pursuant to the Amendment to 2017 Forbearance Agreement, the Security
8 Agreement “shall remain in effect and the execution of this Amendment shall not be considered
9 a waiver of CBCI’s rights under the Security Agreement...”

10 67. Pursuant to the Amendment to 2017 Forbearance Agreement, any amendment
11 must be in writing.
12

13 68. On March 12, 2020, Spanish Hills Community Association recorded a Health and
14 Safety Lien against the Property. This Lien was for Nuisances and Hazardous Activities.

15 69. On or about March 16, 2020, CBCI mailed a Notice of Non-Monetary Defaults to
16 Spanish Heights and SJC. This Notice of Non-Monetary Default delineated the following
17 defaults:
18

- 19 1. Evidence of homeowner’s insurance coverage Pursuant to Paragraph
20 1(A)(6) of Amendment to Forbearance Agreement and Related
21 Agreements;
- 22 2. Evidence of repairs pursuant to Paragraph 3(c)(1) of Exhibit B to
23 Forbearance Agreement;
- 24 3. Evidence of Bank of America account balance of \$150,000.00
25 pursuant to Paragraph 6(c) of Exhibit B to Forbearance Agreement;
- 26 4. Opinion letter from SJC Ventures and 1st One Hundred Holdings
27 counsel regarding the Judgment and Security Agreement pursuant to
28 Paragraph 1(A)(12) of Amendment to Forbearance Agreement and
 Related Agreements;

9. The Membership Pledge Agreement executed by SJC and the Antos Trust shall remain in effect and
the execution of this Amendment shall not be considered a waiver of CBCI’s rights under the Membership
Pledge Agreement.

5. Evidence of corporate authority for SJC Ventures and 1st One Hundred Holdings pursuant to Paragraph 1(A)(13) of Amendment to Forbearance Agreement and Related Agreements; and
6. Evidence of SJC Ventures filing of applications for mortgages to refinance 5148 Spanish Heights Drive, pursuant to paragraph 1(C) of Amendment to Forbearance Agreement and Related Agreements.

70. On April 1, 2020, a Notice of Default and Demand for Payment was sent to Spanish Heights and SJCVC. This letter had a typo on the date of final balloon payment being due on March 31, 2021. This was corrected and emailed to Spanish Height's and SJCVC's counsel noting that the default date was corrected to March 31, 2020.

71. On April 1, 2020, under separate cover, counsel for CBCI sent a Notice to Spanish Heights, SJCVC, and Antos that CBCI would exercise its rights under the Pledge Agreement by transferring the pledged collateral to CBCI's nominee CBC Partners, LLC.

72. On April 1, 2020, CBC Partners received the Assignment of Company and Membership Interest of Spanish Heights from the Antos Trust.

73. On April 3, 2020, a Notice to Vacate was sent to SJCVC.

74. On April 6, 2020, CBCI sold the Note and security associated with the Note, to 5148 Spanish Heights, LLC.

75. On May 28, 2020, the Assignment of Interest in Deed of Trust was recorded in the Clark County Recorder's Office as Instrument No 202005280002508.

76. On September 15, 2020, Notice of Breach and Election to Sell Under Deed of Trust was recorded in the Clark County Recorder's Office as Instrument No 202009150001405.

77. On December 15, 2020, Notice of Trustee's Sale was recorded in the Clark County Recorder's Office Instrument No 20201215-0000746. The Sale was scheduled for January 5, 2021.

78. CBCI, through Hallberg, and Mr. Antos, both individually and as Trustee of the

1 revocable living trust as makers; confirm the original debt and the Deed of Trust as collateral for
2 the Note.

3 79. 5148 Spanish Heights, LLC, issued a new Notice of Default on January 4, 2021.

4 80. NRS 107.080 sets forth the notice requirements that were followed by 5148
5 Spanish Heights, LLC, and Nevada Trust Deed Services.

6 81. Plaintiff has shown no defect or lack of adequate statutory notice in the current
7 notice.
8

9 82. NRS 47.240 provides for conclusive presumptions relevant to certain provisions
10 of the relevant documents.¹²

11 83. Nothing in the evidence presented during these proceedings provides any basis for
12 departure from the conclusive presumptions recited in the agreements between the parties.¹³
13

14 84. At this time, CBCI has acquired the Antos interest in Spanish Heights through the
15 Pledge Agreement. The membership interest in a limited liability company is not an interest in
16

17 ¹² **NRS 47.240 Conclusive presumptions.** The following presumptions, and no others, are conclusive:

18 ***

19 2. The truth of the fact recited, from the recital in a written instrument between the parties thereto, or their
20 successors in interest by a subsequent title, but this rule does not apply to the recital of a consideration.

21 ¹³ For purposes of this proceeding, the Court applies the conclusive presumptions of NRS 47.240 to the
22 following :

23 From the Pledge Agreement:

24 WHEREAS, Pledgors are the owners of 100%, of the membership interests (the "Membership Interests")
25 of Spanish Heights Acquisition Company, LLC, a Nevada limited liability company ("SHAC"), which has
26 been organized pursuant to the terms of the Limited Liability Company Agreement of Spanish Heights
27 Acquisition Company, LLC.

28 From the Amendment to the 2017 Forbearance Agreement:

WHEREAS, on or about September 27, 2017, the parties executed a Forbearance Agreement whereby
CBCI agreed to forbear from exercising the rights and remedies under certain loan documents executed by
the "Antos Parties." In addition to the Forbearance Agreement, the parties executed "Exhibit B" to the
Forbearance Agreement, a Lease Agreement, an Account Control Agreement, a Membership Pledge
Agreement, an Assignment of Rents, and a Security Agreement (collectively "the Related Agreements").

1 real property. Title to the Property remains in Spanish Heights.

2 85. Plaintiff has not established unanimity of interest in title to the Property.

3 86. Plaintiff has not established an intent on behalf of the creditor to merge their lien
4 with equitable title.

5 87. Plaintiff has provided no evidence that the 2017 Forbearance Agreement and
6 Amendment to the 2017 Forbearance Agreement are vague or ambiguous.
7

8 88. Plaintiff has provided no evidence of fraud or misrepresentation by any
9 Defendant.

10 89. If any findings of fact are properly conclusions of law, they shall be treated as if
11 appropriately identified and designated.
12

13 **III. Conclusions of Law**

14
15 1. The legal standard for granting injunctive relief is set forth in NRS 33.010, which
16 provides:

17 Cases in which injunction may be granted. An injunction may be
18 granted in the following cases:

19 1. When it shall appear by the complaint that the plaintiff is
20 entitled to the relief demanded, and such relief or any part thereof
21 consists in restraining the commission or continuance of the act
complained of, either for a limited period or perpetually.

22 2. When it shall appear by the complaint or affidavit that the
23 commission or continuance of some act, during the litigation,
would produce great or irreparable injury to the plaintiff.

24 3. When it shall appear, during the litigation, that the
25 defendant is doing or threatens, or is about to do, or is procuring or
26 suffering to be done, some act in violation of the plaintiff's rights
27 respecting the subject of the action, and tending to render the
judgment ineffectual.

28 2. Given the current bankruptcy stay, the Court extends the existing injunctive relief

1 entered January 5, 2021, pending further order from the Bankruptcy Court.

2 3. The relevant documents, including, but not limited to, the 2017 Forbearance
3 Agreement and Amendment to Forbearance Agreement and Related Agreements, dated
4 December 1, 2019, are clear and unambiguous as a matter of law

5 4. The Note is secured by the Property.

6 5. As a condition precedent to the Fourth, Seventh, Ninth, and Tenth Modifications
7 to the Note, a Deed of Trust encumbering the Property was required.
8

9 6. The Antos Parties had authority, individually and as Trustees of the Antos Trust,
10 to encumber the Property with the Deed of Trust to CBCI.

11 7. Plaintiffs have waived any defects, acknowledged the encumbrance and agreed, in
12 writing to pay twice; first in the 2017 Forbearance Agreement and second, in the Amendment to
13 the 2017 Forbearance Agreement.
14

15 8. Plaintiffs agreed in the 2017 Forbearance Agreements to pay the amounts in
16 question by separate promise to the Antos Parties.
17

18 9. The Antos Trust received an indirect benefit from the transactions related to the
19 Deed of Trust.

20 10. Mr. Antos testified that the Property was used as security in exchange for
21 additional capital and release of other collateral from CBCI .
22

23 11. Mr. Antos agrees with CBCI that Plaintiffs have failed to perform.

24 12. NRS 107.500 is only required of owner-occupied housing.

25 13. The doctrine of merger provides that “[w]hen a greater and a less estate
26 coincide and meet in one and the same person, without any intermediate estate, the less is
27 immediately merged in the greater, and thus annihilated.” 31 C.J.S. Estates § 153.
28

1 14. Plaintiffs have made no showing of the applications of the doctrine of merger in
2 this case. As no interests have merged, and there is no showing of intent to merge

3 15. The one-action rule “does not excuse the underlying debt.” *Bonicamp v. Vazquez*,
4 120 Nev. 377, 382-83, 91 P.3d 584, 587 (2004).

5 16. The One-Action Rule prohibits a creditor from “first seeking the personal
6 recovery and then attempting, in an additional suit, to recover against the collateral.” *Bonicamp*,
7 120 Nev. at 383, 91 P.3d at 587 (2004). When suing a debtor on a secured debt, a creditor may
8 initially elect to proceed against the debtor or the security. If the creditor sues the debtor
9 personally on the debt, the debtor may then either assert the one-action rule, forcing the creditor
10 to proceed against the security first before seeking a deficiency from the debtor, or decline to
11 assert the one-action rule, accepting a personal judgment and depriving the creditor of its ability
12 to proceed against the security. NRS 40.435(3); *Bonicamp*, 120 Nev. at 383, 91 P.3d at 587
13 (2004).

14 17. The “One-Action Rule” was specifically waived by the debtor. The Deed of Trust
15 paragraph 6.21(a) states:
16

17 Trustor and Guarantor each waive all benefits of the one-action
18 rule under NRS 40.430, which means, without limitation, Trustor
19 and Guarantor each waive the right to require Lender to (i) proceed
20 against Borrower, any other guarantor of the Loan, any pledgor of
21 collateral for any person’s obligations to Lender or any other
22 person related to the Note and Loan Documents, (ii) proceed
23 against or exhaust any other security or collateral Lender may
24 hold, or (iii) pursue any other right or remedy for Guarantors’
benefit.

25 18. The 2017 Forbearance Agreement paragraph 25 gives the benefit of cumulative
26 remedies.

27 The rights and remedies of CBCI under this Forbearance
28 Agreement and the Amended Note and Modified Deed of Trust are

1 cumulative and not exclusive of any rights or remedies that CBCI
2 would otherwise have, and may be pursued at any time and from
3 time to time and in such order as CBCI shall determine in its sole
4 discretion.

5 19. The Court concludes as a matter of law that the Plaintiffs have not established
6 facts or law to support the claim that the One-Action Rule bars recovery under the defaulted
7 Note and Security documents.

8 20. The Court's Temporary Restraining Order, filed January 5, 2021, will remain in
9 place pending further order of the Bankruptcy Court.

10 21. If any conclusions of law are properly findings of fact, they shall be treated as if
11 appropriately identified and designated.

12 JUDGMENT

13 Based upon the foregoing Findings of Fact and Conclusions of Law, and other good
14 cause appearing:

15 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that as to the
16 Claims for Declaratory Relief, the Court declares the third position Deed of Trust is a valid
17 existing obligation against the Property.


18 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as to the
19 Claims for Declaratory Relief, the Court declares that the Note is a valid existing obligation.
20

21 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as to the
22 Claims for Declaratory Relief, the Court declares that the Pledge Agreement is a valid existing
23 obligation of SJCVC.
24

25 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as to the
26 Claims for Declaratory Relief, the Court declares that the acquisition of a membership interest in
27 Spanish Heights does not merge the Defendants interests.
28

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that as to the Claims for Declaratory Relief, the Court declares that there has been a valid waiver of the One-Action Rule.

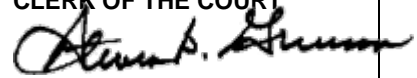
Dated this 6th day of April, 2021


Elizabeth Gonzalez, District Court Judge

Certificate of Service

I hereby certify that on the date filed, a copy of the foregoing Findings of Fact and Conclusions of Law was electronically served, pursuant to N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court Electronic Filing Program.

/s/ *Dan Kutinac*
Dan Kutinac, JEA



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7 *Attorneys for Plaintiffs*

8
9
10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

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

15 Plaintiffs,

16 vs.

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

23 Defendants.

24 AND RELATED CLAIMS.
25

Case No.: A-20-813439-B
Dept. No.: XI

NOTICE OF ENTRY OF ORDER

26 TO: ALL PARTIES AND THEIR COUNSEL OF RECORD.

27 YOU AND EACH OF YOU will please take notice that a **FINDINGS OF FACT AND**
28

1 **CONCLUSIONS OF LAW** was hereby entered on the 6th day of April, 2021. A copy of which is
2 attached hereto.

3 DATED this 20th day of April, 2021.

4 Respectfully submitted,

5 **MAIER GUTIERREZ & ASSOCIATES**

6 /s/ Danielle J. Barraza

7 JOSEPH A. GUTIERREZ, ESQ.

8 Nevada Bar No. 9046

9 DANIELLE J. BARRAZA, ESQ.

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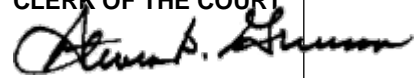
12 Las Vegas, Nevada 89148

13 *Attorneys for Plaintiffs*

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1 FFCL

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3 **DISTRICT COURT**

4 **CLARK COUNTY, NEVADA**

5 SPANISH HEIGHTS ACQUISITION
6 COMPANY, LLC, a Nevada Limited Liability
7 Company; SJC VENTURES HOLDING
8 COMPANY, LLC, d/b/a SJC VENTURES,
9 LLC, a Delaware Limited Liability Company,

10 Plaintiffs,

11 v.

12 CBC PARTNERS I, LLC, a foreign Limited
13 Liability Company; CBC PARTNERS, LLC, a
14 foreign Limited Liability Company; 5148
15 SPANISH HEIGHTS, LLC, a Nevada Limited
16 Liability Company; KENNETH ANTOS AND
17 SHEILA NEUMANN-ANTOS, as Trustees of
18 the Kenneth & Sheila Antos Living Trust and
19 the Kenneth M. Antos & Sheila M. Neumann-
20 Antos Trust; DACIA, LLC, a foreign Limited
21 Liability Company; DOES I through X; and
22 ROE CORPORATIONS I through X,
23 inclusive,

24 Defendants.

Case No. A-20-813439-B

Dept. No.: XI

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

25 5148 SPANISH HEIGHTS, LLC, a Nevada
26 limited liability company; and CBC
27 PARTNERS I, LLC, a Washington limited
28 liability company,

Counterclaimants,

v.

SPANISH HEIGHTS ACQUISITION
COMPANY, LLC, a Nevada Limited Liability
Company; SJC VENTURES, LLC, a Delaware
limited liability company; SJC VENTURES
HOLDING COMPANY, LLC, a Delaware
limited liability company; JAY BLOOM,
individually and as Manager, DOE

1 DEFENDANTS 1-10; and ROE
2 DEFENDANTS 11-20,
3 Counterdefendants.

4 FINDINGS OF FACT AND CONCLUSIONS OF LAW

5 This matter having come on for preliminary injunction and consolidated non-jury trial on
6 related issues pursuant to NRCP 65(a)(2)¹ before the Honorable Elizabeth Gonzalez beginning
7 on February 1, 2021, February 2, 2021 , February 3, 2021,² and March 15, 2021; Plaintiffs
8 SPANISH HEIGHTS ACQUISITION COMPANY, LLC, (“Spanish Heights”)³ and SJC
9 VENTURES HOLDING COMPANY, LLC, d/b/a SJC VENTURES, LLC (“SJCVC”) appearing
10 by and through their representative Jay Bloom and their counsel of record JOSEPH A.
11 GUTIERREZ, ESQ. and DANIELLE J. BARRAZA, ESQ. of the law firm of MAIER
12

13
14
15 ¹ Pursuant to NRCP 65(a)(2), the parties have stipulated that the following legal issues surrounding the
16 claims and counterclaims are advanced for trial to be heard in conjunction with the hearing on the preliminary
17 injunction hearing:

- 18 a) Contractual interpretation and/or validity of the underlying “Secured Promissory Note” between
19 CBC Partners I, LLC, and KCI Investments, LLC, and all modifications (Counterclaim First, Fourth,
20 Ninth, and Twelfth Claim for Relief);
21 b) Interpretation and/or validity of the claimed third-position Deed of Trust and all modifications
22 thereto, and determination as to whether any consideration was provided in exchange for the Deed of Trust
23 (Counterclaim First, Fourth, Ninth, and Twelfth Claim for Relief);
24 c) Contractual interpretation and/or validity of the Forbearance Agreement, Amended Forbearance
25 Agreement and all associated documents/contracts (Counterclaim First, Fourth, Ninth, and Twelfth Claim
26 for Relief);
27 d) Whether the Doctrine of Merger applies to the claims at issue (Amended Complaint Fourth,
28 Seventh Cause of Action); and
e) Whether the One Action Rule applies to the claims at issue (Amended Complaint Third Cause of
Action).

The injunctive relief claims are contained in the Amended Complaint Sixth Cause of Action.

² The Court was advised on February 3, 2021, that Spanish Heights filed for bankruptcy protection. The
Court suspended these proceedings and stayed the matter for 30 days as to all parties for Defendants to seek relief
from the stay. As no order lifting the stay has been entered by the Bankruptcy Court, nothing in this order creates
any obligations or liabilities directly related to Spanish Heights; however, factual findings related to Spanish Heights
are included in this decision. The term “Plaintiffs” as used in these Findings of fact and Conclusions of Law is not
intended to imply any action by this Court against the debtor, Spanish Heights.

³ As a result of the bankruptcy filing, Spanish Heights did not participate in these proceedings on March 15,
2021.

1 GUTIERREZ & ASSOCIATES and Defendants CBC PARTNERS I, LLC, CBC PARTNERS,
2 LLC, appearing by and through its representative Alan Hallberg (“Hallberg”); 5148 SPANISH
3 HEIGHTS, LLC, KENNETH ANTOS and SHEILA NEUMANN-ANTOS, as Trustees of the
4 Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila M. Neumann-Antos
5 Trust; DACIA, LLC, (collectively “Defendants”) all Defendants appearing by and through their
6 counsel of record MICHAEL R. MUSHKIN, ESQ. and L. JOE COPPEDGE, ESQ. of the law
7 firm of MUSHKIN & COPPEDGE; the Court having read and considered the pleadings filed by
8 the parties; having reviewed the evidence admitted during the trial; having heard and carefully
9 considered the testimony of the witnesses called to testify and weighing their credibility; having
10 considered the oral and written arguments of counsel, and with the intent of rendering a decision
11 on the limited claims before the Court at this time, pursuant to NRCP 52(a) and 58; the Court
12 makes the following findings of fact and conclusions of law:

15 **I. Procedural Posture**

16 On April 9, 2020, the original complaint was filed and a Temporary Restraining Order
17 was issued without notice by the then assigned judge.⁴

19 Spanish Heights and SJCV initiated this action against CBC PARTNERS I, LLC, CBC
20 PARTNERS, LLC, 5148 SPANISH HEIGHTS, LLC, KENNETH ANTOS AND SHEILA
21 NEUMANN-ANTOS, as Trustees of the Kenneth & Sheila Antos Living Trust and the Kenneth
22 M. Antos & Sheila M. Neumann-Antos Trust (“Antos Trust”); DACIA, LLC, with the First
23 Amended Complaint being filed on May 15, 2020.

25 By Order filed May 29, 2020, the Court granted Plaintiffs’ Motion for Preliminary
26 Injunction on a limited basis that remained in effect until after expiration of the Governor’s
27

28 ⁴ This matter was reassigned to this department after an April 13, 2020, Request for Transfer to Business Court was made by the Defendants.

1 Emergency Directive 008.

2 On June 10, 2020, defendants CBC PARTNERS I, LLC, CBC PARTNERS, LLC, and
3 5148 Spanish Heights, LLC, filed their answer to the first amended complaint.

4 Defendants CBC PARTNERS I, LLC, and 5148 Spanish Heights, LLC, have also filed a
5 counterclaim against plaintiffs, and Jay Bloom.

6
7 On September 3, 2020, Defendant Antos Trust filed an answer and counterclaim against
8 SJCVC, which SJCVC answered on September 28, 2020.⁵

9 **II. Findings of Fact**

10 1. This action involves residential real property located at 5148 Spanish Heights
11 Drive, Las Vegas, Nevada 89148, with Assessor's Parcel Number 163-29-615-007 ("Property").

12 2. The original owners of the Property were Kenneth and Sheila Antos as joint
13 tenants, with the original deed recorded in April 2007.

14 3. On or about October 14, 2010, Kenneth M. Antos and Sheila M. Neumann-Antos
15 (collectively, "Antos") transferred the Property to Kenneth M. Antos and Sheila M. Neumann-
16 Antos, as Trustees of the Kenneth and Shelia Antos Living Trust dated April 26, 2007 (the
17 "Antos Trust", and together with "Antos", the "Antos Parties").

18 4. Nonparty City National Bank is the beneficiary of a first-position Deed of Trust
19 recorded on the Property.

20 5. Nonparty Northern Trust Bank is the beneficiary of a second-position Deed of
21 Trust recorded on the Property.

22 6. The Property is currently owned by Spanish Heights⁶ which has entered into a
23
24

25
26
27 _____
28 ⁵ The Antos have a pending motion for summary judgment.

⁶ The manager of Spanish Heights is SJCVC.

1 written lease agreement with SJC.V.⁷

2 7. Although the Property is residential, it is not owner occupied, but is occupied by
3 Jay Bloom (“Mr. Bloom”) and his family.

4 8. On or about June 22, 2012, nonparty KCI entered into a Secured Promissory Note
5 (the “Note”) with CBC Partners I, LLC, a Washington limited liability company (“CBCI”).
6

7 9. The Note memorialized a \$300,000 commercial loan that CBCI made to Antos’
8 restaurant company KCI to be used for the restaurant business.

9 10. On or around June 22, 2012, Kenneth and Sheila Antos, in their individual
10 capacities, signed a “Guaranty” in which they personally guaranteed payment of the Note.
11

12 11. The Note was secured by a “Security Agreement” dated June 22, 2012, where the
13 security interest includes KCI’s intellectual property, goods, tools, furnishings, furniture,
14 equipment and fixtures, accounts, deposit accounts, chattel paper, and receivables.

15 12. The Property was not included as collateral for the original Note.

16 13. The Note was modified and amended several times.

17 14. On November 13, 2013, a Fourth Modification to Secured Promissory Note
18 (“Fourth Modification”) was executed.
19

20 15. Paragraph 4 of the Fourth Modification amended Paragraph 6.12 of the Note as
21 follows:

22 6.12 Antos Debt. Permit guarantor Kenneth M. Antos (“Antos”) to incur,
23 create, assume or permit to exist any debt secured by the real property
24 located at 5148 Spanish Heights Drive, Las Vegas, Nevada 89148.

25 16. Along with the Fourth Modification, the Antos Trust provided a Security
26 Agreement with Respect to Interest in Settlement Agreement and Mutual Release (the “Security
27

28 ⁷ The manager of SJC.V. is Bloom.

1 Agreement”).

2 17. This Security Agreement not only granted a security interest in a Settlement
3 Agreement, but also contained certain Representations, Warranties and Covenants of the Antos
4 Parties, including:

5 3.3 Sale, Encumbrance or Disposition. Without the prior written consent
6 of the Secured Party, Antos will not (a) allow the sale or encumbrance of
7 any portion of the Collateral and (b) incur, create, assume or permit to
8 exist any debt secured by the real property located at 5148 Spanish
9 Heights Drive, Las Vegas, NV 89148, other than the first and second
position deeds of trust or mortgages...

10 18. KCI was acquired by Preferred Restaurant Brands, Inc. formerly known as Dixie
11 Foods International, Inc. (“Dixie”).

12 19. The Note was assumed by Dixie with the Antos Parties continuing to guaranty the
13 obligation.

14 20. On or about October 31, 2014, a Seventh Modification to Secured Promissory
15 Note and Waiver of Defaults (“Seventh Modification”) was entered.

16 21. CBCI determined that prior to extension of additional credit; additional security
17 was required to replace a previously released security interest in other collateral.
18

19 22. Paragraph 18(f) of the Seventh Modification provided for a condition precedent:
20

21 Execution and delivery by Kenneth M. Antos and Sheila M. Neumann-
22 Antos, as Trustees of the Kenneth and Sheila Antos Living Trust dated
23 April 26, 2007, and any amendments thereto (the “Antos Trust”) to Lender
24 of a Deed of Trust on the real property located at 5148 Spanish Heights
Drive, Las Vegas, Nevada 89148 (the “Real Property”), in form and
substance satisfactory to Lender in its sole discretion.

25 23. On or about December 17, 2014, the Antos Trust delivered to CBCI a Certificate
26 of Trust Existence and Authority (“Certificate of Trust”).

27 24. The Certificate of Trust provides in part:

28 Kenneth M. Antos and Sheila M. Neumann-Antos, as trustees (each, a

1 “Trustee”) acting on behalf of the Trust, are each authorized and
2 empowered in the name of the Trust without the approval or consent of the
other Trustee, the beneficiaries, or any other person:

3 To execute and deliver a Deed of Trust, Assignment of Rents,
4 Security Agreement and Fixture Filing (the “Deed of Trust”), to
5 secure (i) obligations owing to Lender by KCI Investments, LLC, a
6 Nevada limited liability company, and Preferred Restaurant
7 Brands, Inc., a Florida corporation (individually and collectively,
8 “Borrower”), (ii) that certain Secured Promissory Note dated as of
9 June 22, 2012, in the maximum principal amount of \$3,250,000.00
10 (the “Note”) executed by Borrower in favor of Lender, (iii) that
11 certain Guaranty dated June 22, 2012, executed by the Grantors as
12 individuals and not in their capacity as trustees, and (iv) the other
13 documents and instruments executed or delivered in connection
14 with the foregoing.

15 25. The Certificate of Trust further provides:

16 The Deed of Trust and Lender’s provision of credit under the terms of the
17 Note will directly and indirectly benefit the Trust and its beneficiaries.

18 The Trustees of the Trust have the authority to enter into the transactions
19 with respect to which this Certificate is being delivered, and such
20 transactions will create binding obligations on the assets of the Trust.

21 26. On or about December 29, 2014, a Deed of Trust, Assignment of Rents, Security
22 Agreement and Fixture Filing (the “Deed of Trust”) was recorded against the Property in the
23 Clark County Recorder’s Office as Instrument No. 201412290002856 for the purpose of
24 securing the Note.

25 27. The revocable trust indirectly benefitted from this additional credit that was
26 issued to Antos and his business by CBCI.

27 28. The Deed of Trust is subordinate to the first mortgage to City National in the
28 principal amount of approximately \$3,240,000.00 with a monthly payment of \$19,181.07, and a
second mortgage to Northern Trust Bank in the principal amount of approximately \$599,000.00
with monthly payments of \$3,034.00.

29 29. On or about April 30, 2015, a Ninth Modification to Secured Promissory Note

1 and Waiver of Defaults (“Ninth Modification”) was executed.

2 30. Paragraph 14(c) of the Ninth Modification provides for a condition precedent as
3 follows:

4 Execution by the Trustees of the Kenneth and Sheila Antos Living Trust
5 dated April 26, 2007, and any amendments thereto, and delivery to Lender
6 of the Correction to Deed of Trust Assignment of Rents, Security
7 Agreement and Fixture Filing, in form and substance satisfactory to
8 Lender.

9 31. On July 22, 2015, a Correction to Deed of Trust, Assignment of Rent, Security
10 Agreement and Fixture Filing (“Correction to Deed of Trust”) was recorded in the Clark County
11 Recorder’s Office as Instrument No. 201507220001146.

12 32. This Correction to Deed of Trust modified Paragraph One of the Deed of Trust to
13 read:

14 One: Payment of any and all amounts (collectively, the “Guarantied
15 Obligations”) due and owing by Trustor under that certain Guaranty from
16 Kenneth Antos and Sheila Antos (individually and collectively,
17 “Guarantor”) dated June 22, 2012, in favor of Beneficiary (the
18 “Guaranty”), guarantying the indebtedness evidenced by that certain
19 Secured Promissory Note (and any renewals, extensions, modifications
20 and substitutions thereof) (collectively, the “Note”), executed by KCI
21 Investments, LLC, a Nevada limited liability company, and Preferred
22 Restaurant Brands, Inc., a Florida corporation (individually and
23 collectively, “Borrower”), dated June 22, 2012, as modified, in the
24 maximum principal sum of THREE MILLION AND NO/100 DOLLARS
25 (\$3,000,000.00), together with interest thereon, late charges and collection
26 costs as provided in the Note.

27 33. On or about December 2, 2016, CBCI sold a portion of the monetary obligations
28 of the Note in the amount of \$15,000.00 to Southridge Partners II, LP.

34. On or about December 2, 2016, CBCI and KCI entered into a Forbearance
Agreement.

35. As part of the Forbearance Agreement, the Antos Trust executed a Consent,
Reaffirmation, and General Release by the Trust wherein the Antos Trust agreed

1 to join in and be bound to the terms of the Representations and Warranties
2 contained in Sections 4 and 7, and the General Release contained in
3 Section 8 of the Agreement applicable as though the Trust were a Credit
4 Party.

5 36. On or about December 2, 2016, a Tenth Modification to Secured Promissory Note
6 (“Tenth Modification”) was entered into.

7 37. Paragraph 6(e) of the Tenth Modification provides for a condition precedent as
8 follows:

9 Delivery to Lender of a duly executed First Modification to Deed of Trust,
10 Assignment of Rents, Security Agreement and Fixture Filing, by Kenneth
11 M. Antos and Sheila M. Neumann-Antos, Trustees of the Kenneth and
12 Sheila Antos Living Trust dated April 26, 2007, and any amendments
13 thereto, as trustor, related to that certain Deed of Trust, Assignment of
14 Rents, Security Agreement and Fixture Filing made December 17, 2014,
15 and recorded in the Official Records of Clark County, Nevada, on
16 December 29, 2014, as instrument number 20141229-0002856.

17 38. On December 19, 2016, the First Modification to Deed of Trust, Assignment of
18 Rents, Security Agreement and Fixture Filing was recorded in the Clark County Recorder’s
19 Office as Instrument No. 201612190002739.

20 39. On or about July 21, 2017, Mr. Bloom proposed to service the CBCI Note in
21 exchange for the ownership in the Property. Specifically, Mr. Bloom wrote,

22 My thought is that this proposal gets the 3rd lender:

- 23 • a full recovery of its Note balance plus all protective advances past and future,
- 24 • interim cash flow and
- 25 • provides interim additional full collateral where, given the current value of the
26 property, the 3rd position lender is currently unsecured.

27 As to the Seller, he:

- 28 • gets out from under a potential deficiency judgment from the 3rd position
lender and
- unburdens himself from any additional assets that may have been pledged.

40. Spanish Heights was created to facilitate this transaction.

41. On September 27, 2017, CBCI, the Antos Trust, Spanish Heights and Mr.

1 Bloom's company, SJCVC, entered into the 2017 Forbearance Agreement.

2 42. The September 27, 2017 Forbearance Agreement indicates that Mr. Bloom's
3 company Spanish Heights intends to acquire the Property and make certain payments to CBCI
4 pursuant to the terms of the 2017 Forbearance Agreement.

5 43. Mr. Bloom testified that he was not provided with a complete set of documents
6 reflecting the prior transactions between the Antos and KCI⁸ and that misrepresentations were
7 made regarding the prior transactions by CBCI.

8 44. In the 2017 Forbearance Agreement, the Antos Parties, Spanish Heights and
9 SJCVC acknowledged default and affirmed CBCI has fully performed.

10 45. The 2017 Forbearance Agreement contains an acknowledgement that the prior
11 agreements between the Antos and CBCI are valid.

12
13
14 Par. 8.7 Enforceable Amended Note and Modified Deed of Trust/No Conflicts. The
15 Amended Note and Modified Deed of Trust and the Forbearance Agreement, are legal,
16 valid, and binding agreements of Antos Parties and the SJCVC Parties, enforceable in
17 accordance with their respective terms, and any instrument or agreement required
18 hereunder or thereunder, when executed and delivered, is (or will be) similarly legal,
19 valid, binding and enforceable. This Forbearance Agreement does not conflict with any
20 law, agreement, or obligation by which Antos Parties and the SJCVC parties is bound.

21 46. In connection with the 2017 Forbearance Agreement, on November 3, 2017, the
22 Antos Trust conveyed the Property to Spanish Heights.

23 47. A lease agreement between Spanish Heights as the Landlord, and SJCVC as the
24 Tenant, was executed by both Spanish Heights and SJCVC on or around August 15, 2017.

25 48. The lease agreement between Spanish Heights and SJCVC indicates that the lease
26 term is two years, with an option for SJCVC to exercise two additional consecutive lease

27 ⁸ The Court finds that regardless of whether all of the prior transactional documents were provided to Mr.
28 Bloom, Mr. Bloom was on notice of the prior transactions. The 2017 Forbearance Agreement clearly identifies the
nature of the prior transactions in the section entitled "The Parties and Background" which begins on page 1 of the
document.

1 extensions.

2 49. Pursuant to the terms of the 2017 Forbearance Agreement, Spanish Heights was
3 to make certain payments to CBCI and other parties. In addition, a balloon payment of the total
4 amount owing, under the Note, was due on August 31, 2019.

5 50. Pursuant to the 2017 Forbearance Agreement, SJCVC affirmed all obligations due
6 to CBCI under the Note and Modified Deed of Trust.

7 51. The 2017 Forbearance Agreement provides in pertinent part, "CBCI is free to
8 exercise all of its rights and remedies under the Note and Modified Deed of Trust..."

9 52. The 2017 Forbearance Agreement states the rights and remedies are cumulative
10 and not exclusive, and may be pursued at any time.

11 53. As part of the 2017 Forbearance Agreement, there were certain requirements of
12 Spanish Heights attached as Exhibit B to the 2017 Forbearance Agreement.

13 54. Among the requirements was the understanding that the First Lien holder would
14 pay the real property taxes, that CBCI would pay the 1st and 2nd Mortgage payments to prevent
15 default, that Spanish Heights would make certain repairs and improvements to the Property,
16 Spanish Heights would maintain the Property, and Spanish Heights would pay for a customary
17 homeowner's insurance policy and all Homeowner's Association dues.

18 55. In addition to the requirements of the 2017 Forbearance Agreement, there was
19 additional security to be provided by Spanish Heights, SJCVC, and others.

20 56. Among the additional security was a Pledge Agreement, through which the
21 members of Spanish Heights pledged 100% of the membership interest in Spanish Heights.⁹

22
23
24
25
26
27
28 ⁹ The Pledge Agreement states in pertinent part:

THIS PLEDGE AGREEMENT dated 27th (sic)(this "Agreement") is made by Kenneth & Sheila Antos

1 57. The Pledge Agreement provides in pertinent part, “Secured Party shall have the
2 right, at any time in Secured Party’s discretion after a Non-Monetary Event of Default ... to
3 transfer to or to register in the name of Secured Party or any of Secured Party’s nominees any or
4 all of the Pledged Collateral.”

5 58. Pursuant to the Pledge Agreement, upon an event of default, Pledgors (SJCVC and
6 Antos) appointed CBCI as Pledgors’ attorney-in-fact to execute any instrument which Secured
7 Party may deem necessary or advisable to accomplish the purposes of the Pledge Agreement.
8

9 59. The Pledge Agreement was signed on September 27, 2017, by the Antos and Mr.
10 Bloom as purported manager on behalf of Spanish Heights. No separate signature block for
11 SJCVC appears on the Pledge Agreement.
12

13 60. Paragraph 17 of the Pledge Agreement contained a notice provision which
14 required notice to the Pledgors to be given to Pledgors through Plaintiffs’ current counsel, Maier
15 Gutierrez & Associates.
16

17 61. As additional required security, SJCVC agreed to a Security Agreement to grant
18 CBCI a Security Interest in a Judgment described as:

19 SJCVC represents that First 100, LLC, and 1st One Hundred Holdings,
20 LLC, obtained a Judgment in the amount of \$2,221,039,718.46 against
21 Raymond Ngan and other Defendants in the matter styled *First 100, LLC,*
22 *Plaintiff(s) vs. Raymond Ngan, Defendant(s)*, Case No, A-17-753459-C in
23 the 8th Judicial District Court for Clark County, Nevada (the “Judgment”),
SJCVC represents It holds a 24,912% Membership Interest in 1st One
Hundred Holdings, LLC. SJCVC represents and warrant that no party, other

24 Living Trust (the Antos Trust”), SJC Ventures, LLC (“SJCVC”)(collectively the “Pledgors”) to CBC
25 Partners I, LLC, a Washington limited-liability company (“Secured Party” or “CBCI”).

26 ***

27 WHEREAS, Pledgors are the owners of 100%, of the membership interests (the “Membership Interests”)
28 of Spanish Heights Acquisition Company, LLC, a Nevada limited liability company (“SHAC”), which has
been organized pursuant to the terms of the Limited Liability Company Agreement of Spanish Heights
Acquisition Company, LLC.

1 than the Collection Professionals engaged to collect the Judgment, have a
2 priority to receive net Judgment proceeds attributable to SJCVC before
3 SJCVC; and that SJCVC shall receive Its interest at a minimum in pari passu
4 with other parties who hold interests in the Judgment. 1st One Hundred
5 Holdings, LLC, represents and warrant that no party, other than the
6 Collection Professionals engaged to collect the Judgment and certain other
7 creditors of 1st One Hundred Holdings, have a priority to receive net
8 Judgment proceeds prior to distributions to 1st One Hundred Holdings
9 Members; and that SJCVC shall receive Its interest at a minimum in pari
10 passu with other parties who hold interests in the Judgment.

11 62. In addition to the other consideration in the 2017 Forbearance Agreement, the
12 Antos Trust signed a Personal Guaranty Agreement, guaranteeing to CBCI the full and punctual
13 performance of all the obligations described in the 2017 Forbearance Agreement.

14 63. Pursuant to the Amendment to Forbearance Agreement and Related Agreements,
15 dated December 1, 2019 (the "Amendment to 2017 Forbearance Agreement"), SJCVC¹⁰
16 acknowledged that it pledged its membership interest in Spanish Heights as collateral for the
17 2017 Forbearance Agreement.¹¹

18 ¹⁰ An argument has been made that SJCVC did not pledge its stock under the original Pledge Agreement.
19 Given the notice provision in the original Pledge Agreement, Mr. Bloom's signature as manager on behalf of
20 Spanish Heights, rather than SJCVC, and the language of the Pledge Agreement reflecting a pledge of 100% of the
interest in membership of Spanish Heights, it appears the signature line for Mr. Bloom may have been incorrect.
Mr. Bloom is not the manager of Spanish Heights; Mr. Bloom is the manager of SJCVC, which serves as the manager
of Spanish Heights. The language in paragraphs 5 and 9 of the Amendment to the 2017 Forbearance Agreement
reaffirms SJCVC's pledge of its membership interest.

21 ¹¹ The Amendment to the 2017 Forbearance Agreement states in pertinent part:

22 WHEREAS, on or about September 27, 2017, the parties executed a Forbearance Agreement whereby
23 CBCI agreed to forbear from exercising the rights and remedies under certain loan documents executed by
24 the "Antos Parties." In addition to the Forbearance Agreement, the parties executed "Exhibit B" to the
Forbearance Agreement, a Lease Agreement, an Account Control Agreement, a Membership Pledge
Agreement, an Assignment of Rents, and a Security Agreement (collectively "the Related Agreements").

25 ***

26 5. The Membership Pledge Agreement executed by SJCVC and the Antos Trust shall remain in effect and
27 the execution of this Amendment shall not be considered a waiver of CBCI's rights under the Membership
Pledge Agreement.

28 ***

1 64. On or about December 1, 2019, CBCI, the Antos, Spanish Heights and SJC
2 entered into an Amendment to the 2017 Forbearance Agreement, extending the date of the
3 balloon payment to March 31, 2020.

4 65. The Amendment to 2017 Forbearance Agreement was signed by the Antos,
5 Bloom as purported manager on behalf of Spanish Heights, and Bloom as manager of SJC.
6

7 66. Pursuant to the Amendment to 2017 Forbearance Agreement, the Security
8 Agreement “shall remain in effect and the execution of this Amendment shall not be considered
9 a waiver of CBCI’s rights under the Security Agreement...”

10 67. Pursuant to the Amendment to 2017 Forbearance Agreement, any amendment
11 must be in writing.
12

13 68. On March 12, 2020, Spanish Hills Community Association recorded a Health and
14 Safety Lien against the Property. This Lien was for Nuisances and Hazardous Activities.

15 69. On or about March 16, 2020, CBCI mailed a Notice of Non-Monetary Defaults to
16 Spanish Heights and SJC. This Notice of Non-Monetary Default delineated the following
17 defaults:
18

- 19 1. Evidence of homeowner’s insurance coverage Pursuant to Paragraph
20 1(A)(6) of Amendment to Forbearance Agreement and Related
21 Agreements;
- 22 2. Evidence of repairs pursuant to Paragraph 3(c)(1) of Exhibit B to
23 Forbearance Agreement;
- 24 3. Evidence of Bank of America account balance of \$150,000.00
25 pursuant to Paragraph 6(c) of Exhibit B to Forbearance Agreement;
- 26 4. Opinion letter from SJC Ventures and 1st One Hundred Holdings
27 counsel regarding the Judgment and Security Agreement pursuant to
28 Paragraph 1(A)(12) of Amendment to Forbearance Agreement and
 Related Agreements;

9. The Membership Pledge Agreement executed by SJC and the Antos Trust shall remain in effect and
the execution of this Amendment shall not be considered a waiver of CBCI’s rights under the Membership
Pledge Agreement.

5. Evidence of corporate authority for SJC Ventures and 1st One Hundred Holdings pursuant to Paragraph 1(A)(13) of Amendment to Forbearance Agreement and Related Agreements; and
6. Evidence of SJC Ventures filing of applications for mortgages to refinance 5148 Spanish Heights Drive, pursuant to paragraph 1(C) of Amendment to Forbearance Agreement and Related Agreements.

70. On April 1, 2020, a Notice of Default and Demand for Payment was sent to Spanish Heights and SJCVC. This letter had a typo on the date of final balloon payment being due on March 31, 2021. This was corrected and emailed to Spanish Height's and SJCVC's counsel noting that the default date was corrected to March 31, 2020.

71. On April 1, 2020, under separate cover, counsel for CBCI sent a Notice to Spanish Heights, SJCVC, and Antos that CBCI would exercise its rights under the Pledge Agreement by transferring the pledged collateral to CBCI's nominee CBC Partners, LLC.

72. On April 1, 2020, CBC Partners received the Assignment of Company and Membership Interest of Spanish Heights from the Antos Trust.

73. On April 3, 2020, a Notice to Vacate was sent to SJCVC.

74. On April 6, 2020, CBCI sold the Note and security associated with the Note, to 5148 Spanish Heights, LLC.

75. On May 28, 2020, the Assignment of Interest in Deed of Trust was recorded in the Clark County Recorder's Office as Instrument No 202005280002508.

76. On September 15, 2020, Notice of Breach and Election to Sell Under Deed of Trust was recorded in the Clark County Recorder's Office as Instrument No 202009150001405.

77. On December 15, 2020, Notice of Trustee's Sale was recorded in the Clark County Recorder's Office Instrument No 20201215-0000746. The Sale was scheduled for January 5, 2021.

78. CBCI, through Hallberg, and Mr. Antos, both individually and as Trustee of the

1 revocable living trust as makers; confirm the original debt and the Deed of Trust as collateral for
2 the Note.

3 79. 5148 Spanish Heights, LLC, issued a new Notice of Default on January 4, 2021.

4 80. NRS 107.080 sets forth the notice requirements that were followed by 5148
5 Spanish Heights, LLC, and Nevada Trust Deed Services.

6 81. Plaintiff has shown no defect or lack of adequate statutory notice in the current
7 notice.
8

9 82. NRS 47.240 provides for conclusive presumptions relevant to certain provisions
10 of the relevant documents.¹²

11 83. Nothing in the evidence presented during these proceedings provides any basis for
12 departure from the conclusive presumptions recited in the agreements between the parties.¹³
13

14 84. At this time, CBCI has acquired the Antos interest in Spanish Heights through the
15 Pledge Agreement. The membership interest in a limited liability company is not an interest in
16

17 ¹² **NRS 47.240 Conclusive presumptions.** The following presumptions, and no others, are conclusive:

18 ***

19 2. The truth of the fact recited, from the recital in a written instrument between the parties thereto, or their
20 successors in interest by a subsequent title, but this rule does not apply to the recital of a consideration.

21 ¹³ For purposes of this proceeding, the Court applies the conclusive presumptions of NRS 47.240 to the
22 following :

23 From the Pledge Agreement:

24 WHEREAS, Pledgors are the owners of 100%, of the membership interests (the "Membership Interests")
25 of Spanish Heights Acquisition Company, LLC, a Nevada limited liability company ("SHAC"), which has
26 been organized pursuant to the terms of the Limited Liability Company Agreement of Spanish Heights
27 Acquisition Company, LLC.

28 From the Amendment to the 2017 Forbearance Agreement:

WHEREAS, on or about September 27, 2017, the parties executed a Forbearance Agreement whereby
CBCI agreed to forbear from exercising the rights and remedies under certain loan documents executed by
the "Antos Parties." In addition to the Forbearance Agreement, the parties executed "Exhibit B" to the
Forbearance Agreement, a Lease Agreement, an Account Control Agreement, a Membership Pledge
Agreement, an Assignment of Rents, and a Security Agreement (collectively "the Related Agreements").

1 real property. Title to the Property remains in Spanish Heights.

2 85. Plaintiff has not established unanimity of interest in title to the Property.

3 86. Plaintiff has not established an intent on behalf of the creditor to merge their lien
4 with equitable title.

5 87. Plaintiff has provided no evidence that the 2017 Forbearance Agreement and
6 Amendment to the 2017 Forbearance Agreement are vague or ambiguous.

7
8 88. Plaintiff has provided no evidence of fraud or misrepresentation by any
9 Defendant.

10 89. If any findings of fact are properly conclusions of law, they shall be treated as if
11 appropriately identified and designated.
12

13 **III. Conclusions of Law**

14
15 1. The legal standard for granting injunctive relief is set forth in NRS 33.010, which
16 provides:

17 Cases in which injunction may be granted. An injunction may be
18 granted in the following cases:

19 1. When it shall appear by the complaint that the plaintiff is
20 entitled to the relief demanded, and such relief or any part thereof
21 consists in restraining the commission or continuance of the act
complained of, either for a limited period or perpetually.

22 2. When it shall appear by the complaint or affidavit that the
23 commission or continuance of some act, during the litigation,
would produce great or irreparable injury to the plaintiff.

24 3. When it shall appear, during the litigation, that the
25 defendant is doing or threatens, or is about to do, or is procuring or
26 suffering to be done, some act in violation of the plaintiff's rights
27 respecting the subject of the action, and tending to render the
judgment ineffectual.

28 2. Given the current bankruptcy stay, the Court extends the existing injunctive relief

1 entered January 5, 2021, pending further order from the Bankruptcy Court.

2 3. The relevant documents, including, but not limited to, the 2017 Forbearance
3 Agreement and Amendment to Forbearance Agreement and Related Agreements, dated
4 December 1, 2019, are clear and unambiguous as a matter of law

5 4. The Note is secured by the Property.

6 5. As a condition precedent to the Fourth, Seventh, Ninth, and Tenth Modifications
7 to the Note, a Deed of Trust encumbering the Property was required.
8

9 6. The Antos Parties had authority, individually and as Trustees of the Antos Trust,
10 to encumber the Property with the Deed of Trust to CBCI.

11 7. Plaintiffs have waived any defects, acknowledged the encumbrance and agreed, in
12 writing to pay twice; first in the 2017 Forbearance Agreement and second, in the Amendment to
13 the 2017 Forbearance Agreement.
14

15 8. Plaintiffs agreed in the 2017 Forbearance Agreements to pay the amounts in
16 question by separate promise to the Antos Parties.
17

18 9. The Antos Trust received an indirect benefit from the transactions related to the
19 Deed of Trust.

20 10. Mr. Antos testified that the Property was used as security in exchange for
21 additional capital and release of other collateral from CBCI .
22

23 11. Mr. Antos agrees with CBCI that Plaintiffs have failed to perform.

24 12. NRS 107.500 is only required of owner-occupied housing.

25 13. The doctrine of merger provides that “[w]hen a greater and a less estate
26 coincide and meet in one and the same person, without any intermediate estate, the less is
27 immediately merged in the greater, and thus annihilated.” 31 C.J.S. Estates § 153.
28

1 14. Plaintiffs have made no showing of the applications of the doctrine of merger in
2 this case. As no interests have merged, and there is no showing of intent to merge

3 15. The one-action rule “does not excuse the underlying debt.” *Bonicamp v. Vazquez*,
4 120 Nev. 377, 382-83, 91 P.3d 584, 587 (2004).

5 16. The One-Action Rule prohibits a creditor from “first seeking the personal
6 recovery and then attempting, in an additional suit, to recover against the collateral.” *Bonicamp*,
7 120 Nev. at 383, 91 P.3d at 587 (2004). When suing a debtor on a secured debt, a creditor may
8 initially elect to proceed against the debtor or the security. If the creditor sues the debtor
9 personally on the debt, the debtor may then either assert the one-action rule, forcing the creditor
10 to proceed against the security first before seeking a deficiency from the debtor, or decline to
11 assert the one-action rule, accepting a personal judgment and depriving the creditor of its ability
12 to proceed against the security. NRS 40.435(3); *Bonicamp*, 120 Nev. at 383, 91 P.3d at 587
13 (2004).

14 17. The “One-Action Rule” was specifically waived by the debtor. The Deed of Trust
15 paragraph 6.21(a) states:
16

17 Trustor and Guarantor each waive all benefits of the one-action
18 rule under NRS 40.430, which means, without limitation, Trustor
19 and Guarantor each waive the right to require Lender to (i) proceed
20 against Borrower, any other guarantor of the Loan, any pledgor of
21 collateral for any person’s obligations to Lender or any other
22 person related to the Note and Loan Documents, (ii) proceed
23 against or exhaust any other security or collateral Lender may
24 hold, or (iii) pursue any other right or remedy for Guarantors’
benefit.

25 18. The 2017 Forbearance Agreement paragraph 25 gives the benefit of cumulative
26 remedies.

27 The rights and remedies of CBCI under this Forbearance
28 Agreement and the Amended Note and Modified Deed of Trust are

1 cumulative and not exclusive of any rights or remedies that CBCI
2 would otherwise have, and may be pursued at any time and from
3 time to time and in such order as CBCI shall determine in its sole
4 discretion.

5 19. The Court concludes as a matter of law that the Plaintiffs have not established
6 facts or law to support the claim that the One-Action Rule bars recovery under the defaulted
7 Note and Security documents.

8 20. The Court's Temporary Restraining Order, filed January 5, 2021, will remain in
9 place pending further order of the Bankruptcy Court.

10 21. If any conclusions of law are properly findings of fact, they shall be treated as if
11 appropriately identified and designated.

12 JUDGMENT

13 Based upon the foregoing Findings of Fact and Conclusions of Law, and other good
14 cause appearing:

15 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that as to the
16 Claims for Declaratory Relief, the Court declares the third position Deed of Trust is a valid
17 existing obligation against the Property.


18 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as to the
19 Claims for Declaratory Relief, the Court declares that the Note is a valid existing obligation.
20

21 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as to the
22 Claims for Declaratory Relief, the Court declares that the Pledge Agreement is a valid existing
23 obligation of SJCVC.
24

25 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as to the
26 Claims for Declaratory Relief, the Court declares that the acquisition of a membership interest in
27 Spanish Heights does not merge the Defendants interests.
28

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that as to the Claims for Declaratory Relief, the Court declares that there has been a valid waiver of the One-Action Rule.

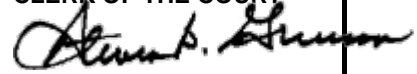
Dated this 6th day of April, 2021


Elizabeth Gonzalez, District Court Judge

Certificate of Service

I hereby certify that on the date filed, a copy of the foregoing Findings of Fact and Conclusions of Law was electronically served, pursuant to N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court Electronic Filing Program.

/s/ *Dan Kutinac*
Dan Kutinac, JEA



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. XXXI

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE JOANNA S. KISHNER, DISTRICT COURT JUDGE

MONDAY, NOVEMBER 15, 2021

IAN HUGHES' MOTION TO QUASH SUBPOENA

**MOTION TO QUASH TRIAL SUBPOENA AND FOR PROTECTIVE ORDER ON
ORDER SHORTENING TIME**

APPEARANCES:

FOR SJC VENTURES,
SPANISH HEIGHTS ACQUISITION,
AND JAY BLOOM:

JOSEPH A. GUTIERREZ, ESQ.

FOR DEFENDANTS AND
COUNTERCLAIMANTS:

MICHAEL R. MUSHKIN, ESQ.

RECORDED BY: FRANCESCA HAAK, COURT RECORDER
TRANSCRIBED BY: JD REPORTING, INC.

1 **LAS VEGAS, CLARK COUNTY, NEVADA, NOVEMBER 15, 2021, 2:50 P.M.**

2 * * * * *

3 THE COURT: Spanish Heights Acquisition versus CBC
4 Partners.

5 Is anybody -- I see Mr. Mushkin, and I see
6 Mr. Gutierrez. I also see that there is an Ian Hughes and a
7 Jay Bloom. Of course, this is a public courtroom. So I'm
8 going to ask the court recorder to go on the record, please.
9 And then I can give my intro blurb, please.

10 THE COURT RECORDER: We are on the record.

11 THE COURT: We're on the record. Okay. I appreciate
12 it. Thank you so very much.

13 Okay. We're on the record in Case Number 813439.
14 And just as a heads up, as you can see, you all are BlueJeans.
15 It looks like I've got a couple of people that I can see
16 audiovisually and a couple of people that I see names
17 underneath, but do not see themselves by picture.

18 This is a public courtroom regardless if people are
19 here present in court, which at present there's nobody present
20 here in court. But also it's a public courtroom.
21 Audiovisually, if people wish to get the BlueJeans link, they
22 are more than welcome to do so with caveats being that if
23 parties ask for certain things to be sealed and/or redacted.

24 If there is a confidential issue under Supreme Court
25 Rule 3, of course, the Court has to be made aware of that and

1 then would hear the reasoning for that. And then if I need to
2 ask anybody not to be a part, then I would address that only at
3 that time. But otherwise, as I said, everyone is welcome.
4 It's a public courtroom.

5 And at this juncture, it is a few moments before the
6 3:00 o'clock hour. You all know I always am on the bench
7 early, but is anyone waiting for anyone, or should we get
8 started in Case 813439, Spanish Heights Acquisition Company,
9 plaintiffs, versus CBC Partners and related counterclaims?

10 Because I didn't see counsel for the receivers.

11 Is counsel for the receiver going to be a part of
12 this? Do we know?

13 Let me go first to appearances first on behalf of SJC
14 Ventures, Spanish Heights Acquisition Company, LLC, in the --
15 and then a variety of different counterdefendants.

16 So, Mr. Gutierrez, do want to make your appearance,
17 please.

18 MR. GUTIERREZ: Yes, Your Honor. Good afternoon.
19 Joseph Gutierrez on behalf of Spanish Heights Acquisition
20 Company, LLC, and counterdefendants SJC Ventures, LLC, and Jay
21 Bloom in his individual capacity as a third-party defendant.

22 With me on the call as well is Mr. Bloom.

23 THE COURT: I'm sorry. I did not hear who you said
24 was also on the call with you.

25 MR. GUTIERREZ: Jay Bloom, third-party defendant,

1 he's also on the call.

2 THE COURT: Okay. Like I said. Everyone is welcome.
3 It's a public courtroom. Okay. Thank you.

4 Counsel on behalf of a variety of defendants and
5 counterclaimants, would you like to make your appearance,
6 please.

7 MR. MUSHKIN: Good afternoon, Your Honor. Mike
8 Mushkin, Bar Number 2421 on behalf of all defendants and
9 counterclaimants.

10 THE COURT: Okay. Wait. So you're, just so we're
11 clear, so all defendants, what we show is -- so let's make sure
12 we're clear because remember there was a little issue with how
13 our records show. Let me make sure we're on the same page.

14 So it was the Kenneth M. Antos --

15 MR. MUSHKIN: We do this every time.

16 THE COURT: I know because remember they had at one
17 point had you listed on behalf --

18 MR. MUSHKIN: I like it on both sides. That way I
19 can control the case.

20 UNIDENTIFIED SPEAKER: I changed that, Judge.

21 THE COURT: Okay. Okay. So, you're here on behalf
22 of all of defendants, and then you're also on behalf of
23 counterclaimants; correct, and then also third-party plaintiff,
24 5148 Spanish Heights, LLC; is that correct?

25 MR. MUSHKIN: That's correct, Your Honor.

1 THE COURT: Okay. Now, I saw that this does say Ian
2 Hughes has not appeared at other hearings but is listed as a
3 pro se.

4 So Mr. Hughes, is he still --

5 Well, I'm going to ask counsel. Mr. Mushkin, is he
6 still a part of this case?

7 MR. MUSHKIN: Your Honor, he was subpoenaed by
8 Mr. Gutierrez. And I believe he's here to make sure he is not
9 needed for trial on the 17th.

10 THE COURT: Okay. So let me go. Mr. Gutierrez, as I
11 recall, remember Mr. Hughes was here in the courtroom, and we
12 had the procedural issue. So, Mr. Gutierrez, should we address
13 that first? Do we need anything with regards to Mr. Hughes?

14 Go ahead, please.

15 MR. GUTIERREZ: (Video interference), Your Honor, I
16 e-mailed Mr. Hughes and told him that we withdrew the subpoena
17 and (video interference) appearance is no longer necessary. In
18 light of the settlement (video interference).

19 THE COURT: Okay. So is it correct then to state
20 that Mr. Hughes is more than welcome to stay listening in
21 because it's a public courtroom, if he wishes to do so, but he
22 has -- he is excused from any subpoena that would require his
23 attendance at a trial in Case Number 813439, or is it something
24 different?

25 Counsel, Mr. Gutierrez, please.

1 MR. GUTIERREZ: That's correct.

2 THE COURT: Okay. So, Mr. Hughes, you heard that;
3 right? It's a public courtroom. You're more than welcome to
4 listen in if you wish to, and if you have other things you need
5 to do, you're also welcome not to listen in.

6 Is there anything you need address, Mr. Hughes, or
7 should we just move forward?

8 MR. HUGHES: No, Your Honor. Thank you so much.
9 I'll leave the hearing now. Thank you for your time, Your
10 Honor.

11 THE COURT: Like I said, you're more than welcome to
12 say. It is a public courtroom.

13 Okay. It looks like some, one or two people also may
14 have additionally logged on. So let me restate what I said a
15 moment ago.

16 And that is, as we all know, it's a public courtroom
17 regardless of people are here in person. We have noted that
18 nobody is in person currently in this courtroom, but it's also
19 a public courtroom remotely. So people are more than welcome
20 to ask us for the BlueJeans link and are more than welcome to
21 listen into any hearing.

22 A couple of the ground rules, of course, with regards
23 to anyone who is not counsel or a party is, of course, they
24 have to keep themselves on mute --

25 When I say counsel or a party, that would in this

1 case also include a trustee -- I mean, a receiver and
2 receiver's counsel.

3 -- but does need to keep themselves on mute. And, of
4 course, everybody knows no one can record or take pictures or
5 anything during a hearing unless there's certain exceptions if
6 there had been a media request that had been signed. In this
7 case, there is no media request that has been signed. So
8 really we don't have those exceptions in this regard, but
9 everyone is, of course, welcome to listen in or audiovisually
10 or just audio, whatever they choose to do so.

11 So other than if we end up having a Supreme Court
12 Rule 3 issue on sealing and/or redacting or if there's some
13 confidentiality aspect that somebody asked the Court, after the
14 Court would hear any said request and any basis for said
15 request, then there may be an exception, but I don't know at
16 this juncture. So the Court takes no position on something
17 that has not yet been brought before me.

18 Without further ado, I'm going to go to counsel for
19 plaintiff/counterdefendants. Are you going to be speaking with
20 regards to this case, or is opposing counsel going to speak on
21 regards to this case?

22 And let's just make sure we're not waiting for
23 anybody else before we move forward. It is a few minutes after
24 the 3:00 o'clock hour.

25 So is anybody waiting for anybody that we should be

1 waiting -- hold off for?

2 MR. GUTIERREZ: No, there is not. Nobody elsewhere
3 waiting on. And I think at this stage Mr. Mushkin will read
4 the 14 points for the (indiscernible) points of the settlement
5 agreement.

6 THE COURT: Okay. And you all understand that this
7 is a public courtroom. So at this juncture, you know,
8 everything is available to anyone since...

9 Okay. So go ahead, Mr. Mushkin.

10 MR. MUSHKIN: Thank you, Your Honor. And we are
11 pleased to report to the Court that we have settled the matter.

12 THE COURT: Congratulations.

13 MR. MUSHKIN: Plaintiffs --

14 THE COURT: Go ahead, please.

15 MR. MUSHKIN: I'm sorry?

16 THE COURT: I said congratulations. Please feel free
17 to go ahead.

18 MR. MUSHKIN: Oh, thank you, Judge.

19 THE COURT: And you know everything is being
20 recorded.

21 MR. MUSHKIN: For whatever reason, the sun is just
22 right in my window, coming right in (indiscernible).

23 Plaintiff/counterdefendants third-party defendant SJC
24 Ventures, LLC, Spanish Heights Acquisition Company and Jay
25 Bloom, collectively referred to as plaintiffs, on the one

1 hand --

2 THE COURT: Wait.

3 MR. MUSHKIN: -- and defendant counterclaimant CBC I,
4 CBC Partners, 5148, Kenneth and Sheila Antos as trustees for
5 the Kenneth and Sheila Antos Living Trust, Kenneth and Sheila
6 Antos trust parties, Dacia, LLC, on the other hand are referred
7 to as defendants or 5148 parties.

8 THE COURT: Thank you. Mr. Mushkin, before you
9 continue --

10 MR. MUSHKIN: Your Honor --

11 THE COURT: Wait. Mr. Mushkin. Mr. Mushkin. Before
12 you continue, I just want to confirm, is nobody had requested
13 this Court that anything be sealed or treated as confidential.
14 So, but sometimes people do with regards to settlement terms.
15 I did not hear anybody say that. So this is just being
16 publicly recorded just like any other hearing, and, you know,
17 would be available. So I just want to make sure everyone
18 understood that just in case anyone did not hear me earlier,
19 like I said, it's really up to you that you --

20 MR. GUTIERREZ: And, Your Honor, on behalf of the
21 plaintiff/counterdefendant, we would prefer the terms kept
22 outside the public realm. We just would like to put on the
23 record that there is a settlement, and Mr. Bloom can confirm
24 the settlement, but we have agreed upon deal points that we can
25 submit for the Court. We'd much rather have that done (video

1 interference) off the record.

2 THE COURT: Okay. Well, the Court would have to do
3 an analysis --

4 MR. MUSHKIN: Your Honor.

5 THE COURT: -- under --

6 Well, first let me hear from Mr. Mushkin on behalf of
7 his clients, and then I'm going to have to address Supreme
8 Court Rule 3.

9 Go ahead, please, Mr. Mushkin.

10 MR. MUSHKIN: Your Honor, normally, I wouldn't have
11 an objection, but I don't think we can do so in this matter
12 because these are stated terms of claims that will then be
13 disclosed in the bankruptcy court as part of the claims under
14 the plan. So while normally I would agree with Mr. Gutierrez,
15 in this particular circumstance, these numbers are going to be
16 public as a matter of law in the federal court. No sense in
17 creating a burden (video interference). That would be my
18 point.

19 THE COURT: Okay.

20 MR. GUTIERREZ: If I could just address that, Your
21 Honor.

22 THE COURT: Sure.

23 MR. GUTIERREZ: There will be certain terms of
24 repayment in the bankruptcy, but there are other terms in here
25 that have no business being in the public record. And I'm

1 looking at the list of people that are on the hearing, I see a
2 David Ferrera (phonetic), who I understand to be a reporter.

3 And at this time my client just would rather have
4 these terms which have been agreed upon remain confidential.
5 And whatever is publicly filed in bankruptcy court can be
6 reported on then.

7 THE COURT: Okay. Remember, the Court has the
8 obligation under Supreme Court Rule 3, if any party, right, is
9 requesting something to either be sealed or redacted, which in
10 this case, since you are on, excuse me, audiovisually and it's
11 being recorded, it implicitly is what I'm hearing you say,
12 Mr. Gutierrez, is that you're requesting that part of today's
13 transcript either be sealed or recorded, or what --

14 Can you please give me the scope of your request and
15 then give me your bases for the request, particularly in light
16 of the fact that Mr. Mushkin said that these are going to be
17 disclosed terms in a public proceeding in a bankruptcy court
18 just so the Court has a full understanding because as you can
19 appreciate, I know many things about this case, but what you
20 all agreed upon, that I don't know yet.

21 Go ahead, please, sir.

22 MR. GUTIERREZ: There will be repayment terms as part
23 of the settlement agreement which will be included in the
24 bankruptcy plan as part of the final settlement.

25 THE COURT: Okay.

1 MR. GUTIERREZ: But there are other terms that have
2 been agreed upon that we believe should remain confidential
3 that won't be (video interference) disclosed in the bankruptcy
4 proceeding. And, you know, at this time we'd request those be
5 sealed or be submitted to the Court as part of the -- as part
6 of (video interference) settlement. We're memorializing the
7 terms of the final settlement. We've reached an agreement on
8 every deal point, but we'd much rather have these terms not
9 placed on the record.

10 My client can agree that he's read the deal points
11 and is agreeable to them, but placing them on public record is
12 not what we intend to do.

13 THE COURT: Okay. Well, let me walk through, you
14 know, with regards to Supreme Court Rule 3. The Court has to
15 balance, right, the public's interest in knowing, right, versus
16 does it meet one of the qualifications for it to be in this
17 case part of the transcript of today's hearing be sealed.

18 So is there -- while I appreciate your client's
19 position, I have to evaluate, right, from legal bases and the
20 factors to get considered under Supreme Court Rule 3.

21 So is there something more you wish to provide the
22 Court?

23 MR. GUTIERREZ: There are certain terms, Your Honor,
24 that my client (video interference) be kept confidential
25 (indiscernible) regarding (video interference) of the property

1 until the (video interference) is made under the agreement the
2 potential terms -- the entire agreement (video interference),
3 and there's been some other terms (video interference) in the
4 settlement agreement agreed upon that my client would not
5 rather not have (video interference) publicly.

6 And alternatively the Court can have us submit this
7 under seal (video interference) put on the record, especially
8 with somebody who is reporting this publicly. That would be
9 (video interference).

10 THE COURT: Okay. Well, let me get a quick point of
11 clarification. In this case, for this hearing, the Court did
12 not receive any media request.

13 Of course, the same thing is if you all were
14 appearing here in person in the courtroom. Anybody is welcome
15 as long as they are wearing a mask, right, and complying with
16 all the county protocols, all the administration protocols,
17 right, which is outside of this independent Court's purview.
18 As long as all of those are complied with, a person is more
19 than welcome to sit in any hearing with certain exceptions,
20 right.

21 In general, this wouldn't fall within one of those
22 exceptions, and we don't need to go into all this
23 (indiscernible) family court exceptions and other things like
24 that.

25 So if that's not the situation, right, then the Court

1 has to look at, and I appreciate sometimes are confidential
2 terms and sometimes people -- the attorneys and/or litigants,
3 if they're representing themselves determine what they wish to
4 place, quote, on the record for purposes of a resolution.
5 That's not a Court ordered or directed aspect of the
6 proceedings.

7 So I'm hearing what you're saying, Mr. Gutierrez, but
8 I'm not hearing a basis, right, with regards to the Court
9 needing, as it needs to do to balance the confidential nature.
10 Is there a way that you all could, A, do you need me to pause
11 for a second and maybe you and Mr. Mushkin speak off-line for a
12 moment. You know, call each other or e-mail or whatever you
13 need to do and speak with your client.

14 MR. MUSHKIN: Your Honor.

15 THE COURT: Go ahead, Mr. Mushkin.

16 MR. MUSHKIN: I think that Mr. Gutierrez is concerned
17 that the last two items on our settlement, all of the other
18 items will be a matter of public record in the federal court.
19 So it's not of real consequence.

20 And I think I can reword those, Joe, so that they are
21 innocuous. In other words, I will reference that there is an
22 agreement regarding the use of the property for a period of
23 time and compliance with the rules and regulations but nothing
24 more than that. If that will satisfy you, Joe, I can -- I
25 think we can just get this on the record and be done.

1 MR. GUTIERREZ: And, Your Honor, my concern was that
2 there (video interference), and then I'd (video interference)
3 kind of caught off guard --

4 THE COURT: Sure.

5 MR. GUTIERREZ: I just have to check with my client
6 as far as --

7 THE COURT: Sure.

8 MR. GUTIERREZ: -- I understand Mr. Mushkin's
9 position that some of the repayment terms are part of the
10 bankruptcy, and I'm fine if those are actually read (video
11 interference) outside Points 13 and 14.

12 THE COURT: Okay. So just so this Court --

13 MR. MUSHKIN: Does that get us there, Joe?

14 THE COURT: Sorry. Just --

15 No.

16 MR. GUTIERREZ: Yeah --

17 THE COURT: Now, remember, everything you're saying
18 now is fully being recorded on a public record. So that's why
19 the Court was asking you.

20 The Court is fine maintaining everything perfectly
21 fine in a public record because at this juncture the Court has
22 not had an analysis, right. Supreme Court rules does say any
23 person may request that the Court seal or redact the Court
24 records for a case that's subject to these rules. Usually
25 you're supposed to file a written motion, or the Court may upon

1 its own motion initiate proceedings to seal or redact a Court
2 record.

3 The motion to seal or redact a Court record must
4 disclose in its title and document code that the sealing or
5 redaction being sought. The motion must be served on all
6 parties NRCP 5. But here you have, in the middle of a hearing.
7 So the hearing kind of has a little bit of a different
8 component, right. Because you all, and I appreciate you
9 resolved things over the weekend.

10 Did you say you resolved them over the weekend -- or
11 whatever.

12 You resolved them before your hearing that was set
13 today on a couple of fully noticed public matters, and so
14 BlueJeans links are more than welcome to be given to any member
15 of the public regardless of what they do for a living, and the
16 media has full access to the courts.

17 Now, the access has got different rules depending on
18 if there is a media request signed by a Court versus just a
19 request for a BlueJeans link. Okay. So that being the case,
20 if there is a specific --

21 Is there an agreement between the parties --

22 Sorry. Mr. Gutierrez, there's a problem with both of
23 us talking at the same time. We just won't get you a nice
24 clear record.

25 So is there a request under Supreme Court Rule 3, or

1 did Mr. Mushkin's proposal meet your needs, or do we need to
2 take a brief break? What are you requesting?

3 Go ahead, sir.

4 MR. GUTIERREZ: If we can take (video interference)
5 so I can talk to my client, but my proposal would be just to
6 state that the parties -- and, Mr. Mushkin and I are agreeable
7 on the exact terms of the 14 points we've agreed upon.
8 Mr. Bloom has read them. He confirms he's agreeable to them.
9 So we don't have to read them into the record. If that's an
10 option, I think, if you could give us just maybe a few minute
11 break to talk to Mr. Mushkin and Mr. Bloom.

12 THE COURT: Sure.

13 MR. GUTIERREZ: (video interference), but for
14 purposes of this settlement, we just want to inform the Court
15 that the case is settled. And procedurally, what would happen
16 next in light of triggering the settlement agreement.

17 THE COURT: So --

18 MR. GUTIERREZ: (video interference) vacating the
19 trial and if one of the benchmarks is not met, resetting it for
20 a bench trial. So those are the types of things we were hoping
21 to discuss in court today, not (indiscernible) terms.

22 THE COURT: Okay. So, Mr. Gutierrez, if you need a
23 few moments to discuss something with your client, and,
24 Mr. Mushkin, what we can do is we can mute you from our end.
25 Make sure you mute yourself from your end, and then just you

1 come back on, just say that you've taken your few moments that
2 you need, right, and then if you're muted on your end, you're
3 muted on our end. I can ask Madam Court Recorder to stop
4 recording until you let us know that you're ready to continue,
5 okay, and then presumably you can either call each other,
6 e-mail each other, text, whatever method of communication you
7 wish to do. I don't even know if you're in the same location.
8 You know, so whichever method you choose to do.

9 Does that meet your needs, counsel for plaintiff?

10 MR. GUTIERREZ: Yes, it does. Thank you, Your Honor.

11 MR. MUSHKIN: Your Honor --

12 THE COURT: Counsel for defendant, counterclaimant,
13 does that meet your needs as well, or is there another request?

14 MR. MUSHKIN: No, that's fine, Your Honor. I'll go
15 on mute as well.

16 THE COURT: Okay. So I'm going to ask Madam Court
17 Recorder at this juncture please mute the Court, and then you
18 all can mute yourselves. And if you want to take away your
19 pictures because if you think somebody is going to lip read,
20 you know, whatever you wish to do.

21 But when you come back on on the video, just let the
22 Court know you're ready. Okay. You can put in the chat that
23 you're ready, and then we'll continue the hearing. Okay.
24 Thank you so very much.

25 Okay. Madam Court Recorder, can we put ourselves on

1 mute. Thank you so much. I appreciate it.

2 (Proceedings recessed at 3:15 p.m., until 3:23 p.m.)

3 THE COURT: We're now back on the record. We
4 understood from a chat comment that both counsel were all
5 ready.

6 Is that correct? Counsel for plaintiff first and
7 then counsel for defense.

8 You're on mute still, Mr. Gutierrez.

9 MR. MUSHKIN: Yes, Your Honor, we are ready now.

10 THE COURT: Okay. I'm hearing Mr. Mushkin saying --
11 Remember, you have to identify yourselves each time
12 you speak. Because as much as I can see somebody's mouth
13 moving our JAVS system does not have that voice identification
14 capacity. Do appreciate it.

15 That was Mr. Mushkin, correct, on behalf of
16 defendants, counterclaimants and third-party plaintiff;
17 correct?

18 MR. MUSHKIN: Yes, Your Honor.

19 THE COURT: Okay. Thank you.

20 Go ahead, Counsel for plaintiff. Are you ready as
21 well?

22 MR. GUTIERREZ: Yeah, we're ready. We came to an
23 agreement with counsel. Thank you.

24 THE COURT: Thank you so very much.

25 Okay. So, Mr. Mushkin, what do you wish to place on

1 the record?

2 MR. MUSHKIN: Your Honor, yes. I want to place our
3 basic deal points on the record. This will be followed by a
4 formal settlement document and order -- an order for this Court
5 as well as an order for the bankruptcy court.

6 I'm not going to recite the parties again, but this
7 does cover all parties for this matter.

8 The parties have agreed to allow the use of an
9 appraisal that was commissioned by my office. The appraiser
10 was Kendall Britton (phonetic). That appraisal can be used in
11 the bankruptcy case.

12 The 5148 parties will consent to run 1111(b) (1)
13 treatment of their claim under the plan.

14 SJC Ventures agrees to make payments to the 5148
15 parties, the first of which on the claim is due January 5th.

16 THE COURT: What year, please? What year, please?
17 Counsel, January 5th. What year, please?

18 MR. MUSHKIN: I'm sorry. 2022.

19 THE COURT: Thank you so very much. Go ahead,
20 please.

21 MR. MUSHKIN: The failure of SJC Ventures to pay that
22 payment on or before January 5th, 2022, will trigger the
23 resumption of foreclosure on the subject property.

24 The failure of SJC Ventures to pay the January 5th,
25 2022, payment will allow 5148 and related parties to litigate

1 the balance of their claims in either District Court or in
2 binding arbitration.

3 The parties agreed to an immediate stay of all
4 claims, those before this Court as well as those before the
5 Nevada Supreme Court.

6 The parties agree to vacate the November 17th,
7 2021, scheduled jury trial and all associated State court
8 hearings set in this matter and ask that the matter be reset on
9 the Court's April 2022 stack.

10 These matters will only be heard if SJC Venture fails
11 to make payments due herein.

12 The parties agree to execute mutual releases which
13 will become effective upon the final payment due April 5th,
14 2022.

15 The parties agree to immediately stay all orders of
16 the court-appointed receiver Larry Birch (phonetic).

17 The parties agree to discharge Mr. Birch as
18 court-appointed receiver in this case, on April 5th, 2022,
19 assuming SJC Ventures makes the final payment.

20 The parties agree that the taxes, HOA lien, Republic
21 service charge, the first and second mortgage payments will be
22 made in accordance with the bankruptcy plan, and these payments
23 will be completed on or before November 30 or two days after
24 the entry of the bankruptcy order, whichever comes first.

25 There are certain other terms related to the use of

1 the property and the abiding of rules. We will keep those
2 specific terms confidential today, but they'll be included in a
3 settlement agreement, and the only other information that I
4 have for the Court is the treatment of the claim in bankruptcy,
5 and I will summarize that very quickly just to advise that the
6 holder of the Class 3 secured claim which is 5148, will have a
7 claim of a stated amount pursuant to Section 1111 (b) (1). He
8 will have secured status.

9 The Class 3 claim will approve interest at a certain
10 rate, and the Class 3 claim will have payments due just as I
11 have recited in the District Court, the first payment being due
12 January 5th, 2022. The second claim being due April 5th,
13 2022.

14 Promptly after the entry of the confirmation order
15 and no more than two business days thereafter, debtors shall
16 pay all delinquent sums for real estate taxes, all sums due for
17 the Class 1 and 2 plaintiffs, which is the first and second
18 mortgage, sums certain to the HOA as a resolution of their
19 Class 4 claim, and any amounts due to Republic Service for
20 delinquent amounts there.

21 Defendant shall -- or the debtor shall also provide
22 proof of such payment to the holder of Class 3 promptly after
23 the payments are made.

24 And then just as with the settlement agreement in
25 this case, Judge, any default under the terms of this paragraph

1 of the plan will constitute grounds for the holder of a Class 3
2 claims to commence or to continue foreclosure on the property
3 without further order of the Court, notice to the debtor SJC,
4 or any other party save and except for statutory notice
5 pursuant to Nevada law.

6 And, Your Honor, I believe that represents the entire
7 basic terms.

8 And, Mr. Gutierrez, if I misread anything, please
9 advise the Court.

10 If not, I think we're done, Judge.

11 THE COURT: Counsel for plaintiff, Mr. Gutierrez, on
12 behalf of plaintiff and counterdefendant and all your client
13 roles, are those terms; correct? Is there anything that needs
14 to be added, and is there any clarification? What is your
15 position? And then are you going to have your client confirm
16 them as well?

17 Go ahead, please, sir.

18 MR. GUTIERREZ: Thank you, Your Honor. This is
19 Joseph Gutierrez for the record.

20 Yes, Your Honor, Mr. Mushkin has summarized the terms
21 of the 14 points that we agreed upon in our deal point and our
22 e-mail correspondence today. Mr. Bloom is also on the call.
23 He can state if he's read them and he can confirm their
24 accuracy (indiscernible).

25 THE COURT: Are you going to ask Mr. Bloom to do so,

1 or are you asking the Court to ask him? What would you like to
2 do, sir?

3 MR. GUTIERREZ: I'm going to ask Mr. Bloom to come on
4 and to state (video interference).

5 MR. BLOOM: Good afternoon, Your Honor. Yes, I
6 believe this matter is resolved with those terms.

7 THE COURT: Okay.

8 UNIDENTIFIED SPEAKER: And can he say his name?

9 THE COURT: Sorry. Once again, no voice
10 identification, right, on our JAVS system. So I need to say
11 who you are and whether or not you fully and knowingly agree to
12 all the terms stated by Mr. Mushkin, confirmed by counsel for
13 you and the various parties on your side of the Vs.

14 MR. BLOOM: Yes, Your Honor.

15 THE COURT: Okay. So your name is?

16 MR. BLOOM: I'm sorry. My name is Jay Bloom on
17 behalf of the plaintiff, defendants and third-party defendants
18 and I guess counterdefendants --

19 UNIDENTIFIED SPEAKER: And that's Jay Bloom?

20 MR. BLOOM: -- and I agree with the terms (video
21 interference) this matter.

22 THE COURT: I'm sorry, sir. There's somebody else
23 talking. I didn't hear what you said. I heard your name, and
24 then I did not hear what you said if you wouldn't mind
25 restating that. You're a little soft-spoken. There was some

1 cross voices if you don't mind, sir.

2 Go ahead, please.

3 MR. BLOOM: Yes. This is Jay Bloom on behalf of the
4 plaintiffs, counterdefendants and third-party defendants. Yes,
5 I believe that the terms as described (video interference) this
6 matter in full.

7 THE COURT: Okay. And do you knowingly and
8 voluntarily agree to them? That's what I heard your counsel
9 say he was asking you to confirm.

10 MR. BLOOM: Yes.

11 THE COURT: Okay. Okay. Thank you so much.

12 Okay. Counsels, I've got a couple of quick questions
13 because you're overlapping, as you know, proceedings that are
14 within the jurisdiction of this Court and proceedings that are
15 not within the jurisdiction of this Court.

16 So for purposes of the District Court Case
17 Number 813439, slash, hyphen, B, okay, which is Spanish Heights
18 Acquisition Company, LLC, plaintiffs et al versus CBC Partners
19 I, LLC, et al, and related counterclaims, et cetera. A couple
20 of questions with regards to that.

21 When you said you're asking for this case to be
22 stayed and then placed on the April stack, I was not hearing
23 you say that this case then -- I mean, how is that anticipated
24 to work? Is that -- because if it's resolved, we don't set it.
25 I mean, you all are going to trial and picking a jury on

1 Wednesday unless this case is fully and finally resolved was
2 what was agreed at a variety of different times, including most
3 recently at your calendar call; right? So if you're just
4 asking for a trial continuance or you're asking it to be
5 vacated, but then you also said stayed, so can you please
6 explain so that this Court has a better understanding of what
7 you're asking in the District Court case only, please.

8 MR. MUSHKIN: Sure, Judge. If I can -- again, this
9 is Mike Mushkin.

10 What we were asking you to do is to stay all of the
11 motion practice, including the receiver's duties. Continue the
12 trial to your April stack. Your April stack has a call date
13 of, I believe, either the 15th or the 17th of April. That is
14 beyond our final trigger date. So that will allow us to know
15 that the settlement agreement was fully performed. We will
16 then come to you with a order of dismissal. And if we don't
17 have an order of dismissal, we'll be coming to you asking, as
18 any other litigant for the case to be reset for trial.

19 THE COURT: Okay. There's some challenges in what
20 you just said. One such challenge is you are -- let's go to
21 the receiver challenge first. Okay.

22 The receiver, it's a court-appointed receiver; right?
23 It's not a stipulated by the parties receiver, okay. It's a
24 court-appointed receiver. So are you asking to stay something
25 as that of an X date? I mean, is it as of today? Is it a date

1 certain, and so that he then is compensated --

2 MR. MUSHKIN: Yes, Your Honor. It's as of
3 (indiscernible).

4 THE COURT: So you understand we needed some clarity.
5 So what are you asking so that the Court can evaluate it,
6 please.

7 MR. MUSHKIN: It would be a stay as of today.

8 THE COURT: So all work that he has performed up and
9 to 3:35 on today's date, November 15th, he is compensated
10 for, but he's not to do further work after this date and time,
11 or are you requesting something different?

12 MR. MUSHKIN: No, ma'am, that's exactly what we are
13 requesting.

14 THE COURT: Okay. And let me hear from counsel for
15 opposing counsel.

16 Mr. Gutierrez, is that your understanding, or is
17 there something different? So I'm making sure it's the same
18 joint request or not. If it's not -- go ahead, please, sir.

19 MR. GUTIERREZ: Thank you, Your Honor. This is
20 Joseph Gutierrez for the record.

21 Yes, Your Honor. So the receiver who's been
22 appointed (video interference) on Mr. Mushkin said his work
23 would be stayed pending the release of all claims after the
24 April payment.

25 And then procedurally, for trial, Mr. Mushkin

1 represented regarding (video interference) claims and, however
2 the Court would vacate the trial and reset it, but we've looked
3 at the April stack as a potential date (video interference) in
4 April.

5 THE COURT: Okay. You understand generally when
6 there's a settlement on the record trial dates get vacated.
7 The case gets closed. You know, usually there's a 30 day
8 status check on documents 45 days, you know, whatever the case
9 may be.

10 But here you all are asking for a stay until a
11 particular date. Is that correct? Because you still have
12 outstanding motion practice, but then I'm hearing you say you
13 wish to be -- the April stack for 2022 starts April 18th,
14 2022, a five-week stack, okay.

15 So can you clarify what you're asking in that regard.
16 Stay motion practice until a March date? Stay motion practice
17 until the pretrial conference as the time for that April stack?
18 Can you clarify so that the Court has a better understanding of
19 what you're asking the Court to do, please.

20 MR. MUSHKIN: Your Honor, this is Mike Mushkin. That
21 is exactly what we're asking you to do. To stay motion
22 practice. We believe that we will know in much greater
23 certainty on the 6th of January. If the first payment is made,
24 it will be highly unlikely that the second payment would not be
25 made. So whatever you can do for us to get this to the middle

1 of January would be very helpful.

2 THE COURT: Okay. What maybe I am hearing you all
3 say is that you wish the Court to set a status check on
4 Tuesday, January 11th at 8:30. And on Tuesday, January 11th
5 at 8:30, you all will inform the Court that, A, the first
6 payment is made. So therefore things are moving along as they
7 need to do, or, B -- hopefully not B, but B would be, Your
8 Honor, we have issues, and so therefore we need to reset the
9 motions, and then the Court you need to set the trial as you
10 deem appropriate. Is that where you're going, or is there
11 something different?

12 MR. MUSHKIN: Your Honor, this is Mike Mushkin. That
13 would be just perfect.

14 THE COURT: Counsel for plaintiff, would that meet
15 your needs as well, plaintiff/counterdefendants?

16 MR. GUTIERREZ: Yes (video interference). This is
17 Joseph Gutierrez?

18 THE COURT: Pardon. I didn't -- I'm sorry. I did
19 not hear you, Mr. Gutierrez.

20 MR. GUTIERREZ: Yes, it does, Your Honor. Sorry.

21 THE COURT: Okay. And that's Mr. Gutierrez on behalf
22 of -- would you mind stating your name please on behalf of the
23 parties.

24 MR. GUTIERREZ: Yes. Joseph Gutierrez on behalf of
25 the plaintiffs, Your Honor.

1 THE COURT: Okay. So because you know the Court can
2 take no position with regards to anything pending in the Nevada
3 Supreme Court or in a bankruptcy court. You all understand all
4 of that. I can only address what's currently pending before me
5 in Case 813439.

6 So with regards to payment of the receiver, are you
7 all going to -- because you're asking me to stop his actions
8 today, how would he have notice of that? Because I do not see
9 that the receiver or receiver's counsel. Now, this was a
10 originally appropriately scheduled hearings that were fully
11 noticed to everyone. Everyone got e-service, but I don't know.
12 Do you know if counsel for the receiver was aware of this
13 change in circumstances?

14 MR. MUSHKIN: Your Honor, I believe that Tracy is on
15 the line listening in, but I take responsibility to advise the
16 receiver of where we're at and the timing of things --

17 THE COURT: Well, I'm sorry. I -- just if you're
18 saying Tracy my JEA, that has nothing to do with third-party
19 receivers. So I'm not sure who you mean, Tracy's.

20 MR. MUSHKIN: Sorry. Tracy is one of the attorneys
21 in the receiver's counsel's office as well. I'm sorry.

22 THE COURT: I'm sorry.

23 MR. MUSHKIN: Your Honor, I'll take responsibility of
24 getting a hold of the receiver.

25 THE COURT: Okay. Just so that you have an

1 understanding who I show is on BlueJeans, and there's no one
2 physically here in the Court, I show on BlueJeans the labels
3 say David Ferrero, Jay Bloom, Joseph Gutierrez, Michael Mushkin
4 and Tracy Cordova.

5 Tracy Cordova is the JEA for Department 31. She is
6 just on this hearing listening because, as you can appreciate,
7 depending on what happens in this case, we may have other cases
8 that need certain time that was originally allocated to you
9 all. We have to coordinate with jury services for a lot of
10 different things. So obviously she's on for purposes to
11 understand the procedural things that the Department needs to
12 do depending on what you all are telling me today.

13 So I am not aware of anybody else being on. I do not
14 know who's sitting in your offices or et cetera. So if there's
15 somebody with you, I would have no idea. I'm naming the names
16 that we show that have logged in.

17 MR. MUSHKIN: I'll contact -- this is my motion, Your
18 Honor. I'll contact the receiver.

19 THE COURT: Okay. So when you submit the order to
20 the Court, okay, then what I am going to need is there's going
21 to need to be some date that when the receiver was notified of
22 the intention of the parties, right, because -- so that the
23 Court can do an effective order with regards to the receiver's
24 appointment and duties.

25 So when you're saying to stay the receiver, then we

1 have to circle back to that for a moment. To stay the
2 receiver's duties, you're asking the Court just to ask the
3 receiver to stop doing further collection at this moment, but
4 you're not asking the Court to do anything with regards to the
5 appointment of said receiver. Is that correct? Or are you
6 asking something --

7 MR. MUSHKIN: This is Mike Mushkin. That is correct,
8 Your Honor.

9 THE COURT: Okay. Counsel for plaintiffs,
10 counterdefendants, is that your position as well, sir.

11 MR. GUTIERREZ: This is Joseph Gutierrez. Your
12 Honor, yes, that's correct.

13 THE COURT: Okay. So here's what I'm hearing you
14 asked the Court to do, and if it's something different,
15 somebody needs to let me know because there was a lot that you
16 all were saying.

17 What I'm understanding you're asking this Court to do
18 is that you all said on the record under EDCR 7.50, as if it
19 were memorialized in writing, however you are intending to
20 memorialize your 14 points in writing, but, however, for the
21 purposes of this hearing, what you're asking the Court to do is
22 to take off calendar all pending motions that were set for
23 3:00 o'clock today in regards to the OST, a regular source.

24 I understand what you're also asking the Court to do
25 is to notify jury services that there is not a jury that's

1 needed and that you're asking that the jury selection that was
2 set for this Wednesday, the 17th, as well as the trial that was
3 supposed to commence immediately after jury selection be
4 vacated.

5 You're asking that the Court instead place this case
6 on the April 18th, five-week stack, with the understanding
7 that the parties have all agreed that the matter has been fully
8 resolved as to all parties, all counterclaimants, all third
9 parties, everyone in the case. However, in an abundance of
10 caution, since there are future payments due, you wish to keep
11 a new trial date on.

12 Then you also are asking the Court then that means
13 you would get a new pretrial conference and said pretrial
14 conference would be on March 17th at 10:15. Set calendar
15 call, at least initially, would be on April 5th.

16 And then you're also asking the Court to provide a
17 January 11th status check, and at that status check the
18 parties will confirm if the first payment that was pursuant to
19 your agreement was made on January 5th, 2022; and if it was
20 what further action the parties are going to ask the Court to
21 do; and if it was not, what further action the parties are
22 requesting the Court to do.

23 And then this Court, of course, would have to take no
24 position with regards to the bankruptcy or the Nevada Supreme
25 Court action.

1 What you're also asking in addition to this Court,
2 once I receive the order is to ask that the receiver, the
3 court-appointed receiver, stay any further collection, slash,
4 records obtaining processes as of a date certain, which would
5 be no sooner than today, the 15th at -- well, I said 3:35, but
6 then in addition, that would be revisited also on the January
7 11th depending on the status.

8 Is that correct? Is that incorrect? Does it need to
9 be clarified, Counsel for plaintiffs first and then counsel for
10 plaintiffs, counterclaimants, excuse me and then counsel for
11 defense counter --

12 MR. GUTIERREZ: Your Honor --

13 THE COURT: -- and third-party plaintiffs.

14 Mr. Gutierrez, please.

15 MR. GUTIERREZ: This is Joseph Gutierrez. Yes.
16 That's correct, Your Honor.

17 THE COURT: Okay. And I understand you had the full,
18 knowing and intelligent affirmation from your client,
19 Mr. Bloom, on behalf of all of your clients. Is that correct?

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

21 THE COURT: Okay. Thank you.

22 So, Mr. Mushkin, on behalf of all your clients, is
23 that correct, or is there something else?

24 MR. MUSHKIN: Yes, Your Honor. That is correct.
25 This is Mike Mushkin. You have done this just exactly what we

1 need.

2 THE COURT: Okay. So the Court is going to grant the
3 joint oral request of the parties with respect to only the
4 portions that impact this Court's jurisdiction, which is
5 813439.

6 And so we ask that you submit as a very prompt order,
7 of course, under EDCR 7.21 you do have the 14 days; however,
8 you realize when I get the order is when things, and then
9 notice of entry thereof is when things potentially can be
10 effected.

11 So at this juncture, what's your anticipated time
12 frame for getting the Court an order?

13 UNIDENTIFIED SPEAKER: (Video interference), Judge.

14 THE COURT: I'm sorry. I think you both were
15 speaking at the same time.

16 Is that Mr. Mushkin saying how about tomorrow, Judge?

17 MR. MUSHKIN: We should be able to get you an order
18 by the close of business tomorrow, Judge. This is Mike
19 Mushkin.

20 THE COURT: Thank you.

21 Mr. Gutierrez, does that meet your needs or not?

22 MR. GUTIERREZ: Yes, Your Honor.

23 THE COURT: Okay. So what we'll do then is we will
24 notify jury services as far as not needing the jury. If, for
25 some reason, well, something happens, you know, that the Court

1 will have to address what the Court will need to address;
2 right?

3 So at this juncture, I am going to authorize Madame
4 Clerk that we can notify jury services that we will not need
5 the jurors on Wednesday, that the trial date of November 17th
6 has been vacated. Ask her to reset the trial but resetting the
7 trial based on that that is a contingency trial if there is not
8 compliance with the oral settlement that was entered on the
9 record today, the 15th of November of 2021.

10 In accordance with EDCR 7.21, the Court is going to
11 have to review how you all phrased what the receivers, and that
12 proposed order does need to get circulated to (indiscernible)
13 on behalf of the receiver so that we -- because she is the only
14 one who is really going to have the information of what he is
15 doing as of today. So we need to ensure that that is fairly
16 and equitably inconsistent with the Court's original
17 appointment of said receiver.

18 And is there anything else that the --

19 And the stay is only going to be effective for you
20 all to put in your order. The stay is going to be effective to
21 January 11th, which is your status check date. At that date
22 then I will evaluate, right, if it makes sense to continue the
23 stay because there's already compliance. And if there's not
24 compliance, then we'll do the next step.

25 Does that meet your needs, or is there something

1 different you all are requesting for the time period of the
2 stay?

3 Counsel for --

4 MR. MUSHKIN: That works for me, Your Honor. This is
5 Mike Mushkin.

6 THE COURT: Mr. Gutierrez, does that work for you as
7 well?

8 MR. GUTIERREZ: Yes, Your Honor.

9 THE COURT: Okay. So then you'll put that also in
10 your proposed order.

11 Is there anything else the Court can do other than
12 say congratulations, wish you the best of luck and look forward
13 to hearing positive news on January 11th? Is anything else I
14 can do for you on Case 813439?

15 Counsel for plaintiff and counterdefendants.

16 MR. GUTIERREZ: This is Joe Gutierrez. No, thank
17 you, Your Honor. Thank you for your time.

18 THE COURT: Okay. Sorry. And, Mr. Gutierrez, let me
19 just give one point since we're doing kind of final conclusions
20 of everything. And I also understood what was addressed in the
21 very beginning of the hearing that Mr. Ian Hughes, he was
22 released from his subpoena, and you had stated that on the
23 record; correct?

24 MR. GUTIERREZ: That is correct.

25 THE COURT: Okay. Thank you so much.

1 Go ahead, please. Counsel for defense, is there
2 anything else the Court can do for you on Case 813439?
3 Defendants and counterclaimants.

4 MR. MUSHKIN: No, Your Honor. No, Your Honor. On
5 behalf of the defendant and counterclaimants, thank you very
6 much for your time. I'm only sorry I couldn't give you the
7 news earlier.


8 THE COURT: Do appreciate it. Well, thank you. And
9 like I said, congratulations. Appreciate your diligence to try
10 to get this matter resolved and wish you all the best of luck.

11 So that concludes the hearing. And thank everyone.

12 (Proceedings concluded at 3:49 p.m.)

13 -oOo-

14 ATTEST: I do hereby certify that I have truly and correctly
15 transcribed the audio/video proceedings in the above-entitled
16 case to the best of my ability.

17 
18 Dana L. Williams

19 Dana L. Williams
20 Transcriber

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MR. GUTIERREZ: [34] 3/18 3/25 5/15 6/1 8/2 9/20 10/20 10/23 11/22 12/1 12/23 15/1 15/5 15/8 15/16 17/4 17/13 17/18 18/10 19/22 23/18 24/3 27/19 29/16 29/20 29/24 32/11 34/12 34/15 34/20 35/22 37/8 37/16 37/24	6 6th of [1] 28/23	ai [2] 25/18 25/19 all [52] allocated [1] 31/8 allow [3] 20/8 20/25 26/14 along [1] 29/6 already [1] 36/23 also [20] 2/6 2/20 3/24 4/1 4/22 4/23 6/5 6/13 6/18 7/1 22/21 23/22 26/5 32/24 33/12 33/16 34/1 34/6 37/9 37/20 alternatively [1] 13/6 always [1] 3/6 am [5] 3/6 29/2 31/13 31/20 36/3 amount [1] 22/7 amounts [2] 22/19 22/20 analysis [2] 10/3 15/22 another [1] 18/13 anticipated [2] 25/23 35/11 Antos [4] 4/14 9/4 9/5 9/6 any [16] 5/22 6/21 7/14 7/14 9/16 11/8 13/12 13/19 15/22 16/14 22/19 22/25 23/4 23/14 26/18 34/3 anybody [8] 2/5 3/2 7/23 7/25 7/25 9/15 13/14 31/13 anyone [5] 3/7 3/7 6/23 8/8 9/18 anything [12] 5/13 6/6 7/5 9/13 23/8 23/13 30/2 32/4 36/18 37/11 37/13 38/2 appearance [3] 3/16 4/5 5/17 appearances [2] 1/18 3/13 appeared [1] 5/2 appearing [1] 13/14 appointed [6] 21/16 21/18 26/22 26/24 27/22 34/3 appointment [3] 31/24 32/5 36/17 appraisal [2] 20/9 20/10 appraiser [1] 20/9 appreciate [10] 2/11 11/19 12/18 14/1 16/8 19/1 19/14 31/6 38/8 38/9 appropriate [1] 29/10 appropriately [1] 30/10 approve [1] 22/9	ask [16] 2/8 2/23 3/2 5/5 6/20 18/3 18/16 21/8 23/25 24/1 24/3 32/2 33/20 34/2 35/6 36/6 asked [2] 7/13 32/14 asking [27] 15/19 24/1 25/9 25/21 26/4 26/4 26/7 26/10 26/17 26/24 27/5 28/10 28/15 28/19 28/21 30/7 32/2 32/4 32/6 32/17 32/21 32/24 33/1 33/5 33/12 33/16 34/1 aspect [2] 7/13 14/5 associated [1] 21/7 assuming [1] 21/19 at [34] 2/19 3/2 3/5 4/16 5/2 5/23 7/15 8/3 8/7 11/1 11/3 12/4 14/1 15/21 16/23 18/17 19/2 22/9 26/2 26/3 28/3 29/4 29/5 30/16 32/3 33/14 33/15 33/17 34/5 35/11 35/15 36/3 36/21 38/12 attendance [1] 5/23 ATTEST [1] 38/14 attorneys [2] 14/2 30/20 audio [2] 7/10 38/15 audio/video [1] 38/15 audiovisual [1] 2/16 audiovisually [3] 2/21 7/9 11/10 authorize [1] 36/3 available [2] 8/8 9/17 aware [3] 2/25 30/12 31/13 away [1] 18/18	become [1] 21/13 been [10] 7/6 7/6 7/7 7/17 11/4 12/2 13/3 27/21 33/7 36/6 before [12] 1/12 3/5 7/17 7/23 9/8 9/11 16/12 20/22 21/4 21/4 21/23 30/4 beginning [1] 37/21 behalf [20] 3/13 3/19 4/4 4/8 4/17 4/21 4/22 9/20 10/6 19/15 23/12 24/17 25/3 29/21 29/22 29/24 34/19 34/22 36/13 38/5 being [11] 2/22 8/19 9/15 10/25 11/11 15/18 16/5 16/19 22/11 22/12 31/13 believe [8] 5/8 12/2 23/6 24/6 25/5 26/13 28/22 30/14 bench [2] 3/6 17/20 benchmarks [1] 17/19 best [3] 37/12 38/10 38/16 better [2] 26/6 28/18 between [1] 16/21 beyond [1] 26/14 binding [1] 21/2 Birch [2] 21/16 21/17 bit [1] 16/7 BLOOM [17] 1/20 2/7 3/21 3/22 3/25 8/25 9/23 17/8 17/11 23/22 23/25 24/3 24/16 24/19 25/3 31/3 34/19 BlueJeans [7] 2/14 2/21 6/20 16/14 16/19 31/1 31/2 blurb [1] 2/9 both [4] 4/18 16/22 19/4 35/14 break [2] 17/2 17/11 brief [1] 17/2 Britton [1] 20/10 brought [1] 7/17 burden [1] 10/17 business [3] 10/25 22/15 35/18 but [38] 2/17 2/20 3/3 3/7 5/2 5/21 6/18 7/3 7/8 7/15 9/14 9/24 10/11 10/24 11/19 12/1 12/8 12/11 14/7 14/23 16/6 17/5 17/13 18/21 20/6 22/2 26/5 27/10 28/2 28/10 28/12 29/7 30/11 30/15 32/3 32/20 34/5 36/6
MR. MUSHKIN: [39] THE COURT RECORDER: [1] 2/10 THE COURT: [81] UNIDENTIFIED SPEAKER: [4] 4/20 24/8 24/19 35/13	8 813439 [8] 2/13 3/8 5/23 25/17 30/5 35/5 37/14 38/2 8:30 [2] 29/4 29/5	al [2] 25/18 25/19 all [52] allocated [1] 31/8 allow [3] 20/8 20/25 26/14 along [1] 29/6 already [1] 36/23 also [20] 2/6 2/20 3/24 4/1 4/22 4/23 6/5 6/13 6/18 7/1 22/21 23/22 26/5 32/24 33/12 33/16 34/1 34/6 37/9 37/20 alternatively [1] 13/6 always [1] 3/6 am [5] 3/6 29/2 31/13 31/20 36/3 amount [1] 22/7 amounts [2] 22/19 22/20 analysis [2] 10/3 15/22 another [1] 18/13 anticipated [2] 25/23 35/11 Antos [4] 4/14 9/4 9/5 9/6 any [16] 5/22 6/21 7/14 7/14 9/16 11/8 13/12 13/19 15/22 16/14 22/19 22/25 23/4 23/14 26/18 34/3 anybody [8] 2/5 3/2 7/23 7/25 7/25 9/15 13/14 31/13 anyone [5] 3/7 3/7 6/23 8/8 9/18 anything [12] 5/13 6/6 7/5 9/13 23/8 23/13 30/2 32/4 36/18 37/11 37/13 38/2 appearance [3] 3/16 4/5 5/17 appearances [2] 1/18 3/13 appeared [1] 5/2 appearing [1] 13/14 appointed [6] 21/16 21/18 26/22 26/24 27/22 34/3 appointment [3] 31/24 32/5 36/17 appraisal [2] 20/9 20/10 appraiser [1] 20/9 appreciate [10] 2/11 11/19 12/18 14/1 16/8 19/1 19/14 31/6 38/8 38/9 appropriate [1] 29/10 appropriately [1] 30/10 approve [1] 22/9	as [65] ask [16] 2/8 2/23 3/2 5/5 6/20 18/3 18/16 21/8 23/25 24/1 24/3 32/2 33/20 34/2 35/6 36/6 asked [2] 7/13 32/14 asking [27] 15/19 24/1 25/9 25/21 26/4 26/4 26/7 26/10 26/17 26/24 27/5 28/10 28/15 28/19 28/21 30/7 32/2 32/4 32/6 32/17 32/21 32/24 33/1 33/5 33/12 33/16 34/1 aspect [2] 7/13 14/5 associated [1] 21/7 assuming [1] 21/19 at [34] 2/19 3/2 3/5 4/16 5/2 5/23 7/15 8/3 8/7 11/1 11/3 12/4 14/1 15/21 16/23 18/17 19/2 22/9 26/2 26/3 28/3 29/4 29/5 30/16 32/3 33/14 33/15 33/17 34/5 35/11 35/15 36/3 36/21 38/12 attendance [1] 5/23 ATTEST [1] 38/14 attorneys [2] 14/2 30/20 audio [2] 7/10 38/15 audio/video [1] 38/15 audiovisual [1] 2/16 audiovisually [3] 2/21 7/9 11/10 authorize [1] 36/3 available [2] 8/8 9/17 aware [3] 2/25 30/12 31/13 away [1] 18/18	calendar [3] 26/3 32/22 33/14 call [9] 3/22 3/24 4/1
MR. MUSHKIN: [39] THE COURT RECORDER: [1] 2/10 THE COURT: [81] UNIDENTIFIED SPEAKER: [4] 4/20 24/8 24/19 35/13	9 9:15 [1] 33/14 10:15 [1] 33/14 1111 [2] 20/12 22/7 11th [6] 29/4 29/4 33/17 34/7 36/21 37/13 13 [1] 15/11 14 [6] 8/4 15/11 17/7 23/21 32/20 35/7 15 [2] 1/13 2/1 15th [3] 26/13 27/9 34/5 15th of [1] 36/9 17th [5] 5/9 21/6 33/2 33/14 36/5 17th of [1] 26/13 18th [2] 28/13 33/6	abiding [1] 22/1 ability [1] 38/16 able [1] 35/17 about [2] 11/19 35/16 above [1] 38/15 above-entitled [1] 38/15 abundance [1] 33/9 access [2] 16/16 16/17 accordance [2] 21/22 36/10 accuracy [1] 23/24 ACQUISITION [8] 1/4 1/19 2/3 3/8 3/14 3/19 8/24 25/18 action [3] 33/20 33/21 33/25 actions [1] 30/7 actually [1] 15/10 added [1] 23/14 addition [2] 34/1 34/6 additionally [1] 6/14 address [8] 3/2 5/12 6/6 10/7 10/20 30/4 36/1 36/1 addressed [1] 37/20 administration [1] 13/16 ado [1] 7/18 advise [3] 22/5 23/9 30/15 affirmation [1] 34/18 after [8] 7/13 7/23 21/23 22/14 22/22 27/10 27/23 33/3 afternoon [3] 3/18 4/7 24/5 again [3] 20/6 24/9 26/8 ago [1] 6/15 agree [10] 10/14 12/10 21/6 21/12 21/15 21/17 21/20 24/11 24/20 25/8 agreeable [3] 12/11 17/6 17/8 agreed [11] 9/24 11/4 11/20 12/2 13/4 17/7 20/8 21/3 23/21 26/2 33/7 agreement [14] 8/5	April [16] 21/9 21/13 21/18 22/12 25/22 26/12 26/12 26/13 27/24 28/3 28/4 28/13 28/13 28/17 33/6 33/15 April 18th [1] 33/6 April 2022 [1] 21/9 arbitration [1] 21/2 are [56] as [65] ask [16] 2/8 2/23 3/2 5/5 6/20 18/3 18/16 21/8 23/25 24/1 24/3 32/2 33/20 34/2 35/6 36/6 asked [2] 7/13 32/14 asking [27] 15/19 24/1 25/9 25/21 26/4 26/4 26/7 26/10 26/17 26/24 27/5 28/10 28/15 28/19 28/21 30/7 32/2 32/4 32/6 32/17 32/21 32/24 33/1 33/5 33/12 33/16 34/1 aspect [2] 7/13 14/5 associated [1] 21/7 assuming [1] 21/19 at [34] 2/19 3/2 3/5 4/16 5/2 5/23 7/15 8/3 8/7 11/1 11/3 12/4 14/1 15/21 16/23 18/17 19/2 22/9 26/2 26/3 28/3 29/4 29/5 30/16 32/3 33/14 33/15 33/17 34/5 35/11 35/15 36/3 36/21 38/12 attendance [1] 5/23 ATTEST [1] 38/14 attorneys [2] 14/2 30/20 audio [2] 7/10 38/15 audio/video [1] 38/15 audiovisual [1] 2/16 audiovisually [3] 2/21 7/9 11/10 authorize [1] 36/3 available [2] 8/8 9/17 aware [3] 2/25 30/12 31/13 away [1] 18/18	become [1] 21/13 been [10] 7/6 7/6 7/7 7/17 11/4 12/2 13/3 27/21 33/7 36/6 before [12] 1/12 3/5 7/17 7/23 9/8 9/11 16/12 20/22 21/4 21/4 21/23 30/4 beginning [1] 37/21 behalf [20] 3/13 3/19 4/4 4/8 4/17 4/21 4/22 9/20 10/6 19/15 23/12 24/17 25/3 29/21 29/22 29/24 34/19 34/22 36/13 38/5 being [11] 2/22 8/19 9/15 10/25 11/11 15/18 16/5 16/19 22/11 22/12 31/13 believe [8] 5/8 12/2 23/6 24/6 25/5 26/13 28/22 30/14 bench [2] 3/6 17/20 benchmarks [1] 17/19 best [3] 37/12 38/10 38/16 better [2] 26/6 28/18 between [1] 16/21 beyond [1] 26/14 binding [1] 21/2 Birch [2] 21/16 21/17 bit [1] 16/7 BLOOM [17] 1/20 2/7 3/21 3/22 3/25 8/25 9/23 17/8 17/11 23/22 23/25 24/3 24/16 24/19 25/3 31/3 34/19 BlueJeans [7] 2/14 2/21 6/20 16/14 16/19 31/1 31/2 blurb [1] 2/9 both [4] 4/18 16/22 19/4 35/14 break [2] 17/2 17/11 brief [1] 17/2 Britton [1] 20/10 brought [1] 7/17 burden [1] 10/17 business [3] 10/25 22/15 35/18 but [38] 2/17 2/20 3/3 3/7 5/2 5/21 6/18 7/3 7/8 7/15 9/14 9/24 10/11 10/24 11/19 12/1 12/8 12/11 14/7 14/23 16/6 17/5 17/13 18/21 20/6 22/2 26/5 27/10 28/2 28/10 28/12 29/7 30/11 30/15 32/3 32/20 34/5 36/6
MR. MUSHKIN: [39] THE COURT RECORDER: [1] 2/10 THE COURT: [81] UNIDENTIFIED SPEAKER: [4] 4/20 24/8 24/19 35/13	10 10:15 [1] 33/14 1111 [2] 20/12 22/7 11th [6] 29/4 29/4 33/17 34/7 36/21 37/13 13 [1] 15/11 14 [6] 8/4 15/11 17/7 23/21 32/20 35/7 15 [2] 1/13 2/1 15th [3] 26/13 27/9 34/5 15th of [1] 36/9 17th [5] 5/9 21/6 33/2 33/14 36/5 17th of [1] 26/13 18th [2] 28/13 33/6	abiding [1] 22/1 ability [1] 38/16 able [1] 35/17 about [2] 11/19 35/16 above [1] 38/15 above-entitled [1] 38/15 abundance [1] 33/9 access [2] 16/16 16/17 accordance [2] 21/22 36/10 accuracy [1] 23/24 ACQUISITION [8] 1/4 1/19 2/3 3/8 3/14 3/19 8/24 25/18 action [3] 33/20 33/21 33/25 actions [1] 30/7 actually [1] 15/10 added [1] 23/14 addition [2] 34/1 34/6 additionally [1] 6/14 address [8] 3/2 5/12 6/6 10/7 10/20 30/4 36/1 36/1 addressed [1] 37/20 administration [1] 13/16 ado [1] 7/18 advise [3] 22/5 23/9 30/15 affirmation [1] 34/18 after [8] 7/13 7/23 21/23 22/14 22/22 27/10 27/23 33/3 afternoon [3] 3/18 4/7 24/5 again [3] 20/6 24/9 26/8 ago [1] 6/15 agree [10] 10/14 12/10 21/6 21/12 21/15 21/17 21/20 24/11 24/20 25/8 agreeable [3] 12/11 17/6 17/8 agreed [11] 9/24 11/4 11/20 12/2 13/4 17/7 20/8 21/3 23/21 26/2 33/7 agreement [14] 8/5	back [4] 18/1 18/21 19/3 32/1 balance [3] 12/15 14/9 21/1 bankruptcy [14] 10/13 10/24 11/5 11/17 11/24 12/3 15/10 20/5 20/11 21/22 21/24 22/4 30/3 33/24 	

<p>C</p> <p>call... [6] 14/12 18/5 23/22 26/3 26/12 33/15</p> <p>came [1] 19/22</p> <p>can [45]</p> <p>capacity [2] 3/21 19/14</p> <p>case [36] 1/6 2/13 3/8 4/19 5/6 5/23 7/1 7/7 7/20 7/21 9/18 11/10 11/19 12/17 13/11 15/24 16/19 17/15 20/11 21/18 22/25 25/16 25/21 25/23 26/1 26/7 26/18 28/7 28/8 30/5 31/7 33/5 33/9 37/14 38/2 38/16</p> <p>cases [1] 31/7</p> <p>caught [1] 15/3</p> <p>caution [1] 33/10</p> <p>caveats [1] 2/22</p> <p>CBC [6] 1/8 2/3 3/9 9/3 9/4 25/18</p> <p>certain [11] 2/23 7/5 10/23 12/23 13/19 21/25 22/9 22/18 27/1 31/8 34/4</p> <p>certainty [1] 28/23</p> <p>certify [1] 38/14</p> <p>cetera [2] 25/19 31/14</p> <p>challenge [2] 26/20 26/21</p> <p>challenges [1] 26/19</p> <p>change [1] 30/13</p> <p>changed [1] 4/20</p> <p>charge [1] 21/21</p> <p>chat [2] 18/22 19/4</p> <p>check [6] 15/5 28/8 29/3 33/17 33/17 36/21</p> <p>choose [2] 7/10 18/8</p> <p>circle [1] 32/1</p> <p>circulated [1] 36/12</p> <p>circumstance [1] 10/15</p> <p>circumstances [1] 30/13</p> <p>claim [9] 20/13 20/15 22/4 22/6 22/7 22/9 22/10 22/12 22/19</p> <p>claims [7] 10/12 10/13 21/1 21/4 23/2 27/23 28/1</p> <p>clarification [2] 13/11 23/14</p> <p>clarified [1] 34/9</p> <p>clarify [2] 28/15 28/18</p> <p>clarity [1] 27/4</p> <p>CLARK [2] 1/2 2/1</p> <p>Class [7] 22/6 22/9 22/10 22/17 22/19 22/22 23/1</p> <p>clear [3] 4/11 4/12 16/24</p> <p>Clerk [1] 36/4</p> <p>client [11] 11/3 12/10 12/24 13/4 14/13 15/5 17/5 17/23 23/12 23/15 34/18</p> <p>client's [1] 12/18</p>	<p>clients [3] 10/7 34/19 34/22</p> <p>close [1] 35/18</p> <p>closed [1] 28/7</p> <p>code [1] 16/4</p> <p>collection [2] 32/3 34/3</p> <p>collectively [1] 8/25</p> <p>come [4] 18/1 18/21 24/3 26/16</p> <p>comes [1] 21/24</p> <p>coming [2] 8/22 26/17</p> <p>commence [2] 23/2 33/3</p> <p>comment [1] 19/4</p> <p>commissioned [1] 20/9</p> <p>communication [1] 18/6</p> <p>COMPANY [6] 1/5 3/8 3/14 3/20 8/24 25/18</p> <p>compensated [2] 27/1 27/9</p> <p>completed [1] 21/23</p> <p>compliance [4] 14/23 36/8 36/23 36/24</p> <p>complied [1] 13/18</p> <p>complying [1] 13/15</p> <p>component [1] 16/8</p> <p>concern [1] 15/1</p> <p>concerned [1] 14/16</p> <p>concluded [1] 38/12</p> <p>concludes [1] 38/11</p> <p>conclusions [1] 37/19</p> <p>conference [3] 28/17 33/13 33/14</p> <p>confidential [8] 2/24 9/13 11/4 12/2 12/24 14/1 14/9 22/2</p> <p>confidentiality [1] 7/13</p> <p>confirm [6] 9/12 9/23 23/15 23/23 25/9 33/18</p> <p>confirmation [1] 22/14</p> <p>confirmed [1] 24/12</p> <p>confirms [1] 17/8</p> <p>congratulations [4] 8/12 8/16 37/12 38/9</p> <p>consent [1] 20/12</p> <p>consequence [1] 14/19</p> <p>considered [1] 12/20</p> <p>constitute [1] 23/1</p> <p>contact [2] 31/17 31/18</p> <p>contingency [1] 36/7</p> <p>continuance [1] 26/4</p> <p>continue [7] 9/9 9/12 18/4 18/23 23/2 26/11 36/22</p> <p>control [1] 4/19</p> <p>coordinate [1] 31/9</p> <p>Cordova [2] 31/4 31/5</p> <p>correct [21] 4/23 4/24 4/25 5/19 6/1 19/6 19/15 19/17 23/13 28/11 32/5 32/7 32/12 34/8 34/16 34/19 34/20 34/23 34/24 37/23 37/24</p> <p>correctly [1] 38/14</p>	<p>correspondence [1] 23/22</p> <p>could [3] 10/20 14/10 17/10</p> <p>couldn't [1] 38/6</p> <p>counsel [33] 3/10 3/11 4/4 5/5 5/25 6/23 6/25 7/2 7/18 7/20 18/9 18/12 19/4 19/6 19/7 19/20 19/23 20/17 23/11 24/12 25/8 27/14 27/15 29/14 30/9 30/12 32/9 34/9 34/9 34/10 37/3 37/15 38/1</p> <p>counsel's [1] 30/21</p> <p>Counsels [1] 25/12</p> <p>counter [1] 34/11</p> <p>counterclaimant [2] 9/3 18/12</p> <p>counterclaimants [9] 1/22 4/5 4/9 4/23 19/16 33/8 34/10 38/3 38/5</p> <p>counterclaims [2] 3/9 25/19</p> <p>counterdefendant [2] 9/21 23/12</p> <p>counterdefendants [9] 3/15 3/20 7/19 8/23 24/18 25/4 29/15 32/10 37/15</p> <p>county [3] 1/2 2/1 13/16</p> <p>couple [6] 2/15 2/16 6/22 16/13 25/12 25/19</p> <p>course [9] 2/7 2/25 6/22 6/23 7/4 7/9 13/13 33/23 35/7</p> <p>court [110]</p> <p>Court's [4] 13/17 21/9 35/4 36/16</p> <p>court-appointed [5] 21/16 21/18 26/22 26/24 34/3</p> <p>courtroom [14] 2/7 2/18 2/20 3/4 4/3 5/11 5/21 6/3 6/12 6/16 6/18 6/19 8/7 13/14</p> <p>courts [1] 16/16</p> <p>cover [1] 20/7</p> <p>creating [1] 10/17</p> <p>cross [1] 25/1</p> <p>currently [2] 6/18 30/4</p>	<p>debtors [1] 22/15</p> <p>deem [1] 29/10</p> <p>default [1] 22/25</p> <p>defendant [8] 1/9 3/21 3/25 8/23 9/3 18/12 22/21 38/5</p> <p>defendants [11] 1/21 4/4 4/8 4/11 4/22 9/7 19/16 24/17 24/17 25/4 38/3</p> <p>defense [3] 19/7 34/11 38/1</p> <p>delinquent [2] 22/16 22/20</p> <p>Department [2] 31/5 31/11</p> <p>Department 31 [1] 31/5</p> <p>depending [4] 16/17 31/7 31/12 34/7</p> <p>DEPT [1] 1/6</p> <p>described [1] 25/5</p> <p>determine [1] 14/3</p> <p>did [8] 3/23 9/15 9/18 13/11 16/10 17/1 24/24 29/18</p> <p>didn't [3] 3/10 24/23 29/18</p> <p>different [11] 3/15 5/24 16/7 16/17 26/2 27/11 27/17 29/11 31/10 32/14 37/1</p> <p>diligence [1] 38/9</p> <p>directed [1] 14/5</p> <p>discharge [1] 21/17</p> <p>disclose [1] 16/4</p> <p>disclosed [3] 10/13 11/17 12/3</p> <p>discuss [2] 17/21 17/23</p> <p>dismissal [2] 26/16 26/17</p> <p>DISTRICT [6] 1/2 1/12 21/1 22/11 25/16 26/7</p> <p>do [54]</p> <p>document [2] 16/4 20/4</p> <p>documents [1] 28/8</p> <p>does [16] 5/1 7/3 12/16 15/13 15/22 18/9 18/10 18/13 19/13 20/7 29/20 34/8 35/21 36/12 36/25 37/6</p> <p>doing [3] 32/3 36/15 37/19</p> <p>don't [11] 7/8 7/15 10/11 11/20 13/22 17/9 18/7 25/1 25/24 26/16 30/11</p> <p>done [4] 9/25 14/25 23/10 34/25</p> <p>due [9] 20/15 21/11 21/13 22/10 22/11 22/12 22/16 22/19 33/10</p> <p>during [1] 7/5</p> <p>duties [3] 26/11 31/24 32/2</p>	<p>E</p> <p>e-mail [3] 14/12 18/6 23/22</p> <p>e-mailed [1] 5/16</p> <p>e-service [1] 30/11</p> <p>each [4] 14/12 18/5 18/6 19/11</p> <p>earlier [2] 9/18 38/7</p> <p>early [1] 3/7</p> <p>EDCR [3] 32/18 35/7 36/10</p> <p>effected [1] 35/10</p> <p>effective [4] 21/13 31/23 36/19 36/20</p> <p>either [5] 11/9 11/13 18/5 21/1 26/13</p> <p>else [8] 7/23 24/22 31/13 34/23 36/18 37/11 37/13 38/2</p> <p>elsewhere [1] 8/2</p> <p>end [5] 7/11 17/24 17/25 18/2 18/3</p> <p>ensure [1] 36/15</p> <p>entered [1] 36/8</p> <p>entire [2] 13/2 23/6</p> <p>entitled [1] 38/15</p> <p>entry [3] 21/24 22/14 35/9</p> <p>equitably [1] 36/16</p> <p>especially [1] 13/7</p> <p>ESQ [2] 1/19 1/21</p> <p>estate [1] 22/16</p> <p>et [4] 25/18 25/19 25/19 31/14</p> <p>evaluate [3] 12/19 27/5 36/22</p> <p>even [1] 18/7</p> <p>every [2] 4/15 12/8</p> <p>everybody [1] 7/4</p> <p>everyone [8] 3/3 4/2 7/9 9/17 30/11 30/11 33/9 38/11</p> <p>everything [5] 8/8 8/19 15/17 15/20 37/20</p> <p>exact [1] 17/7</p> <p>exactly [3] 27/12 28/21 34/25</p> <p>except [1] 23/4</p> <p>exception [1] 7/15</p> <p>exceptions [5] 7/5 7/8 13/19 13/22 13/23</p> <p>excuse [2] 11/10 34/10</p> <p>excused [1] 5/22</p> <p>execute [1] 21/12</p> <p>explain [1] 26/6</p>
		<p>D</p> <p>Dacia [1] 9/6</p> <p>Dana [1] 38/19</p> <p>date [15] 26/12 26/14 26/25 26/25 27/9 27/10 28/3 28/11 28/16 31/21 33/11 34/4 36/5 36/21 36/21</p> <p>dates [1] 28/6</p> <p>David [2] 11/2 31/3</p> <p>day [1] 28/7</p> <p>days [4] 21/23 22/15 28/8 35/7</p> <p>deal [5] 9/24 12/8 12/10 20/3 23/21</p> <p>debtor [2] 22/21 23/3</p>		<p>F</p> <p>fact [1] 11/16</p> <p>factors [1] 12/20</p> <p>fails [1] 21/10</p> <p>failure [2] 20/21 20/24</p> <p>fairly [1] 36/15</p> <p>fall [1] 13/21</p> <p>family [1] 13/23</p> <p>far [2] 15/6 35/24</p> <p>federal [2] 10/16 14/18</p> <p>feel [1] 8/16</p> <p>Ferrera [1] 11/2</p>
				PA0244

F Ferrero [1] 31/3 few [5] 3/5 7/23 17/10 17/23 18/1 file [1] 15/25 filed [1] 11/5 final [6] 11/24 12/7 21/13 21/19 26/14 37/19 finally [1] 26/1 fine [4] 15/10 15/20 15/21 18/14 first [15] 3/13 3/13 5/13 10/6 19/6 20/15 21/21 21/24 22/11 22/17 26/21 28/23 29/5 33/18 34/9 five [2] 28/14 33/6 five-week [2] 28/14 33/6 followed [1] 20/3 foreclosure [2] 20/23 23/2 formal [1] 20/4 forward [3] 6/7 7/23 37/12 frame [1] 35/12 FRANCESCA [1] 1/23 free [1] 8/16 full [4] 11/18 16/16 25/6 34/17 fully [7] 15/18 16/13 24/11 26/1 26/15 30/10 33/7 further [7] 7/18 23/3 27/10 32/3 33/20 33/21 34/3 future [1] 33/10	grant [1] 35/2 greater [1] 28/22 ground [1] 6/22 grounds [1] 23/1 guard [1] 15/3 guess [1] 24/18 GUTIERREZ [32] 1/19 2/6 3/16 3/19 5/8 5/10 5/12 5/25 10/14 11/12 14/7 14/16 16/22 17/22 19/8 23/8 23/11 23/19 27/16 27/20 29/17 29/19 29/21 29/24 31/3 32/11 34/14 34/15 35/21 37/6 37/16 37/18	his [7] 3/21 5/22 10/7 24/8 27/22 30/7 37/22 HOA [2] 21/20 22/18 hold [2] 8/1 30/24 holder [3] 22/6 22/22 23/1 Honor [50] HONORABLE [1] 1/12 hopefully [1] 29/7 hoping [1] 17/20 hour [2] 3/6 7/24 how [5] 4/12 25/23 30/8 35/16 36/11 however [5] 28/1 32/19 32/20 33/9 35/7 Hughes [11] 2/6 5/2 5/4 5/11 5/13 5/16 5/20 6/2 6/6 6/8 37/21 HUGHES' [1] 1/14 hyphen [1] 25/17	intend [1] 12/12 intending [1] 32/19 intention [1] 31/22 interest [2] 12/15 22/9 interference [29] 5/15 5/17 5/18 10/1 10/17 12/3 12/6 12/24 12/25 13/1 13/2 13/3 13/5 13/7 13/9 15/2 15/2 15/11 17/4 17/13 17/18 24/4 24/21 25/5 27/22 28/1 28/3 29/16 35/13 into [3] 6/21 13/22 17/9 intro [1] 2/9 is [159] issue [4] 2/24 4/12 5/12 7/12 issues [1] 29/8 it [33] 2/12 2/15 3/5 4/14 4/18 5/19 5/23 6/12 6/13 7/23 11/11 12/16 12/16 14/9 17/19 18/10 19/1 19/14 25/24 26/4 26/25 26/25 27/5 27/7 28/2 28/24 29/20 32/18 33/19 33/21 34/8 36/22 38/8 it's [18] 2/20 3/4 4/3 5/21 6/3 6/16 6/18 9/19 11/10 14/19 25/24 26/22 26/23 26/23 27/2 27/17 27/18 32/14 items [2] 14/17 14/18 its [2] 16/1 16/4	K keep [4] 6/24 7/3 22/1 33/10 Kendall [1] 20/10 Kenneth [4] 4/14 9/4 9/5 9/5 kept [2] 9/21 12/24 kind [3] 15/3 16/7 37/19 KISHNER [1] 1/12 know [29] 3/6 3/12 4/16 6/16 7/15 8/7 8/19 9/16 11/19 11/20 12/4 12/14 14/12 18/4 18/7 18/8 18/20 18/22 25/13 26/14 28/7 28/8 28/22 30/1 30/11 30/12 31/14 32/15 35/25 knowing [2] 12/15 34/18 knowingly [2] 24/11 25/7 knows [1] 7/4
G general [1] 13/21 generally [1] 28/5 get [14] 2/21 3/7 12/20 13/10 14/25 15/13 16/23 28/6 28/25 33/13 35/8 35/17 36/12 38/10 gets [1] 28/7 getting [2] 30/24 35/12 give [6] 2/9 11/14 11/15 17/10 37/19 38/6 given [1] 16/14 go [21] 2/8 3/13 5/10 5/14 7/18 8/9 8/14 8/17 10/9 11/21 13/22 14/15 17/3 18/14 19/20 20/19 23/17 25/2 26/20 27/18 38/1 going [27] 2/8 3/11 5/5 7/18 7/19 7/20 10/7 10/15 11/16 18/16 18/19 20/6 23/15 23/25 24/3 25/25 29/10 30/7 31/20 31/20 33/20 35/2 36/3 36/10 36/14 36/19 36/20 Good [3] 3/18 4/7 24/5 got [4] 2/15 16/17 25/12 30/11	H HAAK [1] 1/23 had [9] 4/16 4/17 5/12 7/6 7/6 9/12 15/22 34/17 37/22 hand [2] 9/1 9/6 happen [1] 17/15 happens [2] 31/7 35/25 has [22] 2/25 5/2 5/22 7/7 7/17 11/7 11/18 12/14 14/1 15/21 16/7 16/16 16/17 17/8 23/20 26/6 26/12 27/8 28/18 30/18 33/7 36/6 have [49] having [1] 7/11 he [19] 5/4 5/5 5/7 5/8 5/21 5/21 5/22 17/8 22/7 23/23 23/23 24/8 25/9 27/1 27/8 27/9 30/8 36/14 37/21 he's [6] 4/1 5/8 12/10 17/8 23/23 27/10 heads [1] 2/14 hear [10] 3/1 3/23 7/14 9/15 9/18 10/6 24/23 24/24 27/14 29/19 heard [4] 6/2 21/10 24/23 25/8 hearing [25] 6/9 6/21 7/5 9/16 11/1 11/11 12/17 13/11 13/19 14/7 14/8 16/6 16/7 16/12 18/23 19/10 25/22 28/12 29/2 31/6 32/13 32/21 37/13 37/21 38/11 hearings [3] 5/2 21/8 30/10 HEIGHTS [9] 1/4 1/19 2/3 3/8 3/14 3/19 4/24 8/24 25/17 helpful [1] 29/1 her [1] 36/6 here [11] 2/19 2/20 4/21 5/8 5/11 6/17 10/24 13/14 16/6 28/10 31/2 here's [1] 32/13 hereby [1] 38/14 herein [1] 21/11 highly [1] 28/24 him [2] 5/16 24/1	I I'd [1] 15/2 I'll [5] 6/9 18/14 30/23 31/17 31/18 I'm [30] 2/7 3/23 5/5 7/18 8/15 10/7 10/25 11/11 14/7 14/8 15/10 18/16 19/10 20/6 20/18 24/3 24/16 24/22 27/17 28/12 29/18 30/17 30/19 30/21 30/22 31/15 32/13 32/17 35/14 38/6 I've [2] 2/15 25/12 IAN [4] 1/14 2/6 5/1 37/21 idea [1] 31/15 identification [2] 19/13 24/10 identify [1] 19/11 if [53] immediate [1] 21/3 immediately [2] 21/15 33/3 impact [1] 35/4 implicitly [1] 11/11 in [93] INC [1] 1/24 include [1] 7/1 included [2] 11/23 22/2 including [2] 26/2 26/11 inconsistent [1] 36/16 incorrect [1] 34/8 independent [1] 13/17 indiscernible [8] 8/4 8/22 12/25 13/23 17/21 23/24 27/3 36/12 individual [1] 3/21 inform [2] 17/14 29/5 information [2] 22/3 36/14 initially [1] 33/15 initiate [1] 16/1 innocuous [1] 14/21 instead [1] 33/5 intelligent [1] 34/18	J January [14] 20/15 20/17 20/22 20/24 22/12 28/23 29/1 29/4 29/4 33/17 33/19 34/6 36/21 37/13 January 11th [1] 29/4 JAVS [2] 19/13 24/10 JAY [9] 1/20 2/7 3/20 3/25 8/24 24/16 24/19 25/3 31/3 JD [1] 1/24 JEA [2] 30/18 31/5 JOANNA [1] 1/12 Joe [4] 14/20 14/24 15/13 37/16 joint [2] 27/18 35/3 JOSEPH [9] 1/19 3/19 23/19 27/20 29/17 29/24 31/3 32/11 34/15 JUDGE [9] 1/12 4/20 8/18 22/25 23/10 26/8 35/13 35/16 35/18 juncture [7] 3/5 7/16 8/7 15/21 18/17 35/11 36/3 jurisdiction [3] 25/14 25/15 35/4 jurors [1] 36/5 jury [10] 21/7 25/25 31/9 32/25 32/25 33/1 33/3 35/24 35/24 36/4 just [39]	L labels [1] 31/2 Larry [1] 21/16 LAS [1] 1/25 last [1] 14/17 law [2] 10/16 23/5 least [1] 33/15 leave [1] 6/9 legal [1] 12/19 let [12] 3/13 4/13 5/10 6/14 10/6 12/13 13/10 18/4 18/21 27/14 32/15 37/18 let's [3] 4/11 7/22 26/20 lien [1] 21/20 light [3] 5/18 11/15 17/16 like [12] 2/15 4/2 4/5 4/18 6/11 6/13 9/16 9/19 9/22 13/23 24/1 38/9 line [2] 14/11 30/15 link [3] 2/21 6/20 16/19 links [1] 16/14 lip [1] 18/19 list [1] 11/1 listed [2] 4/17 5/2 listen [4] 6/4 6/5 6/21 7/9 listening [3] 5/20 30/15 31/6 litigant [1] 26/18 litigants [1] 14/2 litigate [1] 20/25 little [3] 4/12 16/7 24/25 living [2] 9/5 16/15 LLC [10] 1/5 1/8 3/14 3/20 3/20 4/24 8/24 9/6 25/18 25/19 location [1] 18/7 logged [2] 6/14 31/16 long [2] 13/15 13/18
PA0245				

<p>L</p> <p>longer [1] 5/17</p> <p>look [2] 14/1 37/12</p> <p>looked [1] 28/2</p> <p>looking [1] 11/1</p> <p>looks [2] 2/15 6/13</p> <p>lot [2] 31/9 32/15</p> <p>luck [2] 37/12 38/10</p> <p>ly [1] 2/16</p> <hr/> <p>M</p> <p>ma'am [1] 27/12</p> <p>Madam [3] 18/3 18/16 18/25</p> <p>Madame [1] 36/3</p> <p>made [8] 2/25 13/1 21/22 22/23 28/23 28/25 29/6 33/19</p> <p>mail [3] 14/12 18/6 23/22</p> <p>mailed [1] 5/16</p> <p>maintaining [1] 15/20</p> <p>make [10] 3/16 4/5 4/11 4/13 5/8 7/22 9/17 17/25 20/14 21/11</p> <p>makes [2] 21/19 36/22</p> <p>making [1] 27/17</p> <p>many [1] 11/19</p> <p>March [2] 28/16 33/14</p> <p>mask [1] 13/15</p> <p>matter [12] 8/11 10/11 10/16 14/18 20/7 21/8 21/8 24/6 24/21 25/6 33/7 38/10</p> <p>matters [2] 16/13 21/10</p> <p>may [6] 6/13 7/15 15/23 15/25 28/9 31/7</p> <p>maybe [3] 14/11 17/10 29/2</p> <p>me [22] 3/13 3/22 4/13 5/10 6/14 7/17 9/18 10/6 11/10 11/14 11/15 12/13 13/10 14/10 27/14 30/4 30/7 31/12 32/15 34/10 37/4 37/18</p> <p>mean [5] 7/1 25/23 25/25 26/25 30/19</p> <p>means [1] 33/12</p> <p>media [5] 7/6 7/7 13/12 16/16 16/18</p> <p>meet [7] 12/16 17/1 18/9 18/13 29/14 35/21 36/25</p> <p>member [1] 16/14</p> <p>memorialize [1] 32/20</p> <p>memorialized [1] 32/19</p> <p>memorializing [1] 12/6</p> <p>met [1] 17/19</p> <p>method [2] 18/6 18/8</p> <p>MICHAEL [2] 1/21 31/3</p> <p>middle [2] 16/6 28/25</p> <p>Mike [8] 4/7 26/9 28/20 29/12 32/7 34/25 35/18 37/5</p> <p>mind [3] 24/24 25/1 29/22</p>	<p>minute [1] 17/10</p> <p>minutes [1] 7/23</p> <p>misread [1] 23/8</p> <p>moment [4] 6/15 14/12 32/1 32/3</p> <p>moments [3] 3/5 17/23 18/1</p> <p>MONDAY [1] 1/13</p> <p>more [11] 2/22 5/20 6/3 6/11 6/19 6/20 12/21 13/18 14/24 16/14 22/15</p> <p>mortgage [2] 21/21 22/18</p> <p>most [1] 26/2</p> <p>motion [12] 1/14 1/15 15/25 16/1 16/3 16/5 26/11 28/12 28/16 28/16 28/21 31/17</p> <p>motions [2] 29/9 32/22</p> <p>mouth [1] 19/12</p> <p>move [2] 6/7 7/23</p> <p>moving [2] 19/13 29/6</p> <p>moving our [1] 19/13</p> <p>Mr. [66]</p> <p>Mr. Birch [1] 21/17</p> <p>Mr. Bloom [8] 3/22 9/23 17/8 17/11 23/22 23/25 24/3 34/19</p> <p>Mr. Gutierrez [22] 2/6 3/16 5/8 5/10 5/12 5/25 10/14 11/12 14/7 14/16 16/22 17/22 19/8 23/8 23/11 27/16 29/19 29/21 34/14 35/21 37/6 37/18</p> <p>Mr. Hughes [8] 5/4 5/11 5/13 5/16 5/20 6/2 6/6 6/8</p> <p>Mr. Ian [1] 37/21</p> <p>Mr. Mushkin [24] 2/5 5/5 8/3 8/9 9/8 9/11 9/11 10/6 10/9 11/16 14/11 14/15 17/6 17/11 17/24 19/10 19/15 19/25 23/20 24/12 27/22 27/25 34/22 35/16</p> <p>Mr. Mushkin's [2] 15/8 17/1</p> <p>much [13] 2/12 6/8 9/25 12/8 18/24 19/1 19/12 19/24 20/19 25/11 28/22 37/25 38/6</p> <p>MUSHKIN [34] 1/21 2/5 4/8 5/5 8/3 8/9 9/8 9/11 9/11 10/6 10/9 11/16 14/11 14/15 17/6 17/11 17/24 19/10 19/15 19/25 23/20 24/12 26/9 27/22 27/25 28/20 29/12 31/3 32/7 34/22 34/25 35/16 35/19 37/5</p> <p>Mushkin's [2] 15/8 17/1</p> <p>must [2] 16/3 16/5</p> <p>mute [9] 6/24 7/3 17/24 17/25 18/15 18/17 18/18 19/1 19/8</p>	<p>muted [2] 18/2 18/3</p> <p>mutual [1] 21/12</p> <p>my [16] 2/9 8/22 10/17 11/3 12/10 12/24 13/4 15/1 15/5 17/5 17/5 20/9 24/16 30/18 31/17 38/16</p> <hr/> <p>N</p> <p>name [5] 24/8 24/15 24/16 24/23 29/22</p> <p>names [2] 2/16 31/15</p> <p>naming [1] 31/15</p> <p>nature [1] 14/9</p> <p>necessary [1] 5/17</p> <p>need [24] 3/1 5/13 6/4 6/6 7/3 13/22 14/10 14/13 17/1 17/22 18/2 24/10 29/7 29/8 29/9 31/8 31/20 31/21 34/8 35/1 36/1 36/4 36/12 36/15</p> <p>needed [3] 5/9 27/4 33/1</p> <p>needing [2] 14/9 35/24</p> <p>needs [10] 14/9 17/1 18/9 18/13 23/13 29/15 31/11 32/15 35/21 36/25</p> <p>NEVADA [6] 1/2 2/1 21/5 23/5 30/2 33/24</p> <p>new [2] 33/11 33/13</p> <p>news [2] 37/13 38/7</p> <p>next [2] 17/16 36/24</p> <p>nice [1] 16/23</p> <p>no [23] 1/6 1/6 5/17 6/8 7/4 7/7 7/16 8/2 10/16 10/25 15/15 18/14 22/15 24/9 27/12 30/2 31/1 31/15 33/23 34/5 37/16 38/4 38/4</p> <p>nobody [4] 2/19 6/18 8/2 9/12</p> <p>normally [2] 10/10 10/14</p> <p>not [50]</p> <p>noted [1] 6/17</p> <p>nothing [2] 14/23 30/18</p> <p>notice [4] 23/3 23/4 30/8 35/9</p> <p>noticed [2] 16/13 30/11</p> <p>notified [1] 31/21</p> <p>notify [3] 32/25 35/24 36/4</p> <p>NOVEMBER [7] 1/13 2/1 21/6 21/23 27/9 36/5 36/9</p> <p>November 30 [1] 21/23</p> <p>now [8] 5/1 6/9 15/17 15/18 16/17 19/3 19/9 30/9</p> <p>NRCP [1] 16/6</p> <p>Number [4] 2/13 4/8 5/23 25/17</p> <p>Number 813439 [3] 2/13 5/23 25/17</p> <p>numbers [1] 10/15</p>	<p>O</p> <p>o'clock [3] 3/6 7/24 32/23</p> <p>objection [1] 10/11</p> <p>obligation [1] 11/8</p> <p>obtaining [1] 34/4</p> <p>obviously [1] 31/10</p> <p>off [5] 8/1 10/1 14/11 15/3 32/22</p> <p>off-line [1] 14/11</p> <p>office [2] 20/9 30/21</p> <p>offices [1] 31/14</p> <p>Oh [1] 8/18</p> <p>okay [59]</p> <p>on [111]</p> <p>once [2] 24/9 34/2</p> <p>one [12] 4/16 6/13 7/4 8/25 12/16 13/21 17/19 26/20 30/20 31/1 36/14 37/19</p> <p>only [9] 3/2 21/10 22/3 26/7 30/4 35/3 36/13 36/19 38/6</p> <p>oOo [1] 38/13</p> <p>opposing [2] 7/20 27/15</p> <p>option [1] 17/10</p> <p>or [57]</p> <p>oral [2] 35/3 36/8</p> <p>order [20] 1/15 1/16 20/4 20/4 20/5 21/24 22/14 23/3 26/16 26/17 31/19 31/23 34/2 35/6 35/8 35/12 35/17 36/12 36/20 37/10</p> <p>ordered [1] 14/5</p> <p>orders [1] 21/15</p> <p>original [1] 36/16</p> <p>originally [2] 30/10 31/8</p> <p>OST [1] 32/23</p> <p>other [20] 5/2 6/4 7/11 9/6 9/16 10/24 12/1 13/3 13/23 14/12 14/17 14/21 18/5 18/6 21/25 22/3 23/4 26/18 31/7 37/11</p> <p>otherwise [1] 3/3</p> <p>our [10] 4/13 14/17 17/24 18/3 19/13 20/2 23/21 23/21 24/10 26/14</p> <p>ourselves [1] 18/25</p> <p>outside [3] 9/22 13/17 15/11</p> <p>outstanding [1] 28/12</p> <p>over [2] 16/9 16/10</p> <p>overlapping [1] 25/13</p> <p>own [1] 16/1</p> <hr/> <p>P</p> <p>p.m [4] 2/1 19/2 19/2 38/12</p> <p>page [1] 4/13</p> <p>paragraph [1] 22/25</p> <p>Pardon [1] 29/18</p> <p>part [11] 3/2 3/11 5/6 10/13 11/12 11/22</p>	<p>11/24 12/5 12/5 12/17 15/9</p> <p>particular [2] 10/15 28/11</p> <p>particularly [1] 11/15</p> <p>parties [30] 1/10 2/23 9/6 9/7 16/6 16/21 17/6 20/6 20/7 20/8 20/12 20/15 20/25 21/3 21/6 21/12 21/15 21/17 21/20 24/13 26/23 29/23 31/22 33/7 33/8 33/9 33/18 33/20 33/21 35/3</p> <p>PARTNERS [5] 1/8 2/4 3/9 9/4 25/18</p> <p>party [13] 3/21 3/25 4/23 6/23 6/25 8/23 11/8 19/16 23/4 24/17 25/4 30/18 34/13</p> <p>pause [1] 14/10</p> <p>pay [3] 20/21 20/24 22/16</p> <p>payment [12] 20/22 20/25 21/13 21/19 22/11 22/22 27/24 28/23 28/24 29/6 30/6 33/18</p> <p>payments [7] 20/14 21/11 21/21 21/22 22/10 22/23 33/10</p> <p>pending [4] 27/23 30/2 30/4 32/22</p> <p>people [10] 2/15 2/16 2/18 2/21 6/13 6/17 6/19 9/14 11/1 14/2</p> <p>perfect [1] 29/13</p> <p>perfectly [1] 15/20</p> <p>performed [2] 26/15 27/8</p> <p>period [2] 14/22 37/1</p> <p>person [5] 6/17 6/18 13/14 13/18 15/23</p> <p>phonetic [3] 11/2 20/10 21/16</p> <p>phrased [1] 36/11</p> <p>physically [1] 31/2</p> <p>picking [1] 25/25</p> <p>picture [1] 2/17</p> <p>pictures [2] 7/4 18/19</p> <p>place [4] 14/4 19/25 20/2 33/5</p> <p>placed [2] 12/9 25/22</p> <p>placing [1] 12/11</p> <p>plaintiff [15] 1/6 4/23 7/19 8/23 9/21 18/9 19/6 19/16 19/20 23/11 23/12 24/17 29/14 29/15 37/15</p> <p>plaintiff/counterdefend ant [1] 9/21</p> <p>plaintiff/counterdefend ants [3] 7/19 8/23 29/15</p> <p>plaintiffs [11] 3/9 8/13 8/25 22/17 25/4 25/18 29/25 32/9 34/9 34/10 34/13</p> <p>plan [5] 10/14 11/24</p> <p>PA0246</p>
--	--	---	--	---

<p>P</p> <p>plan... [3] 20/13 21/22 23/1</p> <p>please [27] 2/8 2/9 3/17 4/6 5/14 5/25 8/14 8/16 10/9 11/14 11/21 18/17 20/16 20/16 20/17 20/20 23/8 23/17 25/2 26/5 26/7 27/6 27/18 28/19 29/22 34/14 38/1</p> <p>pleased [1] 8/11</p> <p>point [6] 4/17 10/18 12/8 13/10 23/21 37/19</p> <p>points [9] 8/4 8/4 9/24 12/10 15/11 17/7 20/3 23/21 32/20</p> <p>portions [1] 35/4</p> <p>position [7] 7/16 12/19 15/9 23/15 30/2 32/10 33/24</p> <p>positive [1] 37/13</p> <p>potential [2] 13/2 28/3</p> <p>potentially [1] 35/9</p> <p>practice [5] 26/11 28/12 28/16 28/16 28/22</p> <p>prefer [1] 9/21</p> <p>present [3] 2/19 2/19 2/19</p> <p>presumably [1] 18/5</p> <p>pretrial [3] 28/17 33/13 33/13</p> <p>pro [1] 5/3</p> <p>problem [1] 16/22</p> <p>procedural [2] 5/12 31/11</p> <p>procedurally [2] 17/15 27/25</p> <p>proceeding [2] 11/17 12/4</p> <p>proceedings [8] 1/9 14/6 16/1 19/2 25/13 25/14 38/12 38/15</p> <p>processes [1] 34/4</p> <p>prompt [1] 35/6</p> <p>promptly [2] 22/14 22/22</p> <p>proof [1] 22/22</p> <p>property [5] 12/25 14/22 20/23 22/1 23/2</p> <p>proposal [2] 17/1 17/5</p> <p>proposed [2] 36/12 37/10</p> <p>PROTECTIVE [1] 1/15</p> <p>protocols [2] 13/16 13/16</p> <p>provide [3] 12/21 22/21 33/16</p> <p>public [21] 2/7 2/18 2/20 3/4 4/3 5/21 6/3 6/12 6/16 6/19 8/7 9/22 10/16 10/25 11/17 12/11 14/18 15/18 15/21 16/13 16/15</p> <p>public's [1] 12/15</p> <p>publicly [4] 9/16 11/5 13/5 13/8</p>	<p>purposes [5] 14/4 17/14 25/16 31/10 32/21</p> <p>pursuant [3] 22/7 23/5 33/18</p> <p>purview [1] 13/17</p> <p>put [6] 9/22 13/7 18/22 18/25 36/20 37/9</p> <p>Q</p> <p>qualifications [1] 12/16</p> <p>QUASH [2] 1/14 1/15</p> <p>questions [2] 25/12 25/20</p> <p>quick [2] 13/10 25/12</p> <p>quickly [1] 22/5</p> <p>quote [1] 14/4</p> <p>R</p> <p>rate [1] 22/10</p> <p>rather [4] 9/25 11/3 12/8 13/5</p> <p>reached [1] 12/7</p> <p>read [7] 8/3 12/10 15/10 17/8 17/9 18/19 23/23</p> <p>ready [7] 18/4 18/22 18/23 19/5 19/9 19/20 19/22</p> <p>real [2] 14/19 22/16</p> <p>realize [1] 35/8</p> <p>really [3] 7/8 9/19 36/14</p> <p>realm [1] 9/22</p> <p>reason [2] 8/21 35/25</p> <p>reasoning [1] 3/1</p> <p>recall [1] 5/11</p> <p>receive [2] 13/12 34/2</p> <p>receiver [24] 3/11 7/1 21/16 21/18 26/21 26/22 26/22 26/23 26/24 27/21 30/6 30/9 30/12 30/16 30/24 31/18 31/21 31/25 32/3 32/5 34/2 34/3 36/13 36/17</p> <p>receiver's [6] 7/2 26/11 30/9 30/21 31/23 32/2</p> <p>receivers [3] 3/10 30/19 36/11</p> <p>recently [1] 26/3</p> <p>recessed [1] 19/2</p> <p>recite [1] 20/6</p> <p>recited [1] 22/11</p> <p>record [29] 2/8 2/10 2/11 2/13 7/4 9/23 10/1 10/25 12/9 12/11 13/7 14/4 14/18 14/25 15/18 15/21 16/2 16/3 16/24 17/9 19/3 20/1 20/3 23/19 27/20 28/6 32/18 36/9 37/23</p> <p>recorded [6] 1/23 8/20 9/16 11/11 11/13 15/18</p> <p>recorder [5] 1/23 2/8 18/3 18/17 18/25</p> <p>recording [1] 18/4</p> <p>records [3] 4/13 15/24</p>	<p>34/4</p> <p>redact [3] 15/23 16/1 16/3</p> <p>redacted [2] 2/23 11/9</p> <p>redacting [1] 7/12</p> <p>redaction [1] 16/5</p> <p>reference [1] 14/21</p> <p>referred [2] 8/25 9/6</p> <p>regard [2] 7/8 28/15</p> <p>regarding [3] 12/25 14/22 28/1</p> <p>regardless [3] 2/18 6/17 16/15</p> <p>regards [14] 5/13 6/22 7/20 7/21 9/14 12/14 14/8 25/20 30/2 30/6 31/23 32/4 32/23 33/24</p> <p>regular [1] 32/23</p> <p>regulations [1] 14/23</p> <p>related [5] 1/10 3/9 20/25 21/25 25/19</p> <p>release [1] 27/23</p> <p>released [1] 37/22</p> <p>releases [1] 21/12</p> <p>remain [2] 11/4 12/2</p> <p>remember [6] 4/12 4/16 5/11 11/7 15/17 19/11</p> <p>remotely [1] 6/19</p> <p>repayment [3] 10/24 11/22 15/9</p> <p>report [1] 8/11</p> <p>reported [1] 11/6</p> <p>reporter [1] 11/2</p> <p>reporting [2] 1/24 13/8</p> <p>represented [1] 28/1</p> <p>representing [1] 14/3</p> <p>represents [1] 23/6</p> <p>Republic [2] 21/20 22/19</p> <p>request [15] 7/6 7/7 7/14 7/15 11/14 11/15 12/4 13/12 15/23 16/18 16/19 16/25 18/13 27/18 35/3</p> <p>requested [1] 9/12</p> <p>requesting [7] 11/9 11/12 17/2 27/11 27/13 33/22 37/1</p> <p>require [1] 5/22</p> <p>reset [5] 21/8 26/18 28/2 29/8 36/6</p> <p>resetting [2] 17/19 36/6</p> <p>resolution [2] 14/4 22/18</p> <p>resolved [8] 16/9 16/10 16/12 24/6 25/24 26/1 33/8 38/10</p> <p>respect [1] 35/3</p> <p>responsibility [2] 30/15 30/23</p> <p>restate [1] 6/14</p> <p>restating [1] 24/25</p> <p>resumption [1] 20/23</p> <p>review [1] 36/11</p> <p>revisited [1] 34/6</p> <p>reword [1] 14/20</p> <p>right [21] 6/3 8/22 8/22</p>	<p>11/8 12/15 12/15 12/19 13/15 13/17 13/20 13/25 14/8 15/22 16/8 18/2 24/10 26/3 26/22 31/22 36/2 36/22</p> <p>roles [1] 23/13</p> <p>Rule [7] 2/25 7/12 10/8 11/8 12/14 12/20 16/25</p> <p>Rule 3 [4] 10/8 11/8 12/14 12/20</p> <p>Rule 3 issue [1] 7/12</p> <p>rules [6] 6/22 14/23 15/22 15/24 16/17 22/1</p> <p>run [1] 20/12</p> <p>S</p> <p>said [22] 3/3 3/23 4/2 6/11 6/14 7/14 7/14 8/16 9/19 11/16 24/23 24/24 25/21 26/5 26/20 27/22 32/5 32/18 33/13 34/5 36/17 38/9</p> <p>same [6] 4/13 13/13 16/23 18/7 27/17 35/15</p> <p>satisfy [1] 14/24</p> <p>save [1] 23/4</p> <p>saw [1] 5/1</p> <p>say [16] 5/1 6/12 6/25 9/15 11/11 15/22 16/10 18/1 24/8 24/10 25/9 25/23 28/12 29/3 31/3 37/12</p> <p>saying [7] 14/7 15/17 19/10 30/18 31/25 32/16 35/16</p> <p>scheduled [2] 21/7 30/10</p> <p>scope [1] 11/14</p> <p>se [1] 5/3</p> <p>seal [4] 13/7 15/23 16/1 16/3</p> <p>sealed [6] 2/23 9/13 11/9 11/13 12/5 12/17</p> <p>sealing [2] 7/12 16/4</p> <p>second [5] 14/11 21/21 22/12 22/17 28/24</p> <p>Section [1] 22/7</p> <p>Section 1111 [1] 22/7</p> <p>secured [2] 22/6 22/8</p> <p>see [11] 2/5 2/5 2/6 2/14 2/15 2/16 2/17 3/10 11/1 19/12 30/8</p> <p>selection [2] 33/1 33/3</p> <p>sense [2] 10/16 36/22</p> <p>served [1] 16/5</p> <p>service [3] 21/21 22/19 30/11</p> <p>services [4] 31/9 32/25 35/24 36/4</p> <p>set [8] 16/12 21/8 25/24 29/3 29/9 32/22 33/2 33/14</p> <p>settled [2] 8/11 17/15</p> <p>settlement [19] 5/18 8/4 9/14 9/23 9/24 11/23 11/24 12/6 12/7 13/4 14/17 17/14 17/16 20/4 22/3 22/24 26/15 28/6 36/8</p>	<p>shall [3] 22/15 22/21 22/21</p> <p>she [2] 31/5 36/13</p> <p>she's [1] 31/10</p> <p>Sheila [3] 9/4 9/5 9/5</p> <p>SHORTENING [1] 1/16</p> <p>should [6] 3/7 5/12 6/7 7/25 12/2 35/17</p> <p>show [5] 4/11 4/13 31/1 31/2 31/16</p> <p>side [1] 24/13</p> <p>sides [1] 4/18</p> <p>signed [3] 7/6 7/7 16/18</p> <p>since [4] 8/8 11/10 33/10 37/19</p> <p>sir [8] 11/21 17/3 23/17 24/2 24/22 25/1 27/18 32/10</p> <p>sit [1] 13/19</p> <p>sitting [1] 31/14</p> <p>situation [1] 13/25</p> <p>SJC [10] 1/19 3/13 3/20 8/23 20/14 20/21 20/24 21/10 21/19 23/3</p> <p>slash [2] 25/17 34/3</p> <p>so [101]</p> <p>soft [1] 24/25</p> <p>soft-spoken [1] 24/25</p> <p>some [9] 6/13 7/12 13/3 15/9 24/25 26/19 27/4 31/21 35/25</p> <p>somebody [6] 7/13 13/8 18/19 24/22 31/15 32/15</p> <p>somebody's [1] 19/12</p> <p>something [14] 5/23 7/16 11/9 12/21 17/23 26/24 27/11 27/17 29/11 32/6 32/14 34/23 35/25 36/25</p> <p>sometimes [3] 9/14 14/1 14/2</p> <p>sooner [1] 34/5</p> <p>sorry [17] 3/23 8/15 15/14 16/22 20/18 24/9 24/16 24/22 29/18 29/20 30/17 30/20 30/21 30/22 35/14 37/18 38/6</p> <p>sought [1] 16/5</p> <p>source [1] 32/23</p> <p>SPANISH [9] 1/4 1/19 2/3 3/8 3/14 3/19 4/24 8/24 25/17</p> <p>speak [4] 7/20 14/11 14/13 19/12</p> <p>speaking [2] 7/19 35/15</p> <p>specific [2] 16/20 22/2</p> <p>spoken [1] 24/25</p> <p>stack [9] 21/9 25/22 26/12 26/12 28/3 28/13 28/14 28/17 33/6</p> <p>stage [1] 8/3</p> <p>started [1] 3/8</p> <p>starts [1] 28/13</p> <p>state [5] 5/19 17/6 21/7 23/23 24/4</p>
--	---	---	---	--

<p>S</p> <p>stated [4] 10/12 22/7 24/12 37/22</p> <p>stating [1] 29/22</p> <p>status [7] 22/8 28/8 29/3 33/17 33/17 34/7 36/21</p> <p>statutory [1] 23/4</p> <p>stay [17] 5/20 21/3 21/15 26/10 26/24 27/7 28/10 28/16 28/16 28/21 31/25 32/1 34/3 36/19 36/20 36/23 37/2</p> <p>stayed [3] 25/22 26/5 27/23</p> <p>step [1] 36/24</p> <p>still [4] 5/4 5/6 19/8 28/11</p> <p>stipulated [1] 26/23</p> <p>stop [3] 18/3 30/7 32/3</p> <p>subject [2] 15/24 20/23</p> <p>submit [4] 9/25 13/6 31/19 35/6</p> <p>submitted [1] 12/5</p> <p>subpoena [5] 1/14 1/15 5/16 5/22 37/22</p> <p>subpoenaed [1] 5/7</p> <p>such [2] 22/22 26/20</p> <p>summarize [1] 22/5</p> <p>summarized [1] 23/20</p> <p>sums [3] 22/16 22/16 22/18</p> <p>sun [1] 8/21</p> <p>supposed [2] 15/25 33/3</p> <p>Supreme [11] 2/24 7/11 10/7 11/8 12/14 12/20 15/22 16/25 21/5 30/3 33/24</p> <p>sure [13] 4/11 4/13 5/8 7/22 9/17 10/22 15/4 15/7 17/12 17/25 26/8 27/17 30/19</p> <p>system [2] 19/13 24/10</p>	<p>thank [25] 2/12 4/3 6/8 6/9 8/10 8/18 9/8 18/10 18/24 19/1 19/19 19/23 19/24 20/19 23/18 25/11 27/19 34/21 35/20 37/16 37/17 37/25 38/5 38/8 38/11</p> <p>that [184]</p> <p>that's [15] 4/25 6/1 13/25 14/5 15/18 15/24 17/9 18/14 24/19 25/8 27/12 29/21 32/12 32/25 34/16</p> <p>their [4] 20/13 21/1 22/18 23/23</p> <p>them [10] 12/11 12/11 16/10 16/12 17/8 17/8 17/9 23/16 23/23 25/8</p> <p>themselves [4] 2/17 6/24 7/3 14/3</p> <p>then [46]</p> <p>there [41]</p> <p>there's [14] 2/19 7/5 7/12 13/3 16/22 24/22 26/19 28/6 28/7 31/1 31/14 31/20 36/23 36/23</p> <p>thereafter [1] 22/15</p> <p>therefore [2] 29/6 29/8</p> <p>thereof [1] 35/9</p> <p>these [8] 10/12 10/15 11/4 11/16 12/8 15/24 21/10 21/22</p> <p>they [9] 2/21 4/16 6/23 7/10 13/15 14/3 14/20 16/15 29/6</p> <p>they'll [1] 22/2</p> <p>they're [1] 14/3</p> <p>thing [1] 13/13</p> <p>things [12] 2/23 6/4 11/19 13/23 16/9 17/20 29/6 30/16 31/10 31/11 35/8 35/9</p> <p>think [9] 8/3 10/11 14/16 14/20 14/25 17/10 18/19 23/10 35/14</p> <p>third [10] 3/21 3/25 4/23 8/23 19/16 24/17 25/4 30/18 33/8 34/13</p> <p>third-party [9] 3/21 3/25 4/23 8/23 19/16 24/17 25/4 30/18 34/13</p> <p>this [89]</p> <p>those [12] 7/8 12/4 13/18 13/21 14/20 15/10 17/20 21/4 21/4 22/1 23/13 24/6</p> <p>through [1] 12/13</p> <p>time [17] 1/16 3/3 4/15 6/9 11/3 12/4 14/23 16/23 19/11 27/10 28/17 31/8 35/11 35/15 37/1 37/17 38/6</p> <p>times [1] 26/2</p> <p>timing [1] 30/16</p> <p>title [1] 16/4</p> <p>today [12] 16/13 17/21 22/2 23/22 26/25 27/7</p>	<p>30/8 31/12 32/23 34/5 36/9 36/15</p> <p>today's [3] 11/12 12/17 27/9</p> <p>told [1] 5/16</p> <p>tomorrow [2] 35/16 35/18</p> <p>Tracy [5] 30/14 30/18 30/20 31/4 31/5</p> <p>Tracy's [1] 30/19</p> <p>TRAN [1] 1/1</p> <p>transcribed [2] 1/24 38/15</p> <p>Transcriber [1] 38/19</p> <p>transcript [3] 1/8 11/13 12/17</p> <p>treated [1] 9/13</p> <p>treatment [2] 20/13 22/4</p> <p>trial [20] 1/15 5/9 5/23 17/19 17/20 21/7 25/25 26/4 26/12 26/18 27/25 28/2 28/6 29/9 33/2 33/11 36/5 36/6 36/7 36/7</p> <p>trigger [2] 20/22 26/14</p> <p>triggering [1] 17/16</p> <p>truly [1] 38/14</p> <p>trust [2] 9/5 9/6</p> <p>trustee [1] 7/1</p> <p>trustees [1] 9/4</p> <p>try [1] 38/9</p> <p>Tuesday [2] 29/4 29/4</p> <p>two [4] 6/13 14/17 21/23 22/15</p> <p>types [1] 17/20</p>	<p>V</p> <p>vacate [2] 21/6 28/2</p> <p>vacated [4] 26/5 28/6 33/4 36/6</p> <p>vacating [1] 17/18</p> <p>variety [3] 3/15 4/4 26/2</p> <p>various [1] 24/13</p> <p>VEGAS [1] 2/1</p> <p>Venture [1] 21/10</p> <p>VENTURES [8] 1/19 3/14 3/20 8/24 20/14 20/21 20/24 21/19</p> <p>versus [5] 2/3 3/9 12/15 16/18 25/18</p> <p>very [9] 2/12 18/24 19/24 20/19 22/5 29/1 35/6 37/21 38/5</p> <p>video [31] 5/15 5/17 5/18 9/25 10/17 12/3 12/6 12/24 12/25 13/1 13/2 13/3 13/5 13/7 13/9 15/2 15/2 15/10 17/4 17/13 17/18 18/21 24/4 24/20 25/5 27/22 28/1 28/3 29/16 35/13 38/15</p> <p>voice [2] 19/13 24/9</p> <p>voices [1] 25/1</p> <p>voluntarily [1] 25/8</p>	<p>well [21] 3/22 5/5 10/2 10/6 12/13 13/10 18/13 18/15 19/21 20/5 21/4 23/16 29/15 30/17 30/21 32/10 33/2 34/5 35/25 37/7 38/8</p> <p>were [9] 13/13 17/20 19/4 26/10 30/10 32/16 32/19 32/22 35/14</p> <p>what [47]</p> <p>what's [2] 30/4 35/11</p> <p>whatever [9] 7/10 8/21 11/5 14/12 16/11 18/6 18/20 28/8 28/25</p> <p>when [10] 6/25 18/21 25/21 28/5 31/19 31/21 31/25 35/8 35/8 35/9</p> <p>where [2] 29/10 30/16</p> <p>whether [1] 24/11</p> <p>which [13] 2/19 11/4 11/9 11/23 13/17 20/15 21/12 22/6 22/17 25/17 34/4 35/4 36/21</p> <p>whichever [2] 18/8 21/24</p> <p>while [2] 10/14 12/18</p> <p>who [8] 3/23 6/23 11/2 13/8 24/11 30/19 31/1 36/14</p> <p>who's [2] 27/21 31/14</p> <p>why [1] 15/18</p> <p>will [34] 8/3 10/12 10/23 11/22 11/23 14/18 14/21 14/24 20/3 20/12 20/22 20/25 21/10 21/13 21/21 21/23 22/1 22/5 22/6 22/8 22/9 22/10 23/1 26/14 26/15 28/22 28/24 29/5 33/18 35/23 36/1 36/1 36/4 36/22</p> <p>Williams [1] 38/19</p> <p>window [1] 8/22</p> <p>wish [12] 2/21 6/4 12/21 14/3 18/7 18/20 19/25 28/13 29/3 33/10 37/12 38/10</p> <p>wishes [1] 5/21</p> <p>withdrew [1] 5/16</p> <p>within [3] 13/21 25/14 25/15</p> <p>without [2] 7/18 23/3</p> <p>won't [2] 12/3 16/23</p> <p>words [1] 14/21</p> <p>work [5] 25/24 27/8 27/10 27/22 37/6</p> <p>works [1] 37/4</p> <p>would [35] 3/1 3/2 4/5 5/22 6/25 7/14 9/17 9/21 9/22 10/2 10/14 10/17 11/3 13/4 13/8 17/5 17/15 24/1 27/7 27/23 28/2 28/24 29/1 29/7 29/13 29/14 29/22 30/8 31/15 33/13 33/14 33/15 33/23 34/4 34/6</p> <p>wouldn't [3] 10/10 13/21 24/24</p> <p>writing [2] 32/19 32/20</p>
<p>T</p> <p>take [9] 7/4 17/2 17/4 18/18 30/2 30/15 30/23 32/22 33/23</p> <p>taken [1] 18/1</p> <p>takes [1] 7/16</p> <p>talk [2] 17/5 17/11</p> <p>talking [2] 16/23 24/23</p> <p>taxes [2] 21/20 22/16</p> <p>telling [1] 31/12</p> <p>terms [28] 9/14 9/21 10/12 10/23 10/24 11/4 11/17 11/22 12/1 12/7 12/8 12/23 13/2 13/3 14/2 15/9 17/7 17/21 21/25 22/2 22/25 23/7 23/13 23/20 24/6 24/12 24/20 25/5</p> <p>text [1] 18/6</p> <p>than [13] 2/22 5/20 6/3 6/11 6/19 6/20 7/11 13/19 14/24 16/14 22/15 34/5 37/11</p>		<p>U</p> <p>under [12] 2/24 10/5 10/13 11/8 12/20 13/1 13/7 16/25 20/13 22/25 32/18 35/7</p> <p>underneath [1] 2/17</p> <p>understand [9] 8/6 11/2 15/8 27/4 28/5 30/3 31/11 32/24 34/17</p> <p>understanding [7] 11/18 26/6 27/16 28/18 31/1 32/17 33/6</p> <p>understood [3] 9/18 19/4 37/20</p> <p>unless [2] 7/5 26/1</p> <p>unlikely [1] 28/24</p> <p>until [6] 13/1 18/4 19/2 28/10 28/16 28/17</p> <p>up [4] 2/14 7/11 9/19 27/8</p> <p>upon [9] 9/24 11/4 11/20 12/2 13/4 15/25 17/7 21/13 23/21</p> <p>us [8] 6/20 13/6 15/13 16/23 17/10 18/4 26/14 28/25</p> <p>use [3] 14/22 20/8 21/25</p> <p>used [1] 20/10</p> <p>usually [2] 15/24 28/7</p>	<p>W</p> <p>Wait [3] 4/10 9/2 9/11</p> <p>waiting [5] 3/7 7/22 7/25 8/1 8/3</p> <p>walk [1] 12/13</p> <p>want [6] 3/16 9/12 9/17 17/14 18/18 20/2</p> <p>was [31] 3/24 4/12 4/14 5/7 5/11 15/1 15/19 16/12 19/15 20/9 20/10 24/25 25/9 25/22 26/1 26/2 26/15 30/9 30/12 31/8 31/21 32/15 33/1 33/2 33/18 33/19 33/19 33/21 36/8 37/20 37/21</p> <p>way [2] 4/18 14/10</p> <p>we [63]</p> <p>we'd [3] 9/25 12/4 12/8</p> <p>we'll [4] 18/23 26/17 35/23 36/24</p> <p>we're [13] 2/11 2/13 4/10 4/12 4/13 7/22 12/6 19/3 19/22 23/10 28/21 30/16 37/19</p> <p>we've [3] 12/7 17/7 28/2</p> <p>wearing [1] 13/15</p> <p>Wednesday [3] 26/1 33/2 36/5</p> <p>week [2] 28/14 33/6</p> <p>weekend [2] 16/9 16/10</p> <p>welcome [13] 2/22 3/3 4/2 5/20 6/3 6/5 6/11 6/19 6/20 7/9 13/14 13/19 16/14</p>	<p>PA0248</p>

<div>W</div> <div>written [1] 15/25</div> <div>X</div> <div>XXXI [1] 1/6</div> <div>Y</div> <div>Yeah [2] 15/16 19/22</div> <div>year [3] 20/16 20/16 20/17</div> <div>yes [21] 3/18 18/10 19/9 19/18 20/2 23/20 24/5 24/14 25/3 25/4 25/10 27/2 27/21 29/16 29/20 29/24 32/12 34/15 34/24 35/22 37/8</div> <div>yet [2] 7/17 11/20</div> <div>you [174]</div> <div>you'll [1] 37/9</div> <div>you're [38] 4/10 4/21 4/22 6/3 6/5 6/11 11/12 14/7 15/17 15/25 18/2 18/2 18/4 18/7 18/22 18/23 19/8 24/25 25/13 25/21 26/3 26/4 26/7 28/15 28/19 29/10 30/7 30/17 31/25 32/2 32/4 32/17 32/21 32/24 33/1 33/5 33/16 34/1</div> <div>you've [1] 18/1</div> <div>your [95]</div> <div>yourself [1] 17/25</div> <div>yourselves [2] 18/18 19/11</div>				<div>PA0249</div>
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