

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:)	
)	
CBL & ASSOCIATES PROPERTIES, INC.,)	Case No. 20-35226
<i>et al,</i>)	
)	Chapter 11
Debtors.)	
<hr style="border: 0.5px solid black;"/>)	
)	
CBL & ASSOCIATES MANAGEMENT,)	
INC., CBL & ASSOCIATES PROPERTIES,)	
INC., CBL HOLDINGS I, INC. and CBL &)	
ASSOCIATES L.P.,)	
)	
Plaintiff(s),)	AP No. _____
)	
v.)	
)	
D'IBERVILLE PROMENADE, LLC,)	
)	
Defendant.)	

**VERIFIED ADVERSARY PROCEEDING
COMPLAINT AND OBJECTION TO PROOFS OF CLAIM**

This is an objection to your claim. This objection asks the Court to disallow the claim that you filed in this bankruptcy case. If you do not file a response within 30 days after the objection was served on you, your claim may be disallowed without a hearing.

CBL & Associates Management, Inc. (“CBL Management”), CBL & Associates Properties, Inc. (“CBL Properties”), CBL Holdings I, Inc. (“CBL Holdings”), and CBL & Associates, L.P. (“CBL LP”) (collectively, the “CBL Plaintiffs”), by and through counsel, bring this adversary proceeding complaint against D’Iberville Promenade, LLC (“DP”). In support, the CBL Plaintiffs state as follows:

INTRODUCTION

1. The CBL Plaintiffs are all debtors in the above-styled chapter 11 bankruptcy case (the “Bankruptcy Case”). DP filed proofs of claims against all of the CBL Plaintiffs in the Bankruptcy Case. In addition, DP is indebted to CBL Management pursuant to a promissory note executed by DP in favor of CBL Management, which indebtedness and the collateral securing the indebtedness constitute property of its bankruptcy estate. This adversary proceeding is brought to (1) collect the indebtedness owed by DP to CBL Management that constitutes property of the bankruptcy estate, and (2) to object to the proofs of claim filed by DP in the Bankruptcy Case.

PARTIES, JURISDICTION AND VENUE

2. CBL Management is a Delaware corporation with its principal place of business located in Chattanooga, Tennessee, and is one of the Debtors in the above-styled jointly-administered Bankruptcy Case.

3. CBL Properties is a Delaware corporation with its principal place of business located in Chattanooga, Tennessee, and is one of the Debtors in the Bankruptcy.

4. CBL LP is a Delaware limited partnership with its principal place of business in Chattanooga, Tennessee, and is one of the Debtors in the Bankruptcy. CBL LP’s managing partner is CBL Holdings.

5. CBL Holdings is a Delaware corporation with its principal place of business in Chattanooga, Tennessee, and is one of the Debtors in the Bankruptcy.

6. DP is a Georgia limited liability company with its principal place of business located in Atlanta, Georgia. DP’s managing member is Specialty Retail Development Group, LLC – a Georgia limited liability company with its principal place of business in Atlanta, Georgia, whose manager is William Brown, a Georgia resident.

7. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C §§ 157 and 1334.

8. This Adversary Proceeding is a core proceeding under 28 U.S.C. §§ 157(b). The CBL Plaintiffs consents to entry of final orders or judgments by this Court.

9. Venue is proper in this Court under 28 U.S.C. §§ 1408 and 1409.

FACTUAL BACKGROUND

The Promenade D'Iberville, LLC

10. In April 2008, DP and CBL-D'Iberville Member, LLC ("CBL Member") entered into that certain Limited Liability Company Agreement (the "LLC Agreement") forming The Promenade D'Iberville, LLC (the "Company"). A true and correct copy of the LLC Agreement is attached hereto as **Exhibit 1**.

11. CBL Member is not a debtor in this case, but CBL LP is the managing member of CBL Member.

12. Under the LLC Agreement, CBL Member holds 85% of the membership interest of the Company and DP holds the remaining 15%.

13. The Company's principal asset is a shopping center located in D'Iberville, Mississippi (the "Shopping Center"). The Company was formed for the purpose of developing and operating the Shopping Center.

The Loan by CBL Management to DP

14. On or about December 15, 2011, DP entered into an agreement with CBL Management by which CBL Management agreed to, and did in fact, extend a financial loan to DP in the amount of One-Million, One-Hundred-Thousand, and 00/100 Dollars (\$1,100,000.00) (the "Loan").

15. The purpose of the Loan was to provide funding to DP so that DP could pay off a bank loan DP used to fund a portion of its initial investment in the Shopping Center project.

16. The Loan was evidenced by DP's Non-Recourse Promissory Note, dated December 15, 2011 (the "Note"), executed by DP and payable to CBL Management. A true and correct copy of the Note is attached hereto as **Exhibit 2**.

17. By its terms, the Note provided that interest would accrue on the principal at a rate equal to "the LIBOR Daily Floating Rate plus 250 basis points (2.50%) per annum . . . on the outstanding balance of the Loan Amount." (Note, Ex. 1, at § 1.)

18. By its terms, the Note required that DP pay the entire unpaid principal amount of the Loan, together with all accrued and unpaid interest, to CBL Management no later than December 15, 2016 (the "Maturity Date"). (Note, Ex. 1, at § 1.)

19. By the terms of the Note, DP's failure to make a required payment within five (5) days of the Maturity Date would constitute an "Event of Default". (Note, Ex. 1, at § 2.)

20. The Note is secured by a Pledge and Security Agreement, dated December 15, 2011, executed by DP (the "Pledge Agreement") (collectively with the Note, the "Loan Documents") in favor of CBL Management. A true and correct copy of the Pledge Agreement is attached hereto as **Exhibit 3**.

21. By the terms of the Pledge Agreement, CBL Management received a first priority security interest in DP's "Ownership Interest" (defined in the Pledge Agreement as DP's 15% ownership interest in The Promenade D'Iberville, LLC) (the "Ownership Interest"), "and all dividends, distributions, cash, instruments and other property or proceeds from time to time received, receivable or otherwise distributed in respect of, or in exchange for, any or all of that Ownership Interest." (Pledge Agreement, Ex. 2, at § 1.)

22. Under the Pledge Agreement, DP pledged to CBL Management, and granted to CBL Management, “a first priority security interest in the Ownership Interest, and all dividends, distributions, cash, instruments and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the Ownership Interest.” (Pledge Agreement, Ex. 2, at § 1.)

23. Each member of The Promenade D’Iberville, LLC provided their written consent for DP to pledge its Ownership Interest to CBL Management under the Pledge Agreement by executing the Written Consent of the Members of The Promenade D’Iberville, LLC (the “Written Consent”). A true and correct copy of the Written Consent is attached hereto as **Exhibit 4**.

24. By its terms, the occurrence of an Event of Default under the Note is deemed to be an Event of Default under the Pledge Agreement. (Pledge Agreement, Ex. 2, at § 5.)

25. By its terms, upon the occurrence of and during the continuation of an Event of Default under the Pledge Agreement, CBL Management has the right to enforce certain remedies with respect to the Ownership Interest, including but not limited to, selling the Ownership Interest at a public or private sale. (Pledge Agreement, Ex. 2, at § 5.)

Default by DP

26. DP failed to make the required payment of the entire unpaid principal amount of the Loan, together with all accrued and unpaid interest, to CBL Management by the Maturity Date.

27. On or about February 14, 2017, CBL Management notified DP in writing of its default under the terms of the Loan Documents (the “Default Notice”). A true and correct copy of the Default Notice is attached hereto as **Exhibit 5**.

28. The Loan Documents each provide for the payment by DP of any and all reasonable costs and expenses, including reasonable attorneys' fees and costs, incurred by CBL Management as a result of CBL Management's enforcement of its rights under the Loan Documents.

29. As part of the Default Notice, CBL Management informed DP of its intention to enforce the attorneys' fees provisions contained in the Loan Documents if DP failed to take certain immediate actions.

30. As part of the Default Notice, CBL Management informed DP of its intention to pursue all remedies available to it under the Pledge Agreement if DP failed to immediately and fully cure its default by the payment to CBL Management of the amount demanded in the Default Notice.

31. DP failed to comply with CBL Management's reasonable demands and otherwise failed to satisfy its obligations under the terms of the Loan Documents, which obligations include, but are not limited to, making the payments required by the terms of the Loan Documents.

The State Court Action

32. DP filed an action against CBL Management and CBL Member in the Chancery Court of Harrison County, Mississippi on December 19, 2016 (*D'Iberville Promenade, LLC v. CBL – D'Iberville Member, LLC, et al.*, Civil Action No. 16-949(1) (the "State Court Action"). DP's Complaint alleged, in essence, that CBL Management and CBL Member had tried to force DP out of the Company through fraud.

33. CBL Management filed its answer and counterclaim in the State Court Action on March 2, 2017, denying DP's allegations and seeking to enforce the Note and the Pledge Agreement in light of DP's default.

34. Neither CBL Holdings nor CBL LP is a party to the State Court Action, nor does the State Court Action make any allegations against CBL Holdings or CBL LP.

35. The State Court Action is based on facts and occurrences allegedly arising before December 19, 2016.

DP's Proofs of Claim in the Bankruptcy Case

36. On November 1, 2020, the CBL Plaintiffs and certain of their affiliates filed their voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”) initiating the jointly-administered Bankruptcy Case. The State Court Action has been stayed since that time in accordance with the automatic bankruptcy stay. *See* 11 U.S.C. § 362.

37. DP filed three (3) Proofs of Claim (as amended) in the Bankruptcy Case against certain of the CBL Plaintiffs as detailed below (collectively, the “Proofs of Claim”):

Claim	Claim Date	Amended Date	Debtor	Claim Amt.	Classification
612	2/25/2021	3/25/2021	CBL Holdings	\$12 million	Gen. Unsec'd
613	2/25/2021	3/25/2021	CBL Management	\$12 million	Gen. Unsec'd
614	2/25/2021	3/25/2021	CBL LP	\$12 million	Gen. Unsec'd

38. None of the Proofs of Claim is signed.

39. DP attached identical documentation for each Proof of Claim, claimed identical damages, and supplied as evidence of its claims key documents and pleadings from the record of the State Court Action. (*See id.*) (Attaching documents such as the complaint, answer and counterclaim, motion for partial summary judgment, etc.).

40. DP's Proofs of Claim are identical to and co-extensive with DP's claims in the State Court Action.

41. On August 11, 2021, this Court entered its Proposed Findings of Fact, Conclusions of Law, and Order (I) Confirming Third Amended Joint Chapter 11 Plan of CBL & Associates Properties, Inc. and Its Affiliated Debtors and (II) Granting Related Relief [Doc. 1397] (the “Confirmation Order”) by which this Court confirmed the Third Amended Joint Chapter 11 Plan of CBL & Associates Properties, Inc. and its Affiliated Debtors [Doc. 1369] (the “Plan”).

42. Pursuant to Article 11.1 of the Plan, this Court has exclusive jurisdiction to, among other things (capitalized terms as defined by the Plan):

- (e) consider Claims or the allowance, classification, priority, compromise, estimation, or payment of any Claim;

...

- (r) hear and determine any rights, Claim, or Causes of Action held by or accruing to the Debtors pursuant to the Bankruptcy Code or pursuant to any federal statute or legal theory;

- (s) recover all Assets of the Debtors and property of the Estates, wherever located.

43. Simultaneous with the filing of this Adversary Proceeding, CBL Management is filing its notice in the State Court Action removing the State Court Action to the United States Federal Court for the Southern District of Mississippi, and is requesting that that court transfer venue to this Court. The CBL Plaintiffs believe that the State Court Action should be decided in conjunction with this Adversary Proceeding and the CBL Plaintiffs’ objections to DP’s Proofs of Claim – claims that appear to be identical to DP’s claims in the State Court Action.

44. As of the date of this Complaint, the principal balance on the Note was \$1,100,000.00, which amount has continued to accrue interest in accordance with the terms of the Note.

45. Pursuant to the terms of the Loan Documents, CBL Management is entitled to recover from DP the full amount permitted by law for CBL Management’s costs of collection,

including attorneys' fees and expenses, incurred by CBL Management in enforcing its rights under the Loan Documents.

COUNT I

Breach of Contract

46. The CBL Plaintiffs incorporate the allegations set forth in the above Paragraphs as if fully set forth herein.

47. DP has failed to meet its payment obligations under the terms of the Loan Documents and is in default thereunder.

48. As a result of the default of DP under the terms of the Loan Documents, CBL Management is entitled to a judgment against DP for all unpaid principal and interest due and owing thereunder.

49. In addition, the Loan Documents affirmatively set forth that DP shall be liable for all costs of collection, including reasonable attorneys' fees and expenses, incurred by CBL Management in enforcing its rights pursuant to the Loan Documents. Accordingly, CBL Management is entitled to a judgment for its costs of collection, including reasonable attorneys' fees and expenses, up to the maximum amount permitted by applicable law.

WHEREFORE, the above premises considered, CBL Management hereby demands judgment against DP in the principal amount of \$1,100,000.00, plus interest, as well as its costs, expenses, and attorneys' fees, plus any additional amounts or relief that this Court determines is just and proper.

COUNT II

Unjust Enrichment

50. The CBL Plaintiffs incorporate the allegations set forth in the above Paragraphs as if fully set forth herein.

51. CBL Management conveyed the proceeds of the Loan to DP based upon DP's representation that it would repay the Loan.

52. DP has retained the benefits of the Loan without payment to CBL Management.

53. DP is unjustly enriched to the detriment of CBL Management by DP's failure to repay the proceeds of the Loan.

54. DP's retention of the benefits of the Loan without payment to CBL Management is inequitable.

WHEREFORE, the above premises considered, CBL Management hereby demands judgment against DP in the principal amount of \$1,100,000.00, plus interest, as well as its costs, expenses, and attorneys' fees, plus any additional amounts or relief that this Court determines is just and proper.

COUNT III

Declaratory Judgment Determining the Validity, Priority, and Extent of Security Interest Pursuant to Federal Rule of Bankruptcy Procedure 7001(2)

55. The CBL Plaintiffs incorporate the allegations set forth in the above Paragraphs as if fully set forth herein.

56. Pursuant to the Loan Documents, CBL Management made the Loan to DP and delivered the proceeds of the Loan in the original principal amount of One-Million, One-Hundred-Thousand and 00/100 U.S. Dollars (\$1,100,000.00) to DP with the expectation of repayment in accordance with the terms of the Loan Documents.

57. DP failed to repay the Loan in accordance with the terms of the Loan Documents.

58. DP failed to repay the Loan at all, and continues to fail and refuse to pay.

59. Failure to pay constitutes an event of default.

60. Pursuant to the Loan Documents, DP granted a security interest in favor of CBL Management in the Ownership Interest.

61. CBL Management properly perfected its security interest in the Ownership Interest.

62. As a result of the events of default under the Loan Documents, CBL Management is entitled to enforce its security interest in the Ownership Interest.

WHEREFORE, the above premises considered, the CBL Plaintiffs request that this Court enter a judgment declaring that (a) DP is indebted to CBL Management for the amount of the Loan, plus interest and costs of collection, including reasonable attorneys' fees and expenses, up to the maximum amount permitted by law; (b) DP has no offset rights or defenses to payments; CBL Management has a properly perfected first priority security interest in the Ownership Interest; (c) DP has defaulted; (d) as a result of the events of default under the Loan Documents, CBL Management is entitled to enforce its security interest in the Ownership Interest; and (e) plus additional relief that this Court determines is just and proper.

COUNT IV

Quantum Meruit

63. The CBL Plaintiffs incorporate the allegations set forth in the above Paragraphs as if fully set forth herein.

64. CBL Management extended the Loan with an expectation of repayment.

65. DP promised to repay the Loan to CBL Management.

66. CBL Management's expectation was reasonable based on DP's promise of payment.

67. CBL Management advanced the Loan to DP.

68. DP's failure to repay the Loan has damaged CBL Management in an amount equal to the principal balance plus accrued and unpaid interest through the date of judgment.

WHEREFORE, the above premises considered, CBL Management hereby demands judgment against DP in the principal amount of \$1,100,000.00, plus interest, as well as its costs, expenses, and attorneys' fees, plus any additional amounts to which this Court determines that CBL Management is entitled, and for such further and other relief as the Court deems just and proper.

COUNT V

Enforcement of Security Interest

69. The CBL Plaintiffs incorporate the allegations set forth in the above Paragraphs as if fully set forth herein.

70. One or more Events of Default have occurred under the Pledge Agreement.

71. As a result of these Events of Default, CBL Management is entitled to exercise the remedies made available to it under Section 5 of the Pledge Agreement.

WHEREFORE, the above premises considered, the CBL Plaintiffs request that this Court enter a judgment declaring that one or more Events of Default have occurred under the Pledge Agreement and that CBL Management is entitled to exercise one or more of the remedies made available to it under Section 5 of the Pledge Agreement including, but not limited to, the conducting of a public or private sale of the Ownership Interest after ten (10) days' notice in

accordance with Section 5 of the Pledge Agreement, plus any additional relief that this Court determines is just and proper.

COUNT VI

Objection to Proof of Claim No. 612 (CBL Holdings) Pursuant to Section 502 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 3007

72. The CBL Plaintiffs incorporate the allegations set forth in the above Paragraphs as if fully set forth herein.

73. Based on the foregoing, DP is not entitled to the amounts claimed in Proof of Claim No. 612 filed against CBL Holdings (the “CBL Holdings Claim”), which should be disallowed.

74. The CBL Holdings Claim is not executed and therefore does not comply with Federal Rule of Bankruptcy Procedure 3001(b).

75. The CBL Holdings Claim is also unenforceable against CBL Holdings. For example, the CBL Holdings Claim appears to be based on its claims in the State Court Action, but CBL Holdings is not a party to the State Court Action, nor does the State Court Action contain any allegations against CBL Holdings. As such, DP has identified no basis for its claim against CBL Holdings, nor is CBL Holdings aware of any basis.

76. DP’s claims in the State Court Action are based upon certain alleged agreements with CBL Member and CBL Management. (Compl. at ¶¶ 7 & 19.) DP does not allege that CBL Holdings was a party to those agreements, or otherwise participated in those agreements. Thus, DP has no valid claims against (nor even alleges claims against) CBL Holdings.

77. The CBL Holdings Claim fails because CBL Holdings has not breached an agreement with DP (nor has any CBL entity). In fact, it is DP who has breached, as CBL Management has alleged in this adversary proceeding. DP’s claims are barred by DP’s breach of

the Note, and because CBL Management is entitled to DP's Ownership Interest under the Pledge Agreement.

78. DP has admitted that the Note has matured, that it has not made payments under the Note, and that the Pledge Agreement is enforceable.

79. Some or all of the CBL Holdings Claim is barred by the applicable statute(s) of limitations. DP's CBL Holdings Claim appears to be based on actions that took place between 2008 and 2011, but the State Court Action was not filed until 2016, and the CBL Holdings Claim was not filed until 2021.

80. Some or all of the CBL Holdings Claim has been released pursuant to a Release and Acknowledgement executed by DP on December 15, 2011, and is therefore barred.

81. DP's claims of unjust enrichment are further barred because there are contracts between DP and CBL Member and CBL Management, and DP's claims are governed by those contracts.

82. DP's claims of constructive trust are barred because there was no confidential relationship between the Parties, but rather DP and CBL Member and CBL Management entered into an arms-length transaction. DP and CBL Holdings have no relationship.

83. DP's claims against CBL Holdings are further barred for all of the other reasons asserted in CBL Management's and CBL Member's Answer in the State Court Action (as amended), which CBL Holdings incorporates by reference as if fully set forth herein.

84. The CBL Plaintiffs each therefore object to the CBL Holdings Claim Pursuant to Federal Rule of Bankruptcy Procedure 3007.

COUNT VII

Objection to Proof of Claim No. 613 (CBL Management) Pursuant to Section 502 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 3007

85. The CBL Plaintiffs incorporate the allegations set forth in the above Paragraphs as if fully set forth herein.

86. Based on the foregoing, DP is not entitled to the amounts claimed in Proof of Claim No. 613 filed against CBL Management (the “CBL Management Claim”), which should be disallowed.

87. The CBL Management Claim is not executed and therefore does not comply with Federal Rule of Bankruptcy Procedure 3001(b).

88. The CBL Management Claim is also unenforceable against CBL Management. For example, The Proof of Claim against CBL Management fails because CBL Management has not breached its agreement with DP. In fact, it is DP who has breached, as CBL Management has alleged in this adversary proceeding. DP’s claims are barred by DP’s breach of the Note, and because CBL Management is entitled to DP’s Ownership Interest under the Pledge Agreement.

89. DP has admitted that the Note has matured, that it has not made payments under the Note, and that the Pledge Agreement is enforceable.

90. Some or all of the CBL Management Claim is barred by the applicable statute(s) of limitations. DP’s CBL Management Claim appears to be based on actions that took place between 2008 and 2011, but the State Court Action was not filed under 2016, and the CBL Management Claim was not filed until 2021.

91. Some or all of the CBL Management Claim has been released pursuant to a Release and Acknowledgement executed by DP on December 15, 2011, and are therefore barred.

92. DP's claims of unjust enrichment are further barred because there is a contract between the parties.

93. DP's claims of constructive trust are barred because there was no confidential relationship between the Parties, but rather they entered into an arms-length transaction.

94. DP's claims against CBL Management is further barred for all of the other reasons asserted in CBL Management's and CBL Member's Answer in the State Court Action (as amended), which CBL Management incorporates by reference as if fully set forth herein.

95. The CBL Plaintiffs each therefore object to the CBL Management Claim Pursuant to Federal Rule of Bankruptcy Procedure 3007.

COUNT VIII

Objection to Proof of Claim No. 614 (CBL LP) Pursuant to Section 502 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 3007

96. The CBL Plaintiffs incorporate the allegations set forth in the above Paragraphs as if fully set forth herein.

97. Based on the foregoing, DP is not entitled to the amounts claimed in Proof of Claim No. 614 filed against CBL LP (the "CBL LP Claim"), which should be disallowed.

98. The CBL LP Claim is not executed and therefore does not comply with Federal Rule of Bankruptcy Procedure 3001(b).

99. The CBL LP Claim is also unenforceable against CBL LP. For example, the CBL LP Claim appears to be based on its claims in the State Court Action, but CBL LP is not a party to the State Court Action, nor does the State Court Action contain any allegations against CBL LP. As such, DP has identified no basis for its claim against CBL LP, nor is CBL LP aware of any basis.

100. DP's claims in the State Court Action are based upon certain alleged agreements with CBL Member and CBL Management. (Compl. at ¶¶ 7 & 19.) DP does not allege that CBL LP was a party to those agreements, or otherwise participated in those agreements. Thus, DP has no valid claims against (nor even alleges claims against) CBL LP.

101. The CBL LP Claim fails because CBL LP has not breached an agreement with DP (nor has any CBL entity). In fact, it is DP who has breached, as CBL Management has alleged in this adversary proceeding. DP's claims are barred by DP's breach of the Note, and because CBL Management is entitled to DP's Ownership Interest under the Pledge Agreement.

102. DP has admitted that the Note has matured, that it has not made payments under the Note, and that the Pledge Agreement is enforceable.

103. Some or all of the CBL LP Claim is barred by the applicable statute(s) of limitations. DP's CBL LP Claim appears to be based on actions that took place between 2008 and 2011, but the State Court Action was not filed under 2016, and the CBL LP Claim was not filed until 2021.

104. Some or all of the CBL LP Claim has been released pursuant to a Release and Acknowledgement executed by DP on December 15, 2011, and are therefore barred.

105. DP's claims of unjust enrichment are further barred because there is a contract between DP and CBL Member and CBL Management, and DP's claims are governed by those contracts.

106. DP's claims of constructive trust are barred because there was no confidential relationship between the Parties, but rather DP and CBL Member and CBL Management entered into an arms-length transaction. DP and CBL LP have no relationship.

107. DP's claims against CBL LP are further barred for all of the other reasons asserted in CBL Management's and CBL Member's Answer in the State Court Action (as amended), which CBL LP incorporates by reference as if fully set forth herein.

108. The CBL Plaintiffs each therefore object to the Proofs of Claim Pursuant to Federal Rule of Bankruptcy Procedure 3007.

PRAYER FOR RELIEF

WHEREFORE, having considered the foregoing, CBL Management specifically, and the CBL Plaintiffs generally, pray as follows:

(a) That the Court enter judgment for CBL Management in the principal amount of \$1,100,000.00 against DP for its breaches of the Loan Documents;

(b) That CBL Management be awarded a judgment against DP for CBL Management's reasonable attorneys' fees, expenses, and costs arising from enforcement of the Loan Documents, up to the maximum amount permitted by applicable law;

(c) That CBL Management be awarded pre-judgment and post-judgment interest at the maximum allowable rates under applicable law and/or the Loan Documents referenced herein;

(d) That the Court enter judgment in CBL Management's favor declaring DP indebted to CBL Management for the amount of the Loan, plus pre-judgment and post-judgment interest and costs of collection, including reasonable attorneys' fees;

(e) That the Court enter judgment in CBL Management's favor declaring that one or more Events of Default have occurred under the Pledge Agreement and that CBL Management is therefore entitled to exercise one or more of the remedies made available to it under Section 5 of the Pledge Agreement including, but not limited to, the conducting of a public or private sale of

the Ownership Interest after ten (10) days' notice in accordance with Section 5 of the Pledge Agreement.;

(f) That the Court make all further and appropriate Orders as may be necessary to protect, secure, and enforce the rights of CBL Management and/or the CBL Plaintiffs;

(g) That the Court disallow the CBL Holdings Claim;

(h) That the Court disallow the CBL Management Claim;

(i) That the Court disallow the CBL LP Claim;

(j) That the CBL Plaintiffs be allowed to reserve their right to amend this adversary complaint to allege additional facts, legal remedies, and equitable interests as they may be entitled; and

(k) That the CBL Plaintiffs have such other and further relief as the Court finds to be just and proper.

Respectfully submitted, this 27th day of October, 2021.

CBL & ASSOCIATES MANAGEMENT, INC.;
CBL & ASSOCIATES PROPERTIES, INC.; CBL
HOLDINGS I, INC.; and CBL & ASSOCIATES,
L.P.

By: BALCH & BINGHAM LLP

By: /s/ *Jeremy L. Retherford*
Jeremy L. Retherford (*pro hac vice* pending)
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pending)
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-and-

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VERIFICATION

By:

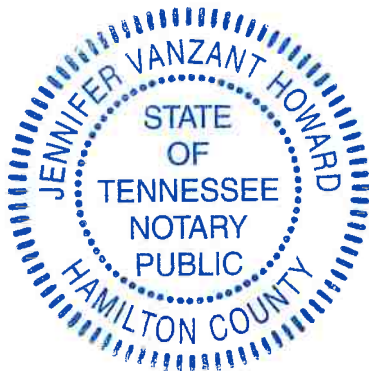


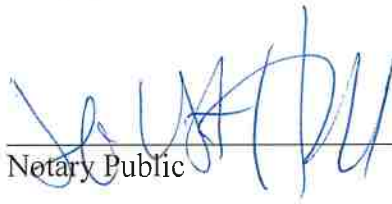
David Neuhoﬀ
Senior Vice President - Redevelopment
CBL & Associates Properties, Inc.

STATE OF TENNESSEE)
)
HAMILTON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that David Neuhoﬀ, Senior Vice President – Redevelopment of CBL & Associates Properties, Inc., whose name is signed to the foregoing instrument and who is known to me, having first been duly sworn, acknowledged before me on this day that, being informed of the contents of the instrument, he/she executed the same voluntarily on the day the same bears date, and the matters set out and contained in therein are true and correct as stated.

Witness my hand this 26th day of October, 2021.




Notary Public

My Commission Expires: 7-30-2025

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of October, 2021 the above and foregoing was served via the CM/ECF electronic filing system and by first class mail on the following:

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Houston, TX 77056

(713) 210-4371

Email: kbattaglini@strongpipkin.com

Attorney for D'Iberville Promenade, LLC

/s/ Jeremy L. Retherford (pro hac vice pending)

Of Counsel