

**PAUL HASTINGS LLP**

Kristopher M. Hansen, Esq. (admitted *pro hac vice*)  
Frank A. Merola, Esq. (admitted *pro hac vice*)  
Gabriel E. Sasson, Esq.  
Matthew D. Friedrich, Esq. (admitted *pro hac vice*)  
200 Park Avenue  
New York, New York 10166  
Telephone: (212) 318-6000  
Facsimile: (212) 319-4090  
krishansen@paulhastings.com  
frankmerola@paulhastings.com  
gabesasson@paulhastings.com  
matthewfriedrick@paulhastings.com

**RIKER DANZIG LLP**

Joseph L. Schwartz, Esq.  
Tara J. Schellhorn, Esq.  
Daniel A. Bloom, Esq.  
Gregory S. Toma, Esq.  
Headquarters Plaza, One Speedwell  
Avenue  
Morristown, New Jersey 07962-1981  
Telephone: (973) 538-0800  
Facsimile: (973) 538-1984  
jschwartz@riker.com  
tschellhorn@riker.com  
dbloom@riker.com  
gtoma@riker.com

*Co-Counsel to the Official  
Committee of Unsecured Creditors*

*Co-Counsel to the Official  
Committee of Unsecured Creditors*

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY**

In re:  
  
WEWORK INC., et al.,  
  
Debtors.<sup>1</sup>

Chapter 11  
Case No. 23-19865 (JKS)  
Hon. John K. Sherwood

**OFFICIAL COMMITTEE OF UNSECURED CREDITORS' STATEMENT  
IN SUPPORT OF THE LANDLORDS' MOTIONS TO COMPEL RENT PAYMENT**

The Official Committee of Unsecured Creditors (the "Committee") of WeWork, Inc. and its affiliated debtors and debtors in possession (collectively, "WeWork," or the "Debtors"), under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"), by and through its undersigned proposed counsel, hereby submits this statement (this "Statement") in support of the *Motion of Pea Green Owner, LLC for Order Compelling Debtor to Pay Post Petition Rent and*

<sup>1</sup> A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' proposed claims and noticing agent at <https://dm.epiq11.com/WeWork>. The location of Debtor WeWork Inc.'s principal place of business is 12 East 49th Street, 3rd Floor, New York, NY 10017; the Debtors' service address in these chapter 11 cases is WeWork Inc. c/o EpIQ Corporate Restructuring, LLC 10300 SW Allen Blvd. Beaverton, OR 97005.

*Related Charges Owed Under Unexpired Lease of Nonresidential Property* [Docket No. 1129], *CIO Terraces, LLC's Motion for Entry of an Order Compelling the Debtor's Payment of Certain Post-Petition Rent and Other Obligations due Pursuant to 11 U.S.C. § 365(d)(3)* [Docket No. 1147], *CIO Block 23, LLC's Motion for Entry of an Order Compelling the Debtor's Payment of Certain Post-Petition Rent and Other Obligations due Pursuant to 11 U.S.C. § 365(d)(3)* [Docket No. 1148], *Motion of Receiver Chris Neilson of Trigild IVL for Order Compelling Debtor to Pay Post Petition Rent and Related Charges Owed Under Unexpired Lease of Nonresidential Real Property Pursuant to 11 U.S.C. § 365(d)(3) and/or Allowance and Payment of Administrative Expense Pursuant to 11 U.S.C. § 503(b)(1)(A)* [Docket No. 1177]; *Motion for Order Compelling Debtors to Pay Post-Petition Rent and Related Charges Owed Under Unexpired Lease of Nonresidential Real Property* [Docket No. 1180] and *Motion for Order Compelling Debtors to Pay Post-Petition Rent and Related Charges Owed Under Unexpired Leases of Nonresidential Real Property* [Docket No. 1193] (collectively, the "Motions to Compel"). In connection therewith, the Committee respectfully states as follows:

**STATEMENT**<sup>2</sup>

1. The Committee remains focused on ensuring these cases progress in a positive direction. There is no dispute that the Debtors need to address the various issues that have led to the filing of these cases so that they can emerge a healthy, stable and viable entity. The Committee intends to play an important role in that process as the primary fiduciary for unsecured creditors.

2. Addressing the Debtors' footprint is the cornerstone of the Debtors' turnaround, and the Committee recognizes the difficult balancing act the Debtors must engage in to preserve

---

<sup>2</sup> Any terms used, but not defined herein shall have the meaning ascribed to them in the Motions to Compel as applicable.

liquidity and maximize optionality while managing many moving parts. The Debtors must do so while remaining administratively solvent and demonstrating they are able to satisfy administrative obligations as they become due.

3. The Bankruptcy Code, however, establishes specific parameters and limitations for chapter 11 debtors so that cases are not funded on the backs of administrative creditors, including landlords for properties that the a debtor continues to occupy. To that end, the Bankruptcy Code is unequivocal in mandating that a debtor in possession must honor all postpetition rent obligations as they come due. In relevant part, Bankruptcy Code section 365(d)(3) provides that a debtor in possession “shall *timely* perform . . . *until* such lease is assumed or rejected . . . .” 11 U.S.C. § 365(d)(3) (emphasis added); see *In re Montgomery Ward Holding Corp.*, 268 F.3d 205, 209 (3d Cir. 2001) (“The clear and express intent of § 365(d)(3) is to require the trustee to perform the lease in accordance with its terms.”); *In re Pelican Pool & Ski Ctr., Inc.*, No. 05-22983 (DHS), 2009 WL 2244573, at \*11 (D.N.J. July 27, 2009) (recognizing same); *In re Pac-West TeleComm, Inc.*, 377 B.R. 119, 123 (Bankr. D. Del. 2007). It is also well-settled that unpaid rent constitutes amounts falling due under the terms of lease agreements during the administrative period and are required to be timely paid pursuant to section 365(d)(3) of the Bankruptcy Code. See *Pac-W. Telecomm, Inc.*, 377 B.R. at 126; *Pelican Pool & Ski Ctr., Inc.*, 2009 WL 2244573, at \*16.

4. Yet, without seeking relief from this Court or providing advance notice to the Committee, the Debtors elected not pay January rent on account of certain leases amounting to approximately \$33 million in rent obligations.<sup>3</sup> The Committee understands that notwithstanding nonpayment of January rent, the Debtors have not rejected any of the applicable leases, nor have

---

<sup>3</sup> For the avoidance of doubt, the Committee supports, and believes the Bankruptcy Code requires, the payment of all unpaid January rent, not only payment of rent to landlords who filed Motions to Compel.

the Debtors returned possession of any of the applicable locations to their property owners. The Debtors instead appear to be pursuing a strategy where unilaterally, in an effort to strong-arm negotiations with certain landlords, they can receive all the benefits of their leases, including receiving fees from their members, without any payment on account of the administrative rent claims. It is improper for the Debtors to use the bankruptcy process to have it both ways.

5. While the Committee understands the need to rationalize the Debtors' lease portfolio as part of a broader restructuring, the Debtors cannot violate their statutory obligations along the way. The Debtors may seek to maximize optionality and preserve liquidity, but funding these cases through withheld rent payments and other unpaid administrative claims while the parties continue to negotiate the broader terms of a restructuring and develop a business plan dependent on renegotiated leases is not appropriate. In fact, the Debtors' budget approved by the Court just weeks ago, expressly provided for the payment of January rent. If the Debtors believe their liquidity position can no longer support the payment of their rent obligations as they come due, then the Debtors should disclose what has changed and accelerate their new money, postpetition financing process – a request the Committee has made since early December – rather than ignore the Bankruptcy Code.

6. The Bankruptcy Code grants the Debtors a number of tools to rework their prepetition obligations, including unexpired leases. However, ignoring the clearly-stated requirement to satisfy rent obligations in respect of unrejected leases (which constitute administrative expense claims) as they come due is simply not one of those tools. Indeed, the failure to make these payments calls into question the nature of these chapter 11 cases and the ability of the Debtors to manage their business going forward. Simply put, the Debtors cannot

violate their statutory requirements in an effort to exert leverage over one of their most important creditor constituencies, and this Court should not sanction these acts.

**CONCLUSION**

For the reasons stated above, the Committee respectfully requests that this Court grant the Motions to Compel, mandate the Debtors' compliance with Bankruptcy Code section 365(d)(3), and grant any other relief that this Court deems just and proper.

*[Remainder of Page Intentionally Left Blank]*

January 23, 2024  
Morristown, New Jersey

**RIKER DANZIG LLP**

By: /s/ Joseph L. Schwartz

Joseph L. Schwartz, Esq.

Tara J. Schellhorn, Esq.

Daniel A. Bloom, Esq.

Gregory S. Toma, Esq.

Headquarters Plaza, One Speedwell Avenue

Morristown, New Jersey 07962-1981

Telephone: (973) 538-0800

Facsimile: (973) 538-1984

jschwartz@riker.com

tschellhorn@riker.com

dbloom@riker.com

gtoma@riker.com

-and-

**PAUL HASTINGS LLP**

Kristopher M. Hansen, Esq. (admitted *pro hac vice*)

Frank A. Merola, Esq. (admitted *pro hac vice*)

Gabriel E. Sasson, Esq.

Matthew D. Friedrich, Esq. (admitted *pro hac vice*)

200 Park Avenue

New York, New York 10166

Telephone: (212) 318-6000

Facsimile: (212) 319-4090

krishansen@paulhastings.com

frankmerola@paulhastings.com

gabesasson@paulhastings.com

matthewfriedrick@paulhastings.com

*Co-Counsel to the Official  
Committee of Unsecured Creditors*