UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY
Caption in compliance with D.N.J. LBR 9004-1(b)

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In re: WEWORK INC., *et al.*,[1] Debtors.	Case No. 23-19865 (JKS) Chapter 11 (Jointly Administered)

NOTICE OF FILING OF SUPPLEMENT TO MOTION REQUESTING (I) THE APPOINTMENT OF AN EXAMINER PURSUANT TO SECTION 1104(c) OF THE BANKRUPTCY CODE, AND (II) DERIVATIVE STANDING TO PROSECUTE ESTATE CAUSES OF ACTION

[1] A list of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' 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, New York 10017. The Debtors' service address in these chapter 11 cases is WeWork Inc. c/o Epiq Corporate Restructuring, LLC, 10300 SW Allen Blvd., Beaverton, Oregon 97005.

PLEASE TAKE NOTICE that on February 9, 2024, the Ad Hoc Unsecured Noteholder Group filed its *Motion Requesting (I) The Appointment of an Examiner Pursuant to Section 1104(c) of the Bankruptcy Code, and (II) Derivative Standing to Prosecute Estate Causes of Action* (the "**Motion**"; Docket No. 1337).

PLEASE TAKE FURTHER NOTICE that as reflected on **Exhibit "A"** to the Motion**,** the SoftBank Parties agreed to extend the challenge deadline set forth in the *Final Order (I) Authorizing the Debtors to use Cash Collateral, (II) Granting Adequate Protection to the Prepetition Secured Parties, (III) Modifying the Automatic Stay and (IV) Granting Related Relief* [Docket No. 428] for the Ad Hoc Group to February 20, 2024.

PLEASE TAKE FURTHER NOTICE that the Ad Hoc Unsecured Noteholder Group attaches its proposed challenge complaint as **Exhibit "A"** to this Notice, as a supplement to the Motion.

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Dated: February 20, 2024

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Counsel to the Ad Hoc Group of Holders of WeWork's Unsecured Notes

EXHIBIT "A"

(Proposed Complaint)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1(b)

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In re: WeWork Inc., *et al.*, Debtors.[1]	Chapter 11 Case No. 23-19865 (JKS) Jointly Administered
AD HOC COMMITTEE OF WEWORK'S UNSECURED NOTES Plaintiff, v. SOFTBANK VISION FUND II-2 L.P.; SOFTBANK GROUP CORP.; SB GLOBAL	Adv. Pro. No. 24-____

[1] The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: BlockFi Inc. (0015); BlockFi Trading LLC. (2487); BlockFi Lending LLC (5017); BlockFi Wallet LLC (3231); BlockFi Ventures LLC (9937); BlockFi International Ltd. (N/A); BlockFi Investment Products LLC (2422); BlockFi Services, Inc. (5965) and BlockFi Lending II LLC (0154). The location of the Debtors' service address is 201 Montgomery Street, Suite 263, Jersey City, NJ 07302.

ADVISERS LIMITED; SVF II AGGREGATOR (JERSEY) L.P.; SVF II WW HOLDINGS (CAYMAN) LIMITED; SVF II WW (DE) LLC; SVF II HOLDINGS (DE) LLC; U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION; CUPAR GRIMMOND, LLC; ARISTEIA CAPITAL, L.L.C.; BLACKROCK FINANCIAL MANAGEMENT, INC.; BRIGADE CAPITAL MANAGEMENT, LP; CAPITAL RESEARCH AND MANAGEMENT COMPANY; KING STREET CAPITAL MANAGEMENT, L.P.; SCULPTOR CAPITAL LP; SILVER POINT CAPITAL, L.P.; AND JOHN DOES 1-100 Defendants.	

[DRAFT] COMPLAINT

Plaintiff, the Ad Hoc Group of WeWork's Unsecured Notes (the "Ad Hoc Group" or "Plaintiff"), in the Chapter 11 cases of WeWork, Inc. and its affiliates (collectively, "WeWork," or the "Debtors"), respectfully submits this Complaint in its own capacity and on behalf of the Debtors' estates against the above-captioned Defendants.

NATURE OF THE CASE

1. The story of the dramatic rise and fall of WeWork is well-known, having been the subject of countless media stories, a Netflix documentary, and a Hulu miniseries, among others. As an emerging company started in 2010 by a charismatic founder, Adam Neumann, and his partner Miguel McKelvey, WeWork sought to upend the real estate market by leasing premium office space and renting it to small businesses, for whom such space would otherwise have been unaffordable, on flexible terms. The ambitions of WeWork and Neumann were lofty: they not only wanted to change what it was to go to the office, but to "disrupt" multiple aspects of everyday life. Their attempted (but ultimately aborted or sold) ventures included a primary school, a fitness

center, a shared residential unit, a coding academy, a workplace management software platform, a web-based platform, and a software-as-a-service management solution.

2. Despite these ambitions, WeWork was notoriously badly managed. It never made any money, and was nearly always significantly cash-flow negative. Its endeavors were financed through billions in equity investments, most of which came from SoftBank Group Corp. and its affiliated Defendants (together, "SoftBank"), which supplied capital at enormous valuations.

3. Funded by SoftBank, WeWork and Neumann continued their project of expansion, opening locations in, among other places, Brazil, France, India, Japan, the Philippines, and Singapore. By 2019, WeWork had expanded into more than 700 locations across thirty-four countries on six continents.

4. Yet, WeWork continued to be unprofitable, and SoftBank eventually soured on investing more equity capital. Instead, WeWork turned to the capital markets. Between August and September 2019, WeWork attempted an initial public offering of its stock, which failed spectacularly: the market did not see value in the company, and had no interest in fueling ever-mounting losses, as SoftBank did.

5. The failed IPO left WeWork – and SoftBank's considerable equity investment – in a precarious position. WeWork continuing losses meant that it was in dire need (again) of a substantial capital infusion. SoftBank agreed to advance another $5 billion, but not as equity. This time, the money would come in as purported debt financing, much of which was senior secured financing, to be layered on top of WeWork's existing unsecured debt, in particular, the 7.875% Senior Notes due 2025 (the "7.875% Senior Notes") and the 5.000% Senior Notes due 2025, Series II (together, the "Unsecured Notes", and the underlying noteholders, the "Unsecured Noteholders").

6. But, from its insider position, SoftBank knew that WeWork could not repay this debt, either from its cash flows (which were, and had always been, negative) or from its asset base (which was always insufficient). WeWork was always undercapitalized, and likely insolvent. And, after WeWork's failed IPO, WeWork was only able to secure financing that was either from SoftBank, followed SoftBank, or was guaranteed by SoftBank. In other words, it was SoftBank's credit and balance sheet, not WeWork's, that supported WeWork's debt. Third-party lenders, it seems, were unwilling to provide credit to WeWork on the terms at which SoftBank provided its financing (that is, without SoftBank's backing). Under these circumstances, WeWork's incurrence of debt obligations to SoftBank can be recharacterized as equity contributions.

7. The pandemic only exacerbated WeWork's financial outlook: as working from home became more acceptable, WeWork faced decreased demand for its workspace, while still locked in to long-term leases.

8. In early 2023, WeWork and SoftBank, together with a group purportedly representing approximately 62% of the outstanding Unsecured Notes (the "Uptier Noteholders"), and Cupar Grimmond LLC (together, the "Lender Defendants") orchestrated a form of "liability-management" initiative (the "Notes Exchange Transaction"), whereby SoftBank and holders of WeWork's Unsecured Notes could (if they agreed to supply new capital) "uptier" their Unsecured Notes into $1.5 billion of secured debt.[2] The Notes Exchange Transaction was presented as a sort of Hobson's Choice for Unsecured Noteholders: either contribute your pro rata quantum of new

[2] See the "Notes Exchange Transactions" as defined and described in the Declaration of David Tolley, Chief Executive Officer of WeWork Inc., in Support of Chapter 11 Petitions and First Day Motions ("Tolley Declaration") [Docket No. 21].

capital ($500 million total) or become subordinated to an "uptiering" of $1.5 billion secured debt[3] (approximately one-third of which is held by SoftBank). Faced with this threat, the majority of Unsecured Noteholders committed to the transaction. But, importantly, none of this meaningfully changed the company's liquidity position, future outlook, or creditworthiness. The $500 million infusion was, obviously, a small band-aid on a gaping wound. Following the transaction, WeWork's S&P credit rating actually deteriorated further, from "CC" to "SD."

9. Because only approximately one-third of the new debt issued was for new money provided to WeWork, WeWork did not receive reasonably equivalent value on account of the transaction. SoftBank, by contrast, benefitted from the Notes Exchange Transaction by improving its priority in the capital structure, such that it was in a position to control WeWork's bankruptcy cases when WeWork filed seven months later. Moreover, SoftBank and the Lender Defendants had reason to know that the Notes Exchange Transaction was not going to bridge to a turnaround, that SoftBank would become capable of controlling the bankruptcy outcome, and, ultimately, that the purpose of the Notes Exchange Transaction was to facilitate the bankruptcy filing and thus advance the Lender Defendants over other creditors. As a result, for these and other reasons set forth herein, the obligations of (and liens granted by) WeWork to SoftBank and the Lender Defendants are avoidable as constructive and intentional fraudulent transfers.

10. SoftBank held (and holds) controlling positions in both the stock and secured debt of WeWork (which, as described above, was always undercapitalized). SoftBank's financing, particularly in the Notes Exchange Transaction, elicited third parties to make similar

[3] Noteholders who did not wish to contribute new capital were permitted to uptier their Unsecured Notes into a reduced quantum of 3L Notes plus equity. Following the Notes Exchange Transaction, there was an additional $1.588 billion of newly issued 1L and 2L debt on top of those Unsecured Noteholders and holders of 3L Notes who did not contribute new money.

contributions, which increased WeWork's credit exposure and reduced the dividend that creditors would be able to receive. Under these circumstances, SoftBank's claims are subject to equitable subordination.

11. As the controlling shareholder, SoftBank owed fiduciary duties to WeWork and its stakeholders, including the duty of loyalty. Nonetheless, SoftBank orchestrated the Notes Exchange Transaction for its own benefit, delivering to itself a case-controlling position in the bankruptcy case and harming WeWork's other stakeholders in the process. While the Notes Exchange Transaction was open to all, it was not entirely fair: it forced unsecured creditors to contribute new money or be subordinated to more than $1.5 billion of new secured debt, and it contained additional benefits to SoftBank, including doubling its interest (from 7.5% to 15%) on $300 million of its secured first-lien loans. This was wrongful, and gives rise to claims against SoftBank for breach of fiduciary duty and against those Lender Defendants that aided and abetted this breach.

12. To redress these issues, among others, the Ad Hoc Group brings this complaint for the benefit of the WeWork estates and all their stakeholders.

JURISDICTION AND VENUE

13. This Court has jurisdiction over the subject matter of this adversary proceeding pursuant to 28 U.S.C. § 1334 because this is a civil proceeding arising in or related to the Debtors' Chapter 11 Cases (under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code")). The matters set forth herein are core proceedings pursuant to 28 U.S.C. § 157(b)(2).

14. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

15. Pursuant to Local Bankruptcy Rule 7008-1, the Ad Hoc Group consents to the entry of final orders or a judgment by the Bankruptcy Court in this adversary proceeding.

PROCEDURAL BACKGROUND

16. On November 6, 2023, the Debtors filed voluntary petitions for relief under Chapter 11 of title 11 of the Bankruptcy Code in the District of New Jersey, with a restructuring support agreement ("RSA") between the Company, SoftBank, Cupar Grimmond, and the Uptier Noteholders. Since the Petition Date, the Debtors have continued to operate and manage its business pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code as debtors-in-possession.

17. On December 11, 2023, this Court entered orders approving the Debtors' Cash Collateral Motion and DIP Motion. The Cash Collateral Order set a deadline of January 20, 2024, for any party with standing to challenge any of the prepetition liens or claims, or to bring any preferences, fraudulent transfer actions, or any other claims against the Prepetition Secured Parties. The deadline is tolled upon filing a standing motion for the Committee alone. Although the Committee has represented its intent to conduct an investigation, it has also indicated (in the Statement filed in connection with the Debtors' Cash Collateral Motion and DIP Motion at Docket No. 407) that keeping the lease negotiation process amicable and cooperative is the most important element of this case, remarking that "without a successful lease negotiation process, there will be no successful reorganization."

18. On January 11, 2024, the Ad Hoc Group, SoftBank, and the Uptier Noteholders entered into a written agreement to extend the challenge deadline with respect to the Ad Hoc Group, and to toll such challenge deadline upon filing a standing motion.

PARTIES

I. The Plaintiff.

19. The Ad Hoc Group consists of those holders of the Unsecured Notes set forth in the *Verified Statement of the Ad Hoc Group of Holders of WeWork's Unsecured Notes Pursuant to Bankruptcy Rule 2019* [Docket No. 1149].

II. Defendants.

A. SoftBank Defendants.

20. SoftBank Vision Fund II-2 L.P., including funds and/or accounts, or subsidiaries of such funds or accounts, managed, advised or controlled by SoftBank Vision Fund II-2 L.P. or a subsidiary or affiliate thereof. SoftBank Vision Fund II-2 L.P. is a limited partnership formed under the laws of Jersey, with its address at Crestbridge Limited, 47 Esplanade St. Helier, Jersey, JE1 0BD.

21. SVF II Aggregator (Jersey) L.P., including funds and/or accounts, or subsidiaries of such funds or accounts, managed, advised or controlled by SVF II Aggregator (Jersey) L.P. or a subsidiary or affiliate thereof. SVF II Aggregator (Jersey) L.P. is a limited partnership formed under the laws of Jersey, with its address at Crestbridge Limited, 47 Esplanade St. Helier, Jersey, JE1 0BD.

22. SB Global Advisers Limited, including funds and/or accounts, or subsidiaries of such funds or accounts, managed, advised or controlled by SB Global Advisers Limited or a subsidiary or affiliate thereof. SB Global Advisers Limited is a limited company formed under the laws of England and Wales, with its address at 69 Grosvenor Street, London X0 W1K 3JP, United Kingdom.

23. SVF II WW (DE) LLC, including funds and/or accounts, or subsidiaries of such funds or accounts, managed, advised or controlled by SVF II WW (DE) LLC or a subsidiary or affiliate thereof. SVF II WW (DE) LLC is a Delaware limited liability company, with its address at 251 Little Falls Drive, Wilmington DE 19808.

24. SVF II Holdings (DE) LLC, including funds and/or accounts, or subsidiaries of such funds or accounts, managed, advised or controlled by SVF II Holdings (DE) LLC or a

subsidiary or affiliate thereof. SVF II Holdings (DE) LLC is a Delaware limited liability company, with its address at 251 Little Falls Drive, Wilmington DE 19808.

25. SVF II WW Holdings (Cayman) Ltd., including funds and/or accounts, or subsidiaries of such funds or accounts, managed, advised or controlled by SVF II WW Holdings (Cayman) Ltd. or a subsidiary or affiliate thereof. SVF II WW Holdings (Cayman) Ltd. is an exempted company formed under the laws of the Cayman Islands, with its address at 190 Elgin Ave., Georgetown, Grand Cayman, E9 KY1-9008.

26. SoftBank Group Corp., including funds and/or accounts, or subsidiaries of such funds or accounts, managed, advised or controlled by SoftBank Group Corp., or a subsidiary or affiliate thereof. SoftBank Group Corp. is a corporation formed under the laws of Japan, with its principal place of business at 1-7-1 Kaigan, Minato-ku, Tokyo, Japan M0 105-7537.

B. Lender Defendants.

27. For the avoidance of doubt, this Complaint has, as a result of naming the agents and/or trustees under debt instruments as a Defendant, asserted claims against each lender (each, a "Lender") under the respective agreements, and as a result challenges any claims asserted by each such Lender against the Debtors. Further, while certain Lenders are named individually, the Ad Hoc Group through this Complaint seeks relief against all Lenders.

28. U.S. Bank, National Association ("U.S. Bank") is a national banking association organized under the National Bank Act with its main office located in the state of Minnesota. U.S. Bank is named in its capacity as Trustee and Collateral Agent under (i) that certain First Lien Senior Secured PIK Notes Indenture dated May 5, 2023 (the "1L Indenture") governing the 15.000% First Lien Senior Secured PIK Notes due 2027 (the "1L Notes"); (ii) that certain Second Lien Senior Secured PIK Notes Indenture dated May 5, 2023 (the "2L Indenture") governing the

11.000% Second Lien Senior Secured PIK Notes due 2027 (the "2L Notes"); and (iii) that certain Second Lien Exchangeable Senior Secured PIK Notes Indenture dated May 5, 2023 (the "2L Exchangeable Notes Indenture") governing the 11.000% Second Lien Exchangeable Senior Secured PIK Notes due 2017 (the "2L Exchangeable Notes").

29. Aristeia Capital, L.L.C., is a Delaware limited liability company with its principal place of business at One Greenwich Plaza, Greenwich, CT 06830.

30. Blackrock Financial Management, Inc. is a Delaware corporation with its address at 251 Little Falls Drive, Wilmington DE 19808.

31. Brigade Capital Management, L.P. is a Delaware limited partnership with its address at 251 Little Falls Drive, Wilmington DE 19808.

32. Capital Research and Management Company is a Delaware corporation with its address at 1209 Orange St., Wilmington DE 19801.

33. King Street Capital Management, L.P. is a Delaware limited partnership with its address at 251 Little Falls Drive, Wilmington DE 19808.

34. Sculptor Capital LP is a Delaware limited partnership with its address at 1209 Orange St., Wilmington DE 19801.

35. Silver Point Capital, L.P. is a Delaware limited partnership with its address at 850 New Burton Rd., Suite 201, Dover DE 19904.

36. Cupar Grimmond, LLC is a Delaware limited liability company with its address at 251 Little Falls Drive, Wilmington DE 19808.

FACTUAL ALLEGATIONS

I. Business Background.

37. In 2010, Adam Neumann and Miguel McKelvey opened the first WeWork location

in Manhattan's SoHo neighborhood. Since then, WeWork's basic business model has been to provide "space-as-a-service." Stated differently, WeWork leases large quantities of premium office space from commercial landlords and then subleases space through membership products. Many of WeWork's customers are individuals and small businesses for whom premium office space might be prohibitively expensive or too inflexible to lease but for WeWork's serving as intermediary tenant/landlord.

38. Following the opening of its original SoHo location, WeWork experienced meteoric growth. It quickly became one of the largest flexible space providers in the world, operating approximately 43.9 million rentable square feet globally, including 18.3 million rentable square feet in the United States and Canada as of December 2022.

39. As mentioned above, WeWork's growth was fueled largely by SoftBank. Between January 1, 2017 and August 4, 2019, SoftBank invested (or committed to invest) approximately $10.65 billion in WeWork equity.

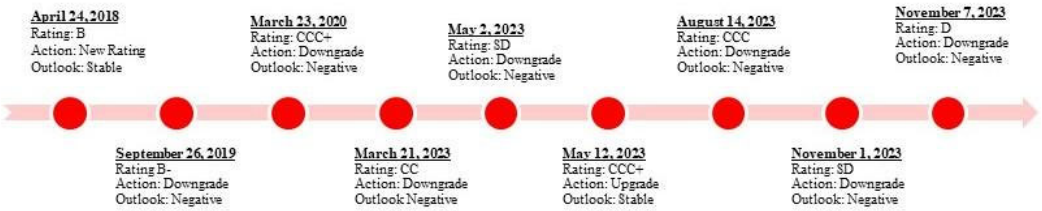
II. WeWork's Historical Investment/Credit Profile.

40. WeWork was never profitable. The following chart, based on WeWork's form 10-K annual reports from 2022 and 2023, and its form 10-Q quarterly report from August 2023, illustrates WeWork's historical annual revenues – not EBITDA – against its expenses:

41. WeWork is an "asset-light" company. According to WeWork's securities filings, approximately 61% of WeWork's assets consist of lease "right-of-use" assets. The remaining assets are largely property and equipment (*e.g.*, couches and office furniture), goodwill, and intangible assets. There is, in other words, little collateral value available to incentivize lending.

42. Unsurprisingly, WeWork has always presented a considerable credit risk. As illustrated in the following graphic, from April 2018 onward, WeWork bore a "highly

speculative" rating from S&P Global Ratings, which deteriorated even further over time:



III. The 2019 Failed IPO.

43. In August 2019, WeWork filed its IPO Registration Statement. The Registration Statement disclosed significant potential conflicts of interest. It also made public WeWork's performance and investment/credit profile. WeWork disclosed, for example, that it was spending $2 for every $1 it generated. In the Registration Statement's "Risk Factors," WeWork disclosed: "We have a history of losses and, especially if we continue to grow at an accelerated rate, we may be unable to achieve profitability at a company level (as determined in accordance with GAAP) for the foreseeable future."

44. WeWork's IPO was a spectacular failure. Although SoftBank was prepared to "anchor" the IPO with a commitment to purchase $750 million in equity, WeWork was unable to generate sufficient interest. The company lowered the proposed enterprise valuation to $10-12 billion, but the IPO still failed to launch. On September 24, 2019, Adam Neumann resigned as CEO. On September 30, 2019, WeWork withdrew the Registration Statement.

45. WeWork ultimately went public on October 20, 2021, via a "de-SPAC" transaction (*i.e.,* no SEC registration/disclosures; likely no approval by the SPAC shareholders; no market vetting of terms/economics prior to closing) at an equity valuation of approximately $9.5 billion. Shortly after going public this way, the stock price collapsed. Two months after the "de-SPAC" transaction closed, WeWork lost 35% of its stock market capitalization. By the end of calendar

year 2022 (a little more than one year after going public), WeWork's stock had lost almost 90% of its initial market capitalization, as reflected in the following chart:

IV. SoftBank Offers More Capital, Has "Buyer's Remorse," And Then Settles The Litigation.

46. Following 2019's failed IPO, WeWork was (again) in dire need of liquidity. SoftBank agreed to provide approximately $5 billion in debt capital, comprising (i) $1.1 billion in senior secured notes, (ii) $2.2 billion in unsecured notes, and (iii) $1.75 billion secured letter of credit facility. SoftBank also agreed to make a tender offer to purchase $3 billion of the company's stock, at a price of $19.19 per share.

47. WeWork began issuing the $2.2 billion of unsecured notes to SoftBank in July 2020. The $1.1 billion of secured financing and $3 billion equity tender offer were, however, contingent on WeWork satisfying certain conditions prior to April 1, 2020. On April 1, 2020, SoftBank declined to close on the secured financing and attempted to terminate the tender offer, claiming that WeWork had failed to satisfy the conditions precedent.

48. WeWork and Mr. Neumann sued. On February 25, 2021, the parties reached a settlement. The equity tender offer would be substantially reduced to $921.6 million (at $19.19 per share). SoftBank would buy $578.4 million of equity (at $19.19 per share) from Mr.

Neumann. SoftBank would pay Mr. Neumann an incremental cash settlement of $105.6 million. Mr. Neumann would relinquish his proxy and board designation rights (retaining observation rights). And SoftBank agreed to limit its equity voting power to 49.9%.

49. Notwithstanding SoftBank's initial termination of the $1.1 billion of secured financing facility following WeWork's purported failure to satisfy certain conditions precedent, on August 12, 2020, WeWork and SoftBank entered into a new senior secured financing agreement for up to an aggregate principal amount of $1.1 billion (the "Master Senior Secured Notes Note Purchase Agreement"). The Master Senior Secured Notes Note Purchase Agreement was later amended to reduce the aggregate borrowing amount to $550 million.

V. WeWork And SoftBank Orchestrate The Bankruptcy.

A. The March 2023 Uptier Notes Exchange Transaction.

50. In March 2023, WeWork, a group purportedly representing approximately 62% of the Unsecured Notes outstanding at the time (the "Uptier Noteholders"), SoftBank, and Cupar Grimmond, LLC ("Cupar") agreed to the terms of an "uptier" Notes Exchange Transactions. Specifically, WeWork: (i) offered to all holders of Unsecured Notes the opportunity to purchase $500 million in aggregate principal amount of newly issued Series I 1L Notes, which was backstopped by the Uptier Noteholders; (ii) rolled $300 million in aggregate principal amount of the 7.5% Secured Notes held by SoftBank into a newly issued delayed draw commitment for Series II 1L Notes; and (iii) obtained a commitment to purchase $175 million of newly issued Series III 1L Notes from Cupar, who also agreed to purchase 35 million shares at $1.15 per share.

51. Holders of Unsecured Notes were provided with the following four (4) options to participate in the Notes Exchange Transactions, depending on whether such holder elected to (a) contribute new money, and (b) receive both newly issued debt and equity or only equity:

- Option 1 – New Money/Debt and Equity. Convert to new 2L Notes and stock, subject to new money purchase of a pro rata portion of $500 million in new 1L Notes.
- Option 2 – New Money/Only Equity. Convert to new stock, subject to new money purchase of pro rata portion of new 1L Notes.
- Option 3 – No New Money/Debt and Equity. Convert to new 3L Notes and stock without new money purchase of pro rata portion of new 1L Notes.
- Option 4 – No New Money/Only Equity. Convert to new stock without new money purchase of pro rata portion of new 1L Notes.

The following table summarizes the options and ultimate elections by holders of Unsecured Notes as of the May 2023 tender deadline:

Option	**Debt Instrument**	**Aggregate Principal Amount Outstanding**[4]	**Principal Amount Tendered**[5]	**Exchange Consideration**
1	7.875% Senior Notes	$669	$456	(i) $750 in principal amount of 2L Notes per $1,000 in principal Unsecured Notes tendered and (ii) 162 shares of common stock per $1,000 in principal of Unsecured Notes tendered, subject to the purchase of the applicable pro rata portion of 1L Notes.
	5% Senior Notes, Series II	$550	$483.4	
2	7.875% Senior Notes	$669	$19.8	974 shares of common stock per $1,000 in principal amount of Unsecured Notes tendered, subject to the purchase of the applicable pro rata portion of 1L Notes.
	5% Senior Notes, Series II	$550	$16.1	
3	7.875% Senior Notes	$669	$26.3	(i) $750 in principal amount of 3L Notes per $1,000 in principal amount of Unsecured Notes tendered and (ii) 162 shares of common stock per $1,000 in principal amount of Unsecured Notes tendered.
	5% Senior Notes, Series II	$550	$5.0	
4	7.875% Senior Notes	$669	$4.8	974 shares of common stock per $1,000 in principal amount of Unsecured Notes tendered.
	5% Senior Notes, Series II	$550	$36.1	

[4] $ in millions.

[5] $ in millions.

52. The majority of all public (non-SoftBank) holders (approximately 68% of the 7.875% Senior Notes and 88% of the 5% Senior Notes) chose Option 1 and put in new money. Meanwhile, SoftBank was able to exchange $1.65 billion of its 5% Senior Notes, Series I[6] for $188 million of newly issued 2L Exchangeable Notes, $270 million of newly issued 3L Exchangeable Notes, and 1.1 billion shares of common stock. The following table illustrates the impact of the Notes Exchange Transactions:

Notes Exchange Transaction's Impact on WeWork's Capital Structure[7]			
Debt Facility	**Principal Balance as of 3/31/2023**	**Impact of Notes Exchange Transactions**	**Principal Balance Following Notes Exchange Transaction**
7.5% Secured Notes	$300	$(300)	$0
Senior LC Tranche	$988.3	$0	$988.3
Junior LC Tranche	$470	$0	$470
1L Notes	$0	$525	$525
1L Delayed Draw Notes	$0	$488	$488
2L Notes	$0	$687	$687
2L Exchangeable Notes	$0	$188	$188
3L Notes	$0	$23	$23
3L Exchangeable Notes	$0	$270	$270
Total Secured Debt:	$1,758.3	$1881	$3,639.3
7.875% Senior Notes	$669	$(505)	$164
5% Senior Notes, Series I	$1,650	$(1,650)	$0
5% Senior Notes, Series II	$550	$(541)	$9
Total Unsecured Debt:	$2,869	$(2,696)	$173
Total Debt:	$4,627.3	$(815)	$3,812.3

53. The 1L Notes Indenture contains a "make-whole" provision that upon an event of default, the 1L Notes will immediately become due and payable, and if that occurs prior to

[6] On December 21, 2021, the 5% Notes held entirely by SoftBank were subdivided into two series. SoftBank continued to hold $1.65 billion of 5% Series I Notes, and $550 million of 5% Series II Notes were resold in a private offering. See WeWork Inc., Annual Report (Form 10-K) (March 17, 2023).

[7] All $ in millions.

November 1, 2024, the "Applicable Premium" that would have been payable upon an optional redemption of the 1L Notes is also immediately due and payable (such "Applicable Premium", the "1L Make-Whole"). The 1L Make-Whole includes all required interest payments due on the 1L Notes through November 1, 2024, computed at a discount rate of the Treasury Rate as of the date of redemption plus 50 basis points. This provision calls for an impermissible and unreasonable penalty, and is unenforceable against the Debtors under applicable bankruptcy law.

54. Each of the 1L Notes Indenture, the 2L Notes Indenture, and the 3L Notes Indenture also indicate that certain notes may have been issued with an original issue discount (the total amount, under each indenture, of any such original issue discount, the "1L OID" or "2L OID", as applicable).

55. As of the Petition Date, the Debtors have approximately $4.2 billion in aggregate outstanding principal and accrued interest for funded debt obligations, as summarized in the following table:

WeWork's Current Capital Structure[8]				
Debt	**Maturity**	**Approximate Principal**	**Approximate Accrued and Unpaid Interest, Alleged Make-Whole, and Fees**	**Approximate Outstanding Amount**
Senior LC Tranche	5/14/2025	$988.3	$88.9	$1,077.2
Junior LC Tranche	3/7/2025	$470	$82	$552
1L Notes (Series I)	8/15/2027	$525	$89.2	$614.2
1L Notes (Series II)	8/15/2027	$306.3	$39	$345.2
1L Notes (Series III)	8/15/2027	$181.3	$22.9	$204.1
2L Notes	8/15/2027	$687.2	$45.8	$733
2L Exchangeable Notes	8/15/2027	$187.5	$12.5	$200
3L Notes	8/15/2027	$22.7	$1.6	$24.3
3L Exchangeable Notes	8/15/2027	$269.6	$19.5	$289.1

[8] All $ in millions.

Total Secured Debt:		$3,637.8	$401.5	$4,039.3
7.875% Senior Notes	5/1/2025	$163.5	$6.6	$170.1
5% Senior Notes	7/10/2025	$9.3	$0.1	$9.5
Total Unsecured Debt:		$172.8	$6.7	$179.6
Total Debt:		$3,810.7	$408.2	$4,218.9

56. Following this transaction and as of the Petition Date, SoftBank owned more than 60% of WeWork's purportedly secured outstanding debt, as represented in the following table:

SoftBank's Secured Debt Holdings[9]		
Debt	**Approximate Principal**	**Approximate Outstanding Amount**
Senior LC Tranche	$988.3	$1,077.2
Junior LC Tranche	$470	$552
1L Notes (Series 2)	$306.3	$345.2
2L Exchangeable Notes	$187.5	$200
3L Exchangeable Notes	$269.6	$289.1
Total:	$1,915.4	$2,463.5

B. WeWork Appoints "Independent Directors".

57. On August 8, 2023, WeWork appointed four bankruptcy specialists to the board. Those individuals (Paul Aronzon, Paul Keglevic, Elizabeth LaPuma, and Henry Miller) have longstanding ties to the bankruptcy community, the Debtors' professionals particularly, and/or have retired from "big firm" bankruptcy outfits and now receive lucrative board assignments via referrals from professionals with sizeable market share in debtor-side Chapter 11 cases.

58. The Ad Hoc Group does not call into question the integrity of these individuals. But, this case came to the Court in already "tightly scripted" form, especially by the Debtors' pre-arranged plan deal with SoftBank and the "case control" provisions contained in SoftBank's post-petition financing. With the arrangement already in place, it is unlikely that the "Independent Special Committee" could or would do anything other than "rubber stamp" the already pre-

[9] All $ in millions.

determined case outcome, as discussed in the Motion's next section. And, perhaps that is the point. The academic literature makes clear that "independent directors" are often used as a strategic tool, to create imprimatur/legitimacy for transactions that otherwise do not meet bankruptcy law standards. See Jared A. Ellias, Ehud Kamar & Kobi Kasteil, The Rise of Bankruptcy Directors, 95 S. Cal. L. Rev. 1083 (2022).

C. SoftBank Takes (Or Is Handed) The Levers Of Case Control.

59. WeWork filed these cases on November 6, 2023, with the RSA between the Company, SoftBank, Cupar, and the Uptier Noteholders in hand. That same day, SoftBank cash collateralized the letters of credit it previously guaranteed, thereby stepping in as the defacto lender on the facilities.

60. The RSA does not contemplate value allocation vis-à-vis the RSA parties, but it does determine that only first lien and second lien holders will receive value. The headline terms of the RSA are as follows:

- Prepetition LC, 1L, and 2L claims, as well as a contemplated post-petition DIP financing facility will be equitized;
- All other prepetition claims, including 3L, unsecured, and equity claims and interests will be cancelled (other than any interests held by SoftBank).

61. The RSA conditions the use of cash collateral and contemplated DIP financing on the following milestones:

Date	Milestone
November 6, 2023	Commencement of Chapter 11 Cases.
November 9, 2023	Entry of the interim cash collateral order.
December 11, 2023	Entry of the final cash collateral order and the final DIP order.
February 4, 2024	Filing of (a) a chapter 11 plan, (b) the disclosure statement, and (c) the disclosure statement motion.
February 24, 2024	Entry of the order approving the adequacy of the disclosure statement.
March 5, 2024	Entry of the order confirming the chapter 11 plan, and the occurrence of the effective date of the chapter 11 plan.

62. On November 7, 2023, the Debtors filed their Cash Collateral Motion. On

November 19, 2023, the Debtors filed their DIP Motion. The DIP Motion requested approval of postpetition financing composed of: (i) a senior secured, first priority cash collateralized debtor-in-possession "first out" letter of credit facility, and (ii) a senior secured, first priority debtor-in-possession "last out" term loan "C" facility "in an amount not to exceed 105 percent of the lesser of (A) $650 million plus the certain Credit Exposure and (B) the USD equivalent of the aggregate face value of the undrawn and unexpired letters of credit issued under the Prepetition Credit Agreement plus certain Credit Exposure, the proceeds of which would fully cash collateralize letters of credit under the DIP LC Facility."

63. On November 16, 2023, the United States Trustee appointed 7 members to the Committee. As mentioned above, 5 of the 7 members of the Committee are landlords, with (on information and belief) leases that may or may not be assumed or rejected by the Debtors.

64. The Committee did not oppose the relief requested in the DIP or Cash Collateral Motions, instead filing a Statement in support thereof. To outside creditors, it was a surprising development that the committee did not oppose the relief requested but instead acquiesced under these facts. The Committee described "significant (and in some cases, unprecedented) concessions," but failed to identify with any degree of specificity what concessions it deemed so significant as to forgo any opposition to the requested relief.

65. On December 11, this Court entered the Cash Collateral and DIP Orders. The Cash Collateral Order set a deadline of January 20, 2024, for any party with standing to challenge any of the prepetition liens or claims, or to bring any preferences, fraudulent transfer actions, or any other claims against the Prepetition Secured Parties. Prior to the challenge deadline, on January 11, 2024, the Ad Hoc Group received written confirmation of an extension of its challenge deadline to February 20, 2024.

66. On February 4, 2024, the Debtors filed the Plan and Disclosure Statement. The Plan substantially incorporates the terms of the RSA, including identifying the 2L Notes as the "fulcrum" security in these cases, despite an absence of evidence on the record supporting such a valuation.

COUNT I

RECHARACTERIZATION
(Against SoftBank)

67. The Ad Hoc Group restates and realleges each of the preceding paragraphs, which are incorporated by reference as if set forth fully herein.

68. From the outset of SoftBank's relationship with the Debtors, SoftBank invested billions in WeWork equity.

69. SoftBank and the Debtors allege that WeWork incurred billions of dollars in purported debt to SoftBank (together with any and all interest, fees, make-whole amounts, penalties, or other amounts purportedly owing thereon, and all previously issued purported debt exchanged therefor, the "SoftBank Purported Debt"), including: approximately $988 million pursuant to the Senior LC Facility[10]; approximately $552 million pursuant to the Junior LC Facility; approximately $306 million in Series II 1L Notes; approximately $188 million in 2L Exchangeable Notes; and approximately $270 million of 3L Exchangeable Notes.

70. After WeWork's failed IPO, SoftBank agreed to purchase $1.1 billion of senior secured notes, as well as $3 billion of WeWork's equity through a tender offer. While this offer was withdrawn, SoftBank and WeWork did enter into a $1.1 billion senior secured facility in August 2020 on substantially similar terms. The amount of SoftBank's tender offer was ultimately

[10] Funded debt issuances referenced but not defined herein are defined in the Tolley Declaration.

reduced to $921.6 million following a settlement between SoftBank, WeWork, and Mr. Neumann in response to litigation over SoftBank's termination of the offer.

71. Viewed as a whole, SoftBank and WeWork intended the SoftBank Purported Debt to be an equity investment in WeWork.

72. In supplying the SoftBank Purported Debt, SoftBank acted as an equity investor in WeWork and expected to be repaid based on the success, if any, of WeWork.

73. SoftBank was an insider of WeWork, and did not operate at arm's length in connection with the SoftBank Purported Debt.

74. WeWork was always undercapitalized, including at each time SoftBank Purported Debt was purportedly incurred. It was cash-flow negative at all such times, and did not have an asset-base that could cover WeWork's debt obligations.

75. Absent SoftBank's various investments in WeWork, WeWork would have been unable to obtain outside financing on the same terms.

76. The SoftBank Purported Debt was used to acquire and build out WeWork's primary capital assets – its lease portfolio.

77. No sinking fund was established to repay the SoftBank Purported Debt.

78. Based on the facts alleged herein, the SoftBank Purported Debt should be recharacterized as equity.

COUNT II

BREACH OF FIDUCIARY DUTY
(PURSUANT TO DELAWARE LAW AND OTHER APPLICABLE STATE LAW)
(Against SoftBank)

79. The Ad Hoc Group restates and realleges each of the preceding paragraphs, which are incorporated by reference as if set forth fully herein.

80. At all times relevant to the acts described in this Complaint, SoftBank was a controlling shareholder of WeWork, and owed duties of good faith, loyalty, and due care to WeWork.

81. At all relevant times, WeWork was insolvent or in the zone of insolvency.

82. SoftBank sought to carry out the Notes Exchange Transaction for its own private interests. SoftBank had made enormous equity investments in, and purportedly issued unsecured debt to WeWork, which, absent the Notes Exchange Transaction, would have been junior to or pari passu with WeWork's other unsecured debt.

83. SoftBank was aware that a proper discharge of its fiduciary duties would have required it to attempt to maximize the value of the WeWork's estate for the benefit of all stakeholders, including unsecured creditors.

84. Instead, SoftBank caused WeWork to engage in the Notes Exchange Transaction, which resulted in damage to WeWork and its business and prospects in an amount to be proved at trial.

COUNT IIII

AIDING AND ABETTING BREACH OF FIDUCIARY DUTY (PURSUANT TO DELAWARE LAW AND OTHER APPLICABLE STATE LAW) (Against the Lender Defendants)

85. The Ad Hoc Group restates and realleges each of the preceding paragraphs, which are incorporated by reference as if set forth fully herein.

86. The Lender Defendants in the Secured Ad Hoc Group were aware that SoftBank was breaching its fiduciary duties by causing WeWork to carry out the Notes Exchange Transaction. The terms of the Notes Exchange Transaction, and SoftBank's ownership stake in WeWork, were a matter of public record, having been disclosed in WeWork's SEC filings.

87. Such Lender Defendants nonetheless knowingly participated in this breach of fiduciary duty by backstopping the Notes Exchange Transaction.

88. Their knowing participation in these breaches of fiduciary duty resulted in damages to WeWork and its business and prospects in an amount to be proved at trial.

COUNT IV

INTENTIONAL AND/OR CONSTRUCTIVE FRAUDULENT TRANSFER (PURSUANT TO 11 U.S.C. §§ 544, 548(a)(1)(A) AND (B), AND 550 AND APPLICABLE STATE FRAUDULENT TRANSFER LAW) (Against SoftBank, U.S. Bank, and the Lender Defendants)

89. The Ad Hoc Group restates and realleges each of the preceding paragraphs, which are incorporated by reference as if set forth fully herein.

90. On May 5, 2023, WeWork consummated the Notes Exchange Transaction, whereby it issued approximately $1.44 billion in new liens, and received only approximately $500 million in new money. WeWork also exchanged $300 million in aggregate principal amount of first-lien notes due 2025 held by an affiliate of SoftBank, which were issued in January 2023 and bore an interest rate of 7.5%, into Series II 1L Notes, which bore an interest rate of 15.000%, as well as additional fees.

91. The Notes Exchange Transaction occurred within two years of the Petition Date.

92. WeWork, SoftBank, and the Lender Defendants knew that the amount of new money provided in the Notes Exchange Transaction was not going to bridge WeWork to a profitable turnaround.

93. WeWork conducted the Notes Exchange Transaction for the benefit of SoftBank.

94. WeWork did not receive reasonably equivalent value in return for the liens transferred pursuant to the Notes Exchange Transaction.

95. In connection with the Notes Exchange Transaction, WeWork transferred liens on its assets to SoftBank and the Lender Defendants with the knowledge of the natural consequence and effect such transfer would have on the other creditors of WeWork, and the transfer of such liens was made with actual intent to hinder, delay, or defraud any entity to which WeWork was or became, on or after the date that such transfer was made, indebted.

96. At the time of the Notes Exchange Transaction, WeWork (i) was insolvent or became insolvent as a result of the Notes Exchange Transaction; (ii) was engaged in a business or a transaction, or was about to engage in a business or a transaction for which any property remaining with WeWork was unreasonably small capital; and/or (iii) intended to incur, or believed or reasonably should have believed that it would incur, debts that would be beyond its ability to pay as such debts matured.

97. SoftBank and the Lender Defendants were not good faith transferees, and therefore are not entitled to offset rights under 11 U.S.C. § 548(c) and applicable non-bankruptcy law.

98. At all times relevant hereto, there were actual creditors of WeWork holding unsecured claims allowable within the meaning of 11 U.S.C. §§ 502 and 544(b).

99. The liens transferred pursuant to the Notes Exchange Transaction should be avoided pursuant to 11 U.S.C. §§ 544, 548 (a)(1)(B), 550, and applicable state fraudulent transfer law.

COUNT V

INSIDER PREFERENCE
(PURSUANT TO 11 U.S.C. §§ 547 AND 550)
(Against SoftBank)

100. The Ad Hoc Group restates and realleges each of the preceding paragraphs, which are incorporated by reference as if set forth fully herein.

101. On May 5, 2023, WeWork consummated the Notes Exchange Transaction, whereby it issued approximately $1.44 billion in new liens, and received only approximately $500 million in new money. WeWork also exchanged $300 million in aggregate principal amount of first-lien notes due 2025 held by an affiliate of SoftBank, which were issued in January 2023 and bore an interest rate of 7.5%, into Series II 1L Notes, which bore an interest rate of 15.000%, as well as additional fees.

102. SoftBank was granted liens securing its purported loans under the Notes Exchange Transaction.

103. During all relevant times, SoftBank was an insider of WeWork by virtue of its controlling position in WeWork's stock.

104. By granting liens in connection with the Notes Exchange Transaction, and by doubling the interest and incurring additional fees pursuant to the exchange of SoftBank's existing first-lien notes into Series II 1L Notes, WeWork made a transfer to the benefit of an insider.

105. In the alternative to Count I, to the extent any investment by SoftBank in WeWork was properly debt, rather than equity, WeWork made such transfers on account of an antecedent debt owed by SoftBank to WeWork prior to the Notes Exchange Transaction.

106. At the time of the Notes Exchange Transaction, the liabilities of WeWork exceeded the fair value of its assets and it was insolvent.

107. WeWork engaged in the Notes Exchange Transaction within the one-year period before the Petition Date.

108. The Notes Exchange Transaction enabled SoftBank to receive more than it would receive if the case were proceeding under Chapter 7, the transfer had not been made, and SoftBank received payment of such purported debt to the extent provided by the provisions of title 11.

109. The transfers to SoftBank pursuant to the Notes Exchange Transaction should be avoided and recovered pursuant to 11 U.S.C. §§ 547 and 550.

COUNT VI

EQUITABLE SUBORDINATION
(PURSUANT TO 11 U.S.C. § 510)
(Against SoftBank and the Lender Defendants)

110. The Ad Hoc Group restates and realleges each of the preceding paragraphs, which are incorporated by reference as if set forth fully herein.

111. WeWork was always undercapitalized, including at each time SoftBank Purported Debt was purportedly incurred. It was cash-flow negative at all such times, and did not have an asset-base that could cover WeWork's debt obligations.

112. The conduct of SoftBank alleged above, including but not limited to breaching its fiduciary duty to WeWork and enabling a fraudulent transfer, constitutes inequitable conduct.

113. The conduct of the Lender Defendants alleged above, including but not limited to aiding and abetting SoftBank's breach of fiduciary duty and enabling a fraudulent transfer, constitutes inequitable conduct.

114. By reason of this inequitable conduct each of SoftBank and the Lender Defendants received an unfair advantage in the form of excess value that otherwise would have been available to all of WeWork's stakeholders. WeWork's unsecured creditors were injured because their credit exposure was increased and their potential recovery was reduced.

115. Allowing SoftBank and the Lender Defendants to receive payment on their claims would be unfair and inequitable.

116. Equitable subordination of the claims of SoftBank and the Lender Defendants is consistent with the Bankruptcy Code.

117. Because of the transactions and actions described herein, the claims of SoftBank and the Lender Defendants should be equitably subordinated to all general unsecured claims pursuant to 11 U.S.C. § 510.

COUNT VII

UNJUST ENRICHMENT
(PURSUANT TO DELAWARE LAW OR OTHER APPLICABLE STATE LAW)
(Against SoftBank and the Uptier Noteholders)

118. The Ad Hoc Group restates and realleges each of the preceding paragraphs, which are incorporated by reference as if set forth fully herein.

119. As alleged above, SoftBank breached its fiduciary duties to WeWork and its stakeholders, and the Uptier Noteholders knowingly assisted this breach. The Notes Exchange Transaction was not entirely fair. It caused WeWork to incur new secured debt beyond its ability to pay, and shifted WeWork's assets out of the reach of WeWork's unsecured creditors.

120. Also as alleged above, SoftBank and the Uptier Noteholders knowingly assisted in the fraudulent transfer. In exchange for, or in connection with, this assistance, each of SoftBank and the Uptier Noteholders received compensation and/or benefits. The fraudulent transfer conferred benefits on SoftBank by ensuring that it would hold a case-controlling position in WeWork's bankruptcy case, and by doubling its interest rate on certain 1L Notes. It also conferred compensation and/or benefits on the Uptier Noteholders, who received a backstop fee of $25 million in aggregate amount of Series I 1L Notes in connection with the Notes Exchange Transaction.

121. Under these circumstances, allowing SoftBank and the Uptier Noteholders to retain the compensation and/or benefits they received for breaching or aiding and abetting the breach of fiduciary duty, or for engaging in the fraudulent transfer, would unjustly enrich SoftBank and the Uptier Noteholders.

122. This unjust enrichment has caused damage to WeWork's unsecured creditors.

123. Because the compensation and/or benefits received by SoftBank and the Uptier Noteholders constitutes unjust enrichment, SoftBank and the Uptier Noteholders should be required to disgorge such compensation and/or benefits for the benefit of all creditors and/or to pay damages in an amount to be determined at trial.

124. Under these circumstances, to deny recovery would be unjust.

COUNT VIII

DISALLOWANCE OF MAKE-WHOLE CLAIMS
(PURSUANT TO 11 U.S.C. §§ 502(b)(1); 502(b)(2) and 506(b))
(Against all Defendants)

125. The Ad Hoc Group restates and realleges each of the preceding paragraphs, which are incorporated by reference as if set forth fully herein.

126. A filed proof of claim is "deemed allowed, unless a party in interest ... objects." 11 U.S.C. § 502(a). If an objection refuting at least one of the claim's essential allegations is asserted, the claimant has the burden to demonstrate the validity of the claim.

127. The 1L Make-Whole constitutes unmatured interest and claims based thereon are thus not allowable against the Debtors. 11 U.S.C. § 502(b)(2). Consequently, claims for the 1L Make-Whole should be disallowed and expunged.

128. Moreover, section 502(b)(1) of the Bankruptcy Code provides, in relevant part, that a claim may not be allowed to the extent that "such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law." 11 U.S.C. § 502(b)(1).

129. A secured lender may only claim fees, cost, or charges to the extent that such fees, costs, or charges are "reasonable" and "provided for under the agreement." 11 U.S.C. § 506(b).

130. The 1L Make-Whole provides for payment of an additional year's worth of interest for a loan that was only outstanding for six months. This far exceeds any reasonable calculation

of damages to holders of the 1L Notes for the return of their funds. Nor is it a figure that could have been reasonably assumed to approximate their damages.

131. Moreover, in light of the fact that the DIP Order provides for the payment of current interest payments that come due during these bankruptcy cases, the additional payment of a make-whole premium calculated based on such interest, there is an element of double-counting.

132. Further, the 1L Make-Whole should be disallowed and expunged as it constitutes an impermissible penalty clause that is grossly disproportional to the loss suffered, and therefore is unenforceable against the Debtors under applicable law.

133. As a result, the 1L Make-Whole is unenforceable against the Debtors and claims therefor should be disallowed and expunged under section 502 and 506 of the Bankruptcy Code.

COUNT IX

DISALLOWANCE OF OID
(PURSUANT TO 11 U.S.C. §§ 105, 502, AND 506)
(Against all Defendants)

134. The Ad Hoc Group restates and realleges each of the preceding paragraphs, which are incorporated by reference as if set forth fully herein.

135. A filed proof of claim is "deemed allowed, unless a party in interest ... objects." 11 U.S.C. § 502(a). If an objection refuting at least one of the claim's essential allegations is asserted, the claimant has the burden to demonstrate the validity of the claim.

136. Each of the Defendants are holders of 1L Notes, 2L Notes, 2L Exchangeable Notes, 3L Notes, and/or 3L Exchangeable Notes (together, the "Secured Notes").

137. Each of the indentures governing the Secured Notes indicate that WeWork may have issued notes with original issue discount.

138. The Secured Notes are unsecured or undersecured because, as set forth *supra*, the liens securing each of the Secured Notes are avoidable as fraudulent transfers and/or preferential transfers pursuant to 11 U.S.C. §§ 547 and 548.

139. Accordingly, all or an appropriate portion of any OID on the Secured Notes should be disallowed as unmatured interest pursuant to 11 U.S.C. §§ 105, 502, and 506.

140. In the alternative, if any of the Secured Notes are secured, all or an appropriate portion of the OID that has not amortized or accreted as of the date of plan consummation should be disallowed as unmatured interest.

COUNT X

CLAIM DISALLOWANCE (PURSUANT TO 11 U.S.C. 502(b)(1)) (Against all Defendants)

141. The Ad Hoc Group restates and realleges each of the preceding paragraphs, which are incorporated by reference as if set forth fully herein.

142. The Defendants have filed multiple proofs of claim against the Debtors predicated on the 1L Notes, the 2L Notes, the 3L Notes, the Senior LC Facility, and/or the Junior LC Facility.

143. A filed proof of claim is "deemed allowed, unless a party in interest ... objects." 11 U.S.C. § 502(a). If an objection refuting at least one of the claim's essential allegations is asserted, the claimant has the burden to demonstrate the validity of the claim.

144. Moreover, Section 502(b)(1) of the Bankruptcy Code provides, in relevant part, that a claim may not be allowed to the extent that "such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law." 11 U.S.C. § 502(b)(1).

145. As described above and herein, the conduct of the Defendants was inequitable and has resulted in injury to the Debtors' estates and general unsecured creditors. By reason of this

conduct, the Debtors took on liens and significant debt obligations and reduced their ability to satisfy their obligations to general unsecured creditors, thereby harming the estates and such creditors. Allowing the Defendants to recover on the basis of their proofs of claim would be unfair and inequitable.

146. Accordingly, the Defendants' claims should be disallowed.

COUNT XI

CLAIM DISALLOWANCE (PURSUANT TO 11 U.S.C. 502(d)) (Against all Defendants)

147. The Ad Hoc Group restates and realleges each of the preceding paragraphs, which are incorporated by reference as if set forth fully herein.

148. To the extent that any Defendants assert any claim(s) against any of the Debtors, such claims should be disallowed unless and until the Defendants, as appropriate, pay to the Debtors the value of any transfer avoided pursuant to this Complaint.

ATTORNEYS FEES AND COSTS

149. To the extent allowable by applicable law, the Ad Hoc Group requests that the Court award reasonable attorney's fees and costs.

RESERVATION OF RIGHTS

150. The Ad Hoc Group reserves the right to amend this Complaint and to bring additional claims, including, without limitation, additional claims that the Ad Hoc Group discerns from its ongoing investigation or from the investigation of an examiner, if appointed.

151. The Ad Hoc Group reserves the right to bring the claims asserted herein, and any additional claims in any appropriate forum, including, without limitation, any state or U.S. District Court, notwithstanding the caption for this Complaint.

PRAYER FOR RELIEF

WHEREFORE, by reason of the foregoing, the Ad Hoc Group requests that the Court grant the following relief, and any other and further relief as is just:

a. On Count I, entering an order recharacterizing the SoftBank Purported Debt as equity;

b. On Count II, entering a judgment against SoftBank, finding that it breached its fiduciary duties to WeWork by causing WeWork to enter into the Notes Exchange Transaction for its own benefit, and awarding damages as a result of such breaches in an amount to be determined at trial.

c. On Count III, entering a judgment against the Lender Defendants, finding that they aided and abetted SoftBank's breach of fiduciary duty by virtue of such Defendants' knowing participation in and backstopping of the Notes Exchange Transaction, and awarding damages as a result of such aiding and abetting in an amount to be determined at trial.

d. On Count IV:

   i. entering a judgment against SoftBank, U.S. Bank, and the Lender Defendants, finding that the transfer of liens pursuant to the Notes Exchange Transaction was a fraudulent transfer pursuant to 11 U.S.C. §§ 544, 548(a)(1)(B), and 550 and applicable state fraudulent transfer law;

   ii. avoiding the transfer of such liens pursuant to 11 U.S.C. §§ 544, 548(a)(1)(B), and 550 and applicable state fraudulent transfer law;

   iii. finding that SoftBank, U.S. Bank, and the Lender Defendants were not good-faith transferees under 11 U.S.C. § 548(c) and applicable state fraudulent transfer law; and

   iv. preserving such avoided liens for the benefit of the estate pursuant to 11 U.S.C. § 551.

e. On Count V:

   i. entering a judgment against SoftBank, finding that SoftBank was an insider of WeWork at all times relevant to this Complaint, and finding that the transfer of liens to SoftBank pursuant to the Notes Exchange Transaction was an avoidable preference pursuant to 11 U.S.C. §§ 547 and 550;

   ii. avoiding the transfer of such liens pursuant to 11 U.S.C. §§ 547 and 550; and

iii. preserving such avoided liens for the benefit of the estate pursuant to 11 U.S.C. § 551.

f. On Count VI, entering a judgment against SoftBank and the Lender Defendants and finding that, by virtue of SoftBank's inequitable conduct in connection with their breach of fiduciary duty, and the Lender Defendants' inequitable conduct in connection with the aiding and abetting of SoftBank's breach of fiduciary duty, that payment on SoftBank's and the Lender Defendants' claims be equitably subordinated to all general unsecured claims.

g. On Count VII, entering a judgment against SoftBank and the Uptier Noteholders finding that such defendants were unjustly enriched by virtue of receiving the benefits described herein, and awarding damages in an amount to be determined at trial.

h. On Count VIII, entering a judgment against all Defendants, finding that the 1L Make-Whole is disallowed and expunged as unenforceable against WeWork pursuant to 11 U.S.C. §§ 502 and 506;

i. On Count IX, entering a judgment against all Defendants, finding that any OID issued pursuant to the 1L Notes, the 2L Notes, and/or the 3L Notes is disallowed as unmatured interest pursuant to 11 U.S.C. §§ 105, 502 and 506;

j. On Count X, entering a judgment disallowing the claims of all Defendants pursuant to 11 U.S.C. § 502(b)(1).

k. On Count XI, entering a judgment disallowing any alleged claims of all Defendants unless and until each entity, as appropriate, pays to the Debtors the value of any transfer avoided pursuant to this Complaint pursuant to 11 U.S.C. § 502(d).

Dated: _____
New York, New York

Respectfully submitted,

McCARTER & ENGLISH, LLP

*/s/*_____
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