IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
Hudson 1701/1706 LLC,	Case No. 25-11853 (KBO)
Debtors.[1]	(Jointly Administered)
	Hearing Date: July 16, 2026 at 10:30 a.m. (ET) **Objection Deadline: July 9, 2026 at 4:00 p.m. (ET)**

356W58 GROUND LESSOR LLC'S MOTION FOR AN ORDER COMPELLING DEBTORS TO HOLD RENT DUE UNDER THE GROUND LEASE IN ESCROW

356W58 Ground Lessor LLC ("Landlord"), through its undersigned counsel, hereby moves (the "Motion") this Court for an order compelling Debtors to draw upon the DIP facility for ground rent payments due in June 2026, July 2026, and August 2026 under the Ground Lease, and to deposit such amounts into escrow until this Court resolves Debtors' *Motion for an Order Determining Amount of Prospective Post-Petition Monthly Rent Due as an Administrative Expense Claim* [D.I. 524] (the "Rent Motion") and in support hereof respectfully states as follows:

PRELIMINARY STATEMENT

1. After representing to the Court and Landlord that their DIP Loan would fund ground rent through August, the Parkview-controlled Debtors abruptly stopped paying rent and filed their Rent Motion (which seeks to reduce or eliminate the amount of ground rent payable during these cases). The Debtors' unilateral refusal to pay ground rent is an improper effort to preserve Parkview's cash. It also contravenes the Court-approved Supplemental DIP Budget, which provided that there would be funds available for ground rent to be paid.

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Hudson 1701/1706, LLC (0281) and Hudson 1702, LLC (0190). The Debtors' headquarters and the mailing address for the Debtors is 11440 San Vicente Boulevard, 2nd Floor, Los Angeles, CA 90045.

2. The Debtors have repeatedly threatened that, absent recharacterization, the Ground Lease will be rejected. And in their Rent Motion, the Debtors take the position that the their leasehold position is of little or no value. Those statements, coupled with the facts that the Debtors have evidently failed to find a third-party capital provider, and that Parkview previously experienced liquidity problems – Parkview previously stopped funding construction draws, which resulted in multiple mechanics' liens – Landlord is understandably concerned that Parkview is either unwilling or unable to fund these cases as DIP Lender.

3. It is not appropriate at this stage for Debtors to shift onto Landlord the credit risk associated with Parkview's financial condition or the Debtor's inability to effectively capitalize the project. Accordingly, the Court should exercise its discretion to compel Debtors to draw upon the Parkview DIP facility and deposit all amounts budgeted for ground rent into an appropriate escrow account, to be released upon the outcome of the Rent Motion. Because ground rent was budgeted as part of the Supplemental DIP Order there should be no prejudice to either Debtors or Parkview associated with such an escrow.

JURISDICTION AND VENUE

4. The United States Bankruptcy Court for the District of Delaware has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference from the United States District Court for the District of Delaware dated February 29, 2012.

5. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A). Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

6. Pursuant to Rule 9013-1(f) of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), Landlord consents to the entry of a final

judgment or order with respect to this Motion if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgment consistent with Article III of the United States Constitution.

7. The statutory basis for the relief requested herein are sections 105 and 503 of the Bankruptcy Code. Such relief is also appropriate in accordance with Rules 9013 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Local Rule 9013-1.

BACKGROUND

A. Origin of the Ground Lease

8. On May 4, 2022, Hudson 1701/1706, LLC and Hudson 1702, LLC (collectively, the "Debtors"), as tenants, and Landlord, as landlord, entered into a lease for certain premises located at 353 West 57th Street in New York, New York for a period of 99 years. *See* Declaration of Matthew B. McGuire, Adv. Pro. No. 25-52471 [Adv. Pro. D.I. 17][2] ("McGuire Adversary Declaration"), at Ex. C (the "Ground Lease").

9. Under the Ground Lease, the Debtors are obligated to pay base rent at a rate of $729,166.67 per month ("Base Rent"). Motion at ¶ 10.

B. Bankruptcy Case Procedural History

10. On October 22, 2025 (the "Petition Date"), the Debtors each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Court"). The Debtors are authorized to operate their business and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

[2] All references to Adv. Pro. D.I. refer to the adversary proceeding number 25-52471 (the "Adversary Proceeding").

11. On November 25, 2025, the Office of the United States Trustee for the District of Delaware appointed the Official Committee of Unsecured Creditors (the "Committee") in these chapter 11 cases. The Committee is comprised of three members, including Landlord.[3]

12. On November 12, 2025, the Debtors filed the *Motion of the Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral; (II) Granting Adequate Protection to Prepetition Lender; (III) Modifying the Automatic Stay; (IV) Scheduling a Final Hearing and (V) Granting Related Relief* [D.I. 56] (the "DIP Motion").

13. On December 9, 2025, Landlord filed *356W58 Ground Lessor LLC's Objection and Reservation of Rights to the Motion of the Debtors for Entry of a Final Order (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral; (II) Granting Adequate Protection to Prepetition Lender; (III) Modifying the Automatic Stay; (IV) Scheduling a Final Hearing and (V) Granting Related Relief* [D.I. 139] (the "DIP Objection").

14. On January 14, 2025, the Court granted the DIP Motion [D.I. 255] (the "DIP Order").

15. On December 22, 2025, the Debtors commenced the Adversary Proceeding [Adv. Pro. D.I. 1] (the "Complaint").

16. On February 4, 2026, the Landlord filed *356W58 Ground Lessor LLC's Motion to Dismiss the Complaint* [Adv. Pro. D.I. 15] (the "Motion to Dismiss") and the Dismissal Memorandum.

[3] For the avoidance of doubt, the instant Objection is brought on behalf of Ground Lessor in its individual capacity, not in its capacity as a Committee member.

17. On February 11, 2026, the Debtors filed *The Debtors' Opposition to Defendants' Motion to Dismiss* [Adv. Pro. D.I. 25].

18. On February 18, 2026, Landlord filed *356W58 Ground Lessor LLC's Reply Memorandum of Law in Further Support of its Motion to Dismiss the Complaint* [Adv. Pro. D.I. 32].

19. On February 24, 2026, the Debtors filed *Debtors' Motion for an Order Determining that Purported Ground Lease, if a True Lease, is a Lease of Residential Real Property Under Section 365 of the Bankruptcy Code* [D.I. 344] (the "<u>365 Motion</u>").

20. On March 5, 2026, Landlord filed *356W58 Ground Lessor LLC's Objection to Debtors' Motion for an Order Determining that Purported Ground Lease, if a True Lease, is a Lease of Residential Real Property Under Section 365 of the Bankruptcy Code* [D.I. 354] (the "<u>365 Objection</u>").

21. On March 9, 2026, the Debtors filed the *Debtors' Reply to 356W56 Ground Lessor LLC's Objection to Debtors' Motion for an Order Determining that Purported Ground Lease, if a True Lease, is a Lease of Residential Real Property Under Section 365 of the Bankruptcy Code* [Docket No. 359].

22. On March 12, 2026, the Court held a hearing on the 365 Motion which was continued for further argument to April 21, 2026.

23. On April 7, 2026, the Debtors filed the *Motion of the Debtors to Increase DIP Commitment and Modify and Extend Approved DIP Budget Under Final DIP Order* [D.I. 400] (the "<u>Supplemental DIP Motion</u>") which provided for the payment of Rent through and including August 2026.

24. On April 14, 2026, Landlord filed *356W58 Ground Lessor LLC's Objection to Motion of the Debtors to Increase DIP Commitment and Modify and Extend Approved DIP Budget Under Final DIP Order* [D.I. 410] (the "Supplemental DIP Objection").

25. On April 16, 2026, the Debtors filed *Debtors' Reply in Support of Motion of the Debtors to Increase DIP Commitment and Modify and Extend Approved DIP Budget Under Final DIP Order* [D.I. 418] (the "Supplemental DIP Reply").

26. On April 21, 2026, the Court heard oral argument on the 365 Motion, the Supplemental DIP Motion, and the Motion to Dismiss. The Court granted the 365 Motion and the Supplemental DIP Motion on the record [D.I. 436, 443]. The Court took the Motion to Dismiss under advisement and, on May 15, 2026, ultimately granted the Motion to Dismiss [Adv. Pro. D.I. 86].

27. On June 2, 2026, the Debtors filed the Motion and, contemporaneously therewith, unilaterally stopped paying Base Rent.

28. Debtors filed the Amended Complaint [Adv. Pro. D.I. 91] on June 10, 2026.

29. The Court held a status conference on June 17, 2026 during which Debtors' counsel affirmed Debtors' ability to pay ground rent, but indicated that Debtors would not pay ground rent absent a Court order.

RELIEF REQUESTED

30. By this Motion, Landlord respectfully request that the Court enter an order compelling Debtors to draw upon the DIP facility for ground rent payments due in June 2026, July

2026, and August 2026 under the Ground Lease, and to deposit such amounts into escrow until this Court resolves Debtors' Rent Motion.

ARGUMENT

31. This Court has the ability to and should compel the Debtors and Parkview to honor their commitments under the DIP Order and fund the ground rent to escrow.

32. Section 105(a) of the Bankruptcy Code provides that "[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." *See also In re Cano*, 410 B.R. 506, 542 (Bankr. S.D. Tex. 2009) (noting that § 105 is "rooted in equitable concerns" and exists to "fashion[] equitable remedies to curb abuses").

33. "[The Third Circuit] has described § 105(a) as the codification of the general equitable powers of the bankruptcy courts. *In re SubMicron Systems Corp.*, 432 F.3d 448, 455 n.6 (3d Cir. 2006). The bankruptcy courts' equitable powers provide broad authority to act in a manner that will prevent injustice or unfairness in the administration of bankruptcy estates . . . and include the power to 'craft flexible remedies that, while not expressly authorized by the [Bankruptcy] Code, effect the result the Code was designed to obtain.'" *In re Padilla*, 389 B.R. 409, 429 (Bankr. E.D. Pa. 2008) (quoting *In re Official Committee of Unsecured Creditors of Cybergenics Corp.*, 330 F.3d 548, 568 (3d Cir. 2003)).

34. The actions of the Parkview-controlled Debtors raise a legitimate concern that Parkview lacks the liquidity, or willingness, to fund administrative expenses – including Base Rent.

35. The Debtors' June 2 announcement that they would no longer pay rent was both sudden and unexpected. Prior to that date, the Debtors admitted that rent was a necessary expense to maintain and operate the property. Debtor's counsel made this point during the April 21 hearing:

> MSP also argues that the supplemental DIP financing is primarily intended to fund the recharacterization litigation against MSP and does not benefit the estate…. [T]his argument by MSP is a gross mischaracterization of the budget. In fact, of the roughly $11 million in a supplemental budget for the months of May through August . . . ***$2,926,672 is for ground rent being paid to MSP***. . . . ***All necessary expenses to maintain and operate the property***."

April 21, 2026 Hr'g Tr. 91:13-92:2 (Gordon) (emphasis added).

36. The budget presented to (and approved by) the Court reflected that all Base Rent would be funded by the DIP Loan through August. *Notice of Filing of Further Amended Budget Related to the Motion of the Debtors to Increase DIP Commitment and Modify and Extend Approved DIP Budget Under Final DIP Order*, at Ex. A [D.I. 430] (the "Supplemental DIP Budget"). The Supplemental DIP Budget did not include any reservation regarding payment of the Base Rent to Landlord.

37. In addition, in litigating the issue of whether the Ground Lease relates to residential or nonresidential real property, the Debtors only argued that they needed more time to decide whether to assume or reject the Ground Lease. *See* 365 Motion [D.I. 344] at 2, n.3 ("the deadline to assume or reject the Purported Ground Lease is the impetus for filing this Motion"); *id*. at ¶ 14. The Debtors never disclosed to the Court that they intended to unilaterally reduce or withhold rent.

38. Debtors represented in the DIP Motion that administrative expenses would be paid using proceeds of the DIP Loan, and thus there would be no need to surcharge Parkview's DIP Collateral with any such administrative expenses. *See* DIP Motion [D.I. 56] at ¶ 47(a); *see also* DIP Order [D.I. 255] at ¶ 48(a). Debtors accordingly waived any right to surcharge the DIP Collateral (including the leasehold interest) pursuant to section 506(c) of the Bankruptcy Code. *See* DIP Motion [D.I. 56] at 15; *see also* DIP Order [D.I. 255] at 23. In reliance upon these and other representations, the Court approved the DIP Motion. *See* DIP Order [D.I. 255].

39. Debtors are now engaging in a classic bait-and-switch. By deliberately declining to draw upon the DIP Loan to pay Base Rent, Debtors are doing what they promised they would not do – that is, Debtors are incurring administrative expenses which are at risk of going unpaid, even though the Supplemental DIP Budget provides that they *would* be paid.

40. Following this Court's dismissal of the Debtors' recharacterization action, the Debtors and Parkview are facing the reality that their strategy of engaging in meritless litigation will not work. Their approach to this situation is to again threaten that, absent recharacterization, the Ground Lease will have to be rejected. *See* Amended Complaint at ¶ 5 ("the Debtors forecast that in 2032 – even if the Project proceeds according to current plans – they will not have the revenue to pay, or the ability to finance, a $65 million payment…. *Accordingly, without recharacterization, the Debtors will be compelled to reject the Ground Lease*…") (emphasis added). And in the Rent Motion itself, the Debtors suggest that the leasehold interest is of little or no value. *See Rent Motion* [D.I. 524] at ¶ 30 ("it is reasonable to pay to the Ground Lessor only the rents received by the Debtors from the SRO Tenants, which is currently the sole source of revenue from the Property and which the Debtors submit reflects the actual benefit the estates derive from the Property, at most.").

41. Apart from their failed litigation efforts, the Debtors are also failing to make advances towards a reorganization. As indicated during the April 21 hearing, the Debtors are seeking to raise third-party capital to carry and complete the project. *See* April 21, 2026 Hr'g Tr. 48:8-50:1 (Kohn) ("One [capital and development partner] group expressed very, very serious interest in getting involved immediately."). Eight months into this bankruptcy case, Debtors have still not signed up a capital and development partner. Moreover, Debtors still have not achieved a

cure agreement to lift the stop work orders by June 2026 as they forecasted. *See* April 21, 2026 Hr'g Tr. 20:12-23 (Brill).

42. In light of the possible rejection of the Ground Lease and failure of these cases, Parkview is facing the prospect that its leasehold loan may realize little or no recovery. With the perspective that further funding these cases may be a waste of money, Parkview directed the Debtors to refuse to pay rent – notwithstanding the supposed availability of DIP Loan proceeds and the Debtor's prior statements to the Court.[4] Thus, Debtors seek to unilaterally shift the financial burden of their own case to the Landlord as Debtor pursues its recharacterization and avoidance claims, which it has made clear are the primary focus of their efforts in this bankruptcy case. *See* 365 Motion [D.I. 344] at 2, n.3.

43. Moreover, Parkview has previously experienced liquidity issues as a lender on this project. In the months prior to March, 2023, Parkview failed to make certain advances of the Construction Loan as a result of liquidity problems across its debt platform, which Parkview itself acknowledged. *See* Declaration of Matthew B. McGuire in Support of 356W58 Ground Lessor LLC's Motion to Dismiss the Complaint [Adv. Pro. D.I. 17], Ex. K ("Parkview is in the process of pursuing a transaction whereby an additional lender ('Additional Lender') will be brought into the loan and that the next advance of the loan will occur upon the closing of the transaction… Parkview further expects that that the balance of the draws requested will be funded shortly thereafter…"). Without an ability to replace Parkview, Debtors struggled for months to pay various expenses and contractors, which allowed liens to accrue.

[4] Rent is not the only item that Parkview has declined to fund. The Debtors have also refused to fund reimbursements to L.A. Fitness, even though $5,539,822 had been budgeted in the DIP Loan budget. *See* Supplemental DIP Budget [D.I. 430] at Ex. A (LAF TI Allowance).

44. Debtors or Parkview may deny that their refusal to pay rent is due to Parkview's lack of willingness or wherewithal to fund administrative expenses. However, Debtors and Parkview have already budgeted for rent payments through August and admitted that rent is a necessary expense to maintain and operate the property. If their denials are to be given effect, then there should be no prejudice to placing funds in escrow. Compelling Debtors to escrow these budgeted funds would relieve any concerns regarding Parkview's and Debtors' wherewithal to pay rent while they pursue the Rent Motion and recharacterization action.

45. Accordingly, the Court should exercise its discretion and compel Debtors to draw upon Parkview's DIP Loan and deposit all budgeted rent payments to an escrow account in order to give assurance to the Court and Landlord that the Supplemental DIP Order is given effect while the Court considers the Rent Motion. Such an order would offer temporary protection to Landlord's "unusually vulnerable position" of assuming credit risk during the pendency of the Rent Motion. *See In re Gussie Naomi Babbs*, 265 B.R. 35, 38 (Bankr. S.D.N.Y. 2001) (quoting *In re Telesphere Comms., Inc.*, 148 B.R. 525, 529 (Bankr. N.D. Ill. 1992) ("Unlike other creditors, both residential and nonresidential lessors are in an unusually vulnerable position, subject to becoming 'involuntary extender [s] of unsecured credit' during the post-petition, pre-rejection period.").

CONCLUSION

For the foregoing reasons, Ground Lessor respectfully requests that the Court enter an order compelling Debtors to draw upon the DIP Loan and hold Base Rent payments due in June 2026, July 2026, and August 2026 under the Ground Lease in escrow until this Court resolves the Rent Motion, and granting such other and further relief as is just and proper.

Dated: July 2, 2026
Wilmington, Delaware

LANDIS RATH & COBB LLP

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
Hudson 1701/1706 LLC,	Case No. 25-11853 (KBO)
Debtors.[1]	(Jointly Administered)
	Hearing Date: July 16, 2026 at 10:30 a.m. (ET) **Objection Deadline: July 9, 2026 at 4:00 p.m. (ET)**

NOTICE OF MOTION

TO: (a) the United States Trustee for the District of Delaware; (b) the Debtors; (c) Parkview Financial REIT, LP and PV Hudson LLC; (d) the Official Committee of Unsecured Creditors; and (e) any party that has requested notice pursuant to Bankruptcy Rule 2002.

PLEASE TAKE NOTICE that on the date hereof, 356W58 Ground Lessor LLC ("Landlord") filed *356W58 Ground Lessor LLC's Motion for an Order Compelling Debtors to Hold Rent Due Under the Ground Lease in Escrow* (the "Motion")[2] with the United States Bankruptcy Court for the District of Delaware (the "Court").

PLEASE TAKE FURTHER NOTICE that any objections to the Motion must be filed on or before **July 9, 2026 at 4:00 p.m. (ET)** (the "Objection Deadline") with the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801. At the same time, you must serve a copy of the objection upon the undersigned counsel to Landlord so as to be received on or before the Objection Deadline.

PLEASE TAKE FURTHER NOTICE THAT A HEARING TO CONSIDER THE MOTION WILL BE HELD ON **JULY 16, 2026 AT 10:30 A.M. (ET)** BEFORE THE HONORABLE KAREN B. OWENS, CHIEF UNITED STATES BANKRUPTCY COURT JUDGE FOR THE DISTRICT OF DELAWARE, 824 NORTH MARKET STREET, 6TH FLOOR, COURTROOM #3, WILMINGTON, DELAWARE 19801.

PLEASE TAKE FURTHER NOTICE THAT, IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Hudson 1701/1706, LLC (0281) and Hudson 1702, LLC (0190). The Debtors' headquarters and the mailing address for the Debtors is 11440 San Vicente Boulevard, 2nd Floor, Los Angeles, CA 90045.

[2] Capitalized terms used but not defined herein shall have the meanings given to them in the Motion.

Dated: July 2, 2026
Wilmington, Delaware

LANDIS RATH & COBB LLP

/s/ Matthew B. McGuire

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
Hudson 1701/1706 LLC,	Case No. 25-11853 (KBO)
Debtors.[1]	(Jointly Administered)
	Ref. No. ___

ORDER GRANTING 356W58 GROUND LESSOR LLC'S MOTION FOR AN ORDER COMPELLING DEBTORS TO HOLD RENT DUE UNDER THE GROUND LEASE IN ESCROW

Upon consideration of the motion of 356W58 Ground Lessor LLC ("Landlord") for an order compelling Debtors to draw upon the DIP facility for ground rent payments due in June 2026, July 2026, and August 2026 under the Ground Lease, and to deposit such amounts into escrow (the "Motion")[2]; and the Court having considered the Motion and any opposition thereto; and the Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, and their creditors; and this Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and the Court having found that this is a core proceeding; and the filing of the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that Landlord's notice of the Motion and opportunity for a hearing were appropriate under the circumstances and that no other notice need be provided; and the Court having determined that the legal and factual bases set forth in the Motion establish cause for the relief granted herein; and upon all of the proceedings had before this Court, and after due deliberation and sufficient cause appearing therefor,

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Hudson 1701/1706, LLC (0281) and Hudson 1702, LLC (0190). The Debtors' headquarters and the mailing address for the Debtors is 11440 San Vicente Boulevard, 2nd Floor, Los Angeles, CA 90045.

[2] Capitalized terms used but not defined herein shall have the meanings given to them in the Motion.

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.

2. All objections to the Motion are overruled.

3. Debtors must draw upon the DIP facility for ground rent payments due in June 2026, July 2026, and August 2026 under the Ground Lease, and deposit such amounts into escrow until this Court issues a further order concerning the amount held in escrow.

4. Notwithstanding the applicability of any Bankruptcy Rules to the contrary, the terms and conditions of this Order shall be effective and enforceable immediately upon entry of this Order.

5. This Court retains jurisdiction with respect to all matters arising from or related to implementation of this Order.