

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
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IN RE:

CASE NO.: 20-14696-LMI

CINEMEX USA REAL ESTATE
HOLDINGS, INC., CINEMEX
HOLDINGS USA, INC., and CB
THEATER EXPERIENCE, LLC,¹

Chapter 11

(Jointly Administered)

Debtors.

**RESPONSE BY EPR HIALEAH, INC. TO
OBJECTION TO GENERAL UNSECURED CLAIM 49-1**

EPR Hialeah, Inc. (“EPR” or “EPR Hialeah”), a landlord and creditor of the Debtor, by and through its undersigned counsel, hereby files this response in opposition to the *GUC Claims Trust's Fifth Omnibus Objection to Claims* (the “Objection”), ECF No. 240, with respect to the objection to Claim No. 49-1 filed by EPR, in support thereof, states as follows:

1. On April 25 and 26, 2020 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).

2. On April 30, 2020, the Debtors filed their Rejection Motion [ECF No. 29], ¶¶ *Id.*, 17-19 & 34 (the “Rejection Motion”). The Rejection Motion sought to reject the Lease retroactively to April 30, 2020. *Id.*, ¶ 41.

3. On May 19, 2020, EPR Hialeah filed an objection and response to the Rejection Motion (“Objection”) [ECF No. 125] contesting the retroactive date of rejection despite the

¹ The Debtors in these cases and the last four digits of each Debtors’ federal tax identification number are: (1) Cinemex USA Real Estate Holdings, Inc. (2194); (2) Cinemex Holdings USA, Inc. (5502); and (3) CB Theater Experience, LLC (0563). The address for the Debtors is 175 South West 7th Street, Suite 1108, Miami, Florida 33130.

Debtors continued occupancy of the premises, the failure to surrender the property to EPR Hialeah and by asserting a right of reentry into the premises to obtain personal property of the Debtors.

4. Debtors never returned the keys to the premises covered by the Hialeah Lease; however, EPR had the locks changed and took possession thereof on May 22, 2020 after the Debtors removed their personal property. Exhibit 2 to Turley Decl., ¶ 3.

5. A determination of the rejection date has not been resolved by agreement or order. Accordingly, the amount of the rent allocable to the pre-petition period covered by Claim Nos. 49-1 and 149-1 has not yet been determined.

6. Until such time as the rejection date is resolved, allowance or disallowance of any portion of the rent claim of EPR is premature. Until that time, EPR reserves all rights with respect to the merits of the Objection with respect to any contention that Claim Nos. 49-1 and 149-1 are to any extent duplicative. Without waiver of that reservation, the pre-petition claim was pro-rated pending resolution of the rejection date and resulting determination of the administrative expense claim for the pre-rejection period. However, the rejection date was never determined. Accordingly, the amount of overlap or duplication among the two claims cannot yet be ascertained.

WHEREFORE, EPR requests that the Court defer review of Claim Nos. 49-1 and 149-1 until the rejection date of the Hialeah Lease is determined with finality.

Respectfully submitted on October 20, 2021.

GENOVESE, JOBLOVE & BATTISTA, P.A.

Attorneys for EPR Hialeah, Inc.

100 SE 2nd Street, Suite 4400

Miami, FL 33131

Tel: (305) 349-2300

Fax: (305) 349-2310

By: /s/ Allison R. Day

Allison R. Day, Esq.

Florida Bar No. 494097

Email: aday@gjb-law.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served via CM/ECF Notification upon

BERGER SINGERMAN LLP
313 N. Monroe Street, Suite 301
Tallahassee, FL 32301
Telephone: (850) 561-3010
Facsimile: (850) 561-3013
By: /s/ Brian G. Rich
Brian G. Rich
Florida Bar No. 38229
brich@bergersingerman.com

-and-

PACHULSKI STANG ZIEHL & JONES LLP
Robert J. Feinstein (admitted pro hac vice)
Bradford J. Sandler (admitted pro hac vice)
Cia H. Mackle (FBN 26471)
780 Third Avenue, 34th Floor
New York, NY 10017-2024
Telephone: (212) 561-7700
Facsimile: (212) 561-7777
Email: rfeinstein@pszjlaw.com
bsandler@pszjlaw.com
cmackle@pszjlaw.com

and to:

The Debtors, Attn: Luis Castelazo, 175 South West 7th Street, Suite 1108, Miami, Florida 33131; counsel to the Debtors, (1) Quinn Emanuel Urquhart & Sullivan LLP, Pennzoil Place, 711 Louisiana Street, Suite 500, Houston, TX 77002, Attn: Patricia B. Tomasco; and (2) Bast Amron LLP, SunTrust International Center, One Southeast Third Avenue, Suite 1400, Miami, FL 33131, Attn: Jeffrey P. Bast; *counsel to the Committee*, Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, 17th Floor, Wilmington, DE 19801, Attn: Bradford J. Sandler; *the U.S. Trustee*, 51

SW First Avenue, Room 1204, Miami, FL 33130 Attn: Ariel Rodriguez and *all interested parties registered to receive electronic notification* (which is incorporated herein by reference) on this on this 20th day of October, 2021.

By: /s/ Allison R. Day
Allison R. Day, Esq.