

CAUSE NO. _____

GRIFFIN PARTNERS III – 520/2017 L.P.
AS SUCCESSOR IN INTEREST TO
DLF/GP 520 POST OAK, LLC, PFP 520
POST OAK, INC. AND 520 PARTNERS,
LTD.,

Plaintiff,

V.

JOHN DAUGHERTY REAL ESTATE,
INC. f/k/a JOHN DAUGHERTY
REALTORS, INC., DOUGLAS ELLIMAN
OF TEXAS, LLC, JACOB SUDHOFF, and
SUDHOFF COMPANIES, LLC,

Defendants.

IN THE DISTRICT COURT

OF HARRIS COUNTY, TEXAS

_____ JUDICIAL DISTRICT

PLAINTIFF’S ORIGINAL PETITION AND REQUESTS FOR DISCLOSURE

Plaintiff Griffin Partners III – 520/2017 L.P. (“Griffin”), successor in interest to DLF/GP 520 Post Oak, LLC, PFP 520 Post Oak, LLC and 520 Partners, Ltd., files this suit against Defendants John Daugherty Real Estate, Inc. f/k/a John Daugherty Realtors, Inc., Douglas Elliman of Texas, LLC, Sudhoff Companies, LLC, and Jacob Sudhoff, and, in support thereof, would respectfully show the following:

DISCOVERY CONTROL PLAN

1. Griffin intends to conduct discovery under Level 2 pursuant to Texas Rule of Civil Procedure 190.3. Griffin affirmatively pleads that this suit is not governed by the expedited actions process in Texas Rules of Civil Procedure 169 because Griffin seeks more than \$1,000,000 in damages plus all other relief to which it is entitled.

II. PARTIES

2. Plaintiff Griffin Partners III – 520/2017 L.P., as successor in interest To DLF/GP 520 Post Oak, LLC, PFP 520 Post Oak, Inc. and 520 Partners, Ltd., (“Griffin”) is a Texas limited partnership with its principal place of business located at 10777 Westheimer Road, Suite 1040, Houston, Texas 77042.

3. Defendant John Daugherty Real Estate, Inc. f/k/a John Daugherty Realtors, Inc. (“Daugherty”) is a Texas corporation with its principal place of business located at 520 Post Oak Boulevard, Suite 600, Houston, Texas 77027. Daugherty’s registered agent for service of process is John A. Daugherty, Jr. and can be served at 520 Post Oak Boulevard, Suite 600, Houston, Texas 77027. Citation is requested at this time.

4. Defendant Douglas Elliman of Texas, LLC (“Elliman”) is a Texas limited liability company with its principal place of business located at 2001 Kirby Drive, Suite 600, Houston, Texas 77019. Elliman’s registered agent for service of process is CT Corporation System and can be served at 1999 Bryan Street, Suite 900, Dallas, Texas 75201. Citation is requested at this time.

5. Defendant Jacob Sudhoff (“Sudhoff”) is an individual residing in Harris County, Texas. Sudhoff can be served with process at 1509 Driscoll Street, Houston, Texas 77019, or wherever he may be found. Citation is requested at this time.

6. Defendant Sudhoff Companies, LLC (“Sudhoff Companies”) is a Texas limited liability company with its principal place of business located at 2001 Kirby Drive, Suite 600, Houston, Texas 77019. Sudhoff Companies’ registered agent for service of process is Jacob Sudhoff and can be served at 2001 Kirby Drive, Suite 600, Houston, Texas 77019. Citation is requested at this time.

III. JURISDICTION

7. This Court has subject-matter jurisdiction over the lawsuit because the amount in controversy exceeds this Court's minimum jurisdictional requirements and the Court's exercise of jurisdiction over Defendants is proper.

IV. VENUE

8. Venue is mandatory in Harris County under Texas Civil Practice and Remedies Code §15.0115(a) because this suit involves claims between a landlord and tenant arising from a lease for commercial property located in Harris County, Texas. Specifically, the parties entered into a lease agreement in which Dougherty agreed to lease property located at 520 Post Oak Boulevard, Suite 600, Houston, Texas. *See Exhibit 1, Lease Agreement & Exhibit 2, Lease Amendments I–X.* The original Lease, and all amendments, are collectively referred to as the "Lease."

9. Venue is also proper in Harris County because a substantial part of the events or omissions giving rise to the claims occurred in Harris County. TEX. CIV. PRAC. & REM. CODE §15.002(a)(1). Specifically, the Lease was negotiated and signed in Harris County; the leased property is located in Harris County; Griffin received Daugherty's rent payments in Harris County; all Griffin and Daugherty employees involved in this dispute are principally based in Harris County; and Defendants Elliman, Sudhoff Companies, and Sudhoff conspired to, and did, tortiously interfere with the Lease in Harris County.

V. SUMMARY OF THE CASE

10. This is a landlord-tenant dispute involving the tenant's repudiation and breach of a commercial lease and the conspiracy of several third parties to induce said repudiation and breach. The landlord, Griffin, is a well-regarded commercial real estate development and property

management company based in the Houston area with multiple years of experience in the commercial real estate industry. The tenant, Daugherty, is a real estate firm specializing in high-end luxury homes and apartments. Upon information and belief, Daugherty was recently acquired by a joint venture between Elliman and Sudhoff Companies. Jacob Sudhoff is the CEO of both companies. Together, Elliman, Sudhoff Companies, and Jacob Sudhoff tortiously interfered, and conspired to tortiously interfere with the Lease by wrongfully inducing Daugherty to repudiate and breach the Lease with ninety (90) months remaining in the Lease's term.

VI. FACTUAL BACKGROUND

11. A predecessor in interest to Griffin and Daugherty entered the original lease agreement on August 25, 1998, for a commercial office space located at 520 Post Oak Boulevard, Suite 600, Houston, Texas 77027 ("520 Post Oak").¹ The initial lease term ran from September 1, 1998 to May 31, 2007. The Parties subsequently agreed to ten (10) lease amendments that modified various terms of the Lease and ultimately extended the Lease term through May 31, 2027.

12. In early 2019, a New York based luxury real estate firm (known nationally as Douglas Elliman) announced plans to enter the Houston real estate market through a high-profile joint venture with Sudhoff Companies. Sudhoff Companies is a Houston-based real estate marketing and sales company founded and owned by Jacob Sudhoff. Following the announcement of the joint venture, Jacob Sudhoff became the CEO of Douglas Elliman of Texas, LLC.

13. Elliman decided to lease commercial office space at the River Oaks Bank Building located at 2001 Kirby Drive, Suite 600, Houston, Texas 77019 ("2001 Kirby"). Upon information and belief, Elliman's lease at 2001 Kirby began on July 1, 2019.

¹ 520 Partners, Ltd. was the original lessor under the Lease agreement, but it subsequently assigned its interest to various other entities. Griffin Partners III – 520/2017 L.P. is the successor in interest of those entities.

14. In 2019, Elliman entered negotiations to acquire Daugherty's assets. Negotiations for Elliman's acquisition of Daugherty ended on or around December 2019, when Elliman announced that its acquisition of Daugherty would close in January 2020. Following the announcement, Daugherty defaulted under the Lease agreement by failing to pay rent on January 1, 2020.²

15. After defaulting on its rent obligations, Daugherty requested a meeting with Griffin on January 11, 2020. Present at the meeting were: Fred Griffin (Chairman of Griffin); Edward Griffin (CEO of Griffin); John A. Daugherty, Jr. (Chairman/CEO of Daugherty); Win Campbell (Counsel for Daugherty); Jacob Sudhoff (CEO of Elliman); and Katherine Li (Counsel for Elliman). Prior to the meeting, Daugherty affirmatively represented that no legal counsel would be present; thus, Griffin found itself unrepresented in a meeting with two attorneys for Daugherty and Elliman (Mr. Campbell and Ms. Li, respectively).

16. On behalf of the Defendants, Sudhoff announced that the purpose of the meeting was to inform Griffin that: (a) as of February 1, 2020, Daugherty would not honor its obligations under the Lease agreement; (b) although the Lease with Daugherty did not expire until May 31, 2027, Daugherty was abandoning the 520 Post Oak office to consolidate its operations with Elliman at 2001 Kirby; and (c) Elliman was only acquiring Daugherty's assets and would not be assuming the Lease. Sudhoff stated that this process would begin immediately. Defendant Daugherty, and its attorney, did not deny, refute or rebut these statements and, therefore, Daugherty adopted the statements and repudiated the Lease.

17. Following the meeting, a Griffin employee hand delivered a written demand for January rent to Daugherty's office. While visiting Daugherty's office, conversations with

² Subsequently, on or about January 13, 2020, Daugherty cured this monetary default.

Daugherty's controller confirmed that not only was Daugherty repudiating the Lease agreement, but it was abandoning 520 Post Oak no later than the end of January 2020. Daugherty's controller also stated that Daugherty was terminating a significant number of its employees before relocating Daugherty's remaining staff to the 2001 Kirby building. Thus, Daugherty has already taken steps to begin vacating the 520 Post Oak office.

18. Griffin brings this lawsuit against Daugherty for its wrongful repudiation and breach of the Lease agreement. Griffin also asserts claims against Elliman, Sudhoff, and Sudhoff Companies for tortious interference with the Lease and conspiracy to tortiously interfere with the Lease.

VII. CAUSES OF ACTION

A. Repudiation and Breach of Contract (Daugherty)

19. Griffin incorporates the foregoing paragraphs by reference.

20. On July 5, 2017, Griffin and Daugherty entered a valid and enforceable amendment to the Lease agreement (Amendment X) which extended the Lease at 520 Post Oak through May 31, 2027. All conditions precedent to filing this lawsuit have been performed or have occurred, and Griffin has fully performed its obligations under the Lease agreement. Daugherty breached, and repudiated the Lease without just excuse. Specifically, Daugherty repudiated the Lease and is already taking steps to vacate and abandon the 520 Post Oak office building to consolidate its operations with Elliman at 2001 Kirby.

21. Daugherty's actions constitute events of default under following provisions of Section 15.01 of the Lease:

- (a) Tenant shall fail to fulfill or perform, in whole or in part, any of its obligations under this Lease (other than the payment of Rent) . . . ; and

- (b) Tenant shall vacate or shall commence to vacate the Premises or any substantial portion of the Premises or shall remove or attempt to remove, without the prior written consent of Landlord, all or a substantial value of Tenant's personal property from the Premises without continuing to pay Rent therefor;

See Exhibit 1, § 15.01, p. 17. As a remedy for the events of default listed above, Griffin is entitled to hold Daugherty liable for all rent currently due and all future rent through May 31, 2027, which Griffin would have received were it not for Daugherty's repudiation and breach of the Lease. See *id.* at § 15.02(d), p. 18.

22. Daugherty's repudiation and breach of the Lease set out in the preceding paragraphs of this petition have financially harmed Griffin and caused it to lose the benefits it expected to receive from the Lease. Specifically, all amounts owed under the Lease agreement are immediately due and payable. Griffin accordingly seeks to recover damages resulting from Daugherty's repudiation and breach of the Lease in an amount in excess of the minimum jurisdictional limits of this Court.

B. Tortious Interference and Conspiracy (Elliman, Sudhoff, and Sudhoff Companies)

23. Griffin incorporates the foregoing paragraphs by reference.

24. Defendants Elliman, Sudhoff, and Sudhoff Companies had knowledge of the Lease agreement between Griffin and Daugherty based on the fact that all three Defendants (and their attorneys) attended the January 11, 2020 meeting in which they unequivocally announced the repudiation of the Lease. Defendant Daugherty did not deny their statements. And upon information and belief, Defendants Elliman, Sudhoff, and Sudhoff Companies willfully and intentionally induced Daugherty to repudiate the Lease and violate Daugherty's obligations to Griffin. In this regard, upon information and belief, Defendants Elliman, Sudhoff, and Sudhoff Companies conditioned Elliman's acquisition of Daugherty on Daugherty's agreement to repudiate its Lease with Griffin. That inducement resulted in damages to Griffin by wrongfully

depriving Griffin of the rent and profits it would have received had Daugherty not been induced to repudiate the Lease.

25. Further, Griffin will show that Defendants Elliman, Sudhoff, and Sudhoff Companies conspired by concerted action to cause Daugherty to wrongfully repudiate the Lease, which resulted in Griffin's injuries and damages.

26. Were it not for Defendants Elliman, Sudhoff, and Sudhoff Companies wrongfully inducing Daugherty to repudiate the Lease, Griffin would have received monthly rent from Daugherty through the Lease term ending on May 31, 2027. As a result, Defendants Elliman, Sudhoff, and Sudhoff Companies have caused Griffin financial harm and Griffin has lost the benefits it expected to receive from the Lease. Griffin accordingly seeks to recover damages in an amount exceeding the minimum jurisdictional limits of this Court resulting from the conspiracy of Defendants Elliman, Sudhoff, and Sudhoff Companies' to tortiously interfere with the Lease.

27. In addition, upon information and belief, Griffin alleges that Defendants Elliman, Sudhoff, and Sudhoff Companies acted with malicious intent by persuading Daugherty to breach and repudiate the Lease out of spite or ill will toward Griffin for the sole purpose of causing economic injury to Griffin. Griffin accordingly seeks exemplary damages against Elliman, Sudhoff, and Sudhoff Companies for their conspiracy to tortiously interfere with the Lease.

VIII. REQUESTS FOR DISCLOSURE

28. Under Texas Rule of Civil Procedure 194, Plaintiff requests that Defendants disclose, within fifty (50) days of the service of this request, the information or material described in Rule 194.2.

IX. ATTORNEYS' FEES

29. Griffin seeks recovery of all attorneys' fees incurred pursuing this litigation, including all attorneys' fees and costs contemplated in Section 15.05 of the Lease and all other applicable contracts, statutes, codes, rules, and equities, including Texas Civil Practice & Remedies Code Sections 37 and 38, *et. seq.*

X. CONDITIONS PRECEDENT

30. All conditions precedent to Griffin's recovery have been performed, occurred, were prevented from occurring or were rendered impossible to perform.

XI. PRAYER AND REQUEST FOR RELIEF

WHEREFORE PREMISES CONSIDERED, Plaintiff asks that Defendants John Daugherty Real Estate, Inc. f/k/a John Dougherty Realtors, Inc., Douglas Elliman of Texas, LLC, Sudhoff Companies, LLC, and Jacob Sudhoff, be cited to appear and answer and that the Court render a judgment for Plaintiff for the following:

- a. Actual damages;
- b. Consequential and special damages;
- c. Exemplary and punitive damages;
- d. Pre-judgment and post-judgment interest as allowed by law;
- e. Reasonable attorney fees;
- f. Costs of court;
- g. All other relief to which Plaintiff is entitled in law or equity.

Respectfully submitted,

DOBROWSKI, LARKIN & STAFFORD L.L.P.

By: /s/ Paul J. Dobrowski

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