

Fill in this information to identify the case:

Debtor HOP Heights LLC

United States Bankruptcy Court for the: _____ District of Delaware
(State)

Case number 19-12442

**Official Form 410
Proof of Claim**

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

<p>1. Who is the current creditor?</p>	<p><u>Cardino Realty LLC</u></p> <p>Name of the current creditor (the person or entity to be paid for this claim)</p> <p>Other names the creditor used with the debtor _____</p>	
<p>2. Has this claim been acquired from someone else?</p>	<p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. From whom? _____</p>	
<p>3. Where should notices and payments to the creditor be sent?</p> <p>Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)</p>	<p>Where should notices to the creditor be sent?</p> <p><u>Cardino Realty LLC</u> <u>Marc J. Phillips, Esq.</u> <u>Montgomery McCracken Walker Rhoads LLP</u> <u>1105 N. Market Street, Suite 1500</u> <u>Wilmington, DE 19801, United States</u></p> <p>Contact phone <u>302-504-7823</u></p> <p>Contact email <u>mphilipps@mmwr.com</u></p>	<p>Where should payments to the creditor be sent? (if different)</p> <p>Contact phone _____</p> <p>Contact email _____</p> <p>Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____</p>
<p>4. Does this claim amend one already filed?</p>	<p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY</p>	
<p>5. Do you know if anyone else has filed a proof of claim for this claim?</p>	<p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. Who made the earlier filing? _____</p>	



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ 440,267.47. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
 Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
 Limit disclosing information that is entitled to privacy, such as health care information.

Non-Residential Real Property Lease

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature or property:
 Real estate: If the claim is secured by the debtor's principle residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____

Basis for perfection: _____
 Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ 97,942.87

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check all that apply:

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

No

Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

I am the creditor.

I am the creditor's attorney or authorized agent.

I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 03/26/2020
MM / DD / YYYY

/s/Marc J. Phillips
Signature

Print the name of the person who is completing and signing this claim:

Name Marc J. Phillips
First name Middle name Last name

Title Attorney for Cardino Realty LLC

Company Montgomery McCracken Walker Rhoads LLP
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____ Email _____



KCC ePOC Electronic Claim Filing Summary

For phone assistance: Domestic (877) 725-7530 | International 001-310-823-9000

Debtor: 19-12442 - HOP Heights LLC		
District: District of Delaware		
Creditor: Cardino Realty LLC Marc J. Phillips, Esq. Montgomery McCracken Walker Rhoads LLP 1105 N. Market Street Suite 1500 Wilmington, DE, 19801 United States Phone: 302-504-7823 Phone 2: 302-504-7800 Fax: 302-504-7820 Email: mphillips@mmwr.com	Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement:	
	Has Related Claim: No Related Claim Filed By:	
	Filing Party: Authorized agent	
Other Names Used with Debtor:	Amends Claim: No Acquired Claim: No	
Basis of Claim: Non-Residential Real Property Lease	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: 440,267.47	Includes Interest or Charges: No	
Has Priority Claim: No	Priority Under:	
Has Secured Claim: No Amount of 503(b)(9): No Based on Lease: Yes, 97,942.87 Subject to Right of Setoff: No	Nature of Secured Amount: Value of Property: Annual Interest Rate: Arrearage Amount: Basis for Perfection: Amount Unsecured:	
Submitted By: Marc J. Phillips on 26-Mar-2020 12:28:14 p.m. Eastern Time Title: Attorney for Cardino Realty LLC Company: Montgomery McCracken Walker Rhoads LLP		

**EXHIBIT A TO PROOF OF CLAIM OF CARDINO REALTY, LLC
IN RE: HOP HEIGHTS LLC (CASE NO. 19-12442 (MFW))**

1. On November 14, 2019 (“Petition Date”), HOP Heights LLC (“Debtor”) filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (“Bankruptcy Code”).

2. Cardino Realty, LLC (“Cardino” or “Landlord”), as landlord, and the Debtor (“Tenant”), as tenant, were parties to an unexpired lease of non-residential real property (“Lease”)¹ located at 5 NJ-17, Hasbrouck Heights, New Jersey 07604 (“Premises”), pursuant to which the Debtor leased the Premises from the Landlord. Among other things, the Lease required the Debtor to pay monthly base rent and related rent charges (i.e., estimated real estate taxes and estimated monthly common area maintenance (“CAM”) charges).

3. The Debtor failed to pay rent in August, September and October 2019, which total \$85,581.15 (3 months at \$28,527.05 per month). In addition, the Debtor only made a partial payment for November 2019 with \$12,361.72 still outstanding. Therefore, the total amount due prior to the Petition Date is \$97,942.87.

4. On December 30, 2019, the Debtor filed a *Notice of Rejection of Certain Executory Contracts and/or Unexpired* [Docket No. 330] (“Notice”), pursuant to which it rejected the Lease. Pursuant to the Notice, the effective date of rejection of the Lease was December 30, 2019. Cardino files this claim pursuant to the *Order (i) Authorizing the Debtors to (a) Reject Certain Unexpired Leases Nunc Pro Tunc to the Petition Date and (b) Abandon Any Remaining Property at the Rejected Locations and (ii) Authorizing and Approving Procedures to Reject Executory Contracts and Unexpired Lease* [Docket No. 160] and the *Notice of Dates by Which Parties Must File Proofs of Claim and Administrative Claims and Procedures for Filing Proofs of Claim and Administrative Claims Against the Debtors* [Docket No. 503].

5. Given the effective date of rejection of the Lease as December 30, 2019, pursuant to Section 502(b)(6) of the Bankruptcy Code, Cardino has an unsecured claim against the Debtor in the amount of \$342,324.60. The foregoing amount is derived from one year of the rent, estimated real estate taxes and estimated CAM that would become due under the Lease.

6. To summarize, Cardino hereby asserts an unsecured, non-priority claim in the amount of **\$440,267.47** (“Claim”) calculated as follows:

- A. Outstanding pre-petition obligations due under the Lease totaling \$97,942.87; and
- B. Lease rejection damages in the amount of \$342,324.60, which represents one year’s rent reserved under the Lease in accordance with 11 U.S.C. § 502(b)(6).

¹ A copy of the Lease and related Amendments are available upon request.

7. Nothing herein shall be deemed a waiver of Landlord's right to seek payment of all or any portion of the Claim pursuant to section 365(d)(3) of the Bankruptcy Code, or as an administrative expense pursuant to sections 503(b) and 507(a)(1) of the Bankruptcy Code.

8. Landlord expressly reserves all rights and remedies that it has or may have against the Debtor or any other person or persons liable for all or part of the indebtedness claimed herein. This proof of claim is filed to protect Landlord from forfeiture of its Claim. The filing of this proof of claim is not: (a) a waiver or release of Landlord's rights or remedies against any person, entity or property; (b) an election of a remedy; or (c) a waiver of the right to assert a different or enhanced classification or priority in respect of the Claim asserted herein.

9. Landlord expressly reserves all counterclaims, rights of setoff, and rights of recoupment with respect to the Claim.

10. Landlord expressly reserves the right to amend, modify or supplement this proof of claim to, among other things, assert an unsecured claim for any pre-petition obligations that have not yet become due under the Lease and to file additional proofs of claim for additional claims, including, but not limited to, administrative expense claims.