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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: MOTORS LIQUIDATION COMPANY, *et al.*, Debtors.	Chapter 11 Case Case No. 09-50026 (MG) (Jointly Administered)
MOTORS LIQUIDATION COMPANY AVOIDANCE ACTION TRUST, by and through the Wilmington Trust Company, solely in its capacity as Trust Administrator and Trustee, Plaintiff, vs. JPMORGAN CHASE BANK, N.A., individually and as Administrative Agent for Various Lenders Party to the Term Loan Agreement described herein, *et al.*, Defendants.	Adversary Proceeding Case No. 09-00504 (MG)

MEMORANDUM OF LAW IN SUPPORT OF TERM LENDERS' MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING FIXTURES AT SHREVEPORT ASSEMBLY

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JPMorgan Chase Bank N.A. ("JPMorgan") and the other signatory defendants respectfully submit this memorandum of law in support of their motion for summary judgment that the challenge of the Motors Liquidation Company Avoidance Action Trust (the "AAT") to the Term Lenders' lien on fixtures at GM's Shreveport Assembly plant ("Shreveport Assembly") is time-barred under Federal Rule of Bankruptcy Procedure 7001(2) and Section 546(a) of the Bankruptcy Code. Submitted herewith is the Declaration of Joseph C. Celentino (the "Celentino Decl.") which has annexed to it the relevant Louisiana fixture filings.

PRELIMINARY STATEMENT

The AAT's challenge to the Term Lenders' lien on fixtures at Shreveport Assembly is no different in substance than its failed challenge to the LDT fixtures lien. Its argument boils down to the proposition that "there are no fixtures" at Shreveport Assembly under Louisiana law because the fixture filing was made after the equipment was attached to the realty. But the AAT made the same point with respect to LDT under Michigan law, when it argued that there were no fixtures at the vacant field described by the metes and bounds annexed to the LDT fixture filing.

In both cases, the AAT relies upon the specific fixture filings, not the terminated Delaware UCC-1, to challenge the "validity, priority or extent of a lien." As the Court has already ruled, this type of challenge falls under Bankruptcy Rule 7001(2), and must be made in a complaint filed in an adversary proceeding. The AAT undeniably failed to assert such a claim in a complaint within the two-year statute of limitations for avoidance actions. So, just as with LDT, the AAT's challenge to the Term Lenders' lien on fixtures at Shreveport Assembly is time-barred.

The AAT tries to circumvent this conclusion by arguing that its challenge to the Shreveport fixtures is different because the equipment and fixtures that Old GM pledged as collateral for the Term Loan could never have been subject to the Term Lenders' lien because, under its reading of Louisiana law, equipment that is attached to realty only becomes a "fixture" if a fixture filing is made *before* the equipment was attached. But as the cases applying Bankruptcy Rule 7001(2) recognize, this is a distinction without a difference. However it is packaged, in substance, the AAT is challenging the "validity, priority or extent" of the Term Lenders' lien on the equipment at Shreveport Assembly. That claim had to be asserted in an adversary proceeding. And because no such adversary proceeding was filed — and, indeed, neither of the complaints even mentions the Louisiana fixture filing — the AAT's challenge to the Term Lenders' lien on virtually all of the fixtures at Shreveport Assembly based on the timing of the fixture filing is time-barred. *See* Point I *infra*.

In any event, the AAT's construction of Louisiana law is in error. In Louisiana, the existence of a pre-installation fixture filing determines only whether the fixture is subject to a valid and perfected security interest under the UCC, *not* whether the asset is in fact a "fixture." Both the Louisiana UCC, as well as Louisiana case law, are clear that regardless of whether there is a fixture filing, an asset that is installed permanently in a building is still a "fixture." Defendants have asserted a perfected security interest in the Shreveport Assembly fixtures since the outset of this case without challenge from the AAT until July 31, 2018. For this reason, the AAT's attempted end-run of Rule 7001(2) is baseless. *See* Point II *infra*.

The Court should therefore rule, as a matter of law, that the AAT's challenge is time-barred.

RELEVANT BACKGROUND

The facts relevant to this motion are few and undisputed:

A. The Term Loan to Old GM

General Motors Corporation ("Old GM") was the borrower under a $1.5 billion term loan facility (the "Term Loan") among Old GM, JPMorgan, as administrative agent, and a syndicate of lenders (the "Term Lenders"). The Term Loan was secured by Old GM's and Saturn Corporation's "equipment and fixtures," as well as certain other assets. The Term Lenders' security interests were perfected by (1) a Delaware UCC-1 filing covering GM "equipment and fixtures" at 42 GM plants (the "Delaware UCC-1"); (2) a Delaware UCC-1 filing covering Saturn "equipment and fixtures" at 42 GM plants; and (3) 26 state fixture filings. *Motors Liquidation Co. Avoidance Action Tr.* v. *JPMorgan Chase Bank, N.A. (In re Motors Liquidation Co.)*, 576 B.R. 325, 343 (Bankr. S.D.N.Y. 2017) (Glenn, J.) (the "Decision").

One of the state fixture filings was a UCC-1 financing statement that covered "ALL FIXTURES LOCATED ON THE REAL ESTATE" at Shreveport Assembly (the "Shreveport Fixture Filing"). Adv. Pro. Docket Nos. 37-2 at 74–75, 37-3 at 1 (capitalization in original). The Shreveport Fixture Filing contained a metes and bounds description of the Shreveport Assembly real estate and was filed with the Caddo Parish Clerk of Court and indexed in both the Caddo Parish Clerk's Real Estate Records and UCC Records. *Id.* A search of the Caddo Parish Clerk's historic database reflects that the Shreveport Fixture Filing was filed on February 16, 2007, and further reflects that it was still in effect on June 1, 2009, when the GM bankruptcy was filed. *See* Celentino Decl. Ex. 1 (Certified Copy of Caddo Parish Clerk of Court UCC Registry Record No. 09-1072021); Celentino Decl. Ex. 2 (Certified Copy of Caddo Parish Clerk of Court Real Estate ("Mortgage") Registry Record No. 2081439).

As is well known to the Court, after Old GM filed for bankruptcy, JPMorgan's counsel discovered that a UCC-3 termination statement that released the Delaware UCC-1 had erroneously been filed on October 30, 2008 by Mayer Brown, Old GM's counsel. The Second Circuit ultimately determined that the filing of the erroneous UCC-3 was effective to terminate the Delaware UCC-1, at least as to JPMorgan. However, the "[t]he security interest[s] in fixtures covered by the twenty-six [state] Fixture Filings were unaffected by the UCC-3 Termination Statement filed in Delaware." Decision at 346.

B. The AAT's Complaint

This adversary proceeding was initiated by the Old GM Creditors Committee on July 31, 2009. Adv. Pro. Docket No. 1 (the "Original Complaint"). The Original Complaint's "only asserted claim . . . was one to avoid liens based on the termination of the Delaware UCC-1 Statement." Decision at 346. The Original Complaint "did not challenge the validity, extent, or priority of any security interest arising from fixture filings." As with the fixtures at LDT, the Original Complaint did not challenge the Term Lenders' lien on fixtures at Shreveport Assembly or contain any allegations regarding the Shreveport Fixture Filing. *Id.*

An amended complaint (the "Amended Complaint") was filed on May 20, 2015 by the AAT, which was formed to prosecute claims related to the Term Loan as successor to the Creditors Committee. *Id.* at 347. Here too, the AAT challenged the perfection of the Term Lenders' lien on collateral covered by the Delaware UCC-1 financing statement. *See* Amend. Compl. ¶¶ 580–85 [Adv. Pro. Docket No. 91]; Decision at 347. There was no mention in the Amended Complaint of the Shreveport Fixture Filing or Shreveport Assembly.

C. The September 26, 2017 Decision

In its Decision, the Court ruled that "the two-year statute of limitations period for filing a complaint . . . passed as of June 29, 2011." Decision at 394. In light of this time bar,

Court ruled that the AAT's challenge to the perfection of the Term Lenders' lien on fixtures at LDT was precluded. *Id.* The Court found that:

(i) The AAT was seeking to challenge the priority of the Term Lenders' lien on fixtures at LDT based on a failure to perfect caused by alleged defects in the metes and bounds description annexed to the LDT fixture filing, *id.* at 393.

(ii) Bankruptcy Rule 7001(2) required such a challenge to the priority of the LDT fixtures lien to be made by filing a complaint in an adversary proceeding. *Id.*

(iii) In the existing adversary proceeding, the AAT had only challenged the liens whose perfection was based solely on the Delaware UCC-1. *Id.* at 393–94.

(iv) Paragraph 601 of the Amended Complaint "is simply another formulation of the Plaintiff's assertion that the value of the collateral under the Term Loan is inconsequential because the assets either are not fixtures, and thus are not part of the security interest, or are fixtures, but have very little value" and "does not properly plead an attack on the priority of the Defendants' security interest under Rule 8." *Id.* at 394.

The Court concluded that because the AAT did not timely dispute the priority of the LDT fixtures lien and the statute of limitations for filing a new adversary proceeding had passed, the AAT's challenge to the Term Lenders' lien on fixtures at LDT was time-barred. *Id.* at 392.

D. The AAT did not challenge the Term Lenders' lien on fixtures at Shreveport Assembly until July 31, 2018.

Exactly nine years after it commenced the adversary proceeding, on July 31, 2018, the AAT filed a letter with the Court in which it argued for the first time that approximately 9,020 assets at Shreveport Assembly — well over 90% of the disputed assets at Shreveport Assembly — could not be collateral for the Term Loan as a matter of Louisiana law. Adv. Pro. Docket No. 1058 at 6. While the AAT "acknowledge[d] that [the Term Lenders] have a perfected security interest in 'all fixtures' at [Shreveport Assembly]," it argued in the letter that these disputed assets "are not fixtures but realty and therefore not subject to Defendants'

perfected security interest." Adv. Pro. Docket No. 1066 at 1. The AAT never sought to amend its complaint to include this belated argument.

ARGUMENT

Under Federal Rule of Civil Procedure 56(a), incorporated by Bankruptcy Rule 7056(a), "[a] party may move for summary judgment, identifying each claim or defense — or the part of each claim or defense — on which summary judgment is sought." Fed. R. Civ. P. 56(a).

Summary judgment may be used to address a "threshold legal question, and partial summary judgment is suited to disposing of issues whose resolution depends entirely on the application of law." *Official Comm. of Unsecured Creditors* v. *AAF-McQuay, Inc. (In re 360networks (USA) Inc.)*, 327 B.R. 187, 189 (Bankr. S.D.N.Y. 2005). Accordingly, courts may use summary judgment to narrow or resolve disputes involving Federal Rule of Bankruptcy Procedure 7001. *See, e.g.*, Decision at 390–95.

This dispute is ripe for summary adjudication. The AAT cannot now, after more than nine years of litigation, raise an issue in a letter and thereby challenge the Term Lenders' lien on fixtures at Shreveport Assembly. The only question the Court needs to resolve is whether the Louisiana Law Challenge is a challenge to the "validity, priority or extent of a lien" for which a timely adversary proceeding was required by Federal Rule of Bankruptcy Procedure 7001(2). As will be shown below, it unquestionably is. The facts are uncontested and the Court may decide this issue as a matter of law.

I. UNDER BANKRUPTCY RULE 7001(2), THE AAT HAD TO COMMENCE AN ADVERSARY PROCEEDING TO CHALLENGE THE TERM LENDERS' SECURITY INTEREST IN THE FIXTURES AT SHREVEPORT ASSEMBLY.

A. Bankruptcy Rule 7001(2) requires that a challenge to the "validity, priority, or extent of a lien" must be asserted in an adversary proceeding.

The Federal Rules of Bankruptcy Procedure divide proceedings into two classes: contested matters and adversary proceedings. Contested matters are resolved as part of the main bankruptcy case. Adversary proceedings, in contrast, require the filing of a complaint, which commences a "self-contained trial" with "all the trappings of traditional civil litigation." *In re Mansaray-Ruffin*, 530 F.3d 230, 234 (3d Cir. 2008) ("[A]n adversary proceeding offers the parties the same opportunity for discovery as traditional civil litigation, and the rules regarding voluntary and involuntary dismissals, default judgments, and summary judgment are identical as well.").

Bankruptcy Rule 7001 dictates what types of claims must be brought as an adversary proceeding, rather than as a contested matter. It provides, in relevant part:

> An adversary proceeding is governed by the rules of this Part VII. The following are adversary proceedings: . . . (2) a proceeding to determine the *validity*, priority, or *extent of a lien* or other interest in property . . . .

Fed. R. Bankr. P. 7001 (emphasis added); *see also Celli* v. *First Nat'l Bank of N. N.H. (In re Layo)*, 460 F.3d 289, 294 (2d Cir. 2006) (acknowledging that "challenges to the validity of a lien must be brought in an adversary proceeding").

Given Rule 7001(2), courts have rejected efforts by a trustee to use the avoidance powers under Section 544(a) when the challenge was not brought as a formal claim in an adversary proceeding. *See* Decision at 392 ("'[T]o exercise the avoidance powers under . . . § 544, [absent consent], the trustee must file a complaint under Bankruptcy Rule Part VII's adversary proceedings.'" (quoting 4 William L. Norton, Jr., Norton Bankruptcy Law & Practice

§ 63:4 (3d ed. 2016)) (brackets in original)). "An adversary proceeding is commenced with the filing of a complaint that is subject to the pleading standards in the [Federal Rules of Civil Procedure]." *Id.* (citing Fed. R. Bankr. P. 7008). This means that "a pleading that challenges the [validity, priority, or extent] of a lien must contain 'a short and plain statement of the claim showing that the pleader is entitled to relief.'" *Id.* (quoting Fed. R. Civ. P. 8(a)(2)).

B. The AAT's claim that virtually all of the fixtures at Shreveport Assembly are not part of the Term Lenders' collateral as a matter of Louisiana law is a challenge to the "validity, priority or extent" of a lien.

In its Decision with respect to LDT, the Court addressed one of the three potential challenges to a lien that are required by Bankruptcy Rule 7001(2) to be brought in an adversary proceeding — a challenge to "priority." The Court noted that the AAT conceded that there had been a grant of a lien on fixtures at LDT, but contested its perfection, and thereby its priority. *Id.* at 393–94.

Here, not priority, but the two other forms of challenge governed by Bankruptcy Rule 7001(2) are at issue — "validity" or "extent" of the lien. The AAT's Louisiana Law Challenge asks the Court to "determin[e] . . . what assets are secured by Defendants' financing statement," and seeks to exclude all assets at Shreveport Assembly that were already attached when the Shreveport Fixture Filing was made. Adv. Proc. Docket No. 1058 at 6. This challenge falls within the plain language of Rule 7001(2) because it involves a challenge to the "*validity*, priority *or extent*" of the Term Lenders' lien.

The case law unanimously confirms that a challenge of this type must be brought in an adversary proceeding. In *In re Coss*, No. 02-65893, 2005 WL 5419055 (Bankr. N.D.N.Y. July 14, 2005), for example, CitiMortgage filed a proof of claim asserting that its loan was secured by a lien on both the debtor's land and her mobile home. The debtor sought confirmation of a plan that treated CitiMortgage's claim as secured only by the land, asserting

that the trailer was not affixed to the land and hence not covered by the mortgage. CitiMortgage failed to object and the plan, which valued CitiMortgage's secured claim at only the value of the land, was confirmed.

On CitiMortgage's motion for reconsideration, the court declined to disturb the valuation of the secured claim in the then-final confirmation order, but held that CitiMortgage's lien on the trailer would nonetheless survive the bankruptcy unless the debtor instituted an adversary proceeding challenging the lien. The court held that in treating the trailer as unencumbered by CitiMortgage's lien, the plan impermissibly modified "the *extent* of [a] lien, namely, the scope of the property subject to CitiMortgage's lien" because no adversary proceeding had been instituted. *Id.* at *7 (emphasis in original). According to the court, the issue of "whether the trailer is permanently affixed to the land on which it sits so as to be subject to the mortgage," *i.e.*, the "extent" of CitiMortgage's lien, had to be presented in a complaint. *Id.*

In re Beard, 112 B.R. 951 (Bankr. N.D. Ind. 1990), is to the same effect. There, the debtor confirmed a plan that treated a claim filed by the IRS as only partially secured on the ground that a portion of the security was property that was statutorily exempt from levy. As in *Coss*, the IRS had failed to object to the plan, and the debtor asserted that the plan was *res judicata* as to the IRS's lien. The court disagreed, holding that for "questions concerning the validity of a lien (the existence or legitimacy of the lien itself) . . . or its extent (the scope of the property encompassed by or subject to the lien) an adversary proceeding is required." *Id.* at 955. As the "challenge to the tax lien involve[d] its validity or extent — in terms of *whether or not the lien attached to the property in question*," the *Beard* court ruled that the tax lien survived plan confirmation and that an adversary proceeding was required to extinguish it. *Id.* at 956 (emphasis added).

Similarly, in *In re Mansaray-Ruffin*, the debtor challenged a lien on the ground that the note secured by the lien was unenforceable because the lender had violated the Truth-in-Lending Act. 530 F.3d at 230. The Third Circuit held that the challenge to the note was a challenge to the "validity" of the lien under Rule 7001(2). *Id.* at 238. And, as in the other precedents, the challenge had to be asserted in an adversary proceeding. Thus, as *Mansaray-Ruffin* makes clear, even a claim that a lien *could not have existed* under the relevant substantive law is a challenge to the validity or extent of the lien.[1] The AAT has made just such a claim here, arguing that the Term Lenders' fixtures lien could not have covered the 9,020 disputed fixtures at Shreveport Assembly as a matter of Louisiana law because, under the Louisiana UCC, the fixture filing was not made before the assets were affixed to the realty.

Thus, the argument raised by the AAT here is no different from the claims that were barred in *Coss*, *Beard*, and *Mansaray-Ruffin*. As in those cases, the AAT is improperly seeking to challenge the "validity" or "extent" of a lien without raising the challenge in a complaint. Indeed, the Court has already so ruled. The AAT previously sought to challenge the priority of the LDT fixtures lien by relying upon an asserted defect in the fixture filing. The AAT pointed to paragraph 601 of the Amended Complaint as its "hook." In rejecting the argument, the Court ruled that while the allegation in paragraph 601 of the Amended Complaint

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[1] *See also In re Anthony*, 550 B.R. 577, 580 (M.D. Fla. 2016) (debtor's challenge to a mortgage lien on the basis that the statute of limitations had run on the underlying debt required the filing of an adversary proceeding; "regardless of however else the relief sought might be characterized, in substance [the debtor] was seeking a determination as to the validity and extent of the mortgage"); *In re Bennett*, 312 B.R. 843, 847 (Bankr. W.D. Ky. 2004) ("'[v]alidity' . . . means the existence or legitimacy of the lien itself"; "'extent' means the scope of the property encompassed by or subject to the lien"); *In re Hudson*, 260 B.R. 421, 433 (Bankr. W.D. Mich. 2001) (defining "[v]alidity" by referencing *Webster's Dictionary* as "'having legal strength or force,' . . . *i.e.*, 'enforceable,'" and "[e]xtent" as "'the range (as of inclusiveness or application) over which something extends,' *i.e.*, the 'scope' or 'comprehensiveness'").

that the collateral was of "inconsequential" value may have been adequate to raise the general question of what assets are properly characterized as fixtures and what they were worth, it did not plead a challenge to a fixture lien based on the property description. In so ruling, the Court was clear that this adversary proceeding *only* challenges liens based solely on the terminated Delaware UCC. Decision at 393–94.

That same reasoning applies here: paragraph 601 simply "does not properly plead an attack on the" validity or extent of the Term Lenders' "security interest" in fixtures at Shreveport Assembly "under Rule 8." Decision at 394. And because the AAT never asserted the challenge to the Shreveport Fixture Filing in an adversary proceeding before the statute of limitations expired, its claim is time-barred.

II. LOUISIANA LAW RECOGNIZES THAT ASSETS CAN BE "FIXTURES" WHETHER OR NOT A FINANCING STATEMENT IS FILED.

In an effort to sidestep the applicability of Rule 7001(2) to its belated LDT challenge, the AAT argued that it was not seeking to exercise its avoidance power, but was merely asking the Court to rule that the only fixtures that were subject to the Term Lenders' concededly enforceable lien were located on the vacant parcel identified by the metes and bounds description attached to the LDT fixture filing. *Id.* at 391. The AAT has taken the identical tack with respect to the Louisiana Law Challenge, arguing that it is "not challenging the validity or priority" of the Term Lenders' lien but, rather, is only asking the Court for "a determination under Louisiana law that the approximately 9,020 assets permanently attached to the land and building at the Shreveport facility *as of the date of Defendants' fixture filing* are not fixtures but realty." Adv. Proc. Docket No. 1066 at 1 (emphasis added).

Notably, by its own admission, the central focus of the AAT's challenge is the date of the Shreveport Fixture Filing — a claim it has never identified in a complaint as the basis

for a challenge to the Term Lenders' lien. But the AAT tries to confuse the issue by asserting that, as a matter of Louisiana law, there was only realty at Shreveport Assembly in February 2007 when the fixture filing was made. According to the AAT, in Louisiana, in contrast to the other states where Term Loan collateral is located, for an asset to even qualify as a "fixture," a fixture filing must be made before the asset is attached to the realty. And because no fixture filing covering Shreveport Assembly was on file until 2007, none of the assets installed prior to that date count as "fixtures."

As explained in Point I above, this is just sophistry: a challenge to the validity and extent of the Term Lenders' lien is a challenge to the validity and extent of the lien, however it is packaged. A rose is a rose is a rose.

But even if the AAT could so end-run Rule 7001(2), which it cannot, the result would be the same because the AAT's characterization of Louisiana law is incorrect. The conclusion that the AAT attempts to draw from the unique Louisiana requirement for creating a UCC lien on fixtures — that, without a prior fixture filing, "there are no fixtures" in Louisiana — is baseless. Louisiana law clearly recognizes that, regardless of how a lien must be created or perfected under the UCC, equipment that is permanently installed is still a "fixture" if it meets the Louisiana fixture test.

Indeed, the very sections of the Louisiana UCC upon which the AAT's Louisiana Law Challenge is predicated refute its argument. Those sections recognize that goods permanently attached to the realty are fixtures regardless of whether a lien has been created on them. Thus, Section 9-334(a) provides that "[a] security interest under this Chapter may not be created or perfected in goods *after they become fixtures*." La. Stat. § 10:9-334(a) (emphasis added). Use of the phrase "after they become fixtures" — rather than another formulation such

as "after they attach to the realty" — shows that a good may become a fixture regardless of how a lien on that fixture must be created.

Similarly, Section 9-334(b) provides that, while subsection (a) prevents a lien from being created on fixtures once they are attached, fixtures nonetheless do exist post-attachment and may be subject to a real estate lien. *See* La. Stat. § 10:9-334(b) ("This Chapter does not prevent the creation of an encumbrance *upon fixtures* under real property law." (emphasis added). Once again, use of the phrase "upon fixtures" shows that a good remains a fixture even after it has become part of the realty, and may be subjected to a lien under real estate law.

Likewise, Section 9-109 clarifies that the Secured Transactions chapter of the Louisiana UCC applies to transactions that "create by contract a security interest in . . . fixtures, but *as to fixtures* only if the security interest has been perfected by a fixture filing *when the goods become fixtures*." La. Stat. § 10:9-109(a) (emphases added). Again, the clear implication is that "fixtures" exist regardless of whether they are subject to a fixture filing.

Finally, the Louisiana UCC's definition of the term "fixtures" itself does not mention the need for a fixture filing, financing statement, or the creation of a lien for an asset to constitute a fixture. Instead, Louisiana's UCC defines "fixtures" by drawing on the concept of "component parts" found in the state's Civil Code:

> *'Fixtures' means goods*, other than consumer goods and manufactured homes, *that after placement on or incorporation in an immovable have become a component part of such immovable* as provided in Civil Code Articles 463, 465, and 466, or that have been declared to be a component part of an immovable under Civil Code Article 467.

La. Stat. § 10:9-102(a)(41) (emphasis added).[2]

By defining “fixtures” in relation to the Civil Code’s definition of “component parts” instead of in relation to the filing of a financing statement, the Louisiana UCC again makes clear that the installation date of the asset has no bearing on whether it is a fixture as a matter of Louisiana law.

In short, the AAT’s contrivance to escape the strictures of Bankruptcy Rule 7001 has no basis in Louisiana law.

[2] Louisiana courts use the terms “component parts” and “fixtures” interchangeably. *See Serv. One Cable T.V.* v. *Scottsdale Ins. Co.*, No. 2011 CA 1469, 2012 WL 602209, at *4 (La. Ct. App. Feb. 10, 2012) (“Courts applying Louisiana law have equated the term ‘fixture’ with the term ‘component part’ as used in the Louisiana Civil Code”; “[t]he determination of *whether a movable has become a ‘fixture,’ i.e., a component part of an immovable*, will continue to be made by the relevant provisions of the Louisiana Civil Code.” (emphasis added)); *see also Willis-Knighton Med. Ctr.* v. *Caddo Shreveport Sales & Use Tax Comm’n*, 903 So. 2d 1071, 1079 n.5 (La. 2005) (“Other jurisdictions use the term ‘fixtures’ to refer to component parts, and that term is in fact used in Chapter 9 of Title 10 of the Revised Statutes . . . .”).

CONCLUSION

Just as with LDT, the Court should hold that the AAT's Louisiana Law Challenge is a challenge to the validity, priority, or extent of the lien for which an adversary proceeding was required. As no timely adversary proceeding was filed, the Louisiana Law Challenge is time-barred.

Dated: September 14, 2018
New York, New York

Respectfully submitted,

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