

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

NINGXI XU derivatively on behalf of  
CIVITAS WEST VILLAGE FUND, LP,

Plaintiff,

vs.

CIVITAS WEST VILLAGE FUND GP, LP;  
CIVITAS CAPITAL MANAGEMENT, LLC  
d/b/a Civitas EB-5 Capital,

Defendants,

and

CIVITAS WEST VILLAGE FUND, LP,

Nominal Defendant.

C.A. No. \_\_\_\_\_

**VERIFIED DERIVATIVE  
COMPLAINT PURSUANT TO  
SECTION 153.401 OF THE TEXAS  
BUSINESS ORGANIZATIONS CODE**

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Pursuant to Section 153.401 of the Texas Business Organizations Code (“TBOC”), Plaintiff Ningxi Xu, by her undersigned attorneys, derivatively and on behalf of Nominal Defendant Civitas West Village Fund, LP (the “Civitas Partnership”), files this Verified Derivative Complaint against Defendants Civitas West Village Fund GP, LP (“Civitas GP” or “General Partner”) and Civitas Capital Management, LLC d/b/a Civitas EB-5 Capital (“Civitas Management” or “Manager”). Plaintiff makes the following allegations based upon personal knowledge as to herself and her own acts, and upon information and belief as to all other matters, based on the investigation conducted by her counsel. This investigation included, among other things, a review of documents produced by the Civitas Partnership in response to Plaintiff’s books and records demands under Section 153.552 of the TBOC; the Civitas Partnership’s financial statements; the Civitas Partnership’s quarterly and annual reports; and other communications disseminated by Defendants to investors in the Civitas Partnership.

### **SUMMARY OF THE CLAIMS**

1. This is an action for breach of contract, breach of fiduciary duty and unjust enrichment against Defendants Civitas GP and Civitas Management, who are the general partner and the manager, respectively, of the Civitas Partnership, a Texas limited partnership. Plaintiff is one of 128 limited partners in the Civitas Partnership (“Limited Partners”).

2. From 2014 through at least 2017, Defendants charged the Civitas Partnership certain purported “marketing fees,” which Defendants also described elsewhere as “consulting fees.” In total, Defendants collected \$2,575,000 of these so-called “marketing fees”/“consulting fees” from 2014 through 2017. However, nothing in the relevant agreements between Defendants and the Limited Partners allowed Defendants to charge these fees.

3. In fact, based on the investigation conducted by Plaintiff and her counsel, it appears no services were ever performed in connection with these fees. After repeated inquiries and

demands by Plaintiff for an accounting and to inspect the Civitas Partnership's books and records, Defendants first reimbursed all "marketing fees"/"consulting fees" assessed against Plaintiff. Then, when Plaintiff continued her investigation into the fees charged to other Limited Partners, Defendants responded by reversing another \$1,565,000 of the "marketing fees"/"consulting fees" charged between 2014 through 2017. In the annual report for 2018 that was recently disseminated to the Limited Partners, Defendants attempted to explain this reversal, stating that, after performing a "review," they concluded that the services related to these fees had, in fact, not been "properly performed" and that the "consulting fees [ ] have not been incurred."

4. Defendants have nevertheless refused to reverse the balance of the "marketing fees"/"consulting fees," totaling approximately \$1 million. Defendants have also refused to provide any information concerning the purported services for which these fees were charged, the agreement related to the provision of these purported services, or any information concerning the "review" purportedly performed by Defendants. In short, Defendants have kept the Limited Partners in the dark about the "marketing fees"/"consulting fees," and the unusual circumstances in which only a portion of these fees was reversed.

5. By bringing this derivative action, Plaintiff seeks on behalf of the Civitas Partnership to recover for the damage sustained by the Civitas Partnership and its Limited Partners as a result of Defendants' breaches of contract and breaches of fiduciary duty.

#### **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction over the derivative claims in this action pursuant to 28 U.S.C. § 1332 because there is complete diversity between the parties, and the amount in controversy exceeds \$75,000, exclusive of interest and costs. Plaintiff is a citizen of New Jersey while Defendants are citizens of other states. This derivative action is not a collusive action to confer jurisdiction on a court of the United States that it would not otherwise have.

7. The Court has personal jurisdiction over each of the Defendants because each Defendant is an entity with principal headquarters in this District.

8. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because Defendants are found and/or reside and/or transact business within this District, and a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this District.

### **THE PARTIES**

9. Plaintiff is a resident of New Jersey and one of 128 Limited Partners in the Civitas Partnership. Plaintiff invested in the Civitas Partnership on or about March 19, 2012 and has been a Limited Partner continuously since that date through the present.

10. Nominal Defendant Civitas Partnership is a Texas limited partnership formed on January 31, 2012, with its principal place of business located at 1722 Routh Street, Suite 800, Dallas, Texas 75201.

11. Defendant Civitas GP is a Texas limited partnership and is the General Partner of the Civitas Partnership. The General Partner's principal place of business is located at 1722 Routh Street, Suite 800, Dallas, Texas 75201.

12. Defendant Civitas Management is the Manager of the Civitas Partnership. The Manager's principal place of business is located at 1722 Routh Street, Suite 800, Dallas, Texas 75201.

13. As reflected in their common principal place of business, the General Partner and the Manager are affiliated entities, and members of the "Civitas Capital Group."

### **RELEVANT FACTS**

#### **I. The EB-5 Immigrant Investor Program**

14. The United States Citizenship and Immigration Services ("USCIS") administers the EB-5 Immigrant Investor Program, a program that was created by Congress in 1992 to stimulate

the U.S. economy through job creation and capital investment by foreign investors. The program sets aside EB-5 immigrant visas for participants who invest in commercial enterprises approved by USCIS, sometimes administered by entities called “regional centers.”

15. The investment vehicles offered by regional centers to EB-5 foreign investors are typically offered as limited partnership interests or limited liability company units, which are managed by a person or entity other than the foreign investor, *i.e.*, the general partner or managing member of the investment vehicle.

16. To be eligible for an EB-5 visa through a regional center, a foreign investor must invest at least \$500,000, putting this money at risk for the purpose of generating a return. The investor may then petition USCIS for conditional permanent residency for a two-year period through an application called an I-526 petition. If at least ten U.S. jobs are created as a result of the foreign investor’s investment, the investor may apply to have the conditions removed from her/his visa and live and work in the United States permanently.

## **II. The Creation Of The Civitas Partnership**

17. The City of Dallas Regional Center (“CDRC”) is a regional center that was approved by USCIS on September 9, 2009. One of the investment vehicles offered by CDRC to foreign investors under the EB-5 program is the Civitas Partnership.

18. At all relevant times, the Civitas Partnership was an investment vehicle created for the purpose of making a \$64,000,000 senior secured term loan (the “Term Loan”) to an entity called FC 3700 McKinney Owner, LLC (the “Borrower”). The Term Loan was used by the Borrower to partially finance the development of a 381-unit multifamily (luxury apartment) community, as well as approximately 37,000 square feet of retail and restaurant space, located at the intersection of McKinney Avenue and Blackburn Street in Dallas, Texas.

19. The Term Loan carried an initial interest rate of 3.5%. On September 5, 2017, the Borrower exercised its option to extend the maturity of the Term Loan for a period of another two years, from January 1, 2018 to January 1, 2020. During this extension period, the Term Loan carries a higher interest rate of 4.5%.

20. There are 128 foreign investors in the Civitas Partnership, who collectively invested \$64 million. These foreign investors are all Limited Partners in the Civitas Partnership. Plaintiff made her investment on or about March 19, 2012, and is one of these investors/Limited Partners.

21. On December 17, 2012, the Civitas Partnership closed the \$64 million Term Loan with the Borrower, and commenced operations.

22. At all relevant times since the closing, the Term Loan has been performing. The luxury apartment development project, which the Term Loan financed, was completed in 2014. As of the end of 2018, the development project had an occupancy rate of 93.0%.

### **III. The Partnership Agreement**

23. The relationships between the General Partner, the Limited Partners and the Manager are set forth in a Limited Partnership Agreement, dated as of January 31, 2012 (“Partnership Agreement”).

24. Under Section 3.1(a) of the Partnership Agreement, the General Partner is responsible for all investment and investment management decisions to be undertaken on behalf of the Civitas Partnership, and for managing and administering the affairs of the Civitas Partnership. However, under a separate “Management Agreement,” the General Partner delegated to the Manager certain of the General Partner’s authority for making, and monitoring the performance of, the Term Loan, as well as other specified matters.

25. For performing their services on behalf of the Civitas Partnership, the General Partner/Manager earn certain fees. First, under Section 4.3 of the Partnership Agreement, each

Limited Partner was required to pay an Administrative Fee of \$40,000 directly to the Manager at the time of subscription for a limited partnership interest in the Civitas Partnership.

26. Second, under Section 4.4 of the Partnership Agreement, the Manager receives an annual “Management Fee” amounting to 2.0% of the aggregate capital contributions of the Limited Partners. Based on the aggregate \$64 million of capital invested by the 128 Limited Partners, the Manager receives an annual Management Fee of \$1,280,000. This is payable in quarterly installments of \$320,000 at the beginning of each fiscal quarter.

27. The Partnership Agreement also specifies who is responsible for bearing various expenses of the Civitas Partnership.

28. Specifically, Section 4.1 of the Partnership Agreement sets forth the “Partnership Expenses” that are to be borne by the Civitas Partnership. Partnership Expenses include generally the expenses of organizing the Civitas Partnership, operating the partnership, and dissolving and liquidating the partnership. The operating expenses that are to be borne by the Civitas Partnership include all out-of-pocket costs of the administration of the partnership, such as: accounting, audit, tax return preparation and legal expenses; the costs of holding any meetings of the partners; the costs of any liability insurance obtained on behalf of the Civitas Partnership and/or the General Partner; the costs associated with the maintenance of books and records of the Civitas Partnership; and the costs associated with the dissemination of checks, financial reports and notices, and providing other information to the Limited Partners.

29. Section 4.2 sets forth the “General Partner Expenses” that are to be borne by the General Partner and/or Manager. “General Partner Expenses” is defined to mean “all administrative and overhead expenses associated with the operation of the General Partner and/or the Manager for the services provided by the General Partner or the Manager to the Partnership.”



In other words, the General Partner and Manager are not permitted to shift these expenses on to the Civitas Partnership (*i.e.*, the Limited Partners). Section 4.2 expressly provides that the “General Partner Expenses paid by the General Partner and/or the Manager are not accounted for as contributions to or income of the [Civitas] Partnership and in no way affect the Capital Account of the General Partner or any Limited Partner hereunder.”

**IV. The General Partner/Manager Have Improperly Charged Investors “Marketing Fees”/“Consulting Fees” Since 2014**

30. Commencing in the 2014 tax year, the General Partner/Manager have charged the Civitas Partnership (*i.e.*, the Limited Partners) an amount described as “marketing fees.” In 2014, the amount of “marketing fees” charged was \$1,030,000. From 2015 through 2017, the amount of “marketing fees” charged was \$515,000 annually. In total, the Civitas Partnership has been charged \$2,575,000 since 2014.

31. These “marketing fee” charges are confirmed by the Civitas Partnership annual reports that are distributed to the Limited Partners. However, in the annual reports, the “marketing fees” are called something else – “consulting fees.” For example, in the 2017 Annual Report, Note 8 (“Consulting Services”), the General Partner/Manager state that the “consulting fees” are paid for “immigration consulting services which may be rendered to the [Civitas Partnership] as a whole or to particular Limited Partners in the [Civitas Partnership]. If such services are provided with respect to a particular Limited Partner, they are allocated to that Limited Partner.”

32. These “marketing fees”/“consulting fees” were improper. Based on Plaintiff’s investigation, it appears that no services were performed at all to earn the “marketing fees”/“consulting fees.”

33. First, the fact that the General Partner/Manager have called the fees a “marketing fee” in one document, and then a “consulting fee” in another document, raises significant red flags.

“Marketing fees” suggests fees charged for a marketing service of some form. In contrast, the annual reports describe the fees as charges for “immigration consulting services.” This inconsistent description calls into question the true character of the fees, whether any services were truly being provided, and whether the fees were validly charged to the Civitas Partnership.

34. Second, and more importantly, the Partnership Agreement nowhere permits such fees to be charged to the Limited Partners. Section 4.1, which sets forth the “Partnership Expenses” that are to be borne by the Civitas Partnership, does not refer to any “consulting fees” payable for “immigration consulting services.” Indeed, such a fee would be improper because the costs of all immigration services provided to EB-5 investors were included in the one-time \$40,000 “Administrative Fee” payable by all Limited Partner investors at the time of subscription to the Civitas Partnership.

35. Section 4.1 of the Partnership Agreement does state that “Partnership Expenses” include “all expenses incurred in connection with marketing fees payable to the Manager’s marketing partners in connection with such Limited Partner’s Interest in the Partnership.” This is the only reference to “marketing fees” in the entire Partnership Agreement. However, on its face, the “marketing fees” in Section 4.1 presuppose some form of *marketing* activity associated with the Limited Partners’ interest in the Partnership. As described above, the Civitas Partnership closed the \$64 million Term Loan on *December 17, 2012*. Accordingly, to the extent that there were any “marketing” activities associated with the Civitas Partnership, such activities would have ceased by the end of 2012, and there could not possibly have been any basis to charge “marketing fees” to the Civitas Partnership and the Limited Partners after that date.

36. Third, further red flags were raised as to the true nature of these fees when the General Partner/Manager attempted, through their counsel, to explain away these fees. In a

number of communications, the General Partner/Manager's counsel repeatedly asserted (without documentary support) that the "marketing fees"/"consulting fees" were for actual services provided to specific Limited Partners, and were allocated to those specific Limited Partners. However, this assertion is directly contradicted by the Civitas Partnership's 2018 annual report, which states that the services were "rendered to the Fund *as a whole*" (emphasis added). This is confirmed by the fact that, as reflected in the Partnership's financial statements, the Civitas Partnership was charged a fixed, annual amount of \$515,000 for the purported "marketing fees"/"consulting fees" (in 2014, the fixed amount was \$1,030,000). Such a fixed annual amount renders it highly improbable that the fees were "allocated" to specific investors. Otherwise, if only five investors took up the purported services in a particular year, each investor would have been allocated more than \$100,000 each for the services in that year – a highly unlikely scenario.

**V. Plaintiff's Investigation Into The "Marketing Fees"/"Consulting Fees"**

37. Given the uncomplicated nature of the investment made by the Civitas Partnership, there should have been regular distributions of income to the Limited Partners by now. Specifically, the Civitas Partnership generates revenue from investing its capital (\$64 million) entirely in the Term Loan, which carried an initial annual interest rate of 3.5% (increasing to 4.5% for the two-year period from January 1, 2018). The only major expense of the Civitas Partnership is the Management Fee payable to the Manager, which is an annual fee of only 2.0%. Therefore, so long as the Term Loan is performing (which it has been), the Civitas Partnership is cashflow positive, a fact confirmed by the Civitas Partnership's financial statements. Despite this, the General Partner/Manager have not made any distributions of income since the Term Loan closed.

38. On June 29, 2018, Ms. Xu made a demand on the General Partner/Manager to pay all distributions owed to the Limited Partners ("June 29, 2018 Demand"). In the June 29, 2018 Demand, Plaintiff noted that she had not received any distributions during the life of her investment

(the period from 2012 until the present). Plaintiff demanded that the General Partner/Manager account to her for all income and expenses attributable to her investment in the Civitas Partnership.

39. In approximately July 2018, in response to Plaintiff's June 29, 2018 Demand, the General Partner/Manager reversed and credited back to Plaintiff \$25,000 in "consulting fees" that had been charged specifically to Plaintiff during the previous years. As a result of this \$25,000 credit, the General Partner/Manager were able to make a \$11,200 distribution to Plaintiff. The reversals and distribution are reflected in a detailed reconciliation that was provided to Plaintiff on September 24, 2018.

40. By refunding Plaintiff the "consulting fees" assessed specifically to her, the General Partner/Manager conceded that there was no basis under the Partnership Agreement to charge these fees. However, the General Partner/Manager did not take any steps to reverse any "marketing fees"/"consulting fees" charged to any other Limited Partners in the Civitas Partnership.

41. Therefore, in numerous communications, Plaintiff continued to press the General Partner/Manager for an accounting of the "marketing fees"/"consulting fees." Plaintiff also demanded that the General Partner/Manager produce the books and records of the Civitas Partnership for inspection by her and her counsel.

42. On March 19, 2019, Plaintiff's counsel sent a further demand to the General Partner/Manager, demanding that they take all steps to investigate and recover, through litigation or otherwise, all "marketing fees"/"consulting fees" that had been charged to the Civitas Partnership since the 2014 tax year ("March 19, 2019 Demand").

**VI. The General Partner/Manager Have Now Conceded The Marketing Fees”/ “Consulting Fees” Were Improper.**

43. In response to Plaintiff’s investigation, her June 29, 2018 Demand and her March 19, 2019 Demand, the General Partner/Manager have now conceded that the “marketing fees”/“consulting fees” were improperly charged to the Civitas Partnership.

44. In March 2019, the General Partner/Manager disseminated the 2018 annual report for the Civitas Partnership (the “2018 Annual Report”). The 2018 Annual Report contained some startling revelations about the “marketing fees”/“consulting fees.”

45. In the 2018 Annual Report (Note 2), the General Partner/Manager disclosed that the Civitas Partnership “had previously incurred fees for immigration consulting services by Beijing Overseas Education and Immigration Consult Service, LTD. (“BOEICS”), which were rendered to the Fund as a whole.” The General Partner/Manager stated further that, “[b]ased on the Manager’s review of the immigration consulting agreement with BOECIS [*sic*], the Manager determined BOECIS had not properly performed the services in the consulting agreement. As a result, the Manager considers the consulting fees to have not been incurred due to BOECIS’ failure to properly perform under the terms in the immigration consulting agreement.” The General Partner/Manager concluded that, “[a]s such, the Manager has determined that \$1,565,000 of consulting fees estimated in prior years, were not earned by BOEICS and as a result have been recorded as a recovery to other income on the Statement of operations for the year ended December 31, 2018.”

46. Despite the significance of these events, the 2018 Annual Report provided little additional details and left many questions unanswered. The 2018 Annual Report did not explain who “BOEICS” was, what precisely was the nature of the “consulting” services rendered by BOECIS to the Civitas Partnership, when the “review” was purportedly performed by the

Manager, or what facts led the Manager to conclude that the services were “not properly performed” by BOEICS and that the associated fees “to have not been incurred.” Importantly, the 2018 Annual Report did not address the fact that the \$1,565,000 reversal did not completely undo the damage done to the Civitas Partnership, which was charged a total of \$2,575,000 from 2014 through 2017.

47. On April 18, 2019, Plaintiff’s counsel wrote a further letter to the General Partner/Manager, seeking explanations for the fate of the remaining \$1,010,000 in “marketing fees”/“consulting fees” that had not been reversed. Plaintiff also offered the General Partner/Manager a full opportunity to provide the purported agreement with the entity BOEICS, and any other documents reflecting the nature of the “consulting” services purportedly performed by BOEICS. In addition, Plaintiff offered the General Partner/Manager a full opportunity to provide documents evidencing and reflecting the “review” performed by the Manager of the “immigration consulting agreement,” that purportedly documented the conclusion by the Manager that BOEICS had “not properly performed the services” and that the associated fees “have not been incurred.”

48. Through their counsel, the General Partner/Manager have declined to provide any of this requested information.

### **DERIVATIVE ALLEGATIONS**

49. Plaintiff makes the following allegations pursuant to Fed. R. Civ. P. 23.1.

50. Plaintiff brings this action derivatively pursuant to Section 153.401 of the TBOC to redress injuries suffered by the Civitas Partnership as a direct result of the breaches of contract, breaches of fiduciary duty and other breaches by the Defendants.

51. Plaintiff has been a Limited Partner continuously since the commencement of operations of the Civitas Partnership. Plaintiff was a Limited Partner at all relevant times that the

General Partner/Manager improperly charged the “marketing fees”/“consulting fees” to the Civitas Partnership and the Limited Partners.

52. Plaintiff will fairly and adequately represent the interests of the Civitas Partnership and its Limited Partners in enforcing and prosecuting the partnership’s rights.

53. Pursuant to Section 153.401 of the TBOC, Plaintiff is entitled to bring this action on behalf of the Civitas Partnership to recover a judgment in the limited partnership’s favor because the general partner with authority to bring the action has refused to bring the action.

54. As set forth above, on June 29, 2018, Plaintiff made a demand on the General Partner/Manager to pay all distributions owed to the Limited Partners. On March 19, 2019, Plaintiff’s counsel sent a further demand to the General Partner/Manager, demanding that they take all steps to investigate and recover, through litigation or otherwise, all “marketing fees”/“consulting fees” that had been charged to the Civitas Partnership since the 2014 tax year.

55. As a result of the June 29, 2018 Demand and the March 19, 2019 Demand, the General Partner/Manager have reversed and credited back to the Limited Partners only \$1,565,000 of the cumulative total of \$2,575,000 in “marketing fees”/“consulting fees” charged to investors from 2014 through 2017, leaving an unreimbursed balance of \$1,010,000.

56. The General Partner/Manager have declined to produce any contractual agreements or other information in connection with the \$1,010,000 unreimbursed balance, including the purported agreement with BOEICS, or any other document reflecting the services that were purportedly performed.

**CLAIMS FOR RELIEF**

**COUNT ONE**

**(Against All Defendants For Breach Of The Partnership Agreement)**

57. Plaintiff repeats and realleges all of the preceding allegations as if fully set forth herein.

58. The General Partner and the Limited Partners are parties to the Partnership Agreement.

59. The Manager is also a party to the Partnership Agreement because, pursuant to a “Management Agreement” between the General Partner and the Manager, the General Partner delegated to the Manager certain of the General Partner’s authority under the Partnership Agreement for making, and monitoring the performance of, the Term Loan, as well as other specified matters.

60. The General Partner/Manager breached the Partnership Agreement by charging the Civitas Partnership and its Limited Partners “marketing fees”/“consulting fees” from 2014 through 2017. The Partnership Agreement does not permit the charging of these fees. In addition, the General Partner/Manager did not perform any real services, or secure the performance of any real services from any third party, that would justify the charging of these fees.

61. As a result of the General Partner/Manager’s breach of contract, the Civitas Partnership and its Limited Partners have suffered significant damages, as alleged herein.

**COUNT TWO**

**(Against All Defendants For Breach Of Fiduciary Duty)**

62. Plaintiff repeats and realleges all of the preceding allegations as if fully set forth herein.



63. As the General Partner of the Civitas Partnership, the General Partner owed and owes the Civitas Partnership and each of the Limited Partners the highest obligation of loyalty, good faith, due care, oversight and candor.

64. As the Manager of the Civitas Partnership, whose responsibilities were delegated by the General Partner, the Manager also owed and owes the Civitas Partnership and each of the Limited Partners the highest obligation of loyalty, good faith, due care, oversight and candor.

65. In conscious and careless disregard of their duties and responsibilities, the General Partner/Manager charged the Civitas Partnership and its Limited Partners “marketing fees”/“consulting fees” from 2014 through 2017, even though the General Partner/Manager did not perform any real services, or secure the performance of any real services from any third party, that would justify the charging of these fees.

66. In addition, in the annual reports disseminated to the Limited Partners, the General Partner/Manager repeatedly mischaracterized the fees as “consulting fees” and “marketing fees,” in order to prevent the Limited Partners from uncovering the truth about these fees. In this manner, the General Partner/Manager breached their fiduciary duty of disclosure and candor.

67. As a result of the General Partner/Manager’s breaches of fiduciary duty, the Civitas Partnership and its Limited Partners have suffered significant damages, as alleged herein.

**COUNT THREE**  
**(Against All Defendants For Unjust Enrichment)**

68. Plaintiff repeats and realleges all of the preceding allegations as if fully set forth herein.

69. From 2014 through 2017, the General Partner/Manager charged the Civitas Partnership and its Limited Partners “marketing fees”/“consulting fees,” even though the General

Partner/Manager did not perform any real services, or secure the performance of any real services from any third party, that would justify the charging of these fees.

70. The General Partner and Manager received and retained the purported “marketing fees”/“consulting fees.”

71. The receipt of these fees was unjust under the circumstances.

72. The General Partner/Manager should be ordered to disgorge all fees, benefits and other compensation received as a result of their wrongful conduct and breaches of fiduciary duties owed to the Civitas Partnership and the Limited Partners.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests the following relief:

- A. An order declaring that Plaintiff may maintain this action derivatively on behalf of the Civitas Partnership under Section 153.401 of the Texas Business Organizations Code and that Plaintiff is a fair and adequate representative of the Civitas Partnership;
- B. An order declaring that Defendants have breached the Partnership Agreement;
- C. An order declaring that Defendants have breached their fiduciary duties to the Civitas Partnership;
- D. An order declaring that Defendants were unjustly enriched;
- E. An order determining and awarding to the Limited Partnership and/or the Limited Partners the damages sustained as a result of the violations set forth above by Defendants, jointly and severally, together with pre-judgment and post-judgment interest thereon;
- F. An order requiring the General Partner/Manager to provide an accounting;
- G. Awarding Plaintiff’s attorneys’ fees, costs and disbursements for this action; and

H. Granting such other relief as this Court deems just and appropriate.

Dated: May 24, 2019



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**VERIFICATION OF PLAINTIFF**

I, Ningxi Xu, verify that I am a limited partner of Civitas West Village Fund, LP, as stated in the foregoing Verified Derivative Complaint ("Complaint"), and that I have read the Complaint, and approve its filing. I further verify that such Complaint is true and correct to the best of my knowledge, information and belief.

Pursuant to 28 U.S.C. § 1746, I verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED: May 23, 2019



A handwritten signature in black ink, appearing to read 'Ningxi Xu', is written over a horizontal line.

Ningxi Xu