

**Supreme Court of the State of New York**  
**Appellate Division, First Judicial Department**

Manzanet-Daniels, J.P., Mendez, Shulman, Higgitt, Hagler, JJ.

6917

BRUCE R. BENT,  
Plaintiff-Appellant,

Index No. 654827/23

Case No. 2025-05923

-against-

ANTHONY CIRONE, et al.,  
Defendants-Respondents.

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Emmet, Marvin & Martin, LLP, New York (John Dellaportas of counsel), for appellant.

Braverman Greenspun P.C., New York (William J. Geller of counsel), for respondents.

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Order, Supreme Court, New York County (Lori S. Sattler, J.), entered on or about June 27, 2025, which, insofar as appealed from as limited by the briefs, granted defendants' motion to dismiss the first amended complaint with respect to the direct and derivative claims asserted against individual defendants Anthony Cirone, Michael Dansky, Lee Kempler, and Lindsay Weber Siano, unanimously modified, on the law, to deny the motion as to the direct claims, and otherwise affirmed, without costs.

Plaintiff adequately stated direct claims against the individual defendants. The allegations that the individual board members all participated in, directed, controlled and/or approved the alleged tortious acts that were taken collectively by the condominium board are sufficient to sustain the claims at this pre-discovery stage (*see Fletcher v Dakota, Inc.*, 99 AD3d 43, 49 [1st Dept 2012]; *see also Stewart Tit. Ins. Co. v Liberty Tit. Agency, LLC*, 83 AD3d 532, 533 [1st Dept 2011]).

To the extent the complaint includes nonconclusory allegations of an animus-driven campaign of retaliatory actions that constitute tortious conduct, the direct tort claims are not properly dismissed at this stage based on the business judgment rule (*see Board of Mgrs. of the Alfred Condominium v Miller*, 202 AD3d 467, 469 [1st Dept 2022]; *Gochberg v Sovereign Apts., Inc.*, 119 AD3d 431, 432 [1st Dept 2014]), nor based on condominium by-law provisions that limit the personal liability of the board members except where the members engage in bad faith or willful misconduct.

However, the court properly dismissed the derivative claims that were asserted against the individual defendants on behalf of the condominium's unit owners. It is undisputed that plaintiff has standing to pursue the direct claims in this matter based on a proper assignment of all litigation claims against defendants by his wife, the unit owner. However, neither the assignment, nor any other instrument, transferred to him the membership interest in the condominium that is required for the assertion of derivative claims on behalf of the unit owners (*see Kober v Nestampower*, 243 AD3d 902, 904 [2d Dept 2025]; *MFB Realty LLC v Eichner*, 161 AD3d 661, 661 [1st Dept 2018]).

The motion court properly denied plaintiff's cursory request for leave to replead (*see Fletcher v Boies, Schiller & Flexner, LLP*, 75 AD3d 469, 470 [1st Dept 2010]). We

clarify that the denial was without prejudice to plaintiff renewing the request to replead  
(*see id.*).

THIS CONSTITUTES THE DECISION AND ORDER  
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: June 18, 2026

A handwritten signature in black ink, reading "Susanna Molina Rojas". The signature is written in a cursive, flowing style with a large initial "S".

Susanna Molina Rojas  
Clerk of the Court