

**Related Fund Mgt., LLC v Franklin St. Ins. Servs.,
LLC**

2025 NY Slip Op 30574(U)

February 18, 2025

Supreme Court, New York County

Docket Number: Index No. 654506/2023

Judge: Andrew Borrok

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 53

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RELATED FUND MANAGEMENT, LLC, NYSANDY12
CBP8 LLC, 2001 OLD CONCORD ROAD LLC

INDEX NO. 654506/2023

Plaintiff,

MOTION DATE 11/07/2024

- v -

MOTION SEQ. NO. 001

FRANKLIN STREET INSURANCE SERVICES,
LLC, FRANKLIN STREET FINANCIAL PARTNERS, LLC,

**DECISION + ORDER ON
MOTION**

Defendant.

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HON. ANDREW BORROK:

The following e-filed documents, listed by NYSCEF document number (Motion 001) 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34

were read on this motion to/for LEAVE TO FILE.

Upon the foregoing documents and for the reasons set forth below, Related Fund Management LLC, NYSANDY12 CBP8 LLC, and 2001 Old Concord Road LLC (collectively, **Related Fund**)’s motion for leave to file a second amended complaint (the **SAC**; NYSCEF Doc. No. 25) is GRANTED.

Pursuant to CPLR § 3025(b), leave to amend shall be freely given, and absent surprise or prejudice, leave should be denied only where “the proposed pleading fails to state a cause of action, or is palpably insufficient as a matter of law” (*Thompson v Cooper*, 24 AD3d 203, 205 [1st Dept 2005]; *Linares v City of New York*, 2024 NY Slip Op 06156 [1st Dept 2024]).

Pursuant to CPLR § 1003, parties may be added during any stage of the action by leave of court.

As relevant, pursuant to the amended complaint (the **AC**; NYSCEF Doc. No. 6) filed on October 3, 2023, Related Fund sued Franklin Street Insurance Services LLC and Franklin Street Financial Partner LLC (collectively, **Franklin**) as insurance agents and/or brokers based on their failure to procure insurance policies providing adequate coverage for two properties located in New York and Georgia during the May 30, 2022 to May 30, 2023 policy period. Franklin's answer (NYSCEF Doc. No. 17) filed December 19, 2023 largely denied the claims and otherwise set forth over 25 affirmative defenses. No preliminary conference was requested by the parties with the Court and on the record before the Court discovery appears to be in its nascent stage.

Now, Related Fund seeks to leave to file the SAC which purports to add (i) a third property located in Texas, (ii) commercial policies procured by Franklin for Related Fund for the previous policy period, May 30, 2021 to May 30, 2022, and (iii) an additional plaintiff, RRERF Meridian LLP (**Meridian**), the owner of the Texas property.

In their opposition papers, Franklin argues, in sum and substance, that (i) the Texas property is not insured under the same policy that the New York and Georgia policies are insured under, nor does the proposed SAC allege a relationship between Meridian and Related Funds, (ii) the losses attributed to the Texas property were mostly covered under its respective insurance policy (unlike the losses they argue are alleged in the AC, and (iii) Franklin will be substantially prejudiced by having to undertake additional preparation to defend the claims and amend its defense strategy. The arguments are wholly without merit as it relates to the instant motion.

Initially, the Court notes that Meridian's claims closely parallel Related Funds' own claims, alleging the same or similar causes of action against Franklin, and requesting the same or similar relief. To wit, the SAC alleges that each of the plaintiffs (including the additional plaintiff Meridian) are the owners of record for the three properties at issue in New York, Georgia, and Texas (NYSCEF Doc. No. 25 ¶ 11). All three properties were properties covered under insurance policies procured by Franklin for the May 30, 2022 to May 30, 2023 policy period (*id.* ¶¶ 12-14). The proposed SAC's claims involve the same core allegations for all three properties—namely, that Franklin committed acts, errors, and omissions as insurance agents and/or brokers in failing to secure the coverage requested by the plaintiffs for the properties, such that the plaintiffs' insurance claims for losses sustained from fire damage in 2022 were subsequently denied in whole or in part by the insurers in 2023 (*id.* ¶¶ 15-19). As such, there are undeniably common issues of law and fact with those set forth in the AC and it is not improper to add new parties at this stage (*see* CPLR § 3025[b]).

Leave to amend is proper because among other things the SAC is not utterly devoid of merit or palpably improper (*see Spina v Browning Hotel Props, LLC*, 230 AD3d 613 [2d Dept 2024]), and the SAC presents no surprise or undue prejudice (*see Kimso Apts, LLC v Gandhi*, 24 NY3d 403 [2014]; *Yujuico v Yujuico*, 2024 WL 168652, at *2 [NY Sup Ct 2024]; *Gade v Islam*, 2017 WL 3534921, at *3 [NY Sup Ct 2017]). For the avoidance of doubt, to the extent that Franklin argues that most of the losses sustained by the Texas property were already covered under certain policies, the SAC specifically seeks recovery of only those portions of certain sustained losses that were not insured by the policies as a result of Franklin's alleged acts, errors, or

omissions (NYSCEF Doc. No. 25 ¶¶ 27-29). Thus, leave to file the proposed SAC is

GRANTED.

Accordingly, it is hereby

ORDERED that Related Fund's motion (Mtn. Seq. No. 001) for leave to amend the complaint is

GRANTED; and it is further

ORDERED that the SAC in the proposed form (NYSCEF Doc. No. 25) shall be deemed served

upon service of a copy of this Decision and Order with notice of entry thereof; and it is further

ORDERED that the defendants shall serve an answer to the SAC or otherwise respond thereto

within 20 days from the date of said service; and it is further

ORDERED that the plaintiffs shall upload a clean copy of the SAC to NYSCEF within five days

of this Decision and Order; and it is further

ORDERED that the action shall bear the following caption:

RELATED FUND MANAGEMENT, LLC,
NYSANDY12 CBP8 LLC, 2001 OLD CONCORD
ROAD LLC, AND RRERF MERIDIAN LLP,

Plaintiff,

-against-

FRANKLIN STREET INSURANCE SERVICES,
LLC AND FRANKLIN STREET FINANCIAL
PARTNERS, LLC,

Defendants

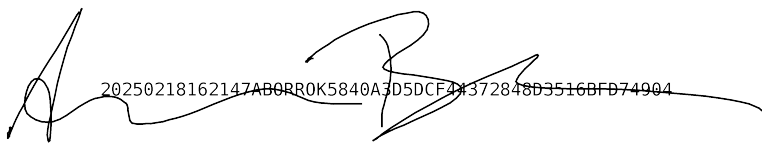
; and it is further

ORDERED that counsel for the moving party shall serve a copy of this order with notice of entry upon the County Clerk (60 Centre Street, Room 141B) and the Clerk of the General Clerk's Office (60 Centre Street, Room 119), who are directed to mark the court's records to reflect the parties being added pursuant hereto; and it is further

ORDERED that such service upon the County Clerk and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases (accessible at the "E-Filing" page on the court's website).

2/18/2025

DATE



ANDREW BORROK, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE