

**Bimini Partners LLP v Board of Mgrs. of the Morgan
Lofts Condominium**

2025 NY Slip Op 30649(U)

February 25, 2025

Supreme Court, New York County

Docket Number: Index No. 654266/2023

Judge: Arlene P. Bluth

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ARLENE P. BLUTH PART 14

Justice

-----X

BIMINI PARTNERS LLP

Plaintiff,

- v -

BOARD OF MANAGERS OF THE MORGAN LOFTS
CONDOMINIUM,

Defendant.

-----X

INDEX NO. 654266/2023

MOTION DATE N/A

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58

were read on this motion to/for INJUNCTION/RESTRAINING ORDER.

Plaintiff's motion for injunctive relief is decided as described below.

Background

This action arises out of a water leak in a condominium controlled by defendant. Plaintiff owns a unit in the building and contends that it was told in July 2023 that there was a water leak into its unit. It alleges that this leak was due to defendant's negligence of the building's rooftop water tank. Plaintiff argues that this is where the leak began. Plaintiff argues that defendant has refused to discuss permissible repair work in the unit and it has not provided any substantive information about the water leak.

In this motion, plaintiff seeks injunctive relief in the form of requiring defendant to provide all information concerning any insurance proceeds received by defendant arising out of the leak and to provide all insurance proceeds defendant has received (and later receives) as a result of the damage to plaintiff's unit caused by the flood as well as any documents relating to

these proceeds. It contends that defendant is required under the by-laws to provide both the insurance proceeds and related information to plaintiff. Plaintiff points out that defendant was required to provide the relevant information pursuant to the parties' preliminary conference order and it has refused to do so.

In opposition, defendant contends that it served its responses to plaintiff's discovery demands and attaches a copy of that response to the motion. Defendant also attaches the declaration sheet for its general liability policy; it points out this policy contained a \$2 million aggregate limit with a \$1 million limit for bodily injury. It contends that it has received payments from the insurer totaling \$92,383.31 (when factoring in a \$10,000 deductible). Defendant further adds that \$82,622.12 was allocated for plaintiff's unit. Defendant contends that it "is amenable and agreeable to releasing those funds, namely \$82,622.12, to the Plaintiff for damages sustained in Unit 1201" (NYSCEF Doc. No. 47, ¶ 19).

Defendant argues that the water leak was caused by a separate entity, Metro Group, that maintained and cleaned the rooftop water tank. It insists that someone from Metro Group left a hose in the cooling tower pan and, after a while, water started to flow into the 13th floor.

Discussion

As an initial matter, the Court finds that, on this record, the discovery portions of plaintiff's motion are now moot. Defendant has served responses to plaintiff's discovery demands and, critically, turned over the relevant insurance information including the policy as well as the incident report. To the extent that there are additional discovery disputes arising out of these responses, they can be handled during the discovery process or through discovery motions.

The Court also directs defendant to turn over the \$82,622.12 to plaintiff on or before March 5, 2025. In response to the motion seeking the funds, defendant insists it is “amenable” to doing this and so defendant should turn over this money that defendant admits is allocated to plaintiff.

The Court makes no determination about a possible violation of the subject by-laws, a discussion raised by both parties in connection with the request for injunctive relief. In this Court’s view, the motion is essentially moot, except for defendant’s obligation to promptly pay plaintiff the insurance proceeds it admits it has collected so far and allocated to plaintiff’s damages. To the extent that plaintiff seeks a finding that defendant breached the by-laws or a fiduciary duty, the Court observes that “[t]he purpose of a preliminary injunction is not to determine the ultimate rights of the parties, but to maintain the status quo until there can be a full hearing on the merits” (*R.C. v City of New York*, 229 AD3d 173, 176 [1st Dept 2024] [internal quotations and citation omitted]). In other words, there is no reason to opine about the substantive merits of plaintiff’s claims at this juncture of the case.

This case has had a single preliminary conference and so this Court declines to issue injunctive relief on the merits of plaintiff’s causes of action, especially in light of the fact that defendant has responded. The Court also denies plaintiff’s request for legal fees at this point as, again, there has been a single Court order concerning the issues raised by plaintiff in this motion.

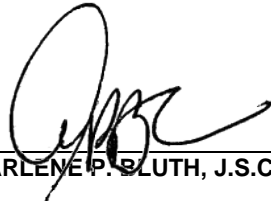
The Court recognizes that defendant devoted substantial time arguing that plaintiff has also ignored its discovery obligations. But this Court is not concerned with plaintiff’s purported refusal to respond to defendant’s discovery demands in the context of this motion. The fact that plaintiff has allegedly not responded to a discovery demand is not a valid justification for

defendant’s failure to provide discovery. Now that there has been a preliminary conference, nothing prevents defendant from making its own discovery motion.

Accordingly, it is hereby

ORDERED that plaintiff’s motion is denied as moot, except that defendant shall pay the \$82,622.12 to plaintiff on or before March 5, 2025.

See NYSCEF Doc. No. 46 regarding the next conference.

2/25/2025 DATE		 ARLENE P. SLUTH, J.S.C.
CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
	<input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED	<input type="checkbox"/> GRANTED IN PART <input checked="" type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT <input type="checkbox"/> REFERENCE