

**Sarasota Dev. Co., LLC v Board of Mgrs. of the 58-60  
Reade St. Condominium**

2025 NY Slip Op 32393(U)

July 7, 2025

Supreme Court, New York County

Docket Number: Index No. 153222/2023

Judge: Emily Morales-Minerva

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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. EMILY MORALES-MINERVA PART 42M

Justice

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INDEX NO. 153222/2023

SARASOTA DEVELOPMENT CO., LLC, DARREL FLANEL,

MOTION DATE 04/10/2025

Plaintiffs,

MOTION SEQ. NO. 005

- v -

THE BOARD OF MANAGERS OF THE 58-60 READE STREET CONDOMINIUM, ROBERT TIRSCHWELL, DAVEED FRAZIER, JOHN MENEILLY, ALEX FERRINI, THE ANDREWS ORGANIZATION, INC.

DECISION + ORDER ON MOTION

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 005) 156, 157, 158, 159, 160, 161, 162, 163, 165, 166

were read on this motion to/for AMEND CAPTION/PLEADINGS

APPEARANCES:

Altman & Company P.C (Steven Altman, Esq., of counsel) for plaintiffs.

Olshan Frome Wolosky LLP (Joseph B. Weiner, Esq., of counsel) for defendant.

HON. EMILY MORALES-MINERVA:

In this action for, among other things, breach of the Condominium Act (Article 9-B of the Real Property Law), defendant THE BOARD OF MANAGERS OF THE 58-60 READE STREET CONDOMINIUM (Condo Board) moves, by notice of motion (sequence number 005), pursuant to CPLR 3025 (b), for leave to amend its answer to assert a third counterclaim against plaintiffs

SARASOTA DEVELOPMENT CO., LLC and DARREL FLANEL (resident).<sup>1</sup>

Plaintiffs SARASOTA DEVELOPMENT CO. (unit owner), LLC and DARREL FLANEL (resident) appear, explicitly indicating that they do not oppose the proposed amendment.<sup>2</sup>

Leave to amend a pleading should be freely given absent a showing of substantial prejudice or surprise, unless the proposed amendment is palpably insufficient or patently devoid of merit (see CPLR § 3025 [b]; JP Morgan Chase Bank, N.A. v Low Cost Bearings N.Y., Inc., 107 AD3d 643, 644 [1st Dept 2013]).

"On a motion for leave to amend, plaintiff need not establish the merit of its proposed new allegations, but simply show that the proffered amendment is not palpably insufficient or clearly devoid of merit" (MBIA Ins. Corp. v Greystone & Co., Inc., 74 AD3d 499, 500 [1st Dept 2010] [internal citation omitted]).

Further, the party seeking to amend is "not required to support its allegations with evidence or an affidavit of merit"

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<sup>1</sup>Rule 3025 (b) of the CPLR provides, "A party may amend [their] pleading, or supplement it by setting forth additional or subsequent transactions or occurrences, at any time by leave of court or by stipulation of all parties. Leave shall be freely given upon such terms as may be just including the granting of costs and continuances. Any motion to amend or supplement pleadings shall be accompanied by the proposed amended or supplemental pleading clearly showing the changes or additions to be made to the pleading."

<sup>2</sup>On July 24, 2024, the court (S. Adams, J.S.C.) dismissed the instant action against defendants ALEX FERRINI, ROBERT TIRSCHWELL, DAVEED FRAZIER, JOHN MENEILLY, and THE ANDREWS ORGANIZATION (see NYSCEF Doc. No. 150, Decision and Order on Motion Sequence Number 003, dated July 24, 2024, and Doc. No. 151, Decision and Order on Motion Sequence Number 004, dated July 24, 2024). Therefore, defendant THE BOARD OF MANAGERS OF THE 58-60 READE STREET CONDOMINIUM is the only remaining defendant in the instant action.

(St. Nicholas W. 126 L.P. v Republic Inv. Co., LLC, 193 AD3d 488 [1st Dept 2021]; see also Sorge v Gona Realty, LLC, 188 AD3d 474, 475 [1st Dept 2020]). Courts have repeatedly emphasized this liberal standard (see Cherebin v Empress Ambulance Serv., Inc., 43 AD3d 364, 365 [1st Dept 2007] [affirming that leave should be granted unless there is prejudice]; see also NYAHS Servs., Inc., Self-Ins. Tr. v People Care Inc., 156 AD3d 99, 103 [3d Dept 2017] [holding that "[l]eave to amend pleadings should be freely granted" where there is no showing of unfair surprise or legal futility]).

Here, the Condo Board seeks to amend its pleading to include one additional counterclaim. Unit owner and resident of the unit at issue appear and expressly do not oppose the motion. They also do not allege that there exists any prejudice or surprise or that the counterclaim is patently devoid of merit.

Accordingly, it is

ORDERED that motion (Mot. Seq. No. 005) of defendant THE BOARD OF MANAGERS OF THE 58-60 READE STREET CONDOMINIUM is granted; it is further

ORDERED that the Second Amended Answer and Counterclaims in the form annexed to the motion shall be deemed served upon plaintiffs upon service of a copy of this order with notice of entry; it is further

ORDERED that defendant shall serve a copy of this order with notice of entry on plaintiffs SARASOTA DEVELOPMENT CO., LLC, and DARREL FLANEL, within ten days of such entry; it is further

ORDERED that, within 30 days from service of a copy of this order with notice of entry, defendant shall serve this order upon the County Clerk and the Clerk of the General Clerk's Office, who are directed to mark the matter dismissed against defendants ALEX FERRINI, ROBERT TIRSCHWELL, DAVEED FRAZIER, JOHN MENEILLY, and THE ANDREWS ORGANIZATION, and amend the caption to the following:

SARASOTA DEVELOPMENT CO., LLC, DARREL FLANEL,  
Plaintiffs,

-v-

THE BOARD OF MANAGERS OF THE 58-60 READE STREET CONDOMINIUM,  
Defendant;

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); it is further

ORDERED that plaintiffs shall file a response to the amended counterclaims, if any, within thirty days such service; and it is further

ORDERED that the parties shall appear for a status conference in Part 42M, Courtroom 574, 111 Centre Street on November 10, 2025 at 11:30 AM.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

07/07/2025  
DATE

*Emily Morales-Minerva*  
EMILY MORALES-MINERVA, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	REFERENCE