Fruchter v Dreyfuss
2026 NY Slip Op 31936(U)
May 4, 2026
Supreme Court, Kings County
Docket Number: Index No. 508796/2026
Judge: Reginald A. Boddie
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At an IAS Commercial Part 12 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at 360 Adams Street, Borough of Brooklyn, City and State of New York on the 4th day of May 2026.

P R E S E N T:
Honorable Reginald A. Boddie
Justice, Supreme Court

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LAZAR FRUCHTER, et al.,

Plaintiffs,

-against-

DANIEL DREYFUSS, et al.,

Defendants.

Index No. 508796/2026

Cal. No. 18 MS 2

Decision and Order

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The following e-filed papers read herein: NYSCEF Doc Nos.

MS 2: 1-6; 25-52; 61-66; 70-74; 76; 78; 83; 92-104; 106-108

Plaintiffs Lazar Fruchter, LF Myrtle LLC, and Andrew Fruchter's motion for a preliminary injunction is decided as follows:

Background

This action arises out of a dispute between investors in a syndicate (the "Syndicate"), sponsored and controlled by Madison Realty Capital ("Madison"), which acquired and owned two Brooklyn properties: 78 Prospect Park West, Brooklyn, New York, and 273 South 2nd Street, Brooklyn, New York (collectively, the "Properties"). Lazar Fruchter ("Lazar") invested through LF Myrtle LLC ("LF Myrtle"), and Lazar's son, Andrew Fruchter ("Andrew"), invested directly and through LF Myrtle. Daniel Dreyfuss ("Dreyfuss") invested through Enge LLC ("Enge").

Madison was the sponsor and control person of the Syndicate, and LF Myrtle, Andrew, and Enge were passive equity investors.

In or around late 2024 and early 2025, Madison advised the Syndicate's equity investors that it was likely to sell the Properties at a steep loss, returning approximately 25 percent on the dollar. According to plaintiffs, "[p]rior to the 2025 restructuring, Dreyfuss, through Enge, held approximately 66.19% of the equity with invested total Capital of $14,804,638.48; Lazar, through LF Myrtle, held approximately 15.50% of the equity with invested Capital of $3,466,904.22; and Andrew held approximately 1.76% of the equity with invested Capital of approximately $394,008.30—together representing approximately 83.45% of all invested equity in the transactions." Rather than accepting the sale, Lazar and Dreyfuss agreed to pursue a restructuring plan that contemplated buying out the remaining investors and purchasing the existing $20 million mortgage loan held by Flagstar Bank. In or around July 2025, Flagstar Bank agreed to sell the loan at about a $2 million discount, and Enge Financing LLC ("Enge Financing") purchased the loan for $17,957,000 with its own funds. Enge also acquired the entirety of the other minority membership interests for $756,025.43.

Following the closings on July 31 and August 1, 2025, the parties continued to negotiate amended operating agreements governing the restructured entities, but no agreements were executed or delivered, and negotiations continued into September 2025 without resolution.

In December 2025, Enge Financing issued demand letters to plaintiffs, Enge, and the restructured entities, demanding immediate funding allegedly required to satisfy mortgage obligations to Enge Financing. Plaintiffs rejected the demands. On or about March 4, 2026, plaintiffs filed their initial complaint in the United States District Court for the Southern District

of New York. Plaintiffs voluntarily withdrew the complaint and filed this action on or about March 11, 2026.

Plaintiffs contend that the restructuring was intended to be "debt-free," where, although the loan was acquired through a loan-purchase structure, the parties allegedly agreed that the loan would function as an equity investment because the Properties' net operating income could not support a new conventional debt service. Plaintiffs contend that total capital invested was $37,378,576.43, including the proportionate value of the exiting member's capital, with Enge's invested and imputed capital being $32,514,753.38 (86.99%), LF Myrtle's invested and imputed capital being $4,453,938.36 (11.92%), and Andrew's invested and imputed capital being $409,884.69 (1.10%). The capital, functioning as equity, would yield approximately 3% to 4% annually based on the projected net operating income. Plaintiffs allege that on or about February 12, 2025, Lazar met with Ryno Geldenhuys ("Geldenhuys"), a representative of Primafides (Suisse) S.A., which acts as a trustee for the Enge G Trust, which holds a 99.9% interest in Enge and a 100% interest in Enge Financing. Plaintiffs further allege that it was agreed at that meeting that the debt was to be acquired with equity and that the restructured entities would have no debt to service. Plaintiffs also allege that the transaction adopted a loan-purchase structure solely to avoid incurring taxable cancellation-of-debt income and potential mortgage recording tax. Plaintiffs argue that defendants subsequently pivoted from this understanding following the closings and demanded immediate repayment of the entire purported mortgage balance, in direct conflict with the parties' agreement and Geldenhuys's express representations.

Defendants dispute the existence of any such "debt-free restructuring agreement" and contend that there was never a meeting of the minds. Defendants assert that, in connection with the restructuring, plaintiffs were expected to contribute approximately $1 million in capital but

failed to do so, while defendants contributed the funds necessary to complete the transaction. According to defendants, the loan acquisition created a valid and enforceable debt obligation held by Enge Financing, and they were therefore entitled to enforce the loan according to its terms.

On or about March 11, 2026, along with the Summons and the Complaint, plaintiffs filed the instant order to show cause for a temporary restraining order ("TRO"), preliminary injunction, and temporary receiver. Plaintiffs contend that immediate injunctive relief is necessary to preserve the status quo and prevent irreparable harm. Plaintiffs argue that the threatened harms extend beyond purely monetary injury. Plaintiffs point to risk of foreclosure, dilution of ownership interests, loss of governance rights, and diversion of rents and reserves. In their view, these actions would "render any later judgment ineffectual" because they would alter control and ownership of the properties in ways that could not readily be undone.

In opposition, defendants argue that plaintiffs have failed to satisfy any of the requirements for injunctive relief. Defendants contend that plaintiffs cannot demonstrate a likelihood of success because their claims rest on an alleged agreement that was never finalized or executed. According to defendants, plaintiffs' theory improperly seeks to treat drafts and unsigned documents as a finalized agreement, despite the absence of mutual assent. Defendants further argue that plaintiffs' claims are legally deficient, asserting that they are barred by the statute of frauds and fail for lack of contract formation. In addition, defendants assert that Dreyfuss lacked authority to bind the Enge entities, which are controlled through a trust structure, and therefore, any alleged oral agreement with Dreyfuss is not enforceable against those entities. Defendants maintain that the loan acquisition created valid and enforceable debt obligations, and that the demands and notices issued in December 2025 were consistent with those rights. Defendants further contend that plaintiffs' alleged injuries are economic in nature and compensable by damages and therefore do

not justify the drastic remedy of injunctive relief. Defendants also oppose the request for a receiver, arguing that such relief is an extremely drastic remedy and is unwarranted on the present record.

In reply, plaintiffs contend that defendants' factual narrative is contradicted by the contemporaneous record. Plaintiffs argue that defendants' statute of frauds and contract formation defenses do not defeat provisional relief. Plaintiffs also contend that the absence of executed agreements reflects ongoing negotiations rather than the absence of an agreement in principle. Plaintiffs further dispute that they were obligated to make the alleged $1 million capital contribution, contending that no binding agreement imposing such an obligation was ever finalized. Plaintiffs reiterate that defendants' threatened enforcement actions, including foreclosure, are imminent and that the resulting harm cannot be adequately compensated by money damages.

On or about March 13, 2026, Hon. Devin Cohen signed the order to show cause, granting the TRO in part and denying it in part. The TRO restrains defendants from (a) accelerating or assigning the challenged debt instruments; (b) enforcing or acting upon the challenged capital calls or dilution remedies; (c) transferring, sweeping, or diverting non-ordinary-course cash, rents, reserves, or proceeds of the properties; and (d) destroying, altering, or concealing books, records, communications, or electronically stored information relevant to the transactions and conduct alleged in the Complaint.

Discussion

To be entitled to a preliminary injunction, the movant must establish "(1) a likelihood of success on the merits, (2) irreparable injury absent a preliminary injunction, and (3) a balancing of the equities in the movant's favor" (*538 Morgan Ave. Props., LLC v 538 Morgan Realty, LLC*, 186

AD3d 657, 658 [2d Dept 2020] [citations omitted].) "A court evaluating a motion for a preliminary injunction must be mindful that the purpose of a preliminary injunction is to maintain the status quo and not to determine the ultimate rights of the parties" (*id.* [citations and internal quotation marks omitted]). "Although the purpose of a preliminary injunction is to preserve the status quo pending a trial, the remedy is considered a drastic one, which should be used sparingly" (*Minzer v Minzer*, 206 AD3d 721, 723 [2d Dept 2022] [citations and internal quotation marks omitted]).

"As to the likelihood of success on the merits, a prima facie showing of a right to relief is sufficient; actual proof of the case should be left to further court proceedings" (*McLaughlin, Piven, Vogel v Nolan & Co.*, 114 AD2d 165, 172-173 [2d Dept 1986] [citations omitted]). "The second element of proof required for a preliminary injunction is proof that irreparable injury will occur if the relief is denied. Irreparable injury, for purposes of equity, has been held to mean any injury for which money damages are insufficient" (*id.* at 174 [citations omitted]). "Finally, a court must balance the equities. It must be shown that the irreparable injury to be sustained is more burdensome to the plaintiff[s] than the harm caused to defendant[s] through imposition of the injunction" (*id.* [citations and internal quotations marks omitted]).

Here, plaintiffs fail to demonstrate a likelihood of success on the merits regarding the purported "debt-free restructuring agreement." The issues raised by defendants, including lack of contract formation, lack of consideration, and the statute of frauds, militate against plaintiffs' claims. "While issues of fact alone will not justify denial of a motion for a preliminary injunction, these issues subvert the plaintiff[s'] likelihood of success on the merits in this case to such a degree that it cannot be said that the plaintiff[s] established a clear right to relief" (*Milbrandt & Co., Inc. v Griffin*, 1 AD3d 327, 328 [2d Dept 2003] [citations omitted]). Since the facts are in sharp dispute, it cannot be said that plaintiffs established a clear right to preliminary injunctive relief (*see*

Advanced Digital Sec. Solutions, Inc. v Samsung Techwin Co., Ltd., 53 AD3d 612, 613 [2d Dept 2008]).

Plaintiffs also fail to demonstrate irreparable harm. The alleged injuries arise from an investment dispute involving quantifiable economic interests in entities that hold real properties. Plaintiffs' interests in the Properties are commercial, involving only the potential loss of their investment, as opposed to the loss of a home or an unquantifiable interest in a unique piece of property (*see Lombard v Station Sq. Inn Apts. Corp.*, 94 AD3d 717, 721 [2d Dept 2012]; *see also Speyside Holdings, LLC v Nebari Natural Resources Credit Fund I, LP*, 243 AD3d 714, 716 [2d Dept 2025]). To the extent plaintiffs claim potential loss of their ownership interests or economic rights, such losses are compensable by money damages. Accordingly, plaintiffs fail to show that they would sustain irreparable harm absent a preliminary injunction.

Further, the balance of the equities does not favor plaintiffs. Defendants assert that they funded approximately $18 million for the acquisition of the loan and the buyout of the minority investors, while plaintiffs failed to contribute the promised capital of approximately $1 million. In contrast, plaintiffs seek to restrain defendants from exercising rights notwithstanding their own alleged non-performance. Under these circumstances and in the absence of irreparable harm, granting injunctive relief would interfere with defendants' claimed rights without a clear showing of entitlement by plaintiffs. The equities therefore do not weigh in favor of granting the requested relief.

"The appointment of a temporary receiver is an extreme remedy resulting in the taking and withholding of possession of property from a party without an adjudication on the merits. Therefore, it is to be granted only where the applicant makes a clear evidentiary showing of the necessity for the conservation of property and the protection of the interests of the litigant"

(*Schachner v Sikowitz*, 94 AD2d 709, 709 [2d Dept 1983] [citations and internal quotations marks omitted]). Plaintiffs have not sufficiently established by clear and convincing evidence the need for such a drastic remedy.

Conclusion

Based on the foregoing, plaintiffs' motion is denied in its entirety. Any TRO previously issued is vacated. Any arguments not expressly addressed herein were considered and deemed to be without merit or unnecessary to address given the Court's determination.

ENTER:

Honorable Reginald A. Boddie
Justice, Supreme Court

HON. REGINALD A. BODDIE
J.S.C.