

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

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JUANA TOPOROVSKY

Plaintiff,

Index No: 817070/2025E

-against-

AMENDED COMPLAINT

ARIE TOPOROVSKY, ASHER TOPOROVSKY, ESTHER TOPOROVSKY, ARTHUR COURT REALTY MGT. CORP, ARIE TOPOROVSKY, ASHER TOPOROVSKY, and ESTHER TOPOROVSKY as Executors OF THE ESTATE OF RINALDO TOPOROVSKY, VAN COURTLANDT ASSETS LLC and JOHN GOJCAJ.

Defendants.

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Plaintiff JUANA TOPOROVSKY (“Plaintiff” or “Juana”), as and for her Amended Complaint against Defendants ARIE TOPOROVSKY (“Arie”), ASHER TOPOROVSKY (“Asher”), ESTHER TOPOROVSKY (“Esther”), ARTHUR COURT REALTY MGT. CORP. (“Arthur Court”), ARIE TOPOROVSKY, ASHER TOPOROVSKY, and ESTHER TOPOROVSKY as Executors of the ESTATE OF RINALDO TOPOROVSKY (the “Estate” and with Arie, Asher, Esther, and Arthur Court, the “Majority Members”), VAN COURTLANDT ASSETS LLC (the “Company”), and JOHN GOJCAJ (“Gojcaj”) respectfully alleges as follows:

INTRODUCTION

1. For years, the Majority Members withheld information about the Company, its operations, and even who was making decisions and acting on its behalf from Juana, its longtime minority member, who provided the initial hard funding for its purchase of real property. At the same time, the Majority Members neglected and drove what was a once successful entity into the ground and tried to sell the Company’s real property (its only asset) behind Juana’s back in a blatant, and knowing, violation of the Company’s operating agreement, which contains detailed

procedures that must be followed before the Company may sell the property at issue to ensure the rights of all members of the Company are protected.

2. Juana holds at least 30% of the ownership interest in the Company. The remainder of the ownership interests in the Company are believed to be held by a combination of Arie and Asher (Juana's nephews), Esther (their mother), the Estate (Rinaldo was Juana's brother who passed away in early 2025), and Arthur Court (an entity that was controlled by Rinaldo and is believed to now be controlled by Asher and Arie).

3. The Company's assets are apartment buildings located off the Moshulu Parkway (the "Property"). The Company's operating agreement (the "Operating Agreement") contains express provisions regarding the procedures that must be followed if a majority of membership interests wish to sell the Property, including notice, a joint valuation process, and the opportunity for members to purchase based on that valuation process, all of which must be followed before the Company will even entertain negotiations with a third party. The Operating Agreement also sets a minimum price at which the Property must be sold.

4. In recent years, operation of the Company has become opaque. Juana was denied access to information and questions from her or her representatives went unanswered. Rinaldo, who had been the Company's Manager, seems to have relinquished authority to Asher and Arie who appeared to start acting on behalf of the Company and serving as de facto Manager(s).

5. Asher's and Arie's management (and Rinaldo's to the extent he remained involved) was a disaster, however, and led to neglect of the Company's apartment buildings, at least one federal lawsuit against the Company (and Asher and Arie in their personal capacities), and a purported inability to service the Company's mortgage.

6. The Majority Members have never accounted for how, under Asher, Arie, and Rinaldo, the Company managed to waste what was a strong financial position following the Company's cash out mortgage in 2017 when at least \$2 million of the mortgaged funds should have been left in the Company.

7. The mismanagement culminated when the Majority Members went behind their 90-year-old relative's back and marketed the Property to third parties for months before entering into a contract to sell the Property in a transaction which will benefit the Estate (and Asher and Arie as its beneficiaries) but have devastating financial and tax consequences for the Company and Juana. Then, after executing the contract to sell with Defendant Gojcaj, Arie informed Juana that a sale was fait accompli.

8. Accordingly, Juana brings this action seeking (i) an equitable accounting requiring that the Defendants who control the Company account for the use of Company funds that has led the Property not being maintained, lawsuits against the Company, and the Company's purported inability to service its debts; (ii) a declaration that the purchase and sale agreement that Arie purported to sign on behalf of the Company is void and without legal effect; and (iii) a permanent injunction compelling the Majority Members to follow the provisions of the Operating Agreement prior to any sale of the Property.

THE PARTIES

9. Plaintiff Juana Toporovsky is a resident of Westchester County. Juana has at least a 30% membership interest in the Company.

10. Upon information and belief, Defendant Arie Toporovsky is a resident of New York, New York.

11. Upon information and belief, Defendant Asher Toporovsky is a resident of Teaneck, New Jersey.

12. Upon information and belief, either Arie, Asher, or both in combination, have been and are acting as the Manager for the Company.

13. Upon information and belief, Defendant Esther Toporovsky is a resident of Teaneck, New Jersey.

14. In tax returns filed by the Company prior to Rinaldo's passing, Esther was identified as holding a 1% ownership interest in the Company.

15. Defendant Arthur Court Realty Mgt. Corp. is a domestic corporation, which, at one time, held (and may still hold) 7.5% of the membership interests of the Company. Upon information and belief, Arie and Asher control Arthur Court.

16. Recent tax returns for the Company do not show Arthur Court as having any interest in the Company. Juana, however, has never received any notice or documentation regarding Arthur Court's membership interests being transferred, and per the Operating Agreement, for Arthur Court to have validly transferred its membership interests, it must have first offered those interests to all members in proportion to their respective interests (i.e., 30% of Arthur Court's interests must have been offered to Juana prior to any transfer).

17. Prior to his passing, Rinaldo Toporovsky was the majority owner of the Company and purportedly held between 62.5% and 69% of the Company's membership interests.

18. Upon information and belief, the Estate of Rinaldo Toporovsky, to the extent such interests have not yet been distributed, holds between 62.5% and 69% of the Company's membership interests.

19. Arie, Asher, and Esther have each been appointed as Executors of the Estate. They are named in their individual capacities and as Executors of the Estate.

20. Van Courtlandt Assets LLC (i.e., the Company) is a limited liability company formed under the laws of New York.

21. The Company's only assets are real property located at 155-165 East Mosholu Parkway North and 171 East Mosholu Parkway North, Bronx, New York (i.e, the Property).

22. Defendant John Gojcaj is named as an interested party whose rights will be impacted by this case.

23. On or about July 23, 2025, Gojcaj, as purchaser, signed a purchase and sale agreement to purchase the Property from the Company for \$8.5 million.

JURISDICTION AND VENUE

24. This Court has jurisdiction over this action under CPLR §§ 301, 302(a)(1), and (4).

25. Venue lies in this Court pursuant to CPLR §§ 503(a) and 507, as the subject Property is located in this County, and a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this County.

STATEMENT OF RELEVANT FACTS

The Company

26. The Company was formed in or about 1999 for the purpose of acquiring, owning, managing, and disposing of the Property.

27. The original members of the Company were O.T. Company L.P., of which Arthur Court was the general partner, and 2683 Morris Avenue LLC.

28. Juana and her brother, Rinaldo, were the ultimate beneficial owners of the original members.

29. Juana provided the hard funding for the initial purchase of the assets of both O.T. Company L.P. and 2683 Morris Avenue LLC (by its predecessor in interests, 2683 Morris Avenue Corp.) with funds that she had earned and saved working as a pediatrician in an underserved area of the Bronx.

30. In 2007, Juana, Rinaldo, and Arthur Court directly acquired the membership interests of the original members.

31. Specifically, Juana acquired a 30% membership interest in the Company, which she still holds, Rinaldo acquired a 62.5% interest in the Company, and Arthur Court acquired a 7.5% membership interest in the Company. These changes are documented in a 2007 amendment to the Operating Agreement.

32. The Operating Agreement provides that except for transfers to immediate family members, no member may transfer its interests, or any part thereof, before offering its interests to the other members in proportion to the ownership interests of the other members.

33. As a corporation, Arthur Court has no immediate family members. Accordingly, for Arthur Court to have validly transferred its interests in the Company, it would have needed to first offer 30% of its interest (2.25% of the Company's total membership interest) to Juana.

34. Arthur Court never offered its membership interests, or a portion thereof, to Juana to purchase nor did it or the Company provide any notice of a purported transfer of Arthur Court's membership interests.

35. Company tax returns starting as early as 2022, however, reflect Rinaldo as holding a 69% membership interest, Esther having a 1% membership interest, and Arthur Court as not having a membership interest in the Company.

36. The Company's Articles of Organization provide that the Company is to be managed by one or more managers.

37. The Operating Agreement identifies the duties of the Manager, which include the obligation to (1) prepare and distribute to all members by December 31, an operational budget for the upcoming year, which must note specially significant items of expense and concern; and (2) annually cause to be prepared and furnished to each member a balance sheet, statement of profit and loss and capital accounts.

38. The Operating Agreement provides that the Manager may not assign his right to manage, nor may he subcontract management of the Property except to an entity that he controls.

39. Rinaldo served as the Manager of the Company.

40. Rinaldo passed away in January 2025. Years before Rinaldo passed, Asher began taking on a more active role in the Company and since Rinaldo's passing, Arie has signed various documents on behalf of the Company.

41. Upon information and belief, despite the requirements and restrictions on assigning management responsibilities in the Operating Agreement, for several years before Rinaldo's passing, and in the time since, Asher and Arie have functionally acted as Manager(s) of the Company.

42. Upon information and belief, in the years prior to Rinaldo's passing, Rinaldo delegated decision making and managerial responsibility to Asher and Arie.

43. For several years, Arie and Asher have functionally acted as Manager(s) for the Company and have held themselves out as representatives and agents of the Company with the authority to bind the Company.

44. Juana has not been provided with the information required by the Operating Agreement regarding its budgets, key expenditures, or annual profit and loss statements, nor have those in control of the Company (Rinaldo, Asher, and Arie) answered her questions or even explained who was acting as Manager and making decisions for the Company.

Requirements for a sale of the Property

45. The Operating Agreement specifies that the purpose of the Company is to acquire, own, manage, and dispose of the Property. The Operating Agreement further states that the Company will not own or operate any other real property nor own, operate, or conduct any other business.

46. The Operating Agreement creates a structure and process where any proposed sale of the Property must not only be on notice to all members but requires their involvement. The Operating Agreement also gives minority members the option to purchase the Property following a valuation process and before the Company markets the Property to third parties.

47. Specifically, Section 6 of the Operating Agreement provides the following mandatory procedures for selling the Property:

- a. A member, or members, holding at least 51% of membership interests in the Company sends a written request to the other members via registered or certified mail providing notice of their intention to sell the Property;
- b. If within one month of that notice, the members cannot agree on a price, an appraiser is selected to determine the price at which the Property should be sold;
- c. If the members are unable to agree on an appraiser, the member(s) desiring a sale and the other member(s) each name an appraiser;

- d. If the two selected appraisers cannot agree on a price within one month of being appointed, they name a third appraiser (if they cannot do so, an application will be made to the Supreme Court), and whatever value is determined by two of the three appraisers shall be binding on all members;
- e. After a price is fixed through the appraisal process, any members other than the members desiring to sell shall, before the Company negotiates with any third party, be given the opportunity to purchase the Property at the appraised price;
- f. If no member exercises their purchase option, the members will use best efforts to sell the Property at a sale price that is at least the minimum price fixed by the appraisal process.

48. Considering that the sole purpose of the Company was tied to the Property, it was logical that the Operating Agreement, as the Company's governing document, would create a detailed and systematic procedure for disposing of the Property, which was designed to inform, involve, and protect the rights of each member.

Rinaldo, Arie, and Asher engage in mismanagement and waste

49. In or about 2017, the Company took a mortgage loan in the amount of \$9.8 million.
50. Rinaldo was a guarantor of the mortgage.
51. Upon information and belief, the Estate is now a guarantor of the mortgage.
52. After using the loan funds to pay off the existing mortgage and pay for closing costs, the Company should have netted more than \$4.2 million.

53. In connection with the mortgage, the Company issued a \$600,000 distribution to Juana, or approximately half of what would have been her 30% share of the "cash out" portion of the mortgage.

54. The other roughly \$600,000 of Juana's share of the excess mortgage proceeds was left in the Company.

55. Juana has not been provided with information regarding whether any of the Majority Member's shares of the mortgage funds were left in the Company.

56. If Rinaldo, as Manager, treated all members equally, there would have been more than \$2 million added to the Company's accounts, leaving the Company in a strong financial and cash position.

57. Asher, Arie and, to the extent he remained involved in managing the Company, Rinaldo squandered this.

58. While the COVID-19 pandemic presented challenges to landlords, it is inconceivable that a properly managed company with the cash position that the Company had as of 2017—and certainly the cash position it would have had if there was parity in how much of the mortgage funds were distributed to the members—would be unable to service its debts today as the Majority Members claim.

59. The Majority Members', and particularly Asher's and Arie's neglect have resulted in a lack of routine maintenance and upkeep on the buildings.

60. Based on the limited information available to Juana, it appears that Rinaldo, Asher, and Arie chose to cause the Company to default on its mortgage and chose to not maintain the buildings despite having sufficient funds to service Company debts and maintain the Company's assets.

61. In 2024, despite having approximately \$1 million in available cash, the individuals in control of the Company (Rinaldo, Asher, and Arie) stopped making mortgage payments and did not expend money to repair the buildings.

62. Asher's and Arie's mismanagement also led to a federal lawsuit against the Company and them individually, in which a contractor seeks approximately \$850,000 in damages.

63. Upon information and belief, had Rinaldo, Arie, and Asher properly discharged the responsibilities of Manager of the Company, the Property would be valued much higher than it is today, the Company would be current on its mortgage, and there would be no pressure to sell the Property at a heavy discount.

64. The Majority Members have not provided Juana with information that would explain what happened to the millions of dollars the Company had in its accounts as of 2017 and why the Company purportedly lacks funds to maintain its Property and service its debts as they claim.

65. Instead, the Majority Members have provided only general information about business headwinds. They have not accounted for the use, and loss, of so much Company money nor the reasons for the mortgage default and the lack of maintenance of the Property.

The Majority Members act to sell the Property without Juana's involvement or knowledge

66. In early 2024, Rinaldo, Asher, and Arie began taking steps to sell the Property.

67. Upon information and belief, Asher and Arie, purporting to act on behalf of the Company, contacted multiple brokers and appraisers seeking valuations of the Property.

68. All appraisals valued the Property at over \$10 million with some setting the value at approximately \$14 million.

69. No one issued a notice to Juana pursuant to Section 6 of the Operating Agreement or even informed her that they were evaluating a sale.

70. No one shared the appraisals or any communications from the brokers or appraisers with Juana or even informed her that Arie and Asher were having these communications purportedly on the Company's behalf.

71. Instead, for more than a year, Asher and Arie, acting as decision makers for the Company, developed and implemented a plan to market and eventually sell the Property without informing Juana.

72. These efforts culminated in a purchase and sale agreement, dated July 23, 2025, which Arie purported to execute on behalf of the Company, in which the Company would sell the Property to Gojcaj for \$8.5 million—a price that is millions lower than any appraisal.

73. The letter of intent that Gojcaj and Arie executed anticipated a closing date approximately 90-days from contract signing, which, in this case, would be late October.

74. Only after Arie executed the contract in which he identified himself as an authorized signatory for the Company did he and Asher inform their elderly aunt that they were selling the Property.

75. Despite innumerable opportunities to communicate to Juana, including multiple family gatherings, that they were trying to sell the Property that she owned 30% of (and that the Operating Agreement guaranteed her the opportunity to be involved in the sale process for), Arie and Asher provided no information—not a notice, a phone call, an email, a text message, a conversation at a family birthday or bat mitzvah—about the proposed sale, which would dramatically impact Juana.

76. Instead, after signing the purchase and sale agreement, Arie made a perfunctory phone call to Juana to tell her the Company had signed a contract to sell the Property.

77. Arie, however, lacked authority to execute the purchase and sale agreement on behalf of the Company.

78. The Majority Members did not comply with the procedures in Section 6 of the Operating Agreement, which must be followed for the Company to sell the Property.

79. Upon information and belief, the prime motivation for Arie and Asher to sell the Property is to discharge the Estate's obligation as a guarantor under the Company's mortgage.

80. Until and unless it is discharged by the lender, the Estate is a guarantor of the debt under the Company's mortgage.

81. Arie and Asher are the primary beneficiaries of the Estate.

82. In sum, based on the limited information available to Juana at this time, it appears that (a) for years Asher and Arie have functionally controlled and managed the Company; (b) despite the Company having adequate funds to service its debts, maintain its Property, and effectively operate, Asher, Arie, and, to the extent he remained involved, Rinaldo affirmatively chose to stop making mortgage payments and cease maintenance of the Property thus manufacturing a mortgage default and significantly damaging the value of the Property; (c) Asher and Arie went behind Juana's back to market and sell the Property; and then (d) entered into a "fire sale" contract to sell the Property at millions below its market rate so that they could discharge the Estate's obligation as a mortgage guarantor.

83. Juana thus brings this action and seeks an order of this Court (1) requiring that the Majority Members, and those who have been in control of the Company (Arie, Asher, and the Estate) equitably account to Juana for the use of the Company's funds that has led to the lack of maintenance of the Property and the Company being purportedly unable to service its debts; (2) declaring that the purchase and sale agreement with Gojcaj is null and void; and (3) compelling

the Majority Members to comply with Section 6 of the Operating Agreement with respect to any prospective sale of the Property.

FIRST CAUSE OF ACTION
Equitable Accounting

84. Plaintiff repeats and realleges each and every allegation and incorporates the same herein as if they were set forth verbatim.

85. The Majority Members are Juana's family, or, in the case of Arthur Court, an entity controlled by her family.

86. Accordingly, the relationship between Juana and the Defendants in control of the Company was one of trust.

87. Additionally, Rinaldo and subsequently Asher and Arie when they acted as Manager for the Company owed a fiduciary duty to Juana as a minority member of the Company to discharge their duties in good faith.

88. The Majority Members used their control of the Company to deny Juana and those acting on her behalf access to information.

89. Arie and Asher, and to the extent he remained involved in running the business Rinaldo, mismanaged the Company to such an extent that a successful company in a strong cash position is now being sued for nearly a million dollars, purportedly cannot service its debts, and has failed to maintain its only assets.

90. Juana seeks an order directing that the Defendants who are in control of the Company, which is believed to be the Asher, Arie, and the Estate, equitably account for the use of Company funds and resources that has led the Company to its current state.

91. Juana, as a minority member of the Company, has a common law right to equitable accounting in these circumstances and has no adequate remedy at law.

SECOND CAUSE OF ACTION
Declaratory Judgment

92. Plaintiff repeats and realleges each and every allegation and incorporates the same herein as if they were set forth verbatim.

93. The Operating Agreement is a valid contract among the members of the Company and a governing document for the Company.

94. The Operating Agreement sets forth the substantive and procedural requirements the Company and its members must follow to sell the Property to a third party.

95. Among other things, those requirements include notice by registered or certified mail to other members, an iterative process among the members to set the price, which may include multiple appraisals, an opportunity for members to purchase the Property based on the appraisal process, and a requirement that the Property be sold at a price that is no lower than the minimum appraised price.

96. Asher and Arie completely disregarded the Operating Agreement's requirements, which they had to follow for the Company to sell the Property.

97. Asher and Arie worked surreptitiously to obtain appraisals, market the Property and then entered into a contract to sell the Property without ever even telling Juana as a 30% member of the Company until after Arie signed the purchase and sale agreement.

98. Moreover, Asher and Arie agreed to sell the Property at a price that is substantially lower than the lowest appraised value in further violation of Section 6 of the Operating Agreement.

99. If the proposed sale goes forward, Juana will be irreparably harmed via her losing her ability to participate in the process to value, potentially purchase, or sell the Property, which rights are guaranteed to her in the Operating Agreement.

100. The proposed sale of the Property will also result in punitive tax and financial consequences for Juana, which would be avoided in a scenario where the Property was sold pursuant to the requirements of the Operating Agreement, on notice to Juana and with her involvement in the process.

101. Juana seeks an order declaring that Rinaldo, the Estate, Asher, and Arie have violated Section 6 of the Operating Agreement, that Arie lacked authority to execute a contract to sell the Property having not followed the Operating Agreement's requirements for a sale, and that the purchase and sale agreement with Gojcaj is void.

THIRD CAUSE OF ACTION
Permanent Injunction

102. Plaintiff repeats and realleges each and every allegation and incorporates the same herein as if they were set forth verbatim.

103. The Operating Agreement, via Section 6, creates a structure intended to protect the interests of minority members, like Juana, by ensuring their awareness and involvement in any potential sale of the Property.

104. The Operating Agreement also creates a procedure for setting a minimum price at which the Property may be sold.

105. The Majority Members have completely disregarded and blatantly violated these Operating Agreement mandates/protections for minority members.

106. The Majority Members conduct in this instance threatens to irreparably harm Juana and any future efforts to sell the Property without adhering to Section 6 of the Operating Agreement will do the same.

107. Juana has no adequate remedy at law to protect her rights and interests.

108. Juana seeks an order permanently enjoining the Majority Members from seeking to sell the Property without complying with the requirements of Section 6 of the Operating Agreement.

WHEREFORE, Plaintiff respectfully demands entry of an order and judgment in its favor and against Defendants:

- A. Ordering that the Majority Members equitably account to Juana for the use of Company funds that has led to the Company being purportedly unable to service its debts;
- B. Declaring the Majority Members have violated the operating Agreement;
- C. Declaring the purchase and sale agreement, dated July 23, 2025, for the sale of the Property is void;
- D. Enjoining the Majority Members from acting to sell the Property without adhering to the requirements of Section 6 of the Operating Agreement;
- E. Awarding Plaintiff her reasonable attorneys' fees for the Majority Members' bad faith conduct in violation of their fiduciary duties to Plaintiff as a minority member; and
- F. Granting Plaintiff such other and further relief as the Court deems just and proper.

Dated: White Plains, New York
December 2, 2025

CUDDY & FEDER LLP

By: *Joshua Grauer*
Joshua J. Grauer
Brendan Goodhouse
445 Hamilton Avenue, 14th Floor
White Plains, New York 10601
(914) 761-1300
Attorneys for Plaintiff