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

DANIELLE SHALOV,

Plaintiff,

-against-

BRISBANE ASSOCIATES LIMITED PARTNERSHIP, BRISBANE ASSOCIATES LLC SEWARD BRISBANE LLC, ALICE BRISBANE LLC, ELINOR BRISBANE LLC, SARAH BRISBANE LLC, CHASE MELLEN III, CHARLES A. BRISBANE, ABIGAIL MELLEN, DARCY B. KELLEY, AND ALLAIRE B. STALLSMITH,

Defendants.

Index No. 651188/2021

VERIFIED AMENDED COMPLAINT AND PETITION FOR APPRAISAL

Plaintiff Danielle Shalov ("Plaintiff"), by her attorneys, Fox Rothschild LLP, brings this hybrid proceeding against defendants Brisbane Associates Limited Partnership, a New York limited partnership (the "Partnership"), Brisbane Associates LLC (the "Company"), Seward Brisbane LLC ("Seward"), Alice Brisbane LLC ("Alice"), Elinor Brisbane LLC ("Elinor"), Sarah Brisbane LLC ("Sarah") ("Seward, Alice, Elinor, and Sarah are collectively referred as the "Family LLCs"),[1] Chase Mellen III, Charles A. Brisbane, Abigail Mellen, Darcy B. Kelley, and Allaire B. Stallsmith (collectively, the "General Partners," and together with the Partnership, the Company, and the Family LLCs, collectively, the "Defendants"), and alleges as follows:

[1] Seward, Alice, and Sarah are named as potentially necessary parties for Declaratory Judgment purposes.

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PRELIMINARY STATEMENT

1. This case is about a New York partnership ("Partnership"), a family real estate holding company owned by the descendants of its original founder, and a plan ("Plan") instigated by the General Partners to convert the New York Partnership into a Delaware limited liability company ("Company"), in which the limited partners of the Partnership ("Limited Partners") had no interest (or, under certain circumstances, a powerless interest), thereby eliminating general partner liability to third persons, as well as the duties of loyalty, honesty and good faith which general partners of a partnership generally owe to the limited partners of that partnership—all of this while retaining complete control of the family business.

2. The General Partners achieved execution of the Plan through material misrepresentations, sleight of hand, and outright lies, and misled Plaintiff and all of the Limited Partners, who are members of their own family, about the process and their true intentions.

3. The result was that the General Partners arbitrarily deprived Plaintiff of the valuable Class A voting membership interest in the Company to which she was entitled, and instead relegated her to a Class B, non-voting membership interest in the Company.

4. After learning what the General Partners had done behind her back, Plaintiff pleaded with the General Partners in multiple emails and phone calls to reverse their harmful actions, stating that she hoped that they could work together as a family toward the continuing success of the family business. The General Partners refused.

5. This is a case that could easily have been avoided. The remedy that Plaintiff sought was straightforward, easy to accomplish, and would not have cost Defendants a dime.

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All they had to do was to simply provide Plaintiff with the same indirect interest in the family business that every other limited partner received, (even though she was entitled to a more valuable direct interest).

6. Tragically, the Defendants decided that they would rather put their family through needless, costly, and emotionally damaging litigation, venturing down a path from which, sadly, there can be no return.

7. Accordingly, Plaintiff is left with no choice but to commence this action to protect her rights and seek redress for the harm that she has endured as a result of the Defendants' actions.

PARTIES

8. Plaintiff Danielle Shalov is an individual residing in Chappaqua, New York.

9. Defendant Brisbane Associates LLC is a Delaware limited liability company with its principal place of business located at 685 Third Avenue, 4th Floor, New York, NY 10017.

10. Defendant Brisbane Associates Limited Partnership is a New York limited partnership with its principal place of business located at 685 Third Avenue, 4th Floor, New York, NY 10017.

11. Defendant Seward Brisbane LLC is a Delaware limited liability company and is a member of Brisbane Associates LLC.

12. Defendant Alice Brisbane LLC is a Delaware limited liability company and a member of Brisbane Associates LLC.

13. Defendant Elinor Brisbane LLC is a Delaware limited liability company and a member of Brisbane Associates LLC.

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14. Defendant Sarah Brisbane LLC is a Delaware limited liability company and a member of Brisbane Associates LLC.

15. Upon information and belief, Defendant Chase Mellen III is an individual residing in the State of California with an address at 1157 South Beverly Drive, Los Angeles, California, who was a General Partner of Brisbane Associates Limited Partnership and is now the sole managing member of Brisbane Associates LLC and a member of Sarah Brisbane LLC.

16. Upon information and belief, Defendant Charles A. Brisbane is an individual residing in the State of New York with an address at 10 Valley Road, Locust Valley, New York, who was a General Partner of Brisbane Associates Limited Partnership and is now a member of Seward Brisbane LLC.

17. Upon information and belief, Defendant Abigail Mellen is an individual residing in the State of New York with an address at 44 Gramercy Park, Apt. 3B, New York, New York, who was a General Partner of Brisbane Associates Limited Partnership and is now a member of Sarah Brisbane LLC.

18. Upon information and belief, Defendant Darcy B. Kelley is an individual residing in the State of New York with an address at 2700 Broadway, Apt. 2G, New York, New York, who was a General Partner of Brisbane Associates Limited Partnership and is now a member of Elinor Brisbane LLC.

19. Upon information and belief, Defendant Allaire B. Stallsmith is an individual residing in the State of Maryland with an address at 207 Taplow Road, Baltimore, Maryland, who was a General Partner of Brisbane Associates Limited Partnership and is now a member of Alice Brisbane LLC.

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JURISDICTION AND VENUE

20. This court has jurisdiction over Defendant Brisbane Associates Limited Partnership and Defendant Brisbane Associates LLC pursuant to CPLR § 301 because each has its principal place of business located in the City and State of New York.

21. This court has jurisdiction over Defendants because they are residents of or maintain their principal places of business in New York, and pursuant to CPLR § 302 (1) and (4) because they transact business in the State of New York and they own, use, and possess real property situated within the State of New York, and the causes of action asserted herein arise from such contacts with the State of New York.

22. In addition, this court has jurisdiction over Defendants pursuant to CPLR § 302 (1) because they have transacted and continue to transact business within the state, pursuant to CPLR § 302 (2) because they have committed the tortious conduct described herein against Plaintiff within the state or, to the extent such tortious conduct was committed outside of the state, then pursuant to CPLR § 302 (3) (i) that conduct caused injury to Plaintiff within the state and any one more of them regularly does or solicits business or engages in other persistent courses of conduct or derives substantial revenue from goods used or consumed or services rendered in the state, and pursuant to CPLR § 302 (3) (ii) because they expected or should have expected the tortious conduct to have consequences within the state and derive substantial revenue from interstate or international commerce.

23. Venue is proper in New York County pursuant to CPLR § 503 because one or more of the Defendants reside in New York County and because the acts and omissions giving rise to the causes of action asserted herein occurred in New York County.

THE RELEVANT FACTS AND CIRCUMSTANCES

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A. Background: The Origins of the Conversion Plan.

24. On July 30, 2020, the General Partners approved a plan to convert the Partnership into a foreign limited liability company. Darcy Kelley ("Kelley"), a General Partner and Plaintiff's mother, emailed Plaintiff and five other Limited Partners at the end of August to relay this information. Kelley stated that she was "pushing for having the annual BA [Partnership] meeting in October" to discuss the new structure. (Exhibit 1).

25. On October 4, 2020, Kenneth Frank ("Frank"), Kelley's husband, acting on behalf of the General Partners, presented the General Partners with a Power Point presentation on the "Partnership Restructuring." Plaintiff received a version of this presentation on October 5, 2020. (Exhibit 2).

26. Frank, an attorney, outlined the decision to convert the Partnership to a Limited Liability Company. (*Id.* ["Brisbane Associates Limited Partnership replaced by Brisbane Associates LLC (the 'Parent LLC')"].).

27. Frank stated that the new organization's operating agreement would serve "[e]ssentially the same function as the Partnership Agreement" and that there was "[n]o desire to depart substantially from what is currently in place." (*Id.*). Frank asserted that the Limited Partners in the current Partnership "have no role other then [sic] to receive their distributions." (*Id.*).

28. This of course is completely false, because: (i) each of the General Partners, whether acting in the capacity of a general partner of the Partnership or as an attorney in fact for each of the Limited Partners (assuming for this purpose that the attorney in fact appointments set forth in the Partnership Agreement constitute valid and enforceable appointments in the first place, an assumption that Plaintiff disputes) owed to each of the

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Limited Partners duties of loyalty and good faith, among others, as well as an obligation to deal with the Partnership's business and affairs in a manner that comports with the best interests of the Limited Partners and (ii) in any event, each Limited Partner has the power to revoke the attorney in fact appointment previously made by him or her, at any time, at will.

29. In the new structure, Frank stated that Managers would have the same authority as GPs currently have and that "[f]or "Major Decisions" each manager would be governed by the vote of his group." (*Id.*). Of course, this has nothing to do with rights stripped from the Limited Partners under the Plan as executed.

30. In her October 5, 2020 email, Kelley informed Plaintiff and other Limited Partners that the General Partners had agreed to convert the Partnership into a limited liability company, saying "[t]he basic idea is that each family group forms its own LLC and sets up its own conduct and management terms." (Exhibit 3).

B. The General Partners Hold a Meeting and the Limited Partners ask Questions.

31. Kelley scheduled a virtual meeting for October 11, 2020 that Plaintiff attended and recorded the participants' questions about the process. (Exhibit 4).

32. The participants of the virtual meeting discussed amongst themselves which attorneys would be best suited to draft even-handed restructuring documents since Kelley had failed to disclose to the other participants that her husband, Frank, had already been engaged to draft those documents, even handed or not. (*See id.*, ¶ 6 [a]).

33. On October 16, 2020 Kelley forwarded an email chain to Plaintiff and five other Limited Partners, attaching thereto a list of questions posed by Arthur Brisbane, a Limited Partner, in response to Frank's October 4, 2020 Partnership Restructuring presentation and Frank's initial answers to those questions. (Exhibit 5).

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34. The chain contained an email sent by Frank to unknown recipients indicating that Arthur Brisbane had received Frank's answers which had "addressed his issues" and that Frank, "thought the structure I outlined made sense, and he (Arthur Brisbane) was looking forward to seeing the documents." (*Id.*).

35. Included in the undated list of questions and answers were Frank's statements that "[i]n the new structure there are no GPs. All current GPs and LPs in each family group have become 'voting members' in their family llc." (*Id.*, ¶ 1).

36. In response to Arthur Brisbane's question "[i]n general, will the language of the agreement be the same as the current BA [Partnership] agreement?" Frank, acting on behalf of the General Partners, answered, "[y]es, for the most part." (*Id.*, ¶ 5).

37. Of course Frank's answer was deceptive, at the very least, because, among other things: (i) the members of the Board of Managers of the Parent LLC owe no duty or obligation to the members of any Family LLC when acting as members of that board and (ii) the proposed agreement would have each member of his or her designated Family LLC appoint the manager as attorney in fact to act on that member's behalf (even though the operating agreement containing such appointment was not the operating agreement to which that member agreed to be bound). (*See infra* § I).

C. The General Partners Decide that Frank will Draft Conversion Documents Despite Obvious Conflict and Lack of Retainer Agreement.

38. Later that morning, Kelley emailed Plaintiff and five other Limited Partners a second time indicating that the questions raised in the October 11, 2020 meeting had been sent to Frank. (Exhibit 6).

39. Kelley stated "[r]egarding the preparation of the operating agreements, Kenny [Frank] has been the architect of this structure, having spent a great deal of time analyzing all

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our organizational documents and corresponding with or talking to almost everyone in the other family groups" and that the General Partners decided that Frank "should prepare the initial drafts of the LLCs." (*Id.*).

40. On November 16, 2020, Kelley emailed Plaintiff and Alexander Bockman, Plaintiff's brother ("Bockman") stating "[t]he basic terms of the current partnership agreement will not change and the operating agreements for each family LLC must incorporate those provisions." (Exhibit 7).

41. In response to statements made by Kelley during a May 2020 virtual meeting with Plaintiff, Bockman and other Limited Partners that the Partnership would secure from Frank a written engagement agreement regarding the legal work to be performed by him, Plaintiff, Bockman and the other Limited Partners again asked whether such an agreement would be forthcoming.

42. In response, Kelley stated "[a]s to Kenny's role in drafting the documents, I talked to Chase yesterday who clarified that a legal agreement between Kenny and BA would actually cause rather than solve problems. Each partner may have different goals and objectives and representing everyone would present numerous potential conflicts. Kenny has made it clear to all he is not representing anyone and is simply preparing drafts of documents for review and approval by counsel and the GPs. Frankly, that is no different from downloading a first draft from Legal Zoom." (*Id.*).

43. This is simply false, especially when viewed in the light of Frank's sworn statement to the contrary. (NYSCEF Doc. No. 63, Affidavit of Kenneth Frank, ¶ 1["I am an attorney that provides certain legal services to Brisbane Associates LLC (the Company) and

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previously, when it existed, to Brisbane Associates, a New York Limited Partnership (the Partnership).”]).

44. Moreover, Frank’s wife, Plaintiff’s mother, Kelley had a direct interest in eliminating general partner liability to third persons, as well as relieving herself from the direct duties and obligations owed by her to the Limited Partners, all of which is the direct result of the Plan’s execution.

D. The General Partners and Limited Partners Meet to Review the Plan.

45. The General Partners met on December 4, 2020 to review the terms of the Plan “to convert BA [the Partnership] to a Delaware LLC.” (Exhibit 8). On December 5, 2020 Darcy Kelley (“Kelley”) invited Plaintiff, Bockman several other Limited Partners to a December 6, 2020 virtual meeting to review those terms.

46. The terms, as she then described them, comported with the provisions of Section 1006 of the New York Limited Liability Company Law (“LLCL”), requiring, among other things: (i) submission of the plan to all partners, including limited partners; (ii) a meeting of all partners to discuss the plan, called on not less than twenty days’ prior written notice, and (iii) a grant of appraisal rights to each dissenting partner. Accordingly, in her December 5, 2020 email, Kelley asked the Limited Partners to waive the twenty-days notice requirement. (*Id.*).

47. At the December 6, 2020 meeting Frank presented the terms of the Plan approved by the General Partners. (Exhibit 9).

48. Frank stated that the goal was to “convert Brisbane Associates into an LLC”. (*Id.*). Frank represented that the “Governing Agreements for new entities will mirror current documents,” and indicated that a “consolidation” had been rejected as it “involves potential

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government interaction," but that Frank, with assistance from Fried Frank and Andrew Falevich, "have an alternative." (*Id.*).

49. While Plaintiff has no idea what Frank meant by the term "consolidation," his statement is false and incredibly misleading under any meaning of that term. Conversion of a New York limited partnership into a foreign limited liability company in accordance with the provisions of the LLCL invites no "government intervention" in any circumstance.

50. The reason for this deception is quite obvious: The General Partners had no intention of informing the Limited Partners that the whole scheme was introduced in the first place for the sole purpose of benefitting the General Partners at the expense of the Limited Partners, much less an intention to hold a meeting of all Partners in which that purpose could be exposed.

51. In any event, Plaintiff again requested drafts of the conversion documents (Exhibit 10), but did not receive them.

52. At the end of the meeting, Kelley asked the Limited Partners to waive the twenty-day notice of meeting that she apparently had been advised was required by the Partnership Agreement.

53. On December 6, 2020, Timothy Staffa ("Staffa") and Almendra Staffa-Healey wrote to Kelley to waive the twenty-day notice. That same day, Kelley contacted Bockman to ask if Plaintiff had consented to waive the statutory notice requirement.

54. In response, Bockman notified Kelley that he was requesting an annual meeting and was refusing to waive the statutory notice requirement because, among other things, the Limited Partners had not yet received and would need time to review the conversion documents. (Exhibit 11).

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55. Plaintiff had not consented to waive the statutory notice requirement when she learned that the General Partners had determined, without explanation, that notice of meeting and the meeting itself were no longer required to execute the Plan and were no longer part of the Plan, thereby depriving the Limited Partners of certain of the protections provided to them in the LLCL.

E. The General Partners Repeatedly Deny Plaintiff's Requests to Review Copies of the Plan Documents Prior to Signing Them.

56. Plaintiff expressed concerns that the Limited Partners would not have enough time to review the Plan documents before the expiration of the Partnership term on December 31, 2020.

57. In the many months leading up to the execution of the Plan, Plaintiff made multiple requests to Kelley and Frank to provide her with drafts of the Plan documents for her review. (*See e.g.*, id. ["Could you please send the draft LLC agreements?"]; Exhibit 12 ["Danie also asks . . . when the agreements will be sent for us to read them?"]).

58. Frank, an attorney and "architect of the conversion," who Kelley misrepresented as "not representing anyone" (Exhibit 7), while Frank attested to being "an attorney who provides certain legal services to the Company and previously, to the Partnership, repeatedly denied Plaintiff's requests. (*See, e.g.*, Exhibit 13 ["Sorry, Danielle, but that won't be possible."]).

59. Instead, Kelley and Frank offered assurances that the Limited Partners would have plenty of time to complete a review of the conversion documents, stating: "copies will go

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to everyone to review and you will have plenty of time to digest them before the deadline for signing." (Exhibit 13).

60. Plaintiff and other Limited Partners were told to trust that the General Partners were acting in their best interest, which, of course, proved to be untrue.

61. The Limited Partners were also told on multiple occasions that once converted, the new organization would not differ in its operation from the way Partnership operated. (*See, e.g., id.* ["I've tried to explain those agreements will mirror the current partnership agreement as much as possible and will not contain any surprises."]).

F. The General Partners Present a New Plan.

62. On December 14, the General Partners adopted a resolution ("Resolution"), a true copy of which is annexed hereto as Exhibit 14, setting forth the terms of the Plan that, as opposed to the original terms, deprived the Limited Partners of the rights otherwise provided to them by the LLCL.

63. On December 15, 2020, Kelley emailed Plaintiff and six other Limited Partners to outline the process the General Partners planned to use to "convert[] Brisbane Associates, currently a New York limited partnership, into Brisbane Associates LLC, a Delaware limited liability company." (Exhibit 15).

64. Kelley again assured Plaintiff and the other recipients that the General Partners "do not intend to make any meaningful changes to the framework which has served us well since 1978" and that 'our partnership may change but the way we operate will not." (*Id.*).

65. Kelley also indicated that Plaintiff and the other recipients would have new rights in the new organization: "[i]n the new structure you will have a vote on certain major decisions which you did not have before." (*Id.*).

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66. Attached to the email was the Resolution, a draft of the Elinor Brisbane LLC Contribution Agreement ("Contribution Agreement"), and a draft of the Elinor Brisbane LLC Document Package ("Document Package"). The Document Package contained a copy of the Elinor Brisbane LLC Operating Agreement ("Elinor Operating Agreement") and copies of the original and amended operating agreements for the Company. (Exhibit 16). The Contribution Agreement bound the Limited Partners to the provisions of the Elinor Operating Agreement (which they had not yet seen in final form), and possibly other agreements, since the Contribution Agreement was not clear on this point (Exhibit 17).

67. Kelley informed the Limited Partners that the Contribution Agreement had to be executed and returned by the end of the day on Friday December 18, 2020. (*Id.*).

G. The General Partners Remove Plaintiff from Communications and Keep Plaintiff in the Dark about Revisions to the Conversion Documents.

68. On December 16, 2020 Timothy Staffa ("Staffa"), a Limited Partner and Plaintiff's first cousin, emailed Kelley, Frank, Plaintiff, and several other Limited Partners with corrections to, and requests for clarifications of, items in the draft Contribution Agreement, the Elinor Operating Agreement, and the Company's operating agreements. (Exhibit 18). Staffa did not request Plaintiff's input on the points raised in the email.

69. Plaintiff was intentionally removed from the Staffa Email chain without her knowledge and was not privy to the continued conversation about the questions asked of Frank, the responses provided by Frank, or the corrected versions of the documents circulated by Frank or Kelley.

70. While the five other Limited Partners and Kelley received these responses and a new draft on December 17, 2020, Plaintiff was not presented with the full correspondence including the updated draft until after the execution deadline had expired.

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71. At the close of business on Friday December 18, 2020, Plaintiff still had not received any additional information, responses, or updated drafts of the documents.

H. The General Partners Send Plaintiff a Revised Contribution Agreement and Give Her 57 Minutes to Review it, Execute it, and Return it to the General Partners.

72. On Friday December 18, 2020 at 6:29 p.m., Kelley emailed Plaintiff and Bockman to ask for their executed Contribution Agreements stating that all other General Partners and Limited Partners had executed their contribution agreements. (Exhibit 19).

73. Kelley attached a copy of the Contribution Agreement to the December 18, 2020 email. While Kelley received the extensive responses from Frank and Staffa, she did not send these documents to Plaintiff until after the execution deadline.

74. Kelley did not explain to Plaintiff that the document was a new draft based upon comments made in the Staffa Email and the subsequent responses to which Plaintiff was not copied, nor did Plaintiff have any reason to believe that was the case.

75. Plaintiff understood that the documents were drafts and was awaiting responses to Staffa's email and execution copies of all of the documents so that she could complete her review. As such, Plaintiff informed Kelley that "I haven't been able to complete review." (*Id.*).

76. Plaintiff texted Bockman later that evening/the next morning to let him know that Plaintiff had sent the drafts to her attorney for review, but that Plaintiff had not received final copies of all the documents including the contribution agreement which referenced several other documents. (Exhibit 20 ["Tim caught a lot of typos and errors. I'd imagine they'd send around a corrected draft for execution but I haven't seen anything."]). Plaintiff

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texted Bockman on the morning of December 19, 2020, stating: "apparently there is a new draft of the agreement because of all the typos. I haven't seen that." (*Id.*).

77. On Sunday December 20, 2020 at 8:51 a.m., Kelley forwarded to Plaintiff, without explanation, a notice of a meeting of the General Partners of Brisbane Associates to be held at 5 p.m. that day (Exhibit 21).

78. At 1:32 p.m., Plaintiff's husband Gregory Shalov ("Shalov") sent a text message to Kelley to tell her that Plaintiff still did not have final drafts of documents sent for execution on December 15, 2020 (Exhibit 22).

79. At 3:28 p.m. Kelley emailed what she represented to be a final version of the Contribution Agreement to Plaintiff instructing that it had to be executed before 5:00 p.m. that evening (Exhibit 23).

80. Kelley still did not explain that changes had been made to the draft that Plaintiff received on December 15, 2020, nor did she provide Plaintiff with information found in the Staffa Email chain.

81. At 3:30 p.m., Bockman emailed Chase Mellen ("Mellen"), Kelley, and other General Partners requesting an extension to execute the Contribution Agreement citing the recent delivery of the final version (Exhibit 24).

82. At 3:31 p.m. Kelley sent a text message to Shalov instructing him to tell Plaintiff that there was a 5:00 p.m. deadline for the Contribution Agreement and that Kelley would send a final copy of the remaining documents to Plaintiff and Shalov by email. (Exhibit 25).

83. At 3:44 p.m. Kelley emailed Plaintiff and, for the first time, stated that changes had been made to the Contribution Agreement, the Elinor Brisbane Operating Agreement and

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documents in the Document Package. (Exhibit 26 ["There were corrections to be made to several documents and these will be reviewed by the GPs at 5 p.m."]).

84. Attached to Kelley's email was the full Staffa Email chain beginning on December 16, 2020. In this full email chain, Frank purported to address the substantive changes made to the December 15, 2020 documents, including who was permitted to serve as a Manager and what type of consent was required for both the Company and in each Family LLC. (*Id.*).

85. In addition, Frank purported to offer substantive explanations of provisions in the documents, the intended objectives of such provisions, and examples of how these provisions would apply in real life scenarios. Frank also purported to address the confusion the Limited Partners had in knowing which documents governed. Frank attached a corrected version of the Contribution Agreement which he asked each person on the email to sign and return to him by Friday December 18, 2020. Attached to the email Kelley sent at 3:44 p.m. was a copy of the Contribution Agreement, which she represented as the only final document, contrary to her earlier statement. (*Id.* ["the only final document in the Conversion agreement."]).

86. At 4:00 p.m., Kelley sent a second text message to Shalov stating that all other documents were not in final form. Kelley indicated that the documents incorporated comments and responses to the Staffa Email. Kelley again indicated that only the Contribution Agreement was in final form and that the deadline for execution had been extended until 5:00 p.m. that evening (Exhibit 25).

87. At 4:48 p.m., Shalov emailed Kelley stating that the Contribution Agreement bound Plaintiff to the Elinor Brisbane Operating Agreement but that according to Kelley's

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own statements, these documents were not final and Plaintiff had not received execution copies to review.

88. Shalov pointed out that the deadline (which fell just hours after receiving the execution copy of the Contribution Agreement) contradicted statements made by Kelley, Frank and others that Plaintiff would have "plenty of time" to "digest" and "review" the final documents. (Exhibit 23).

89. Kelley responded at 5:29 p.m. stating that as a result of Plaintiff and Bockman's failure to execute the Contribution Agreement by 5:00 p.m., they would be excluded from the Elinor. Kelley stated that Plaintiff and Bockman's "rights and obligations will remain essentially as they are now". (Exhibit 26).

90. At 6:00 p.m., Kelley sent an email with an outline of the Plan, as executed only to Bockman (Exhibit 27). Plaintiff was unaware of the existence of this document until April 2021, after the lawsuit has been filed.

91. The Plan Explanation created by Frank on or before December 19, 2020, departed from past explanations provided by him to the Limited Partners.

92. In all previous documents regarding the Plan delivered to the Limited Partners Class B Company units reserved for future issuance. (*See, e.g.*, Exhibit 16, Operating Agreement at 9). At no time prior were any of the Limited Partners told that a refusal to contribute ta Partnership interests would result in a forfeiture of that interest and the receipt of a Class B unit in the Company, much less a description of those units as depriving the recipient of all rights other than the right to receive distributions.

93. However, the Plan Explanation, which was not shared with Plaintiff, stated that non-contributing Limited Partners would be converted, ipso facto, without consent, into

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holders of Class B units in the Company. (Exhibit 27 ["If the transfer does not occur (*i.e.*, the shares are not contributed), the Member still has her/his Partnership interest and joins the Company as Class B members."]).

94. At 8:03 p.m., Mellen sent an email to Plaintiff and Bockman. In his email, Mellen stated that Plaintiff and Bockman received the draft Contribution Agreement on December 15, 2020. But Mellen falsely claimed that Staffa discussed the questions he sent with Plaintiff and that Staffa asked Plaintiff to provide input on his questions. Mellen also falsely asserted that Plaintiff had four days to review the "extensive answers" sent by Frank to the questions posed by Staffa on December 16, 2020. Having been removed from the Staffa Email chain, Plaintiff was not afforded time to review the extensive answers Mellen referred to.

95. Mellen attached the final copy of the Elinor Operating Agreement referenced in the Contribution Agreement at 8:03 p.m. email (Exhibit 28).

96. As Kelley had previously indicated that no final documents aside from the Contribution Agreement existed, it appears that the General Partners finalized documents sent to Plaintiff at their 5:00 p.m. meeting. In other words, Plaintiff could not have executed the final Contribution Agreement prior to 8:03 p.m. because it did not yet exist.

97. At 8:03 p.m., Mellen informed Plaintiff and Bockman that they had until 9 p.m. (57 minutes) to execute the Contribution Agreement and that failure to execute would result in Plaintiff and Bockman remaining as "limited partners of the Partnership." (Exhibit 29). While this statement comports with what Kelley said in her earlier email, it runs contrary to the actions outlined in Frank's Plan Explanation, which Kelley sent to Bockman only and not to Plaintiff, at 6:00 p.m.

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98. Given the deceptive offering materials furnished to the limited Partners and the deceptive statements made to them, it is no wonder that each of them, other than Plaintiff, executed and delivered to his or her designated Family LLC (the term "Family LLC" is defined in the Resolution and the Family LLC of which Plaintiff was to be a part is defined therein as "Elinor") a signature page for attachment to a final form of contribution agreement referred to in the Resolution, that none of them had even seen, much less reviewed.

99. Indeed, certain Limited Partners were required to execute the signature page of the Contribution Agreement, binding them, they thought, to the terms of the Initial Operating Agreement before seeing that agreement in final form.

100. While the Resolution required each Partner to exchange his or her Partnership interest for a comparable economic interest in his or her designated Family LLC, it did not inform a dissenting Limited Partner that a refusal to exchange would result in a forced inclusion in the Company as a holder of a non-voting Class B Unit with no rights other than the right to distributions.

I. The General Partners Refuse to Accept Plaintiff's Executed Agreements and Arbitrarily Convert her Interest into a Non-Voting Class B Membership in the Company.

101. Plaintiff initially determined that a refusal to go along with the new (albeit unlawful) scheme might not be worth the family schism that could ensue.

102. Accordingly, on December 22, 2020, one day after Plaintiff received a package from the then sole member of the Company's Board containing a copy of the final draft of the forms of contribution and operating agreements for Elinor Brisbane LLC that she was requested to sign, as well as a copy of the executed operating agreement for the Company, Plaintiff reviewed those documents with her with counsel and, on the following day, offered to

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go along with the scheme, by signing the appropriate agreements and forwarding them to the managing member of Elinor. Her offer was summarily rejected.

103. Thus, on December 23, 2020, Plaintiff received an email forwarding an email from the then sole member of the Company's Board of Managers, Mellon, informing her that Elinor's managing member Kelley (her own mother) refused to accept her offer.

104. Instead, Plaintiff was informed that she had somehow forfeited her Partnership interest without her consent, that the Defendants had stripped the Partnership of all of its assets in any event, and that she now owned an impotent interest in the Company: "Danielle has not executed either agreement. Danielle's present status continues to be that she is a B member of Brisbane Associates LLC with her rights limited to a 1% economic interest and is not a member of Elinor Brisbane LLC." (Exhibit 30).

105. On January 12, 2021 Plaintiff received an email from Mellen, informing her that "[y]our limited partner interest was converted to a Class B Membership in the new LLC, and although the type of legal entity changes, your rights are essentially the same." (Exhibit 31).

106. This was a material misrepresentation as Mellen, along with all General Partners, knew that Plaintiff's rights were not that the same, and that as a holder of a Class B unit, Plaintiff would no longer have any voting or inspection rights or other rights.

107. Attached to Mellen's email were "a complete set of the executed documents converting Brisbane Associates, a New York limited Partnership, to Brisbane Associates LLC, a Delaware limited liability Company." (Exhibit 32).

108. When Plaintiff was permitted to view these documents (to which she was informed she was bound without her consent or knowledge) she was made aware that several additional terms were mysteriously added to the terms of the Initial Operating Agreement.

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109. In the Elinor Operating Agreement, new language was inserted in Section 3.1. *Members and Membership Interests* to include an explanation of the distribution and assignment to Class B Members. The original Elinor Operating Agreement and Company Operating Agreement reserved Class B Units for "future issuance."

110. Although the Company's original "Amended and Restated Operating Agreement" sent to Plaintiff in December provided in section 3(2)(1)(b) that "Class B Units are reserved for future issuance on such [terms] as the Managers shall determine, including for the purpose of 'profits interests' for U.S. federal income tax purposes within the meaning of Revenue Procedure 93-27, I.R.B. 1993-24, and Revenue Procedure 2001- 43, I.R.B. 2001-34. Except as required by any non-waivable provision of the Act or as determined by the Managers, the Class B Units shall be non-voting."

111. The December 21, 2020 Company "Amended and Restated Operating Agreement," which Plaintiff saw for the first time in January 2021, provided in Section 3(2)(1)(b): "Pursuant to Section 18-302 of the Act, the Class B Units shall be non-voting Units and the holders thereof shall be Members with the rights and obligations of an Assignee."

112. The Company "Amended and Restated Operating Agreement" that Plaintiff received in January also added the following language to 6(1)(B) Managers Authority: "Notwithstanding anything to the contrary set forth herein, except for the provisions of Article 10, pursuant to Section 18-302(a) of the Act the Managers may take any action permitted by this Agreement or the Act without the approval of Class B Members."

113. While the December 15 "Amended and Restated Operating Agreement" did not contain 6(1)(b)(4) Power of Attorney, the document Plaintiff received in January provided:

> Power of Attorney. To the extent the consent of the Members or approval of the Members is required for the exercise of any of the foregoing powers by the

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> Managers or the performance of any other action pursuant to the Act or this Agreement, each Class B Member appoints the Manager representing the Brisbane Family Group corresponding to the "initial Partner's Group" with whom such Class B Member was associated as set forth in Section 9.5 of the partnership agreement of the Partnership, as his or her true and lawful attorneys in his or her name, place and stead, to consent to, approve or ratify such act or acts, and to execute, on his or her behalf, any documents signifying such consent, approval or ratification, and the percentage of Membership Interest held by such Class B Member shall be included in the voting percentage of such Brisbane Family Group shown on Exhibit A.

114. Thus, if the Plan, as purportedly implemented, were to be enforced by this Court, Plaintiff's status would be changed from that of a voting limited partner in a partnership with substantial assets according her a partnership interest of significant value, to that of either a limited partner in a dissolved partnership, which had been stripped unlawfully of all its assets before the alleged dissolution in any event or, alternatively, as mysteriously alleged by the sole managing member of Elinor and her husband Frank, who happens to be the author of all conversion documents and agreement forms, an impotent member of the Company with a non-voting membership interest of little or no value (at least according to Frank).

115. However, such a result would be inequitable and contrary to applicable law, because, among other things: (i) the Plan, if enforced, would render the LLCL moot without any legislative action to that effect; (ii) the Plan was not in the best interests of the Limited Partners; (iii) the Plan as ultimately executed stripped value from Plaintiff without her knowledge or consent; (iv) the combined Plan offering documents were materially misleading; (v) the General Partners themselves, as well as through their agents, made false statements to Plaintiff and to the other Limited Partners about the reason for the Conversion or the reason that the Conversion did not comply with the provisions of the LLCL; (vi) the General Partners changed the terms of the Company's operating agreement and the terms the Elinor Operating Agreement well after the original forms thereof were delivered to the Limited Partners, to the

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extreme prejudice of Plaintiff; (vii) since those changes were made after all of the Elinor Partners had executed a signature for attachment to a Contribution Agreement, the exchanges called for by that Contribution Agreement are null and void and therefore each of those Limited Partners, at least according to Mellen,, are now holders of an impotent Class B Unit in the Company without notice or consent, and (vii) the signature pages attached to Contribution Agreements were executed by Limited Partners without knowing that: (a) each of them could revoke the attorney in fact appointments contained in the Partnership Agreement (assuming its validity in the first place), at any time for any reason or for no reason; (b) that Plaintiff was forcibly excluded from her Family LLC; and (c) Plaintiff's Partnership interest (and each of their interests, that is, according to Mellen) would automatically become a powerless interest in the Company, without any rights other than a right to distributions.

116. Accordingly, Plaintiff is entitled to have this Court, among other things: (i) declare the adoption of the Plan as well as its execution; null and void and of no force or effect whatsoever or, in the alternative, order the Company to change) Plaintiff's status (and the status of all other Limited Partners) from Class B Member to Class A Member with all rights, powers and privileges otherwise attendant thereto; (ii) award Plaintiff compensatory damages and other relief for the breaches of fiduciary duty and other wrongful acts and omissions to act of the Defendants, and (iii) award Plaintiff punitive damages for the spiteful, malicious, and fraudulent conduct committed by Defendants, which constitute intentional torts done with a conscious and deliberate disregard of Plaintiff's rights.

117. On multiple occasions after her signed contribution agreement and signed operating agreement were declined, Plaintiff informed Kelley, Elinor's sole managing

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member, that the actions of the General Partners referred to above (carried out with the help and assistance of the other Defendants) constituted, among other things, unlawful, actionable abuses of general partner power. Notwithstanding her utter dismay at this point, Plaintiff attempted on numerous occasions to diffuse this already toxic situation amicably, but each of her attempts were met with nothing but hostility. Accordingly, Plaintiff has been left with no choice but to seek this Court's intervention to prevent Defendants from depriving her of the full value of her interest in the family business to which she is entitled, including her right to participate in the major decisions concerning that business.

CAUSES OF ACTION

FIRST CAUSE OF ACTION
Declaratory Judgment that the Conversion is Null and Void
(Against All Defendants)

118. Plaintiff repeats and realleges each of the foregoing paragraphs 1 through 117 of the Complaint as if set forth at length herein.

119. The dispute set forth herein regarding Defendants' intentional and flagrant violation of Plaintiffs' legal and contractual rights and failure to adhere to the requirements set forth in the Partnership Agreement and the LLCL with respect to the Plan presents a justiciable case or controversy involving real and adverse interests between Plaintiff and Defendants regarding a ripe dispute.

120. Defendants failed to follow the notice requirements set forth in the Partnership Agreement, failed to follow the LLCL regarding the notice and meeting provision, and the appraisal and buyout rights of a dissenting partner, actively and deliberately misled Limited Partners, including Plaintiff, regarding the benefits of the Plan and the rights that they would have in the Company after the Plan was executed, achieved execution of the Plan by

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fraudulent and manipulative means, and usurped value from Plaintiff and the Company to the benefit of the General Partners, among other malicious and tortious conduct, thereby rendering the Pan and its execution ineffectual and without force or effect.

121. Accordingly, Plaintiff is entitled to a declaration that the Plan and its execution are null and void, *ab initio*, as it was done in violation of the LLCL as described above and in violation of Plaintiff's rights and the rights of all other Limited Partners.

SECOND CAUSE OF ACTION
Demand for Appraisal Pursuant to Article 8-A of the New York Partnership Law
(Against All Defendants)

122. Plaintiff repeats and realleges each of the foregoing paragraphs 1 through 121 of the Complaint as if set forth at length herein.

123. In the alternative to the foregoing, Plaintiff is or was a dissenting partner of the Partnership entitled to a fair value appraisal and buyout of her Partnership interest.

124. As described by the General Partners throughout the entire process, the conversion from the Partnership to the Company was a conversion within the meaning of the LLCL.

125. Alternatively, the conversion was a merger or consolidation of a domestic limited partnership with one or more foreign business entities within the meaning of Section 121-1106 of the Partnership Act, or a common law or de facto merger, as the surviving entity maintained the same address, personnel, assets, telephone numbers, email addresses, as the Partnership, which was promptly dissolved following the consummation of the Plan.

126. Plaintiff provided timely written notice to the General Partners of her dissent to the Plan, and the General Partners received and acknowledged Plaintiff's notice. (Exhibit 33

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["From all the circumstances, including the two emails from you and Greg, we could only conclude you intended to challenge what we were doing."]).

127. Upon the completion of the conversion, merger, or consolidation, Defendants were obligated to send Plaintiff, as a dissenting limited partner, a written offer to pay her the fair value of her interest.

128. However, Defendants have failed to offer Plaintiff the fair value of her interest in the Partnership or institution of a special proceeding to determine Plaintiff's rights and fix the value of her interest.

129. Accordingly, Plaintiff is entitled to (i) a determination of her rights as a dissenting partner, (ii) an appraisal of the fair value of her partnership interest, and (iii) an order compelling Defendants to pay Plaintiff the fair value of her interest.

THIRD CAUSE OF ACTION
Breach of Fiduciary Duty
(Against General Partners)

130. Plaintiff repeats and realleges each of the foregoing paragraphs 1 through 129 of the Complaint as if set forth at length herein.

131. The General Partners owed duties of loyalty, honesty, care, and good faith, among others, to the Limited Partners, including to Plaintiff.

132. By adopting the Plan and by then attempting to deprive Plaintiff of her Partnership interest or a comparable interest in in the Company to which she was entitled, the General Partners breached those duties.

133. In addition, by taking membership interests in the Company and the designated Family LLCs with no attaching personal liability in exchange for their general partner interests in the Partnership, exposing them to unlimited personal liability, and by the fiduciary duties

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owed by them to all Limited Partners General Partner Defendants were in fact usurping substantial value for themselves at the expense of the Limited Partners, including Plaintiff.

134. Plaintiff has been damaged in an amount to be determined at trial as a result of General Partner Defendants' breaches of fiduciary duty.

135. In addition, Plaintiff is entitled to punitive damages as Defendants' conduct was spiteful, malicious, and fraudulent, and done with such conscious and deliberate disregard of Plaintiff's rights as to be called willful and wanton.

FOURTH CAUSE OF ACTION
Fraud
(Against General Partners)

136. Plaintiff repeats and realleges each of the foregoing paragraphs 1 through 135 of the Complaint as if set forth at length herein.

137. Defendants misrepresented or in representing omitted a material fact that non-contributing Limited Partners would lose their Partnership interests and would not receive an interest in the Company comparable to that Partnership interest.

138. Defendants misrepresented or in representing, omitted a material fact that all Partners were to receive pro rata membership interests in their respective Family LLCs rights, powers and privileges with respect to the family real estate business comparable to their Partnership interests.

139. Defendants falsely misrepresented or in representing, omitted a material fact that all members, even those who previously held limited partnership interests in the Partnership, would not have a voice in the major decisions taken, or to be taken, by the Company.

140. Defendants falsely misrepresented or in representing, omitted a material fact that by taking membership interests in the pertinent Family LLCs, with no attendant personal

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liability in exchange for their general partnership interests in the Partnership, which exposed them to unlimited personal liability, and in eliminating the fiduciary duties owed by them to the Limited Partners, the General Partners were in fact acting in their own self-interests and usurping substantial value for themselves at the expense of the Limited Partners, including Plaintiff.

141. Defendants made the foregoing misrepresentations and omissions knowing and believing that they were false when made or with reckless indifference to the truth thereof.

142. Defendants made the foregoing misrepresentations and omissions with the intent of inducing Plaintiff to agree to the Plan and to execute the Contribution Agreement.

143. Defendants made the foregoing misrepresentations and omissions with the intent to deceive Plaintiff into believing that they were acting in her best interest so that she would trust them and acquiesce to their demands.

144. Plaintiff relied on the Defendants' material misrepresentations and omissions to her detriment in going along with their Plan and believing their false statements when she underwent a review of the agreements under the belief that she had time to do so rather than signing them without an opportunity to review them.

145. Plaintiff was damaged as a result of Defendants' material misrepresentations and omissions because they caused her to lose her rightful interest in the family's real estate holdings and wrongfully caused her to receive a non-voting interest in the Company, which was significantly less valuable than the Partnership interest which she had held prior to the alleged conversion or much less, the interest in the family real estate holdings to which she is otherwise entitled In addition, Plaintiff is entitled to punitive damages as Defendants' conduct

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was spiteful, malicious, and fraudulent, and done with such conscious and deliberate disregard of Plaintiff's rights as to be called willful and wanton.

FIFTH CAUSE OF ACTION
Negligent Misrepresentation
(Against General Partners)

146. Plaintiff repeats and realleges each of the foregoing paragraphs 1 through 145 of the Complaint as if set forth at length herein.

147. As family members and General Partners, the General Partner Defendants owed fiduciary duties to the Limited Partners, including Plaintiff.

148. The General Partners possess unique and specialized expertise with respect to the business dealings of the Partnership and are in a special position of confidence and trust with the Limited Partners, including Plaintiff, as family members who have led the Limited Partners to believe that they are acting in the Limited Partners' best interests.

149. The General Partners made materially false and misleading statements to the Limited Partners, including Plaintiff, regarding the benefits of the conversion, the propriety of the Plan, the membership interests that each Partner was to receive, and the rights to which they would be entitled.

150. For example, Kelley stated in her December 15, 2020 email to Limited Partners, including Plaintiff, that "[i]n the new structure you have a vote on certain major decisions which you did not have before."

151. In addition, in an email dated December 20, 2020, from Kelley to certain Limited Partners, Kelley stated, among other things, that "[y]ou may be assured I have not and will not take any action which might be to [Plaintiff's] detriment."

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152. The General Partners also made false and misleading statements in the draft agreements and other documents that were circulated to Plaintiff that Plaintiff would have both voting rights and the right to seek inspection of the Company's books and records.

153. These statements, however, were false and materially misleading.

154. The General Partners made the foregoing misstatements knowing that they would be relied on by Plaintiff and all Partners in evaluating the Plan and deciding whether to proceed with Plan.

155. Plaintiff relied on the foregoing misstatements and misrepresentations in agreeing to the Plan and executing the agreements rather than taking appropriate legal action to protect her rights.

156. But for Plaintiff's reliance on the General Partners' misrepresentations, she would have pursued all legal remedies available to her, including injunctive relief to prevent the General Partners from unlawfully stripping the Partnership of its assets and unjustifiably and inexplicably relegating Plaintiff to valueless non-voting member of the Company.

157. The General Partners either knew that their statements were false when they made them or they were the result of negligence or a lack of due diligence.

158. As a result, Plaintiff has been directly and substantially damaged as she has received a valueless membership interest with no rights rather than the voting membership interest that she was entitled to receive.

159. Accordingly, plaintiff is entitled to damages in an amount to be determined at trial.

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160. In addition, Plaintiff is entitled to punitive damages as Defendants' conduct was spiteful, malicious, and fraudulent, and done with such conscious and deliberate disregard of Plaintiff's rights as to be called willful and wanton.

SIXTH CAUSE OF ACTION
Minority Oppression
(Against General Partners)

161. Plaintiff repeats and realleges each of the foregoing paragraphs 1 through 160 of the Complaint as if set forth at length herein.

162. Plaintiff had a reasonable expectation that the controlling partners/members, namely, the General Partner Defendants, would act in the best interests of the Limited Partners, including Plaintiff, as they repeatedly assured Plaintiff they would.

163. Plaintiff also had a reasonable expectation, based on the written and verbal assurances of the General Partners and the proposed agreements, that, following the Plan's execution, she would have a voice in the major decisions involving the family business.

164. The General Partners, as controlling members of the Company, disproportionately reduced the economic value of Plaintiff's interest in the Partnership.

165. The General Partners, disproportionately impinged upon Plaintiff's voting rights and right to access the books and records of the family business.

166. The foregoing conduct of the General Partners frustrated Plaintiff's reasonable expectations as a Limited Partner and was burdensome, harsh, and wrongful to Plaintiff.

167. Plaintiff has been directly and substantially damaged as a result of the General Partner Defendants' actions as the persons in control of the Partnership.

168. Accordingly, Plaintiff is entitled to damages in an amount to be determined at trial.

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SEVENTH CAUSE OF ACTION
Unjust Enrichment
(Against General Partners, Elinor and the Company)

169. Plaintiff repeats and realleges each of the foregoing paragraphs 1 through 168 of the Complaint as if set forth at length herein.

170. As a result of Defendants' purported allocation of a non-voting membership interest in the Company to Plaintiff, Defendants have been unjustly enriched as they have created and received additional value to which they are not entitled.

171. Their enrichment was to the detriment of and at the expense of Plaintiff, who was the only one to receive a non-voting membership interest and therefore suffered a loss of economic value, voting rights, and the right to access books and records of the family business as well as an accounting from the Company.

172. Defendants' self-enrichment was unjustified and served no legitimate business purpose because it was completely unnecessary and nothing in the proposed agreements gave them the right to deprive Plaintiff of the value of her Partnership interest and the rights attendant thereto.

173. Plaintiff pleads in the alternative to the foregoing causes of action at law that she has no adequate remedy at law and the court should therefore invoke its authority to grant equitable relief to redress this unconscionable enrichment of Defendants at Plaintiff's expense.

TENTH CAUSE OF ACTION
Conversion
(Against General Partners, Elinor and the Company)

174. Plaintiff repeats and realleges each of the foregoing paragraphs 1 through 173 of the Complaint as if set forth at length herein.

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175. Plaintiff's interest in the Partnership is Plaintiff's personal property pursuant to Section 121-701 of the New York Partnership Law.

176. By wrongfully dissolving the Partnership and leaving Plaintiff with an interest in a non-existent entity, Defendants have deprived Plaintiff of her valuable property interest.

177. Alternatively, inasmuch as Defendants purport to have converted Plaintiff's Partnership interest into a valueless, non-voting membership interest in the Company, Defendants have wrongfully deprived Plaintiff of her property by taking her Partnership interest, which corresponds to and should have been converted to a voting membership interest ion the Company.

178. Defendants have effectively usurped Plaintiff's valuable property and taken it for themselves to the exclusion of Plaintiff and for Defendants' sole benefit.

179. Defendants' foregoing wrongful acts were inconsistent with and contrary to Plaintiff's rights of ownership of her property interest in the Partnership.

180. As a result of Defendants' wrongful conversion of Plaintiff's Partnership interest, Plaintiff has been harmed in an amount to be determined at trial.

181. In addition, Plaintiff is entitled to punitive damages as Defendants' conduct was spiteful, malicious, and fraudulent, and done with such conscious and deliberate disregard of Plaintiff's rights as to be called willful and wanton.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

(a) Declaratory Judgment declaring the Plan and its execution null and void;

(b) In the alternative, pursuant to Article 8-A of the New York Partnership Law and Business Corporation Law § 623, Plaintiff seeks (i) a determination of her

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rights as a dissenting partner, (ii) an appraisal of the fair value of her partnership interest, and (iii) an order compelling Defendants to pay Plaintiff the fair value of her interest.

(d) Entry of judgment in Plaintiff's favor and against Defendant as to the foregoing claims in the amount to be determined at trial;

(e) An award of compensatory and punitive damages in favor of Plaintiff and against Defendants; and

(e) Attorneys' and expert fees and litigation costs; prejudgment and post-judgment interest; and such further relief as the Court may deem just and equitable.

Respectfully submitted,

Dated: New York, New York
April 19, 2021

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By: /s/ Ernest Edward Badway
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VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

I, Danielle Shalov, being duly sworn, deposes and says:

I am the plaintiff in the above-entitled action. I have read the contents of the foregoing Verified Complaint. I hereby verify that the contents thereof are true and accurate to the best of my knowledge, except as to those matters stated upon information and belief, and as to those matters, I believe them to be true.

By: _____
Danielle Shalov

Subscribed and sworn before me this
19th day of April, 2021.

_____
Notary Public

ERNEST EDWARD BADWAY
Notary Public - State of New York
NO. 02BA6136098
Qualified in New York County 22
My Commission Expires Feb 24, 2023

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