| **Barzilai v Israel Museum** |
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| 2022 NY Slip Op 33814(U) |
| November 10, 2022 |
| Supreme Court, New York County |
| Docket Number: Index No. 153086/2022 |
| Judge: Melissa Crane |
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# SUPREME COURT OF THE STATE OF NEW YORK
# NEW YORK COUNTY

**PRESENT:** **HON. MELISSA A. CRANE** **PART** **60M**

***Justice***

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ELI BARZILAI, DOMINIQUE AVERY, ANDREE FISCHER, LUDWIG MARUM,

Plaintiff,

- v -

ISRAEL MUSEUM,

Defendant.

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**INDEX NO.** 153086/2022

**MOTION DATE** 10/03/2022

**MOTION SEQ. NO.** 004

**DECISION + ORDER ON MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 004) 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 67, 68, 69, 70, 71, 72

were read on this motion to/for DISMISS.

This case arises out of a tragic period in Jewish history, but has virtually no connection to New York. None of the parties are in New York, while the events giving rise to at least two out of the three causes of action occurred entirely outside of New York. Accordingly, the court grants the motion of Defendant Israel Museum ("Defendant" or "Israel Museum") to dismiss.

## FACTUAL AND PROCEDURAL BACKGROUND

Plaintiffs Plaintiffs Eli Barzilai, Dominique Avery, Andrée Fischer, and Ludwig Marum's (collectively, "Plaintiffs") allege causes of action for replevin, conversion, and defamation of title based on the purported theft of a 14th-century Haggadah depicting human figures with animal heads ("Bird's Head Haggadah" or "Haggadah"), that had been in Plaintiffs' family's possession from the early 1900s until the Nazis came to power in Germany. Plaintiffs are the grandchildren of Dr. Ludwig Marum. Dr. Marum was a Jewish lawyer and politician who lived in Karlsruhe, Germany with his wife, Johanna, and children, Elisabeth, Eva Brigitte, and Hans Karl. Plaintiffs allege that Dr. Marum's father-in-law gave him the Bird's Head Haggadah in 1910 as a wedding

present and Dr. Marum thereafter kept the Haggadah in his law office (NYSCEF Doc. No. 1, ¶ 37). The Nazis arrested Dr. Marum in 1933. After Dr. Marum's arrest, his son fled to France, while his wife and daughters moved into a small apartment in Karlsruhe. Dr. Marum's daughter Elisabeth allegedly retrieved the Haggadah from Dr. Marum's office (NYSCEF Doc. No. 1, ¶¶ 52-54). The Nazis murdered Dr. Marum in 1934. Johanna and Eva Brigitte fled to France, leaving Elisabeth alone in the Karlsruhe apartment (NYSCEF Doc. No. 1, ¶¶ 55-56).

Plaintiffs allege that "[i]t was during the short period when [Elisabeth] was alone . . . that the Haggadah was stolen from the apartment" (NYSCEF Doc. No. 1, ¶ 58). Plaintiffs' counsel stated at oral argument that they do not know who stole the Haggadah (NYSCEF Doc. No. 73, p. 6). However, a neighbor of the Marum family, Hermann Kahn, somehow came into possession of the Haggadah and sold it to the director of the Israel Museum's predecessor in 1946 for $600[1] (NYSCEF Doc. No. 1, ¶¶ 107-112, 183). Plaintiffs suspect that Kahn "had stolen or otherwise illegally obtained the Haggadah" from the apartment (NYSCEF Doc. No. 1, ¶ 138; *see also id.*, ¶ 160 [referencing Elisabeth's letter to the Israel Museum claiming that Kahn must have "received it from someone who stole it from [their] apartment"]). Plaintiffs allege that, after purchasing the Bird's Head Haggadah, the Israel Museum "apparently also destroyed evidence of Marum family ownership" by removing and destroying a flyleaf in the Haggadah identifying Johanna's great-grandfather as the Haggadah's previous owner (NYSCEF Doc. No. 1, ¶¶ 122-123).

Eva Brigitte gave birth to Ernst Peter Marum in 1941, and he was placed in an orphanage. A couple in what was then Palestine, pursuant to the British Mandate, adopted him and renamed him Eli Barzilai. Plaintiff Barzilai currently resides in Israel.

[1] Plaintiffs allege in the complaint that the Bird's Head Haggadah is worth approximately $10 million today and that the $600 sale price—equivalent to approximately $9,000 today—was "well-below market" (NYSCEF Doc. No. 1, ¶ 112).

Hans Karl escaped to Mexico. Later, he moved to East Germany, where he had two children, Plaintiffs Ludwig and Andrée, who reside in Germany. Elisabeth escaped to New York where she had a daughter, Dominique. Dominique is also a Plaintiff, and she resides in Connecticut.

In 1950, Sigmund Jeselsohn, Dr. Marum's former associate, told Elisabeth that the Israel Museum had possession of the Bird's Head Haggadah and that Jeselsohn had requested that the Israel Museum name the Haggadah for the Marums (NYSCEF Doc. No. 1, ¶¶ 139-142). The Israel Museum allegedly refused (NYSCEF Doc. No. 1, ¶¶ 142, 149). While Plaintiffs allege that Elisabeth "declined to authorize the transfer of the Haggadah to the Museum" (NYSCEF Doc. No. 1, ¶ 143), the complaint is devoid of allegations of Elisabeth's further action related to the Haggadah until 1984. In 1984, Elisabeth allegedly wrote to the Israel Museum again, acknowledging that the family "thought the Haggada should remain in the Israel Museum for the benefit of the public," and requesting that it be named for her parents (NYSCEF Doc. No. 1, ¶ 160). The curator of the Israel Museum allegedly agreed to add that the Haggadah was "in the possession of Ludwig and Johanna Marum until the Nazi epoch" to the Haggadah's label (NYSCEF Doc. No. 1, ¶ 162). Plaintiffs allege that the Israel Museum failed to display that information. Defendant claims that it did provide this information accompanying the Bird's Head Haggadah, aside from a "temporary period following renovations of the Museum" (NYSCEF Doc. No. 49, p. 5).

After Congress passed the Holocaust Expropriated Art Recovery ("HEAR") Act in 2016, that extended the statute of limitations for claims related to property lost during the Holocaust because of Nazi persecution, Barzilai began pressuring the Israel Museum to acknowledge the Marums' ownership of the Haggadah. Barzilai's attorney wrote a letter in 2017 demanding that

the Israel Museum remove the Haggadah from display, but the Israel Museum refused (NYSCEF Doc. No. 1, ¶¶ 178, 181-187). According to the complaint, the Israel Museum acknowledged that the Marum family owned the Haggadah prior to 1933 and that the Museum had purchased it from Kahn in 1946, but it requested from Barzilai "documents relating to the ownership of the Haggadah from 1933 until 1946, demonstrating that it was taken from the Marum family against their will in between those two dates" (NYSCEF Doc. No. 1, ¶ 183). Barzilai allegedly provided the Israel Museum with "substantial information" to establish that the Haggadah had been stolen, but the Israel Museum was not satisfied (NYSCEF Doc. No. 1, ¶ 184).

Plaintiffs allege various facts in the complaint to show a connection with New York in an attempt to establish that this court has personal jurisdiction. In particular, Plaintiffs allege that, "[f]rom September 8, 1988, to January 14, 1989, the New York Public Library offered an Art Exhibition titled A Sign & a Witness: 2000 Years of Hebrew Books and Illuminated Manuscripts," that included the Bird's Head Haggadah (NYSCEF Doc. No. 1, ¶¶ 192-193). They also allege that the Israel Museum sells a pop-up version of the Bird's Head Haggadah, that can be purchased everywhere, including New York, through Amazon or from Koren Publishing's ("Koren") website. They assert that Koren operates "under license or agreement with the Museum" (NYSCEF Doc. No. 1, ¶¶ 195-199). Additionally, Plaintiffs allege that the Israel Museum conducts business in New York through a non-profit organization, the American Friends of the Israel Museum ("AFIM"), that has "raised more than $435 million for the Museum" and has its primary place of business in New York (NYSCEF Doc. No. 1, ¶¶ 200-202). Plaintiffs also allege that the director of the Israel Museum has "signing authority on behalf of AFIM" and that, between 1996 and 2016, the Director General of the Israel Museum received salaries both for his work as the

museum director and for his fundraising work on behalf of AFIM (NYSCEF Doc. No. 1, ¶¶ 205-206).

Defendant has moved to dismiss on multiple bases, including lack of personal jurisdiction, forum non conveniens, expiration of statute of limitations, laches, and failure to state a cause of action.

**DISCUSSION**

On a motion to dismiss for lack of personal jurisdiction pursuant to CPLR 3211(a)(8), "the party asserting jurisdiction has the burden of demonstrating satisfaction of statutory and due process prerequisites (*James v iFinex Inc.*, 185 AD3d 22, 28-29 [1st Dept 2020] [citation and internal quotation marks omitted]). The court may exercise personal jurisdiction over a non-domiciliary where the action is permissible under the long-arm statute (CPLR 302) and where the exercise of jurisdiction "comports with due process" (*Williams v Beemiller, Inc.*, 33 NY3d 523, 528 [2019]). While a plaintiff opposing dismissal under CPLR 3211(a)(8) need not establish personal jurisdiction definitively, it must make a "sufficient start" towards "demonstrating a basis for asserting personal jurisdiction" (*see Robins v Procure Treatment Centers, Inc.*, 179 AD3d 412, 414 [1st Dept 2020]; *Edelman v Taittinger, SA*, 298 AD2d 301, 302 [1st Dept 2002]). However, the court may still dismiss a case pursuant to the doctrine of forum non conveniens, codified at CPLR 327, where it is "determined that the action, although jurisdictionally sound, would be better adjudicated elsewhere" (*Islamic Republic of Iran v Pahlavi*, 62 NY2d 474, 478-479 [1984]).

1. Personal Jurisdiction

Plaintiffs assert that the court may exercise personal jurisdiction over the Israel Museum under CPLR 302(a)(1), 302(a)(2), and 302(a)(3). For the following reasons, the court does not have personal jurisdiction over the Israel Museum, at least as to the first two causes of action.

a. CPLR 302(a)(1)

Under CPLR 302(a)(1), the court can exercise personal jurisdiction over a non-domiciliary that "transacts any business within the state or contracts anywhere to supply goods or services in the state" (CPLR 302[a][1]). However, jurisdiction under this subsection of the long-arm statute requires a "substantial relationship between the transaction and the claim asserted" (*Coast to Coast Energy, Inc. v Gasarch*, 149 AD3d 485, 486 [1st Dept 2017]; *CDR Creances S.A.S. v First Hotels & Resorts Investments, Inc.*, 140 AD3d 558, 562 [1st Dept 2016]; *Trinity Apex Investments LLC v. Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, LLP*, 2022 NY Slip Op 06321 [1st Dept Nov 10, 2022] [finding no personal jurisdiction over defendant pursuant to CPLR 302(a)(1) even where defendant met with plaintiffs in New York and negotiated contracts with plaintiffs in New York because plaintiffs "do not articulate the requisite nexus between these activities and their claims"]).

Here, Plaintiffs fail to allege a "substantial relationship" regarding the causes of action for replevin and conversion. These causes of action specifically relate to the Israel Museum's actual possession of the Haggadah in derogation of Plaintiffs' alleged ownership rights (NYSCEF Doc. No. 1, ¶¶ 219-220, 226-227). However, as Plaintiffs assert in their complaint, the Bird's Head Haggadah was stolen in Kalrsruhe, Germany (NYSCEF Doc. No. 1, ¶ 58), and Kahn sold the Bird's Head Haggadah to the Israel Museum after arriving in what was then Palestine pursuant to the British Mandate (NYSCEF Doc. No. 1, ¶¶ 106, 108-112). Whatever business the Israel Museum may engage in within New York, it is not substantially related to the claims asserted in

the first two causes of action, that arose out of a theft and subsequent sale far away from New York.

b. CPLR 302(a)(2)

Under CPLR 302(a)(2), the court may exercise jurisdiction over a non-domiciliary where they "commit[] a tortious act within the state, except as to a cause of action for defamation of character arising from the act." The First Department allows the court to exercise personal jurisdiction over a defendant that was not physically present, but was part of a conspiracy with New York co-conspirators (*see Lawati v Montague Morgan Slade Ltd.*, 102 AD3d 427, 428 [1st Dept 2013]). However, Plaintiffs have not alleged that the Israel Museum was part of any conspiracy with New York co-conspirators with respect to the first or second causes of action for replevin and conversion. Rather, Plaintiffs allege that tortious acts at the center of the causes of action for replevin and conversion—the "wrongful detention" of and "improper exercise of dominion" over the Bird's Head Haggadah—occurred in Israel (NYSCEF Doc. No. 1, ¶¶ 106, 108-112, 223, 227).

Plaintiffs rely on *Gowen v Helly Nahmad Gallery, Inc.* (60 Misc 3d 963 [Sup Ct, NY Cty 2018]) to argue that the unsatisfied demand for the Haggadah is sufficient to establish personal jurisdiction. However, while *Gowen* involves a replevin action against a foreign domiciliary related to art allegedly looted by the Nazis, it is distinguishable. In *Gowen*, a painting belonging to a Jewish art dealer in Paris was seized and sold at auction during the Nazi occupation of Paris in 1944 (*id.* at 968). After the family failed for decades to find the painting after the war, the sole heir to the art dealer's estate discovered that the defendants had exhibited the painting at their gallery in New York between 2005 and 2006 and attempted to sell the painting at auction in New York in 2008 (*id.* at 969). The defendants then moved the painting to a warehouse in Switzerland

when it did not sell at auction (*id.*). In finding that the court had personal jurisdiction under CPLR 302(a)(2), the court noted that the painting was exhibited at the gallery, was "placed into New York's stream of commerce" for auction, and that the heir made the demand for the painting's return "in New York" (*id.* at 973). Although Elisabeth allegedly made a demand from New York in 1984 that the Israel Museum name the Haggadah for her parents, this case is distinguishable from *Gowen* because Elisabeth did not actually demand that the Israel Museum physically return the Haggadah. Rather, Elisabeth wrote that she "thought the Haggada should remain in the Israel Museum" but wanted it to be named for her parents (NYSCEF Doc. No. 1, ¶ 160 [emphasis added]). Additionally, unlike in *Gowen*, the Israel Museum never attempted to **sell** the actual Bird's Head Haggadah at all, much less in New York. All the Israel Museum allegedly did was allow the New York Public Library to **display** the Haggadah from 1988 to 1989. Unlike *Gowen*, the Bird's Head Haggadah was never placed into New York's stream of commerce.

c. CPLR 302(a)(3)

Under CPLR 302(a)(3), a court may exercise personal jurisdiction over a non-domiciliary who "commits a tortious act without the state causing injury to person or property within the state, except as to a cause of action for defamation of character arising from the act, if he . . . derives substantial revenue from goods used or consumed or services rendered, in the state." While Plaintiffs argue for jurisdiction under CPLR 302(a)(3) in their opposition papers, their attorney declined to argue for jurisdiction under this subsection at oral argument (NYSCEF Doc. No. 73, pp. 2-3 ["So we think the court has personal jurisdiction over the defendants in **two** ways . . . CPLR 302(a)(2) and 302(a)(1)."] [emphasis added]). Even if Plaintiffs have not abandoned their arguments under CPLR 302(a)(3) by declining to raise them at oral argument, and, assuming that

they have established that subsection 302(a)(3) is applicable to any of the three claims here, the court finds that personal jurisdiction is inappropriate because of due process concerns.

d. Due Process

Imposing personal jurisdiction over the Israel Museum "would not comport with due process" (*Deutsche Bank AG v Vik*, 163 AD3d 414, 415 [1st Dept 2018]) under the circumstances. In order to comport with due process, there must be proof of "minimum contacts" with the forum state, meaning that the defendant's conduct and connection with the state are such that it "should reasonably anticipate being haled into court there" (*id.* [citations and internal quotation marks omitted]). Where the "conduct that forms the basis for the plaintiff's claims takes place entirely out of forum, and the only relevant jurisdictional contacts with the forum are the harmful effects suffered by the plaintiff, a court must inquire whether the defendant 'expressly aimed' its conduct at the forum" (*id.* at 416 [citation omitted]).

Neither Plaintiffs' alleged sale of the pop-up-Haggadot, nor their alleged auctioning of "$24 million worth of paintings in New York" (NYSCEF Doc. No. 53, p. 13) involve any indication that the Israel Museum expressly aimed any of its conduct related to Plaintiffs' claims at the forum. Notably, Plaintiffs have not sued Koren or JWG, Ltd., the entities that allegedly publish and sell in New York the pop-up Haggadot that form the basis for the defamation of title claim. The sale of the pop-up Haggadot on websites and through distribution channels operated by nonparties is not sufficient, and the Israel Museum's sale of other artworks through auction entities is wholly unrelated to the issues in this action. Accordingly, the Israel Museum lacks sufficient

contacts with this forum to warrant the exercise of personal jurisdiction over any of the causes of action in Plaintiffs' complaint.[2]

2. Forum Non Conveniens

Even assuming there is jurisdiction over the third cause of actions for defamation of title, the court agrees with the Israel Museum that Plaintiffs' claims should be dismissed pursuant to the common-law doctrine of forum non conveniens (CPLR 327). Under CPLR 327, "[w]hen the court finds that in the interest of substantial justice the action should be heard in another forum, the court, on the motion of any party, may stay or dismiss the action in whole or in part on any conditions that may be just." This discretionary doctrine allows the court to "stay or dismiss [] actions where it is determined that the action, although jurisdictionally sound, would be better adjudicated elsewhere" (*Islamic Republic of Iran v Pahlavi*, 62 NY2d 474, 478-479 [1984]). In evaluating a motion to dismiss on this basis, courts should look to the "burden on New York courts, the need to translate documents, the need for interpretation of foreign law, and the existence of prior proceedings and the location of witnesses and documents" as well as the ability of plaintiff to file elsewhere with "minimal practical and legal disruption" (*EPK Brand, Inc. v Leret*, 194 AD3d 644, 644-645 [1st Dept 2021]). While the availability or lack thereof of an alternative forum

[2] It further offends due process with respect to the claims for replevin and conversion, because these claims are likely time-barred. It is undisputed that Plaintiffs' claims would be time-barred under the statute of limitations for replevin and conversion. The HEAR Act of 2016 extends certain limitations periods for claims to recover artwork or other property "that was lost . . . because of Nazi persecution" (HEAR Act of 2016, PL 114-308, § 5(a), 130 Stat 1524, 1526 [Dec 16, 2016] [emphasis added]). However, it is dubious to that the Bird's Head Haggadah, which Plaintiffs allege may have been stolen by their neighbor (seemingly a Jewish refugee), or some other unknown party (see NYSCEF Doc. No. 1, ¶¶ 138, 160), was lost "because of Nazi persecution." This is particularly so because the HEAR Act's "Purposes" section references "**Nazi-confiscated** art" and the goal of ensuring that "claims to artwork and other property stolen or misappropriated **by the Nazis**" are not unfairly barred (HEAR Act of 2016, PL 114-308, §§ 3(1)-(2), 130 Stat 1524, 1525-1526 [Dec 16, 2016] [emphasis added]); *see also* Simon J. Frankel and Sari Sharoni, *Navigating the Ambiguities and Uncertainties of the Holocaust Expropriated Art Recovery Act of 2016*, 42 Colum. J. Law & Arts 157, 179-181 [Winter 2019] [evaluating the meaning of the phrase "because of Nazi persecution" and determining that the HEAR Act's purposes and legislative history suggest a "narrow construction, limited to works stolen, confiscated, or otherwise lost *to* the Nazis"]). Because the Haggadah was likely stolen by Elisabeth's neighbor, Plaintiffs have not established that the HEAR Act of 2016 applies to these claims. However, given the lack of personal jurisdiction, the court need not reach the issue of statute of limitations or applicability of the HEAR Act.

is an important factor, it is not dispositive (*Finance & Trading Ltd. v Rhodia S.A.*, 28 AD3d 346, 347 [1st Dept 2006]).

Here, the balance of the factors militates heavily in favor of dismissal. All of the parties, witnesses, and documents are located either outside of the State of New York or the United States altogether. While party residency is "not dispositive, this is generally the most significant factor in the equation" (see *Bacon v Nygard*, 160 AD3d 565, 566 [1st Dept 2018] [citation and internal quotation marks omitted]). **None** of the parties in this case are New York residents. None of the Plaintiffs reside in New York: Eli Barzilai (Jerusalem), Andrée Fischer and Ludwig Marum (Germany), and Dominique Avery (Connecticut). The only defendant is in Israel. Plaintiffs do not dispute that most, if not all, of the documents related to this matter would be located in Israel. Additionally, were the case to proceed in New York, relevant documents would require translation from Hebrew and German to English.

Moreover, the allegations underlying the complaint almost entirely concern conduct that occurred outside of New York. The Bird's Head Haggadah was allegedly stolen in Germany and subsequently sold in Israel, where it is currently located. While Plaintiffs allege that the pop-up Haggadot are sometimes sold in New York through online orders, Plaintiffs also allege that Koren, whom Plaintiffs have not sued, is an "Israeli based publisher" (NYSCEF Doc. No. 1, ¶ 198). That the events underlying the complaint indisputably "center" elsewhere, strongly suggests that New York is an "inconvenient forum lacking a substantial nexus with the action" (*Filho v Borges*, 187 AD3d 406, *1 [1st Dept 2020]; *NWG Investments Inc. v Fronteer Gold Inc.*, 2013 WL 4482713, *6 [Sup Ct, NY Cty Aug 21, 2013] ["The underlying transaction arose primarily in a foreign jurisdiction (Canada) which strongly suggests there is not the "substantial nexus" required to avoid forum non conveniens dismissal."]).

Further, Israel has a greater interest than New York in resolving these claims [*see Hanwha Life Ins. v UBS AG*, 127 AD3d 618, 619 [1st Dept 2015] [affirming dismissal on basis of forum non conveniens where Korea "has an interest in adjudicating a matter involving harm to a Korean corporation"]). Defendant asserts, and Plaintiffs do not dispute, that the Israeli government owns a founder share of the Israel Museum and elects two seats on the 14-seat board of directors (NYSCEF Doc. No. 49, p. 15). Defendant also states that the municipality of Jerusalem and the Hebrew University of Jerusalem control other seats on the board of directors (NYSCEF Doc. No. 49, p. 15).

Finally, it appears that the defamation of title claim, at least, could be heard in an alternate forum. While the availability of an alternate forum is not required for dismissal under forum non conveniens, it is an important factor for the court to consider (*see Hanwha Life Ins. v UBS AG*, 127 AD3d 618, 619 [1st Dept 2015]; *Islamic Republic of Iran v Pahlavi*, 62 NY2d 474, 481 [1984] ["Without doubt, the availability of another suitable forum is a most important factor to be considered in ruling on a motion to dismiss but we have never held that it was a prerequisite for applying the *conveniens* doctrine."]). Unlike their replevin and conversion claims, Plaintiffs have not raised concerns regarding their ability to assert their defamation of title claim in Israel due to the expiration of the applicable statute of limitations. Accordingly, they fail to meet their burden to establish that they would be unable to assert the claim for defamation of title in Israel.

Plaintiffs' counsel speculated at oral argument that Plaintiffs cannot sue in Israel over the pop-up Haggadot (NYSCEF Doc. No. 73, p. 34). However, Plaintiffs have presented no information whatsoever about the Israeli statute of limitations applicable to a cause of action for defamation of title. Thus, Plaintiffs have failed to rebut Defendant's assertion that Israel presents

an available alternate forum (*see Patriot Exploration, LLC v. Thompson & Knight LLP*, 16 NY3d 762, 763 [2011]; *see also A & M Exports v Meridien Intl. Bank*, 207 AD2d 741, 742 [1st Dept 1994] [dismissing complaint on the basis of forum non conveniens, finding that plaintiff's contention that Liberia was "not a viable alternative forum" was "too speculative to permit a concrete finding"]).

In light of the above factors, even if there were personal jurisdiction over any of Plaintiffs' causes of action, it would be in the "interest of substantial justice" for the claims to be dismissed and tried elsewhere (*see Fekah v Baker Hughes Inc.*, 176 AD3d 527, 528-529 [1st Dept 2019]). At its core, this is a dispute involving foreign parties, witnesses, documents, and legal issues relating to a Haggadah allegedly stolen in Germany and sold in Israel. There is almost no connection to New York, and the complaint seems to be merely an attempt to take advantage of the HEAR Act of 2016, which unlikely applies.

The court has considered the parties' remaining contentions and finds them unavailing.

Accordingly, it is

**ORDERED** that Defendant's motion to dismiss is granted, and the complaint is dismissed with prejudice; and it is further

**ORDERED** that that the Clerk of the Court is directed to mark this case as disposed.

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**11/10/2022**
**DATE**

**MELISSA CRANE, J.S.C.**

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| **CHECK ONE:** | x | **CASE DISPOSED** | | | **NON-FINAL DISPOSITION** | | |
| | x | **GRANTED** | | **DENIED** | **GRANTED IN PART** | | **OTHER** |
| **APPLICATION:** | | **SETTLE ORDER** | | | **SUBMIT ORDER** | | |
| **CHECK IF APPROPRIATE:** | | **INCLUDES TRANSFER/REASSIGN** | | | **FIDUCIARY APPOINTMENT** | | **REFERENCE** |