

<b>A Participations Ltd. v Velissaris</b>
2026 NY Slip Op 31496(U)
April 9, 2026
Supreme Court, New York County
Docket Number: Index No. 652720/2023
Judge: Melissa A. 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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INDEX NO. 652720/2023

MOTION DATE 03/03/2025

MOTION SEQ. NO. 028

A PARTICIPATIONS LTD., AMITELL MASTER FUND, AQUIS CAPITAL AG, AUGESCO HOLDINGS, CARL FRIEDRICH MARINO GUMPERT, CRESCENDO CAPITAL SA, DAIWA HOUSE INDUSTRY PENSION FUND, FRANCOIS DEKKER, GIOVE S.R.L., JAMES T. SHERWIN, JAPAN MEDICAL SUPPORT CO., LTD, KATSUSHI NAKAYAMA, KIYOKAZU KANNO, KEIKO KANNO, LIGHTVC, LTD., MAXYM ENTIN, MONTSOL ANSTALT, MUFG ALTERNATIVE FUND SERVICES (CAYMAN) LIMITED REF EQUATOR INVESTMENTS LIMITED, OPUS CHARTERED ISSUANCE S.A. COMPARTMENT 127, REINBERGER FOUNDATION, SHADOWBOLTS LIMITED, STEINFREUND57 S.A., SICAV-RAIF - GLOBAL HEDGEFUNDS, TEXAS TECH UNIVERSITY SYSTEM, TOTUS HOLDINGS, 2010 REVOCABLE GST GARY L. PILGRIM, ABRAHAM JOSHUA HESCHEL SCHOOL, AEJ CAPITAL, LLC, ANDREW SCHWERIN, BONNIE SCHWERIN, ATLAS GLOBAL FUND, BELMONTI FAMILY REVOCABLE TRUST & MARGARET M. BELMONTI REVOCABLE TRUST HELD AS TENANTS IN COMMON, BRIAN N. KAUFMAN REVOCABLE TRUST U/T/A 02/13/13, BRITTON FUND, BYRON S. KRANTZ REVOCABLE TRUST, CAROL A. BUEKER REVOCABLE TRUST U/A 12/12/95, MELDRUM FAMILY, LLC, COBALT ABSOLUTE, LLC, DAVID A. COHEN DECLARATION OF TRUST, DAVID A. HORN TR UW FBO CAROLYN, DAVID A. HORN TR UW FBO HELEN, DAVID N. SCAIFE 2020 REVOCABLE TRUST, DRAKE LEONARD II LLC, DJI 2006 FUND, EARL H. DEVANNY, III REVOCABLE TRUST U/A DTD 4/2/2001, ELLIOT SIGAL, RUTH SIGAL, FFI 2011 FUND, FLINT HILLS DIVERSIFIED STRATEGIES, LP, FRANK C. SULLIVAN II DECLARATION OF TRUST, FRANK H. PORTER JR. DECLARATION OF TRUST, GARY L. PILGRIM 2010 IRREVOCABLE TRUST, GARY L. PILGRIM 2013 DELAWARE TRUST, GARY L. PILGRIM GST TR U/D 6/4/98, GO4G BEST IDEAS, LLC, GOHEELS, LLC, GREENLEAF TRUST, HARVEY L. KAPLAN TRUST, HUMMEL PARTNERS LP, IRENE B. NEWMAN REVOCABLE TRUST, IRIS ABSOLUTE, LLC, JASON M. KUHN REVOCABLE TRUST, JEFFREY BELMONTI REVOCABLE TRUST, JOHN D. STARR REVOCABLE TRUST U/A DTD 11/10/93, JOHN R. GRISSINGER LIVING TRUST U/A 4/7/11, KAPLAN 2020 FUND, KENDOR II LLC, KEVIN M. ANDERSON 2017 UPN IRREVOCABLE TRUST U/A DTD 3/21/2017, LAUREN N. RAINEN, LIBERTY SPECIAL STRATEGIES FUND LLC, MARIE GENSHAFT, MARGARET J. ANDERSON REVOCABLE

DECISION + ORDER ON MOTION

TRUST U/A DTD 7/22/1999, MARK DAVID 1994 PERSONAL IRREVOCABLE TRUST, MARK H SONNENBERG, SUSAN L SONNENBERG, MATTHEW N. KRISER REVOCABLE TRUST, MCSR MASTER FUND, L.P., MICHAEL J. HAGAN, MICHAEL J. RAINEN REVOCABLE TRUST U/A/ DTD 5/4/1990, MICHAEL J. SELVERIAN, NEIL GENSHAFT REVOCABLE TRUST, PAUL L. GOLDBERG DECLARATION OF TRUST, PFLP INVESTMENTS, LLC, RICHARD B. KLEIN REVOCABLE TRUST U/A/DTD 6/8/1993, REVOCABLE TRUSTY AGREEMENT OF JULIETTE B. FREEMAN, REGE S. EISAMAN, ROBERT A. BERNSTEIN REVOCABLE TRUST U/A DTD 7/8/1997, AS AMENDED, RUTH E. PILGRIM REV. GST TR 9/22/10, SECOND AMENDED AND RESTATED AGREEMENT OF TRUST FOR LAWRENCE S. CONNOR DATED MAY 2, 2016, SECULAR GROWTH INVESTORS, LP, SIGAL FAMILY INVESTMENTS, LLC, SIMBA INVESTMENTS, LLC, SNYDER RESOURCE MANAGEMENT L.P., STATE TEACHERS RETIREMENT SYSTEM OF OHIO, STEVEN B. SHAFFER TRUST U/A 8/25/2003, THE 2009 JOHN N. MCCONNELL III GIFT TRUST, THE 2020 MARK FISHMAN TRUST PREVIOUSLY THE 2009 MARK FISHMAN TRUST, THE LEONARD G. HERRING FAMILY FOUNDATION, INC., THOMAS E. LAUERMAN REVOCABLE TRUST U/A DTD 10/30/2000, AS AMENDED, TUTERA GROUP, INC., VIOLET A. CARSON RESTATED 2004 REVOCABLE TRUST, VERGER CAPITAL FUND, LLC, WA ABSOLUTE RETURN HEDGE FUND LLC, WALLIS ANNENBERG LIVING TRUST, WEINERG FAMILY LP,

Plaintiff,

- v -

JAMES VELISSARIS, INFINITY Q CAPITAL MANAGEMENT LLC, SCOTT LINDELL, LEONARD POTTER, INFINITY Q MANAGEMENT EQUITY, LLC, WILDCAT PARTNER HOLDINGS, LP, WILDCAT CAPITAL MANAGEMENT, LLC, EISNERAMPER LLP, EISNERAMPER US (CAYMAN) LTD., U.S. BANCORP FUND SERVICES LLC, U.S. BANCORP FUND SERVICES, LTD.,

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 028) 416, 417, 418, 419, 420, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 500, 525, 526, 527, 528, 529, 530, 531, 532, 543

were read on this motion to/for

DISMISS

In motion sequence no. 028, defendant EisnerAmper US (Cayman) Ltd. (“EA Cayman”) moves to dismiss plaintiffs’ second amended complaint (the SAC).

This motion is largely identical to EisnerAmper LLP’s (“EA LLP”) motion to dismiss the SAC [MS 027]. The two motions differ in that EA Cayman also moves to dismiss for lack of personal jurisdiction. Plaintiffs oppose this motion.

The court granted EA LLP’s motion to dismiss the SAC in the decision and order, dated 4/9/26 (resolving MS 027). The court also grants EA Cayman’s motion to dismiss the SAC for the reasons stated in that contemporaneous decision. The brief discussion below concerns only the parties’ personal jurisdiction arguments.

### DISCUSSION

A plaintiff opposing a motion to dismiss for lack of personal jurisdiction brought under CPLR 3211 (a) (8) motion bears the burden of demonstrating jurisdiction through the submission of sufficient evidence, such as affidavits and relevant documents (*Coast to Coast Energy, Inc. v Gasarch*, 149 AD3d 485, 486 [1st Dept 2017]). CPLR 302 (a) (1) provides for specific jurisdiction over a foreign domiciliary who “transacts any business within the state.” A single transaction in the state may be sufficient to invoke jurisdiction “so long as the defendant’s activities here were purposeful and there is a substantial relationship between the transaction and the claim asserted” (*Kreutter v McFadden Oil Corp.*, 71 NY2d 460, 467 [1988]). The exercise of specific jurisdiction under CPLR 302 (a) must comport with federal due process (*State of New York v Vayu, Inc.*, 39 NY3d 330, 346 [2023]).

“While each subsection [under CPLR 302 (a)] may, on its own, confer personal jurisdiction upon a nondomiciliary, ‘a New York court may not exercise personal jurisdiction over a non-domiciliary unless two requirements are satisfied: the action is permissible under the long-arm statute (CPLR 302) and the exercise of jurisdiction comports with due process.’ Importantly, these two requirements are

not mutually exclusive. Therefore, ‘if either the statutory or constitutional prerequisite is lacking, the action may not proceed’ ”

(*SOS Capital v Recycling Paper Partners of PA, LLC*, 220 AD3d 25, 32 [1st Dept 2023] [internal citations and footnote omitted] [noting that “due process requires that a nondomiciliary have “certain minimum contacts” with the forum “such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice”]).


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]; *see also Barzilai v Museum*, 2022 N.Y. Slip Op. 33814[U], 5 [Sup Ct, NY County 2022], *affd* 2024 N.Y. Slip Op. 01669 [1st Dept 2024]). Although the court has dismissed the tort claims against EA Cayman (*see supra* and the court’s decision and order resolving MS 027), plaintiffs’ submissions would be enough to establish a ‘sufficient start’ for long-arm jurisdiction under CPLR 301 (a) (1). Among other things, plaintiffs show that EA Cayman “delegated” substantial parts of the Cayman Feeder Fund’s audits to EA LLP in New York (*see* Doc 470 [mem opp] at 8-15; pls’ exs 6, 10, 22). Also, EA Cayman concedes that EA LLP “employees may have assisted [EA Cayman] in performing some of the subject audit services” (Doc 543 at 5 [mem rep]).

Ordinarily, the court would schedule an immediate jurisdictional hearing to determine whether long-arm jurisdiction is appropriate. However, it is a moot point in this instance because the court is dismissing the SAC against EA Cayman, for the reasons stated in the court’s decision and order resolving MS 027 [EA LLP’s motion to dismiss the SAC]).

Accordingly, it is

ORDERED that the motion brought by defendant EA Cayman to dismiss the second amended complaint (motion sequence no. 028) is granted in part, and the second amended complaint is dismissed as against this defendant, with costs and disbursements as taxed by the Clerk of the Court, and the Clerk is directed to enter judgment accordingly in favor of said defendant; and it is further

ORDERED that the action is severed and continued against the remaining defendants.

<u>4/9/2026</u> DATE		 MELISSA A. CRANE, J.S.C.
CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
	<input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> GRANTED IN PART <input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT <input type="checkbox"/> REFERENCE