

**Quantum Concept, Inc. v Basile Design, Inc.**

2026 NY Slip Op 31835(U)

April 28, 2026

Supreme Court, New York County

Docket Number: Index No. 659443/2025

Judge: Hasa A. Kingo

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This opinion is uncorrected and not selected for official publication.

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

**PRESENT: HON. HASA A. KINGO PART 65M**

*Justice*

-----X

QUANTUM CONCEPT, INC.,

Plaintiff,

- v -

BASILE DESIGN, INC., ALLISON P. HAYES-BASILE

Defendants.

-----X

INDEX NO. 659443/2025

MOTION DATE N/A

MOTION SEQ. NO. 001

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, 30, 32, 33

were read on this motion to DISMISS.

Defendants Basile Design, Inc. and Allison P. Hayes-Basile a/k/a Allison Hayes move, pursuant to CPLR §§ 3211(a)(1), (a)(3), (a)(7), and (a)(8), and under the doctrine of forum non conveniens, for an order dismissing the complaint in its entirety. Plaintiff Quantum Concept, Inc. opposes the motion.

For the reasons that follow, the motion is granted, and the complaint is dismissed.

Defendants seek dismissal of all five causes of action asserted in the complaint: breach of contract, promissory estoppel, unjust enrichment, breach of the implied covenant of good faith and fair dealing, and declaratory judgment pursuant to CPLR § 3001. Defendants contend that the complaint fails to plead any enforceable “Subsequent Commissions Agreement,” that the alleged email exchange does not establish a meeting of the minds, that the quasi-contract and implied covenant claims are duplicative and legally deficient, that no justiciable controversy has been pleaded for declaratory relief, that the documentary evidence refutes plaintiff’s claims, that plaintiff lacked capacity to sue when the action was commenced, that this court lacks personal jurisdiction over defendants, and that New York is an inconvenient forum.

**BACKGROUND AND PROCEDURAL HISTORY**

Plaintiff Quantum Concept, Inc. is a California corporation engaged in the design, manufacture, marketing, and sale of men’s clothing. Defendant Allison Hayes is the principal of defendant Basile Design, Inc. According to the complaint, from approximately 2013 through December 15, 2024, defendants provided services to plaintiff, including representation at trade shows, negotiation of trade show and department store agreements, marketing and merchandising to wholesale purchasers, and social media marketing. Plaintiff alleges that it paid Basile Design a fixed annual amount, commissions on sales of plaintiff’s merchandise based upon orders placed by purchasers through defendants, and reimbursement of certain business expenses.

The dispute arises out of the deterioration of the parties' business relationship after an October 2024 trip to South Korea. Ms. Hayes avers that, while working in South Korea on products associated with Johnston & Murphy, she discovered that plaintiff's representatives had been communicating with that account without including her, which led her to believe that plaintiff was attempting to remove her from the account and deprive her of commissions. After a dinner at which Ms. Hayes alleges that plaintiff's owner, Steve Cho, made disparaging comments about her value to the company, Ms. Hayes left South Korea and returned to Tennessee. The parties thereafter engaged in a heated email exchange beginning on October 11, 2024.

Plaintiff's contract claim rests principally on Ms. Hayes's October 14, 2024 email, in which she stated that she would not be moving forward with plaintiff after December 15, 2024, but would help with Costco and other loose ends until that date. She also wrote that she had orders with Johnston & Murphy for Fall 2024, Spring 2025, and Fall 2025, and that "[a]ll I want is to be paid on the orders that I have worked on and previously booked which include the above seasons." Plaintiff alleges that this email, together with plaintiff's later payment of commissions, created a "Subsequent Commissions Agreement" under which defendants agreed that they would make no further claims against plaintiff so long as plaintiff paid commissions on certain Johnston & Murphy orders.

The record does not support that characterization. The email exchange continued after October 14, 2024, and the parties continued to dispute the scope of Ms. Hayes's entitlement to commissions and other rights. Ms. Hayes states that she never agreed to the alleged Subsequent Commissions Agreement, and the documentary record shows that plaintiff later sent proposed written settlement agreements that Ms. Hayes refused to sign. Indeed, Ms. Hayes expressly stated that she would sign a release only when she had been "paid in full," and later reiterated that she would not sign anything until all monies were paid. The complaint was filed on October 28, 2025. Shortly thereafter, Ms. Hayes commenced an action in the United States District Court for the Middle District of Tennessee asserting claims relating to commissions, alleged rights in designs, and related matters.

## ARGUMENTS

Defendants argue that the complaint should be dismissed because plaintiff has attempted to transform an emotional and unresolved business breakup into an enforceable release and waiver that the parties never agreed upon. Defendants contend that the alleged Subsequent Commissions Agreement is not pleaded with the required definiteness, that the emails do not contain an objective manifestation of mutual assent, and that Ms. Hayes's statement that she wanted to be paid on orders she had worked on cannot reasonably be construed as an agreement to waive all future claims, intellectual property rights, or commission rights. Defendants also argue that plaintiff's remaining claims merely repackage the same defective theory.

Plaintiff argues that Ms. Hayes promised that payment of commissions on the identified Johnston & Murphy orders would resolve defendants' claims, and that plaintiff relied on that promise by paying substantial commissions, including commissions on the Fall 2025 order. Plaintiff further contends that defendants' later assertion of claims to additional commissions,

designs, logos, and trade names breached that agreement and created a justiciable controversy warranting declaratory relief.

## DISCUSSION

On a motion to dismiss pursuant to CPLR § 3211(a)(7), the court must afford the complaint a liberal construction, accept the facts alleged as true, and accord plaintiff the benefit of every favorable inference, but the court is not required to accept bare legal conclusions, inherently incredible allegations, or factual claims flatly contradicted by documentary evidence. A complaint must plead facts that fit within a cognizable legal theory, and where the pleaded facts and the documentary submissions establish that no viable cause of action exists, dismissal is warranted (*Leon v Martinez*, 84 NY2d 83, 87-88 [1994]; *Guggenheimer v Ginzburg*, 43 NY2d 268, 275 [1977]; *Simkin v Blank*, 19 NY3d 46, 52 [2012]).

A breach of contract claim requires allegations of the existence of a contract, plaintiff's performance, defendant's breach, and resulting damages (*Harris v Seward Park Hous. Corp.*, 79 AD3d 425, 426 [1st Dept 2010]). To be enforceable, a contract must be sufficiently definite as to its material terms and must reflect a meeting of the minds (*Cobble Hill Nursing Home v Henry & Warren Corp.*, 74 NY2d 475, 482 [1989], *cert denied* 498 US 816 [1990]). The manifestation of mutual assent must be objective and sufficiently definite; courts may not create a contract where the parties themselves did not reach one (*Joseph Martin, Jr., Delicatessen v Schumacher*, 52 NY2d 105, 109 [1981]; *Matter of Express Indus. & Term. Corp. v New York State Dept. of Transp.*, 93 NY2d 584, 589 [1999]).

Measured against these principles, the breach of contract cause of action fails. Plaintiff's alleged Subsequent Commissions Agreement rests on an email in which Ms. Hayes stated that she wanted to be paid for orders she had worked on and previously booked for Fall 2024, Spring 2025, and Fall 2025. That language expresses Ms. Hayes's demand for payment; it does not objectively manifest an agreement to release plaintiff from all further commission obligations, relinquish any claimed rights in designs, logos, or trade names, or forbear from asserting any claim in the future. The statement that "[a]ll I want is to be paid" cannot be read in isolation, divorced from the surrounding emails, the continued dispute between the parties, and the subsequent unsuccessful efforts to obtain a formal release. The later proposed settlement agreements, which Ms. Hayes refused to sign, underscore that the parties had not reached a final and binding agreement resolving all claims. Where writings show continued negotiation and no assent to essential terms, no enforceable contract exists (*Jordan Panel Sys. Corp. v Turner Constr. Co.*, 45 AD3d 165, 169-170 [1st Dept 2007]; *Kowalchuk v Stroup*, 61 AD3d 118, 121-123 [1st Dept 2009]).

The alleged agreement also fails for indefiniteness. Plaintiff does not plead the specific terms by which defendants supposedly waived all additional claims, the scope of any release, the claims covered, the intellectual property rights allegedly relinquished, the duration of the alleged promise, or the precise consideration given for the alleged waiver beyond commissions that, at least as to certain orders, plaintiff itself acknowledges were owed under the parties' prior course of dealing. A court cannot supply material terms that the parties did not agree upon (*Joseph Martin, Jr., Delicatessen*, 52 NY2d at 109; *Matter of 166 Mamaroneck Ave. Corp. v 151 E. Post Rd. Corp.*, 78 NY2d 88, 91 [1991]). Plaintiff's conclusory label of the alleged understanding as a "Subsequent

Commissions Agreement” does not cure the absence of pleaded facts establishing a binding contract.

The promissory estoppel claim fares no better. Promissory estoppel requires a clear and unambiguous promise, reasonable and foreseeable reliance, and injury caused by that reliance (*Condor Funding, LLC v 176 Broadway Owners Corp.*, 147 AD3d 409, 411 [1st Dept 2017]). The complaint identifies no clear and unambiguous promise by defendants not to assert any future claim against plaintiff. At most, the complaint identifies Ms. Hayes’s statement that she wished to be paid on specified orders she had worked on. That is not a promise to waive all rights. Nor does plaintiff adequately plead reasonable reliance. Plaintiff alleges that it paid commissions, but the complaint itself acknowledges that commissions were paid consistent with the parties’ historical practice and that defendants had procured or worked on at least some of the orders at issue. Payment of sums arguably owed under an existing course of dealing does not constitute the type of detrimental reliance necessary to sustain promissory estoppel (*Condor Funding, LLC*, 147 AD3d at 411). In any event, the promissory estoppel claim is duplicative of the failed contract claim because it rests on the same alleged promise, the same alleged breach, and the same alleged damages (*Celle v Barclays Bank P.L.C.*, 48 AD3d 301, 302 [1st Dept 2008]).

Plaintiff’s unjust enrichment claim is also dismissed. To state such a claim, a plaintiff must allege that defendant was enriched at plaintiff’s expense and that equity and good conscience require restitution (*Mandarin Trading Ltd. v Wildenstein*, 16 NY3d 173, 182 [2011]). Unjust enrichment is not a catchall cause of action available whenever a plaintiff is dissatisfied with the outcome of a business relationship; it is unavailable where it merely duplicates a contract claim or where the alleged enrichment consists of payments made pursuant to an alleged agreement or an acknowledged course of dealing (*Corsello v Verizon N.Y., Inc.*, 18 NY3d 777, 790 [2012]; *Clark-Fitzpatrick, Inc. v Long Is. R.R. Co.*, 70 NY2d 382, 388 [1987]; *Accurate Copy Serv. of Am., Inc. v Fisk Bldg. Assoc. L.L.C.*, 72 AD3d 456, 456 [1st Dept 2010]). Plaintiff alleges that defendants were unjustly enriched by receiving commissions on the Fall 2025 order while later asserting additional claims. That theory depends entirely upon the same alleged Subsequent Commissions Agreement and alleged waiver that the court has found insufficiently pleaded. It also does not show why equity and good conscience require restitution of commissions paid for orders that plaintiff alleges defendants helped procure, service, or develop.

The fourth cause of action, for breach of the implied covenant of good faith and fair dealing, is dismissed as duplicative and otherwise legally insufficient. Every contract contains an implied covenant of good faith and fair dealing, but the covenant cannot impose obligations inconsistent with the contract’s express terms, nor can it create independent obligations where no enforceable contract exists (*Dalton v Educational Testing Serv.*, 87 NY2d 384, 389 [1995]; *Murphy v Am. Home Prods. Corp.*, 58 NY2d 293, 304 [1983]). A claim for breach of the implied covenant must be dismissed where it is based on the same facts and seeks the same damages as a breach of contract claim (*Amcan Holdings, Inc. v Canadian Imperial Bank of Commerce*, 70 AD3d 423, 426 [1st Dept 2010]). Here, plaintiff’s implied covenant claim is premised on defendants’ acceptance of Fall 2025 commissions and later assertion of claims against plaintiff. That is the same factual predicate underlying plaintiff’s contract claim. Moreover, because plaintiff has not adequately pleaded an enforceable Subsequent Commissions Agreement, there is no contract from which the asserted implied covenant can arise.

The declaratory judgment claim is also dismissed. CPLR § 3001 permits a court to declare the rights and legal relations of parties to a justiciable controversy, but declaratory relief is not available to secure an advisory opinion, to decide abstract questions, or to adjudicate speculative disputes (*New York Pub. Interest Research Group v Carey*, 42 NY2d 527, 529-531 [1977]; *Combustion Eng'g, Inc. v Travelers Indem. Co.*, 75 AD2d 777, 778 [1st Dept 1980], *aff'd* 53 NY2d 875 [1981]). Although plaintiff alleges that defendants have asserted “claims” to designs, logos, trade names, and additional commissions, the complaint does not plead with sufficient particularity the actual legal controversy requiring a declaration by this court, separate and apart from the claims now pending in the Tennessee federal action. To the extent the requested declaration seeks a ruling that defendants have no rights to commissions or intellectual property, the claim is either duplicative of plaintiff’s failed contract theory or seeks an advisory declaration concerning claims more appropriately adjudicated in the forum where defendants have actually asserted them. A declaratory judgment cause of action should not be sustained where it merely duplicates other claims or where no practical, concrete controversy is presented (*Apple Records v Capitol Records*, 137 AD2d 50, 54 [1st Dept 1988]; *Singer Asset Fin. Co., LLC v Melvin*, 33 AD3d 355, 358 [1st Dept 2006]).

Dismissal is further supported by the documentary evidence. Under CPLR § 3211(a)(1), dismissal is warranted where documentary evidence conclusively establishes a defense as a matter of law (*Leon*, 84 NY2d at 88; *Goshen v Mutual Life Ins. Co. of N.Y.*, 98 NY2d 314, 326 [2002]). The relevant emails do not memorialize the agreement plaintiff alleges; they show an unresolved dispute. The proposed written settlement agreements and Ms. Hayes’s refusals to sign them further confirm that the parties did not agree to a final release or global resolution. Documentary evidence that establishes the absence of mutual assent defeats a contract claim at the pleading stage (*Kolchins v Evolution Mkts., Inc.*, 31 NY3d 100, 106 [2018]; *Kowalchuk*, 61 AD3d at 121-123). Defendants’ capacity argument under Business Corporation Law § 1312 does not independently warrant dismissal. Although defendants submit evidence that plaintiff’s New York statement status was past due, the Appellate Division, First Department, has held that where a foreign corporation’s authorization defect is cured, the action may continue (*U.S. Legal Support, Inc. v Eldad Prime, LLC*, 125 AD3d 486, 488 [1st Dept 2015]). Accordingly, dismissal is not granted on CPLR § 3211(a)(3) grounds.

The jurisdictional and forum arguments also reinforce dismissal. General jurisdiction exists over an individual where the individual is domiciled, and over a corporation where it is incorporated or has its principal place of business, except in the exceptional case where contacts with the forum are so continuous and systematic as to render the defendant essentially at home there (*Daimler AG v Bauman*, 571 US 117, 137-139 [2014]; *IMAX Corp. v The Essel Group*, 154 AD3d 464, 465-466 [1st Dept 2017]). Ms. Hayes is a Tennessee resident, and Basile Design is a California corporation with its principal place of business in Tennessee. Basile Design has no New York office, employees, bank account, or registration. Allegations that Ms. Hayes traveled to New York in connection with plaintiff’s business, attended trade shows, or once owned property here do not render either defendant at home in New York.

Nor has plaintiff established specific jurisdiction under CPLR § 302(a)(1). Specific jurisdiction requires that defendants purposefully transact business in New York and that the

claims arise from those New York transactions (*McGowan v Smith*, 52 NY2d 268, 272 [1981]; *Licci v Lebanese Can. Bank, SAL*, 20 NY3d 327, 338-339 [2012]; *State of New York v Vayu, Inc.*, 39 NY3d 330, 335-337 [2023]). The alleged contract at issue arose from emails sent by Ms. Hayes from Tennessee to plaintiff's representatives, in the aftermath of events in South Korea, concerning commissions on Johnston & Murphy orders connected substantially to Tennessee. The alleged breach consists of defendants' later assertion of claims for additional commissions and rights, not any purposeful New York transaction. The relationship among defendants, New York, and the claims pleaded is too attenuated to support specific jurisdiction (*Paterno v Laser Spine Inst.*, 24 NY3d 370, 376-378 [2014]).

Even assuming jurisdiction existed, the doctrine of forum non conveniens would independently support dismissal. A court may dismiss an action in the interest of substantial justice where New York is an inconvenient forum, considering the burden on New York courts, the potential hardship to defendants, the unavailability of an alternative forum, the residence of the parties, and the location of the underlying events and witnesses (CPLR § 327[a]; *Islamic Republic of Iran v Pahlavi*, 62 NY2d 474, 478-479 [1984], *cert denied* 469 US 1108 [1985]). The central witnesses and events are not meaningfully centered in New York. Plaintiff is a California corporation; Ms. Hayes resides in Tennessee; Basile Design's principal place of business is in Tennessee; Johnston & Murphy's owner, Genesco, is located in Tennessee; the alleged email communications were sent from Tennessee; the precipitating meeting occurred in South Korea; and a related federal action is pending in Tennessee. New York's connection to the core dispute is comparatively limited. Under these circumstances, retaining this action would not serve the convenience of the parties or the ends of substantial justice. Accordingly, the complaint is dismissed in its entirety. As such, it is hereby

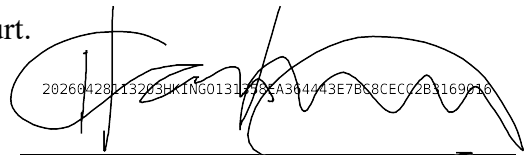
ORDERED that defendants Basile Design, Inc. and Allison P. Hayes-Basile a/k/a Allison Hayes's motion to dismiss is granted; and it is further

ORDERED that the complaint is dismissed in its entirety as against defendants Basile Design, Inc. and Allison P. Hayes-Basile a/k/a Allison Hayes; and it is further

ORDERED that the Clerk of the Court is directed to enter judgment accordingly in favor of defendants dismissing the complaint, with costs and disbursements as taxed by the Clerk upon submission of an appropriate bill of costs; and it is further

ORDERED that any requested relief not expressly granted herein is denied.

This constitutes the decision and order of the court.

  
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HASA A. KINGO, J.S.C.

4/28/2026  
DATE

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APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		<input type="checkbox"/>	SUBMIT ORDER
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