

Metropolitan Partners Group Admin., LLC v Nerney

2026 NY Slip Op 31878(U)

April 30, 2026

Supreme Court, New York County

Docket Number: Index No. 650013/2025

Judge: James d'Auguste

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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. James E. d'Auguste PART 55

Justice

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METROPOLITAN PARTNERS GROUP ADMINISTRATION,
LLC, LEVERED PARTNERS FUND VII, LP,
METROPOLITAN PARTNERS FUND VII, LP,

Plaintiffs,

- v -

BRIAN NERNEY, DAVID HORTON, SCHWEIZER RSG,
LLC, RSG SCHWEIZER INVESTORS, LLC, ROTOCRAFT
SERVICES GROUP, INC., RSG AVIATION, INC., RSG
AERODESIGN, INC., RSG PRODUCTS, INC.,

Defendants.

INDEX NO. 650013/2025
MOTION DATE 12/19/2025
MOTION SEQ. NO. 015

DECISION + ORDER ON MOTION

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The following e-filed documents, listed by NYSCEF document number (Motion 015) 633, 634, 635, 636,
637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657,
658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678,
679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699,
700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 749, 750, 751, 752, 753,
754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 796, 797, 798, 799, 800, 801, 802, 803,
804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 859, 860, 861, 872

were read on this motion to/for DISMISSAL

Plaintiffs Metropolitan Partners Group Administration LLC et al. ("Metropolitan") assert
the existence of jurisdiction over defendants Rotorcraft Services Group, Inc., RSG Aviation, Inc.,
RSG Aerodesign, Inc., and RSG Products, Inc. (collectively, the RSG defendants).

In brief, plaintiffs' claim is based on allegations that the corporate veil should be pierced
between those defendants and defendant RSG Schweitzer Investors, LLC ("Schweitzer"), a
defendant which concededly is subject to jurisdiction in New York. Plaintiffs also contend that
because the veil should be pierced, the RSG Defendants are subject to the New York forum
selection clause, which Schweitzer signed.

After argument before Special Master Vincent Chang on April 23, 2026, and having independently reviewed the briefs and supporting papers, the Court denies the motion to dismiss for lack of personal jurisdiction without prejudice (Motion Sequence 15). NYSCEF Doc. No. 715.

This matter is, at least at this stage, controlled by the First Department's ruling two weeks ago in this case.

Supreme Court also properly allowed jurisdictional discovery to determine whether the RSG defendants are alter egos of Schweizer RSG and therefore are bound by the New York forum selection clause in Schweizer RSG's credit agreement even though they are not signatories to the agreement. The detailed allegations in the complaint, read together, suggest common directors, corporate records, employees, office space, and the comingling of funds and other assets. Plaintiffs also alleged that Schweizer RSG could not meet its payroll obligations, suggesting that Schweizer RSG was inadequately capitalized. These allegations may be sufficient for a finding of jurisdiction over the RSG defendants under a veil piercing theory (*see Shisgal v Brown*, 21 A.D.3d 845, 848, 801 N.Y.S.2d 581 [1st Dep't 2005]). As a result, plaintiffs have made a "sufficient start" in demonstrating prima facie the existence of personal jurisdiction over the RSG defendants (*Matter of James v iFinex Inc.*, 185 A.D.3d 22, 30, 127 N.Y.S.3d 456 [1st Dep't 2020]).

Metro. Partners Grp. Admin., LLC v Nerney, ___ A.D.3d ___, 2026 N.Y. Slip Op 02340, *2 (1st Dep't 2026).

The First Department's opinion requires denial of the RSG Defendants' current motion to dismiss for lack of personal jurisdiction.

The parties agree that the jurisdictional discovery that Justice Crane ordered, affirmed by the First Department, has not taken place. While documents have been produced, no depositions have been taken. The RSG Defendants contend that the evidence that they have submitted is enough to warrant a dismissal based on lack of personal jurisdiction. *See* NYSCEF Doc. No. 715. However, the First Department does not agree. The First Department has instructed that we cannot make a ruling on the personal jurisdiction issue until the requisite jurisdictional

discovery has occurred. The evidence that the RSG Defendants have submitted has not been tested in depositions or other adversarial settings.

Moreover, the First Department ruled that plaintiffs have made a “sufficient start in demonstrating prima facie existence of personal jurisdiction over the RSG defendants.” As a result, we cannot grant the personal jurisdiction motion on the pleadings. *Id.* (citing *Matter of James v iFinex Inc.*, 185 A.D.3d 22, 30, 127 N.Y.S.3d 456 (1st Dep’t 2020)).

This Court directs the parties to meet and confer on a schedule for jurisdictional discovery and a schedule for discovery, briefing and hearing on any possible revised motion to dismiss for lack of personal jurisdiction. The existing motion is denied without prejudice to renew the motion, but only after jurisdictional discovery has occurred.

This Court denies the Defendants’ motion seeking to overturn certain of Judicial Hearing Officer Alfred C. Marin’s (the “JHO”) rulings relating to jurisdictional discovery (NYSCEF Doc. 593 [Motion Sequence Number 14]). The rulings at issue today include, without limitation, the JHO’s rulings that Plaintiffs have not waived jurisdictional discovery and are not at fault for failing to appear at previously noticed depositions. NYSCEF Doc. No. 608, at 3. (“Precluding plaintiffs from taking jurisdictional depositions on the grounds that they had violated Justice Crane’s September 30, 2025 case management order is both unsupported and inconsistent with my December 3 ruling[s].”). The JHO’s rulings in this regard¹ were not clearly erroneous and Defendants have provided no basis for overturning them. *Hinduja Glob. Sols. v. HBI Grp.*, 232 A.D.3d 566, 567 (1st Dep’t 2024)(affirming decision concerning a Special Master’s discovery ruling and noting that “the Special Master’s ruling was not clearly erroneous or contrary to law”). Plaintiffs’ failure to appear at depositions came after they requested guidance from the

¹ This Court will address other challenges to the JHO’s rulings in future opinions.

JHO as to whether depositions should go forward. NYSCEF Doc. No. 622. Thus, the failure to appear at those depositions was not Plaintiffs’ fault and those depositions should occur now. Indeed, JHO Marin ruled that Plaintiffs need not take alter-ego depositions until RSG Defendants made an acceptable document production. NYSCEF Doc. No. 608 at 3. This ruling was not clearly erroneous; it is axiomatic that deposition discovery should follow proper document discovery. *Icon Int’l, Inc. v. Elevation Health LLC*, 347 F.R.D. 274, 297 (S.D.N.Y. 2024) (“Elevation has suffered prejudice as a result of Icon’s failure to produce — principally because it has been denied the opportunity to include questioning about these documents in the depositions it has already taken of Icon.”).

Accordingly, it is

ORDERED that, for the reasons above, the Motion Sequence 15 – the Motion to Dismiss for lack of personal jurisdiction – is denied without prejudice.

This constitutes the decision and order of the Court.²

4/30/2026
DATE


CHECK ONE: CASE DISPOSED DENIED NON-FINAL DISPOSITION

APPLICATION: GRANTED GRANTED IN PART OTHER

CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER REFERENCE

INCLUDES TRANSFER/REASSIGN FIDUCIARY APPOINTMENT

James d’Auguste, J.S.C.



² The Court appreciates Special Master Vincent Chang, Esq.’s invaluable assistance in connection with this matter.