No. _____

In the

Supreme Court of the United States

SOCIÉTÉ GÉNÉRALE DE BANQUE AU LIBAN S.A.L.,
Petitioner,

v.

ESTER LELCHOOK, *et al.*,
Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Second Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

This Court has long required that the exercise of personal jurisdiction over a defendant rest either on the defendant's *own* suit-related contacts with the forum State (specific jurisdiction) or its *own* "continuous and systematic" affiliations that render it essentially at home there (general jurisdiction). The Court has never departed from that defendant-centric approach. And that approach forecloses the exercise of personal jurisdiction over Petitioner here. Indeed, it is undisputed that Petitioner itself has no forum contacts. Nevertheless, Respondents seek to assert personal jurisdiction by imputing an unaffiliated *nonparty's* contacts to Petitioner, based merely on Petitioner's foreign acquisition of the nonparty's assets and liabilities. The District Court heeded this Court's unwavering focus on a defendant's own forum contacts and rejected Respondents' theory. But the Second Circuit reversed. In its view, if substantive "forum law" could hold a defendant "liable" for a nonparty's actions, then the nonparty's "related jurisdictional actions should also attach" to the defendant. That approach is inconsistent with this Court's precedents and deepens an entrenched split among the lower courts.

The question presented is:

Whether the Due Process Clause allows courts to exercise personal jurisdiction by imputing an unaffiliated nonparty's forum contacts to a defendant with no forum contacts of its own.

PARTIES TO THE PROCEEDING

Petitioner Société Générale de Banque au Liban S.A.L. was defendant in the United States District Court for the Eastern District of New York and appellee in the United States Court of Appeals for the Second Circuit.

Respondents Ester Lelchook, Individually and as Personal Representative of the Estate of David Martin Lelchook, Michael Lelchook, Yael Lelchook, Alexander Lelchook, Individually and as Personal Representative of the Estate of Doris Lelchook, Malka Kumer, Chana Liba Kumer, Miriam Almackies, Chaim Kaplan, Rivka Kaplan, Brian Erdstein, Karene Erdstein, Ma'ayan Erdstein, Chayim Kumer, Nechama Kumer, Laurie Rappepport, Margalit Rappeport, Theodore (Ted) Greenberg, Moreen Greenberg, Jared Sauter, Dvora Chana Kaszemacher, Chaya Kaszemacher Alkareif, Avishai Reuvane, Elisheva Aron, Yair Mor, and Mikimi Steinberg were plaintiffs in the United States District Court for the Eastern District of New York and appellants in the United States Court of Appeals for the Second Circuit.

CORPORATE DISCLOSURE STATEMENT

Pursuant to this Court's Rule 29.6, Petitioner Société Générale de Banque au Liban S.A.L. states that it has no parent corporation and Société Générale S.A. (France) is a publicly held corporation that owns 10% or more of Société Générale de Banque au Liban S.A.L.'s stock.

STATEMENT OF RELATED PROCEEDINGS

This case arises from and is related to the following proceedings within the meaning of Rule 14.1(b)(iii):

- *Lelchook v. Société Générale de Banque au Liban S.A.L.*, No. 1:19-cv-00033-CBA-VMS (E.D.N.Y.), judgment entered March 31, 2021.
- *Lelchook v. Société Générale de Banque au Liban S.A.L.*, No. 29 (N.Y.), resolved certified question April 18, 2024.
- *Lelchook v. Société Générale de Banque au Liban S.A.L.*, No. 21-975 (2d Cir.), district court's judgment vacated and remanded August 11, 2025.

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PETITION FOR WRIT OF CERTIORARI

The decision below marks an untenable expansion of judicial power over foreign defendants with no forum contacts. It permits courts to assert personal jurisdiction based entirely on contacts imputed from third parties through arm's-length, foreign-based commercial transactions. But that theory finds no support in this Court's precedents. And it entrenches a deep conflict among the lower courts. This Court should grant review.

Petitioner Société Générale de Banque au Liban S.A.L. ("SGBL") is a Lebanese bank headquartered in Beirut. It operates exclusively within Lebanon's borders. It maintains no offices, branches, or bank accounts in the United States. It employs no personnel here. And it directs no relevant business activities toward American markets. Respondents do not allege otherwise. Instead, Respondents contend that New York federal courts may exercise jurisdiction over SGBL based solely on prior forum contacts attributable to nonparty Lebanese Canadian Bank SAL ("LCB")—a legally distinct entity whose assets and liabilities SGBL purchased in 2011 as part of a U.S. Government approved "lawful acquisition" that took place in Lebanon and was governed exclusively by Lebanese law. *See* Stipulation and Order of Settlement ¶ 10, ECF 462, *United States v. Lebanese Canadian Bank SAL*, No. 1:11-cv-9186-PAE (S.D.N.Y. June 25, 2013) (hereafter, "Settlement Stipulation").

The District Court correctly rejected Respondents' theory and dismissed for lack of personal jurisdiction. As the court explained, "[j]urisdiction and liability are . . . two distinct considerations." Pet.App.107a.

Thus, "[w]hatever the arrangement is between the two banks where the alleged wrongdoer continues to exist as a going concern, the non-culpable purchaser of assets and liabilities does not fall within the court's jurisdiction merely by virtue of that transaction." *Id.* Simply put, "SGBL did not inherit LCB's jurisdictional status in th[e] forum." *Id.*

That decision made eminent sense. Since *International Shoe* established the minimum-contacts framework, this Court has "reaffirmed . . . that minimum contacts must have a basis in 'some act by which *the defendant* purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws." *Asahi Metal Indus. Co. v. Superior Ct. of Cal.*, 480 U.S. 102, 109 (1987) (emphasis added). "Jurisdiction is proper," in other words, only "where the contacts proximately result from actions by the defendant *himself* that create a 'substantial connection' with the forum State." *Id.*

But the Second Circuit reversed, in a decision that flouts these basic principles. All agree that SGBL itself has no forum contacts. Even so, the Second Circuit accepted Respondents' "theory of personal jurisdiction" which, like Respondents' "theory of liability, depends entirely on SGBL's status as 'successor.'" Pet.App.11a. The decision below thus countenances jurisdiction based entirely on what LCB—not SGBL—did in New York, before SGBL acquired LCB's assets and liabilities. SGBL did not direct, control, or participate in LCB's allegedly wrongful conduct. SGBL is not alleged to be an affiliate of LCB or its alter ego. The companies share

no common ownership. And the assets-and-liabilities transaction occurred through arm's-length negotiation following a competitive bidding process abroad that was supervised by Lebanese banking regulators. Despite all this, the panel "impute[d] LCB's forum contacts" with its American correspondent bank to SGBL and asserted personal jurisdiction based solely on New York's state-law principles of "successor liability." Pet.App.23a.

That "jurisdiction follows substantive liability" approach has been embraced by five other courts, but it squarely conflicts with the decisions of eight others. The Third Circuit, for example, has long held that courts cannot "confus[e] substantive legal precepts with jurisdictional ones." *Witt v. Scully*, 539 F.2d 950, 951 (3d Cir. 1976). The Seventh Circuit likewise holds that "[t]he fact that a defendant would be liable under a statute if personal jurisdiction over it could be obtained is irrelevant to the question of whether such jurisdiction can be exercised." *Cent. States, Se. & Sw. Areas Pension Fund v. Reimer Express World Corp.*, 230 F.3d 934, 944 (7th Cir. 2000). The First, Sixth, and Ninth Circuits also refuse to conflate liability with jurisdiction. And the Fifth Circuit, for its part, has carefully limited jurisdictional imputation to cases where entities qualify as "mere continuation[s]," such that they are "one and the same" entity for constitutional purposes. *Patin v. Thoroughbred Power Boats Inc.*, 294 F.3d 640, 654 (5th Cir. 2002). The Second Circuit's blanket rule—that a foreign purchaser of assets and liabilities can be haled into court here based solely on an unaffiliated seller's prior contacts—is directly at odds with this precedent.

This divisive issue is also exceptionally important. If left uncorrected, the Second Circuit's decision effectively creates the jurisdictional analogue of a strict successor-liability test. And that poses serious "risks to international comity." *Daimler AG v. Bauman*, 571 U.S. 117, 141 (2014). Foreign purchasers in international transactions—with no U.S. nexus whatsoever—now face unpredictable, near automatic exposure to American jurisdiction predicated solely on a seller's past contacts with U.S. forums. That cannot be the law. "Due process requires that a defendant be haled into court in a forum State based on his *own* affiliation with the State, not based on the 'random, fortuitous, or attenuated' contacts he makes by interacting with other persons affiliated with the State." *Walden v. Fiore*, 571 U.S. 277, 286 (2014) (emphasis added).

This Court should grant certiorari to resolve the persistent split in authority, restore basic limits on personal jurisdiction, reverse the Second Circuit's fundamental error on this issue of exceptional importance, and ensure predictability in international transactions going forward.

OPINIONS BELOW

The District Court's opinion dismissing the case is available at 2021 WL 4931845 and is reproduced at Pet.App.100a–107a. The Second Circuit's opinion certifying a then-unsettled state long-arm question to the New York Court of Appeals is reported at 67 F.4th 69 and is reproduced at Pet.App.58a–99a. The New York Court of Appeals' opinion resolving the certified question is reported at 239 N.E.3d 172 and is reproduced at Pet.App.43a–57a. The Second Circuit's

opinion vacating the judgment of the lower court and remanding for further proceedings is reported at 147 F.4th 226 and is reproduced at Pet.App.1a–42a.

JURISDICTION

The Second Circuit issued its decision on August 11, 2025. A timely petition for rehearing was denied on October 16, 2025. Pet.App.109a. On January 7, 2026, this Court extended the time to file a petition for a writ of certiorari to February 13, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISION INVOLVED

The Fourteenth Amendment provides, in pertinent part, that: "No state shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1.

STATEMENT OF THE CASE

A. The District Court Proceeding

Respondents are U.S. citizens living in Israel. Pet.App.4a. They allege that they or their family members were harmed by rocket attacks lodged by Hezbollah, from the then-Hezbollah-controlled territory of Southern Lebanon towards Israel, during the Hezbollah-Israel war of 2006. *Id.*

In 2019, Respondents filed this action against SGBL and others in the Eastern District of New York. Pet.App.45a. It is undisputed that SGBL had nothing to do with the attacks at issue. Pet.App.102a. Instead, the complaint alleges that unaffiliated nonparty LCB—not SGBL—provided banking services to Hezbollah in the years leading up to the

attacks. Pet.App.7a. Respondents also allege that LCB—not SGBL—maintained a relationship with a correspondent bank in New York to facilitate U.S. dollar transactions. *Id.* SGBL is named as a defendant solely because it purchased assets and liabilities from LCB in 2011. Pet.App.11a.

Importantly, though, SGBL has no contacts with the forum State of New York. It is a private joint stock company incorporated under the laws of Lebanon, with its headquarters in Beirut. Pet.App.7a–8a. SGBL has never maintained offices, branches, employees, or bank accounts in the United States. Nor has it ever directed any business activities toward American markets. At the same time, Respondents do not allege that SGBL has "any connection" whatsoever to New York. Pet.App.106a. Instead, Respondents point exclusively to alleged conduct by LCB, a legally distinct Lebanese entity. *See* Pet.App.7a, 17a, 24a.

As noted above, the genesis of this lawsuit dates back to LCB's activities in the lead-up to the 2006 war. In 2011, the Treasury Department designated LCB a financial institution of "primary money laundering concern." Pet.App.7a. This precipitated LCB's sale in Lebanon. Pet.App.7a–8a.

Later that year, SGBL and LCB—two distinct Lebanese banks—executed a Sale and Purchase Agreement (the "Lebanese SPA") in Lebanon following a competitive bidding process sponsored by the Lebanese Central Bank. Pet.App.8a. In exchange for SGBL's payment of $580 million to LCB, SGBL generally agreed to "receive and assume" LCB's "Assets and Liabilities." *Id.* The transaction closed on June 22, 2011. *Id.*

Both entities continue to survive from this all-cash transaction. Pet.App.105a. SGBL and LCB share no common ownership. Pet.App.7a–8a & n.3, 105a. And the transaction was not a merger—de facto or statutory. Pet.App.46a, 67a & n.5. In addition, Respondents do not allege that SGBL and LCB are "one and the same," nor that the sale was a sham transaction designed to avoid liability or jurisdiction. Pet.App.75a.

Simply put, LCB continues to exist "as a going concern." Pet.App.107a. And it has appeared in—and continues to defend against—many lawsuits commenced against it. Pet.App.8a n.3. Indeed, Respondents are separately pursuing claims against LCB in the Southern District of New York for the exact same conduct at issue here. *See* Am. Compl., ECF 66, *Lelchook v. Lebanese Canadian Bank SAL*, No. 1:18-cv-12401-GBD-KHP (S.D.N.Y. May 9, 2022).

To make matters worse, SGBL had no notice that it might be haled into the courts of New York. At the time SGBL entered into the Lebanese SPA, a district court had dismissed a case filed against LCB arising from the same conduct at issue here, after finding that LCB was not subject to personal jurisdiction in New York. *See Licci ex rel. Licci v. Am. Express Bank Ltd.*, 704 F. Supp. 2d 403, 408 (S.D.N.Y. 2010). It was only in November 2013—after the *Licci* plaintiffs appealed the decision dismissing their suit, and after the Lebanese SPA had been executed with the imprimatur of the U.S. Government[1]—that the Second Circuit

[1] The United States Government approved the transaction, describing it in court papers as a "lawful acquisition." *See* Settlement Stipulation, *supra*, ¶ 10. The Government also called

vacated and remanded the *Licci* decision. *See Licci ex rel. Licci v. Lebanese Canadian Bank, SAL*, 732 F.3d 161, 174 (2d Cir. 2013).

Not only that, but when SGBL entered into the Lebanese SPA, the federal cause of action for aiding-and-abetting liability that Respondents now assert did not exist. Pet.App.32a & n.17. In 2016—five years after the SGBL-LCB transaction—Congress enacted the Justice Against Sponsors of Terrorism Act ("JASTA"), which for the first time created secondary liability under the Anti-Terrorism Act ("ATA") for those who aid and abet terrorist acts by "knowingly providing substantial assistance." JASTA, § 4, Pub. L. No. 114-222, 130 Stat. 852, 854 (2016) (codified at 18 U.S.C. § 2333(d)). Congress made these ATA amendments retroactively available to plaintiffs in pending or future actions. *See id.* § 7 (codified as a note to 18 U.S.C. § 2333).

B. The Lower Courts' Decisions

Lacking any contacts with New York, SGBL moved to dismiss for lack of personal jurisdiction, and the District Court granted SGBL's motion. Pet.App.107a. As it explained, Respondents did "not allege SGBL is subject to personal jurisdiction in New York by virtue of its own contacts with the state." Pet.App.103a. They merely sought to "impute" LCB's "jurisdictional status" based on SGBL's assumption of liabilities. Pet.App.104a, 107a. The District Court rejected that

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SGBL a "responsible owner." Jo Becker, *Beirut Bank Seen as a Hub of Hezbollah's Financing*, N.Y. Times (Dec. 13, 2011), https://tinyurl.com/5462v5zs. And it agreed that it would not bring claims against SGBL "under a theory of successor liability." Settlement Stipulation, *supra*, ¶ 10.

approach: "Jurisdiction and liability are of course two distinct considerations," and so the court reasoned that an allegation of successor liability "does not address whether SGBL is subject to jurisdiction in New York." Pet.App.105a, 107a. Respondents failed to plead "any connection between SGBL and the forum." Pet.App.106a. So their complaint was dismissed. Pet.App.107a.

On appeal, the Second Circuit determined that it could not "predict with confidence how the New York Court of Appeals would resolve the [jurisdictional] issue." Pet.App.60a; Pet.App.5a. The Second Circuit therefore certified the question whether, under New York law, a non-merger asset-and-liability purchaser inherits the seller's jurisdictional status for purposes of New York's long-arm statute. Pet.App.99a. The New York Court of Appeals answered affirmatively. Pet.App.56a.

That teed up the federal question of whether exercising jurisdiction in such circumstances "comports with Fourteenth Amendment due process principles." Pet.App.19a. And the Second Circuit held that it does. Pet.App.5a. In making that determination, the panel adopted a sweeping rule "that if forum law could also hold the successor liable for its predecessor's actions," then "its related jurisdictional actions should also attach to the successor." Pet.App.22a. As a result, the court concluded that SGBL's "express assumption of liability" meant that it "acquired [the] contacts" of LCB with the State. Pet.App.25a–26a (quotation marks omitted). And, while it conceded that "SGBL doubtless faces a burden in being required to litigate

in New York," it held that the exercise of personal jurisdiction "does not offend traditional notions of fair play and substantial justice." Pet.App.41a–42a.

SGBL timely sought rehearing en banc, and the Second Circuit denied SGBL's petition. Pet.App.109a.

REASONS FOR GRANTING THE PETITION

The decision below deepens a widespread and intractable conflict among the lower courts. Consistent with this Court's precedents, many courts have refused to impute an unrelated party's forum contacts to a defendant based on the mere assumption of liabilities. But many other courts—like the Second Circuit here—hold that a purchaser of assets and liabilities inherits its predecessor's jurisdictional status. Rather than allow that circuit split to persist, this Court should grant certiorari and resolve this important and recurring issue of personal jurisdiction.

I. The Decision Below Entrenches a Deep Split of Authority.

The conflict of authority is deep and entrenched. Three Circuits and three States have endorsed the Second Circuit's successor-liability jurisdiction theory, while six Circuits and two States have rejected that ill-considered approach. Only this Court can restore uniformity in the law.

A. Six Courts Hold that Successors Inherit Jurisdictional Contacts.

On the Second Circuit's side of the divide, half a dozen courts have conflated the state-law merits question of successor liability with the federal "threshold question of personal jurisdiction."

Sinochem Int'l Co. v. Malay. Int'l Shipping Co., 549 U.S. 422, 433 (2007).

The Fourth Circuit's decision in *City of Richmond v. Madison Management Group, Inc.*, 918 F.2d 438 (4th Cir. 1990), is illustrative. There, the defendant itself "committed no affirmative acts giving rise to personal jurisdiction" in the forum State. *Id.* at 454. Nevertheless, the Court held that the Due Process Clause "permits imputation of a predecessor's actions upon its successor *whenever* forum law would hold the successor liable for its predecessor's actions." *Id.* (citation omitted). The defendant "purchased [another company's] pipe manufacturing assets" and "implicitly assumed [that company's] liabilities" as a matter of Virginia law. *Id.* at 451, 454. As a result, the Fourth Circuit held that it was "proper for the district court to assert personal jurisdiction." *Id.* at 455.

Other Circuits have endorsed the same approach. In the Tenth Circuit, "[a] corporation's contacts with a forum may be imputed to its successor if forum law would hold the successor liable for the actions of its predecessor." *Williams v. Bowman Livestock Equip. Co.*, 927 F.2d 1128, 1132 (10th Cir. 1991). And the Second Circuit has now picked up and run with that thread. In its view, if forum law could "hold the successor liable for its predecessor's action," then the predecessor's "related jurisdictional actions should also attach to the successor." Pet.App.22a. The bounds of "successor liability under New York law" thus led the court below to "impute LCB's forum contacts to SGBL" and ignore SGBL's utter lack of contacts of its own. Pet.App.23a.

A growing number of state courts have similarly jumped the tracks. The North Carolina Supreme Court has held that "due process permits jurisdiction to be exercised over out-of-state corporate successors where there is jurisdiction over the predecessor and North Carolina law would impute the predecessor's liability to its successors." *State ex rel. Stein v. E. I. du Pont de Nemours & Co.*, 879 S.E.2d 537, 546 (N.C. 2022). The Wyoming Supreme Court has also asserted jurisdiction over a defendant based on state-law concepts of successor liability. *See TEP Rocky Mt. LLC v. Rec. TJ Ranch Ltd. P'ship*, 516 P.3d 459, 469 (Wyo. 2022). And so has the Michigan Supreme Court. For decades, it has held that "the jurisdictional contacts of a predecessor can be imputed to a successor when the successor expressly assumes all liabilities." *Jeffrey v. Rapid Am. Corp.*, 529 N.W.2d 644, 658 (Mich. 1995). That has led Michigan courts astray into asserting power over foreign defendants that "ha[ve] never done business in Michigan." *Id.* at 650.

B. Eight Courts Reject the Second Circuit's Liability-Based Jurisdiction Theory.

By contrast, many courts correctly distinguish substantive liability principles from the federal limits of Due Process.

The Seventh Circuit correctly holds that "jurisdiction and liability are two separate inquiries." *Cent. States*, 230 F.3d at 944. Thus, "[t]he fact that a defendant would be liable under a statute if personal jurisdiction over it could be obtained is *irrelevant* to the question of whether such jurisdiction can be exercised" in the first place. *Id.* (emphasis added); *accord GCIU-Emp. Ret. Fund v. Goldfarb Corp.*, 565

F.3d 1018, 1023–24 (7th Cir. 2009). That approach is impossible to square with the decision below, which treats the state-law liability issue not just as relevant, but *dispositive* of the minimum-contacts analysis. *See* Pet.App.23a ("[B]ecause Plaintiffs have alleged sufficient facts to establish successor liability under New York law, we impute LCB's forum contacts to SGBL for purposes of our personal jurisdiction analysis.").

The decision below also conflicts with Third Circuit precedent. In *Witt*, the Third Circuit held that district courts err "by confusing substantive legal precepts with jurisdictional ones." 539 F.2d at 951. That is because the legal principles that "substantively may impose liability on a defendant" do not answer the separate "jurisdictional" question of whether the forum may exercise adjudicative authority. *Id.*; *see also Carty v. Beech Aircraft Corp.*, 679 F.2d 1051, 1061 (3d Cir. 1982) (recounting that "personal jurisdiction and liability" are "separate issues"); *In re Nazi Era Cases Against German Defendants Litig.*, 153 F. App'x 819, 825 (3d Cir. 2005) ("Mere tort liability, even if sufficient to establish statutory jurisdiction, might not satisfy due process.").

The First Circuit has faithfully adhered to this principle too. In *SEC v. Gastauer*, a German citizen received money from his son, "who had obtained the money by committing securities fraud in the United States." 93 F.4th 1, 5 (1st Cir. 2024). He then moved to dismiss the SEC's action against him seeking to recover the ill-gotten gains. *See id.* The district court held that "jurisdiction could be imputed to [the defendant] to the extent he holds any of the

'fraudster's spoils.'" *Id.* at 6. But the First Circuit reversed. It rejected the idea—embraced by the decision below—that "jurisdictional contacts can be imputed to [a] relief defendant" who does not himself have "any actual contacts with the United States." *Id.* at 9–10. For, even if the defendant might have been "liable" for returning what he received from the wrongdoer, that could not "overcome [his] fundamental 'right to be subject only to lawful power'" in making that determination. *Id.* at 10, 13 (quoting *J. McIntyre Mach., Ltd. v. Nicastro*, 564 U.S. 873, 884 (2011) (plurality op.)).

The Fifth Circuit takes the same approach. In *Patin*, the court stressed that minimum contacts "must be met as to each defendant over whom a state court exercises jurisdiction." 294 F.3d at 653 (quoting *Rush v. Savchuk*, 444 U.S. 320, 332 (1980)). Applying this rule, it permitted imputation of a jurisdictional waiver, but *only* because the defendant qualified as a "mere continuation" of the wrongdoer. *Id.* at 654. That rendered the two nominal entities "one and the same" for due process purposes. *Id.* And because they were "the *same entity*, the jurisdictional contacts of one [*were*] the jurisdictional contacts of the other." *Id.* at 653; *see also Halliburton Energy Servs. v. Ironshore Specialty Ins. Co.*, 921 F.3d 522, 543 n.21 (5th Cir. 2019) (underscoring this analytical limit).

As all agree, that is not the case here. Petitioner is not LCB's alter ego, the entities did not merge, nor was the 2011 transaction effected as part of a scheme to escape jurisdiction or liability. On the contrary, LCB remains a *separate* entity, which Respondents have *separately* sued for the same injuries. Accordingly,

this case falls into the Fifth Circuit's "general rule" that "personal jurisdiction over a nonresident corporation may not be based solely upon the contacts with the forum state of another corporate entity with which the defendant may be affiliated." *Freudensprung v. Offshore Tech. Servs., Inc.*, 379 F.3d 327, 346 (5th Cir. 2004).

The Ninth Circuit falls on this side of the divide as well. There, personal jurisdiction correctly turns solely on a defendant's "own contacts." *AT&T v. Compagnie Bruxelles Lambert*, 94 F.3d 586, 590 (9th Cir. 1996). Thus, the court held it was not enough that Congress had authorized a parent company to be held "substantively liable" for its subsidiary's actions under CERCLA. *Id.* at 590–91 & n.8. "[L]iability is not to be conflated with amenability to suit in a particular forum." *Id.* at 591. So, "[e]ven if [the defendant] would be liable under CERCLA," the plaintiff could "not use liability as a substitute for personal jurisdiction." *Id.* at 590–91. Because the defendant's "own contacts with California" were "attenuated at best," the actions of its subsidiary did "not suffice to confer specific jurisdiction." *Id.* at 590.

So too in the Sixth Circuit. In *City of Monroe Employees Retirement System v. Bridgestone Corp.*, a plaintiff sought to impute a corporation's jurisdictional contacts to the defendant based on "allegations of control person liability" under the securities laws. 399 F.3d 651, 667 (6th Cir. 2005); *see* 15 U.S.C. § 78t(a). But the Sixth Circuit explained that a "claim of statutory liability" is "no substitute for establishing personal jurisdiction." 399 F.3d at 667. Unlike the Second Circuit, then, the court held that

the law's "substantive bases" for imputing "liability" to the defendant could not "support personal jurisdiction" over him. *Id.* at 667–68.

Finally, at least two States have also rejected the Second Circuit's approach. The Nebraska Supreme Court has emphasized that courts "must analyze the contacts of [a] defendant corporation 'in its own right,'" rather than ascribe "a predecessor's contacts . . . to its successor for personal jurisdiction." *Nimmer v. Giga Entm't Media, Inc.*, 905 N.W.2d 523, 538 (Neb. 2018) (citation omitted). For the same reason, "contacts with a forum state are not attributed or imputed to a successor corporation solely through acquisition of assets and liabilities" in New Mexico. *Smith v. Halliburton Co.*, 879 P.2d 1198, 1206 (N.M. Ct. App. 1994). The decision below held precisely the opposite.

* * *

In sum, the decision below exacerbates a firmly entrenched split by tying jurisdictional imputation to state-law liability rules, rather than the bedrock constitutional requirement of a defendant's *own* forum contacts. At least half a dozen courts have joined each side of the divide. And this Court's intervention is necessary to resolve that doctrinal disarray.

II. The Lower Court's Successor-Liability Theory of Personal Jurisdiction Defies this Court's Precedents.

The question presented has not only divided the lower courts, but the decision below stands on the wrong side of that split. This Court has consistently held that the defendant's *own* contacts with the forum are what matter in the personal jurisdiction inquiry.

But the decision below flips that approach on its head. Instead of following this Court's defendant-centric approach, the Second Circuit imputed the forum contacts of an unaffiliated third party to a defendant that lacks any connection with the forum State. "The result was the assertion of jurisdiction over [Petitioner] based solely on the activities of [a separate entity]." *Rush*, 444 U.S. at 331–32. "Such a result is plainly unconstitutional." *Id.* at 332.

A. The Personal Jurisdiction Inquiry Turns on a Defendant's Own Forum Contacts.

Personal jurisdiction is rooted in a defendant's own due process rights. *See Walden*, 571 U.S. at 283–84. In order to uphold those rights, a court "must have . . . power over the parties before it (personal jurisdiction) before it can resolve a case." *Lightfoot v. Cendant Mortg. Corp.*, 580 U.S. 82, 95 (2017). This Court has "recogniz[ed] two kinds of personal jurisdiction," commonly known as "general" and "specific" jurisdiction. *Ford Motor Co. v. Mont. Eighth Judicial Dist. Ct.*, 592 U.S. 351, 358 (2021). All agree that general jurisdiction cannot apply here because Petitioner—as a Lebanese joint stock company—is not "fairly regarded as at home" in New York. *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 924 (2011). Indeed, it does not transact any business in the United States.

That leaves only the possibility of specific jurisdiction. This Court has long held that the "constitutional touchstone" for assessing specific jurisdiction is "whether the defendant purposefully established 'minimum contacts' in the forum State." *Asahi Metal*, 480 U.S. at 108–09 (citation omitted); *see*

Int'l Shoe Co. v. Washington, 326 U.S. 310, 316 (1945). The inquiry is therefore "focused" on "the defendant's relationship to the forum." *Ford Motor*, 592 U.S. at 358 (quotation marks omitted). And this "relationship must arise out of contacts that the 'defendant *himself*' creates with the forum State." *Walden*, 571 U.S. at 284 (citation omitted). Otherwise, the court has no "power to render a valid judgment" against the defendant. *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 294 (1980).

The Court has never wavered from this principle. Instead, it has emphatically and "consistently rejected attempts to satisfy the defendant-focused 'minimum contacts' inquiry by demonstrating contacts between the plaintiff (or third parties) and the forum State." *Walden*, 571 U.S. at 284 (collecting cases). The defendant's "own contacts" alone dictate the inquiry, and courts cannot "shift[] the analytical focus" away from them. *Id.* at 289; *see Rush*, 444 U.S. at 332. Of course, "a defendant's contacts with the forum State may be intertwined with his transactions or interactions with the plaintiff or other parties." *Walden*, 571 U.S. at 286. "But a defendant's relationship with a plaintiff or third party, standing alone, is an insufficient basis for jurisdiction." *Id.*

If anything, this defendant-focused inquiry takes on particular importance when, as here, the defendant is a foreign entity. After all, the "unique burdens placed upon one who must defend oneself in a foreign legal system" counsel strongly against "stretching the long arm of personal jurisdiction over national borders." *Asahi Metal*, 480 U.S. at 114. "Great care and reserve should" therefore "be exercised when

extending our notions of personal jurisdiction into the international field." *Id.* at 115 (citation omitted). Any other approach would pose serious "risks to international comity." *Daimler*, 571 U.S. at 141.

At bottom, personal jurisdiction demands a defendant-centric inquiry. It is "essential in each case that there be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws." *Hanson v. Denckla*, 357 U.S. 235, 253 (1958). In that way, "[d]ue process requires that a defendant be haled into court in a forum State based on his *own* affiliation with the State, not based on the 'random, fortuitous, or attenuated' contacts he makes by interacting with other persons affiliated with the State." *Walden*, 571 U.S. at 286 (emphasis added; citation omitted).

B. Petitioner Lacks Any Contacts with the Forum Here.

The decision below defies this Court's defendant-centric approach. The lower court could not assert personal jurisdiction here for the simple reason that Petitioner "has *no* contacts with the forum" whatsoever. *Rush*, 444 U.S. at 332. It is a Lebanese joint stock company headquartered in Beirut. Pet.App.7a–8a. It has "no office, agents, employees, or property" in the United States, much less in New York. *Asahi Metal*, 480 U.S. at 112. "It does not advertise or otherwise solicit business" anywhere in the United States. *Id.* And it "did not create, control, or employ" the New York correspondent banking relationship that LCB allegedly used long ago to facilitate U.S. dollar transactions. *Id.* "In short, when viewed

through the proper lens—whether the *defendant's* actions connect [it] to the *forum*—petitioner formed no jurisdictionally relevant contacts with [New York]." *Walden*, 571 U.S. at 289.

Nor are Petitioner and LCB "one and the same" entity for constitutional purposes. *Patin*, 294 F.3d at 654. They are indisputably separate Lebanese banks, with no common ownership. It is also undisputed that Petitioner had no agency or alter-ego relationship with LCB. Nor did it direct, control, or participate in any of LCB's alleged forum conduct. In fact, its only alleged interaction with LCB occurred in Lebanon. The Lebanese SPA, which is governed exclusively by Lebanese law, was executed in Lebanon. And that transaction occurred through arm's-length negotiation following a competitive bidding process abroad supervised by Lebanese banking regulators. Accordingly, "no part of petitioner's course of conduct occurred in [New York]." *Walden*, 571 U.S. at 288. The exercise of personal jurisdiction was improper.

C. The Lower Court's Contrary Analysis Was Wrong.

The decision below offered two rejoinders. But neither holds water.

First, the Second Circuit treated Petitioner's assumption of LCB's assets and liabilities as a form of "purposeful availment" of New York law. Pet.App.42a. In its view, whenever "forum law" could "hold the successor liable for its predecessor's actions, its related jurisdictional actions should also attach to the successor." Pet.App.22a. But, again, that approach conflates two distinct questions—substantive

successor liability under state law, and due process limits on adjudicative authority under the federal Constitution. It gets things backward to let *state* liability principles dictate the bounds of *federal* due process. Indeed, this Court has made clear that courts should not "confuse[] the question of [a defendant's] liability with that of the proper forum in which to determine that liability." *Kulko v. Superior Ct. of Cal.*, 436 U.S. 84, 96 (1978). The merits question of successor liability thus should have come in "only after jurisdiction over [Petitioner was] established." *Keeton v. Hustler Mag., Inc.*, 465 U.S. 770, 778 (1984); *see Kulko*, 436 U.S. at 95–96; *Hanson*, 357 U.S. at 254.

The District Court faithfully followed that order of operations, holding that "[j]urisdiction and liability" are "two distinct considerations." Pet.App.107a; *see also, e.g.*, *Gastauer*, 93 F.4th at 9–10; *Cent. States*, 230 F.3d at 944; *Witt*, 539 F.2d at 951. That led the court to correctly dismiss the case. Respondents' successor-liability allegations simply do "not address whether [Petitioner] is subject to jurisdiction in New York." Pet.App.105a. And Respondents have utterly "failed to allege any connection between [Petitioner] and the forum." Pet.App.106a.

The Second Circuit tried to fill the void by reasoning that Petitioner "obtained the fruits" of LCB's business transactions in New York. Pet.App.24a. But that is beside the point. LCB is an unaffiliated "third party," so its transactions are "not an appropriate consideration when determining whether [Petitioner] has sufficient contacts with [the] forum State to justify an assertion of jurisdiction." *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466

U.S. 408, 417 (1984). And insofar as Petitioner "obtained the fruits" of LCB's business, all it acquired were assets and liabilities *in Lebanon*. Petitioner itself directed no activities to New York. Nor did it take any assets out of New York. Moreover, even if the Second Circuit were right that Petitioner received an undetermined financial "benefit[]" flowing from LCB's use of a New York correspondent account long ago, *see* Pet.App.24a, *LCB's* use of the account is not "the *defendant's* suit-related conduct" that could serve as a "substantial connection with the forum State," *Walden*, 571 U.S. at 283–84 (emphasis added); *see also World-Wide Volkswagen*, 444 U.S. at 299 ("[F]inancial benefits accruing to the defendant from a collateral relation to the forum State will not support jurisdiction if they do not stem from a constitutionally cognizable contact with that State.").

In short, Petitioner did not "purposefully avail[] itself of the privilege of conducting activities within the forum State." *Hanson*, 357 U.S. at 253. It in no way "deliberately 'reached out beyond' its home" into New York. *Ford Motor*, 592 U.S. at 359 (citation omitted). That forecloses the lower court's exercise of personal jurisdiction over this foreign defendant.

Second, the lower court maintained that the "legal landscape made it foreseeable" that Petitioner could be haled into the New York courts. Pet.App.29a. But "'foreseeability' alone has never been a sufficient benchmark for personal jurisdiction under the Due Process Clause." *World-Wide Volkswagen*, 444 U.S. at 295. And, to the extent it matters, foreseeability is not a concept of abstract predictability as the lower court believed. "[T]he foreseeability that is critical to due

process analysis . . . is that *the defendant's conduct and connection with the forum* State are such that he should reasonably anticipate being haled into court there." *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 474 (1985) (emphasis added; citation omitted). Put differently, "it is the defendant's *actions*, not his expectations, that empower a State's courts to subject him to judgment." *J. McIntyre Mach.*, 564 U.S. at 883 (plurality op.) (emphasis added). The Second Circuit did not and could not identify any such actions by Petitioner that occurred in—or were in any way directed to—the State of New York.

In any event, Petitioner could not reasonably foresee that it would be haled into the New York courts in June 2011, when it executed the Lebanese SPA. Pet.App.8a. At that time, LCB itself had been dismissed for lack of personal jurisdiction in New York based on the same activity alleged here. *See Licci*, 704 F. Supp. 2d at 408. In addition, neither the New York Court of Appeals nor the Second Circuit had embraced a successor-liability jurisdiction theory until this case, over a decade later. And the U.S. Government—which had brought a forfeiture action against LCB in the Southern District of New York—expressly disclaimed any successor-liability claims against SGBL, stipulating that it would not bring any claims "arising out of the lawful acquisition of LCB's assets and liabilities pursuant to the Sale and Purchase Agreement . . . under a theory of successor liability." Settlement Stipulation, *supra*, ¶ 10. Not only that, but JASTA's aiding-and-abetting cause of action—the basis for Respondents' claims here—was created in 2016, five years *after* the transaction. In no world could Petitioner have reasonably anticipated in 2011

that it would be sued in New York in 2019, for claims that did not exist until 2016, based on prior activities of LCB that were held insufficient to confer personal jurisdiction over that unaffiliated third party.

* * *

The Second Circuit's successor-liability theory of personal jurisdiction is impossible to square with this Court's "defendant-focused 'minimum contacts' inquiry." *Walden*, 571 U.S. at 284. State legislatures and courts may expand the reach of their substantive law—defining when successors bear responsibility for predecessors' liabilities—but they cannot thereby expand their constitutional authority to assert adjudicative power over defendants lacking minimum contacts. This Court should grant certiorari to uphold that foundational principle of constitutional law.

III. The Question Presented Is Exceptionally Important, and this Case Provides a Clean Vehicle for Resolving It.

In recent years, this Court has repeatedly recognized the need to police the bounds of personal jurisdiction. *See Fuld v. Palestine Liberation Org.*, 606 U.S. 1 (2025); *Mallory v. Norfolk S. Ry. Co.*, 600 U.S. 122 (2023); *Ford Motor*, 592 U.S. 351; *Bristol-Myers Squibb Co. v. Superior Ct. of Cal.*, 582 U.S. 255 (2017); *Walden*, 571 U.S. 277. And this case similarly warrants this Court's review.

The sheer magnitude of the split illustrates that the issue is frequently recurring. But the stakes have now jumped by an order of magnitude. After all, the Second Circuit's rule governing corporate successor jurisdiction controls in New York—the nation's

financial center. *See, e.g.*, *Rep. of Arg. v. Weltover, Inc.*, 504 U.S. 607, 618 (1992) (recognizing "New York's status as a world financial leader" (citation omitted)).

This will inevitably create significant uncertainty in billions of dollars of corporate transactions each year. No amount of due diligence can reveal everywhere a seller may ultimately face suit, because jurisdiction now travels automatically with assumed liabilities, regardless of the purchaser's own conduct. That rule makes it impossible to predict what "conduct will and will not render [corporate purchasers] liable to suit" and "where." *World-Wide Volkswagen*, 444 U.S. at 297. And it will simultaneously burden federal and state courts with claims against entities that have little or no meaningful connection to the forum.

Those concerns only grow in the "transnational context." *Daimler*, 571 U.S. at 140. Under the lower court's successor-liability theory of personal jurisdiction, foreign entities rescuing distressed assets will face unpredictable exposure to U.S. jurisdiction based on the *seller's* past contacts (known or unknown). And that will in turn chill international transactions while injecting uncertainty into global markets. To make matters worse, the Second Circuit has applied its flawed theory even where the alleged liabilities at issue—JASTA secondary-liability claims—were created by Congress years *after* the corporate transaction. Upholding that regime does "not accord with the 'fair play and substantial justice' due process demands," and leaving it in place would threaten to undermine "international comity" and foreign affairs. *Id.* at 141 (citation omitted); *see also Asahi Metal*, 480 U.S. at 115.

This case also provides an ideal vehicle for answering the question presented. There are no factual disputes to sort out or voluminous record to sift through, because the issue was resolved on a motion to dismiss. That issue of pure law divided the lower courts. There are no quirks of state law that need to be addressed. And the question presented is outcome-determinative. Respondents have "proceed[ed] solely on a successor theory of jurisdiction." Pet.App.22a. Thus, if this Court rejects that theory, then all agree that SGBL is not subject to personal jurisdiction, and the case must be dismissed for want of jurisdiction as it was in the District Court.

* * *

Ultimately, this case turns on a clean, case-dispositive issue that has spawned a deep division of lower court authority. And the decision below conflicts with this Court's precedents. The Court should grant certiorari to restore settled limits on state adjudicative authority and ensure predictability in international commercial transactions.

CONCLUSION

The Court should grant the petition for a writ of certiorari.

Respectfully submitted,

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February 13, 2026

APPENDIX

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APPENDIX A — OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT, FILED AUGUST 11, 2025

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket No. 21-975

ESTER LELCHOOK, AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DAVID MARTIN LELCHOOK, MICHAEL LELCHOOK, YAEL LELCHOOK, ALEXANDER LELCHOOK, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DORIS LELCHOOK, MALKA KUMER, CHANA LIBA KUMER, MIRIAM ALMACKIES, CHAIM KAPLAN, RIVKA KAPLAN, BRIAN ERDSTEIN, KARENE ERDSTEIN, MA'AYAN ERDSTEIN, CHAYIM KUMER, NECHAMA KUMER, LAURIE RAPPEPPORT, MARGALIT RAPPEPORT, THEODORE (TED) GREENBERG, MOREEN GREENBERG, JARED SAUTER, DVORA CHANA KASZEMACHER, CHAYA KASZEMACHER ALKAREIF, AVISHAI REUVANE, ELISHEVA ARON, YAIR MOR, MIKIMI STEINBERG,

Plaintiffs-Appellants,

v.

Appendix A

SOCIÉTÉ GÉNÉRALE DE BANQUE
AU LIBAN S.A.L.,

*Defendant-Appellee.**

August Term, 2021

(Argued: May 17, 2022 Decided: August 11, 2025)

Before: RAGGI, WESLEY, and CARNEY, *Circuit Judges*.

Plaintiffs-Appellants are U.S. citizens who were harmed in Hizbollah rocket attacks carried out in Israel in 2006, and the estate and family members of one U.S. citizen who was killed in such an attack. They assert that Defendant-Appellee Société Générale de Banque au Liban S.A.L. ("SGBL") is liable as the successor to non-party Lebanese Canadian Bank ("LCB") for damages stemming from the attacks. Plaintiffs' theories of liability and jurisdiction with regard to SGBL rest on SGBL's acquisition of all of the assets and liabilities of LCB in 2011 in a transaction that was not a formal merger under New York law.

The district court granted SGBL's motion to dismiss for lack of personal jurisdiction. *Lelchook v. Société Générale de Banque au Liban SAL*, No. 19-cv-33, 2021 WL 4931845 (E.D.N.Y. Mar. 31, 2021) ("*Lelchook I*"). It concluded that

* The Clerk of Court is directed to amend the case caption to conform to the above.

New York law allows a successor corporation to inherit its predecessor's jurisdictional status only where the two corporate entities had merged in accordance with state law. *Id.* at *2–3; *see* N.Y. Bus. Corp. Law § 901 *et seq.* (describing merger requirements). Without such a merger, the court thought, LCB's jurisdictional status would not transfer to SGBL. *Lelchook I*, 2021 WL 4931845, at *2–3.

On Plaintiffs' appeal of that decision, we first concluded that we could not predict with confidence how the New York Court of Appeals would resolve the jurisdictional question of inheritability on which the district court's decision turned. *Lelchook v. Société Générale de Banque au Liban SAL*, 67 F.4th 69, 71–72 (2d Cir.), *certified question accepted*, 39 N.Y.3d 1146 (2023). We therefore certified the question to that court. *Id.* at 71–72, 88–89. On review, the Court of Appeals clarified that, under New York's long-arm statute, "where an entity acquires all of another entity's liabilities and assets, but does not merge with that entity, it inherits the acquired entity's status for purposes of specific personal jurisdiction." *Lelchook v. Société Générale de Banque au Liban SAL*, 41 N.Y.3d 629, 638–39 (2024).

With the benefit of that decision, we now hold that SGBL is subject to the specific personal jurisdiction of New York courts for purposes of adjudicating the claims presented by Plaintiffs. We further decide that the exercise of that jurisdiction here comports with federal due process principles. Key to our reasoning are the observations first, that SGBL deliberately acquired assets and liabilities of LCB that were generated in New York; second, that it

was foreseeable at the time of the acquisition that SGBL would become subject to the exercise of jurisdiction in New York, such that SGBL should reasonably have anticipated that possibility; and finally, that the exercise of specific jurisdiction over SGBL in these circumstances comports with due process because it does not offend traditional notions of fair play and substantial justice. We therefore **REVERSE** the judgment of the district court and **REMAND** the case for further proceedings consistent with this opinion.

REVERSED AND REMANDED.

CARNEY, *Circuit Judge*:

Plaintiffs-Appellants are U.S. citizens who were harmed in Hizbollah rocket attacks carried out in Israel in 2006, and the estate and family members of one U.S. citizen who was killed in such an attack. They assert that Defendant-Appellee Société Générale de Banque au Liban S.A.L. ("SGBL") is liable as the successor to non-party Lebanese Canadian Bank S.A.L. ("LCB") for damages stemming from the attacks. Plaintiffs' theories of liability and jurisdiction with regard to SGBL rest on SGBL's acquisition of all of the assets and liabilities of LCB in 2011 in a transaction that was not a formal merger under New York law.

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With the benefit of that decision, we now hold that SGBL is subject to the specific personal jurisdiction of New York courts for purposes of adjudicating the claims presented by Plaintiffs. We further decide that the exercise of that jurisdiction here comports with federal due process principles. Key to our reasoning are the observations first, that SGBL deliberately acquired assets and liabilities of

LCB that were generated in New York; second, that it was foreseeable at the time of the acquisition that SGBL would become subject to the exercise of jurisdiction in New York, such that SGBL should reasonably have anticipated that possibility; and finally, that the exercise of specific jurisdiction over SGBL in these circumstances comports with due process because it does not offend traditional notions of fair play and substantial justice. We therefore **REVERSE** the judgment of the district court and **REMAND** the case for further proceedings consistent with this opinion.

BACKGROUND

I. Factual background

We draw the facts from the allegations in Plaintiffs' complaint.[1]

In the summer of 2006, the terrorist organization Hizbollah carried out a series of rocket attacks against civilian population centers in Israel (the "2006 attacks"). As mentioned above, Plaintiffs are 21 U.S. citizens who were harmed in the 2006 attacks, and the estate and family members of a U.S. citizen, David Martin Lelchook, who was killed in one such attack.

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1. Except for the complaint's conclusory allegations, which do not bind us, for present purposes we accept as true all of its factual allegations and draw all reasonable inferences in favor of Plaintiffs. *See MSP Recovery Claims, Series LLC v. Hereford Ins. Co.*, 66 F.4th 77, 82 (2d Cir. 2023).

Plaintiffs allege that LCB, a corporation organized under Lebanese law and headquartered in Beirut, provided extensive banking services to Hizbollah in the years leading up to the 2006 attacks. They charge that, during that period, LCB entered into a correspondent banking relationship with a bank located in New York, allowing LCB to facilitate transactions in U.S. dollars rather than in other currencies. LCB is further alleged to have repeatedly used the New York correspondent bank, with its help executing millions of dollars' worth of wire transfers that enabled Hizbollah to plan, prepare for, and carry out terrorist attacks around the world. By executing the transactions, LCB "caused, enabled and facilitated" the 2006 attacks, Plaintiffs assert, making it liable to them for damages under the Anti-Terrorism Act of 1990 ("ATA"), as amended in 2016 by the Justice Against Sponsors of Terrorism Act ("JASTA"), 18 U.S.C. § 2331 *et seq.* App'x at 20.

The banking relationship eventually generated litigation against LCB in this Circuit. *See infra* Section II. By 2008, over 90 Hizbollah victims and their families had sought damages from LCB in a suit in the Southern District of New York, and by 2010, the victims' lawsuit had reached this Court on review of various novel issues. LCB's legal difficulties deepened in February 2011, when the U.S. Department of the Treasury designated it a financial institution of "primary money laundering concern," citing its involvement with Hizbollah. App'x at 51.

Just a few months after the designation, Defendant SGBL, a Beirut-based private joint stock company

organized under Lebanese law, entered into a sweeping "Sale and Purchase" agreement with LCB (the "Agreement"). In return for SGBL's $580 million payment to LCB, LCB agreed to "transfer, convey, and assign" to SGBL, and SGBL agreed to "receive and assume" from LCB, "all of [LCB's] Assets and Liabilities." App'x at 52, 61, 140. The Agreement defined these liabilities broadly:

> The Assumed Liabilities consist *inter alia* of any and all of [LCB's] liabilities and/or obligations and/or debts of any kind, character or description, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, determined, determinable or otherwise, to the extent they relate to the [LCB's] Business, all as at the Completion Date.

App'x at 53, 61.[2] The contemplated transaction closed on June 22, 2011.[3]

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2. In their Appendix, Plaintiffs have provided only a portion of the Agreement's text. We cite to that where possible and to Plaintiffs' allegations of its terms where necessary.

3. The Agreement did not require or appear to contemplate (so far as the record shows) the formal dissolution of LCB, and it appears that LCB continues to exist in some form. As of 2021, it was still defending litigation in this Court. *Kaplan v. Lebanese Canadian Bank, SAL*, 999 F.3d 842 (2d Cir. 2021); *Bartlett v. Société Générale de Banque Au Liban SAL*, No. 19-cv-7, 2020 WL 7089448, at *17 (E.D.N.Y. Nov. 25, 2020) ("LCB continues to exist as an entity and is litigating in the *Kaplan* case currently before the Second Circuit.").

Plaintiffs claim that LCB was "an extremely profitable and wealthy entity" when the transaction closed but assert that, today, LCB is "unable to satisfy any judgment against it." Appellants' Br. at 11-12. "SGBL's purchase of LCB's assets" caused the turnabout; otherwise, LCB "would easily have been able to satisfy a judgment" entered in this case, Plaintiffs say. *Id.* at 12. Consistent with Plaintiffs' account, LCB represented to the United States Supreme Court in a February 2017 opposition to a petition for certiorari that LCB "is defunct, insolvent, and unable to pay any judgment rendered against it." Brief in Opposition to Petition for Writ of Certiorari at 4, *Licci v. Lebanese Canadian Bank, SAL*, 584 U.S. 959 (2018) (No. 16-778), 2017 WL 712025, at *4; *see* App'x at 54.

II. The *Licci*/*Kaplan* litigation

This Court has previously heard appeals of several district court decisions addressing claims against LCB related to the 2006 attacks. These claims have been pursued by substantially overlapping groups of plaintiffs in a long-running line of cases that we have referred to as the "*Licci*/*Kaplan*" litigation. *See Lelchook II*, 67 F.4th at 73 (listing cases). The *Licci*/*Kaplan* cases, too, involve ATA-rooted claims for damages stemming from the 2006 attacks. Three of our *Licci*/*Kaplan* decisions, which we discuss briefly below, are relevant here, as is a related 2012 New York Court of Appeals decision.[4]

4. We list them here for easy reference.

• *Licci v. Lebanese Canadian Bank, SAL*, 673 F.3d 50 (2d Cir. 2012) ("*Licci II*")

In *Licci II*, we considered whether LCB was subject to specific personal jurisdiction in New York for ATA claims related to the 2006 attacks. *See Licci II*, 673 F.3d at 62-63, 74-75. We certified to the New York Court of Appeals questions about the scope of the state long-arm statute, CPLR 302(a)(1), on which Plaintiffs' jurisdictional theory as to LCB relied. *See id.* at 75-76. That court instructed that the "maintenance" and "repeated use of a correspondent account in New York on behalf of a client" constituted a "transaction of business in New York," and this demonstrated an "articulable nexus or substantial relationship between the transaction" and the claims alleged. *Licci III*, 20 N.Y.3d at 338-40, 960 N.Y.S.2d 695, 984 N.E.2d 893. The claims thus "arose from" the transaction of business in New York and permitted courts in New York to exercise specific personal jurisdiction over LCB under CPLR 302(a)(1). *See id.* at 339-41, 960 N.Y.S.2d 695, 984 N.E.2d 893.

With the antecedent state law questions resolved, we concluded in *Licci IV* that the federal district court's exercise of specific personal jurisdiction over LCB in New York on these claims—based on LCB's maintenance and repeated use of its correspondent bank account at a New York financial institution—comported with due process. 732 F.3d at 165.

• *Licci v. Lebanese Canadian Bank*, 20 N.Y.3d 327, 960 N.Y.S.2d 695, 984 N.E.2d 893 (2012) ("*Licci III*")

• *Licci v. Lebanese Canadian Bank, SAL*, 732 F.3d 161 (2d Cir. 2013) ("*Licci IV*")

• *Kaplan v. Lebanese Canadian Bank, SAL*, 999 F.3d 842 (2d Cir. 2021) ("*Kaplan II*")

Thus, by 2013, *Licci II*, *Licci III*, and *Licci IV* had established that LCB was subject to the exercise of specific personal jurisdiction in New York for ATA claims arising from the 2006 attacks. And in 2021, in *Kaplan II*, we held that the plaintiffs in the *Licci/Kaplan* litigation stated a plausible aiding-and-abetting liability claim against LCB under the ATA, as amended by JASTA, 18 U.S.C. § 2333(d)(2). *Kaplan II*, 999 F.3d at 863-67. As we observed in *Lelchook II*, the plaintiffs' aiding-and-abetting allegations in *Kaplan II* "virtually mirror those made" by Plaintiffs here and are offered in support of "materially identical" claims. 67 F.4th at 74.

III. Procedural history

In January 2019, Plaintiffs sued SGBL in the U.S. District Court for the Southern District of New York, seeking to hold SGBL as LCB's successor both primarily and secondarily liable for the damages they suffered from the 2006 attacks.[5] They claim that SGBL's unlimited acquisition of LCB's liabilities in the 2011 transaction compels the conclusion that "SGBL assumed and bears successor liability for LCB's liability to . . . [P]laintiffs" here. App'x at 58 (First Amended Complaint).

Plaintiffs' theory of personal jurisdiction, like their theory of liability, depends entirely on SGBL's status as "successor" to LCB and on the *Licci/Kaplan* line of cases. The district court has personal jurisdiction over SGBL,

5. Plaintiffs also named several other entities as defendants, but in the First Amended Complaint—operative here—they proceed against only SGBL.

they reason, because our Court "determined that LCB's conduct . . . rendered it subject to personal jurisdiction in the State of New York, and SGBL assumed and bears successor liability for LCB's conduct," *i.e.*, LCB's repeated use of its New York correspondent account to execute transactions on behalf of Hizbollah. App'x at 23.

The district court was not convinced. In early 2020, on SGBL's motion, the court dismissed the case for want of jurisdiction. The court understood New York law to recognize an inherited-jurisdiction theory only upon a statutory or de facto merger of the two entities in question: a transaction that was not a merger would not "suffic[e] to impute a target's jurisdictional status on an acquiror." *Lelchook I*, 2021 WL 4931845, at *2-3.

On appeal (as described above), this panel first determined that we could not confidently predict how the New York Court of Appeals would resolve the threshold "successor jurisdiction" question. We therefore certified the following two questions to that court:

1. Under New York law, does an entity that acquires all of another entity's liabilities and assets, but does not merge with that entity, inherit the acquired entity's status for purposes of specific personal jurisdiction?

2. In what circumstances will the acquiring entity be subject to specific personal jurisdiction in New York?

Lelchook II, 67 F.4th at 71-72. The Court of Appeals answered the first question in the affirmative and found it unnecessary to answer the second. *See Lelchook III*, 41 N.Y.3d at 631, 215 N.Y.S.3d 66, 239 N.E.3d 172.

In addressing the first question, the Court of Appeals identified several relevant factors: the "impact of [the] rule on parties to a potential acquisition"; the "reasonable assumptions and expectations of the parties"; whether imputation of a predecessor's jurisdictional status "induces responsible parties to internalize responsibility for risks"; and the "impact . . . on those injured by a predecessor's acts." *Id.* at 636-37, 215 N.Y.S.3d 66, 239 N.E.3d 172. It concluded that "[t]hose factors tip in favor of allowing successor jurisdiction where a successor," *i.e.*, SGBL, "purchases all assets and liabilities" from the predecessor entity, *i.e.*, LCB. *Id.* at 637-39, 215 N.Y.S.3d 66, 239 N.E.3d 172.

It explained its decision further by observing that "[s]ophisticated corporate entities such as SGBL will undoubtedly engage in robust due diligence before agreeing to acquire all assets and liabilities of another entity," including as to where jurisdiction over actions related to the company's liabilities may lie. *Id.* at 637, 215 N.Y.S.3d 66, 239 N.E.3d 172. The parties can factor into the purchase price the costs associated with such liabilities, avoiding unfairness, it observed. *Id.* And, as a more general policy matter, the rule it stated was consistent with good corporate stewardship because it would avoid a situation in which a successor acquired all of a predecessor's assets while shielding itself from judgment

on certain of the predecessor's related liabilities (which it otherwise purported to assume). *Id.* at 638, 215 N.Y.S.3d 66, 239 N.E.3d 172. That result, in turn, would help to ensure the existence of a responsible entity, available "to absorb the risk of liability and compensate injured parties." *Id.*

We requested supplemental briefing from the parties on the decision's import for this case and on the question whether exercising specific personal jurisdiction over SGBL on Plaintiffs' claims here would comport with due process. We now resolve those questions.

DISCUSSION

We review *de novo* a district court's decision to dismiss a complaint for lack of personal jurisdiction under Federal Rule of Civil Procedure 12(b)(2). *Chloé v. Queen Bee of Beverly Hills, LLC*, 616 F.3d 158, 163 (2d Cir. 2010). On such review, we construe the pleadings in the light most favorable to the plaintiffs. *Id.* To survive a motion to dismiss for lack of personal jurisdiction, "a plaintiff must make a prima facie showing that jurisdiction exists." *Thomas v. Ashcroft*, 470 F.3d 491, 495 (2d Cir. 2006).

I. Principles of specific personal jurisdiction

A district court may exercise specific personal jurisdiction over a defendant only if three requirements are satisfied: "(1) the plaintiff's service of process upon the defendant must have been procedurally proper; (2) there must be a statutory basis for personal jurisdiction

that renders such service of process effective; and (3) the exercise of personal jurisdiction must comport with constitutional due process principles." *Esso Expl. & Prod. Nigeria Ltd. v. Nigerian Nat'l Petroleum Corp.*, 40 F.4th 56, 69 (2d Cir. 2022) (internal quotation marks omitted); *see also Licci II*, 673 F.3d at 59-60. SGBL does not contest that it was properly served, and so we proceed to examine the second and third requirements.

As to the *statutory basis* for personal jurisdiction over SGBL, a non-U.S. entity, we have previously ruled that Plaintiffs' only viable theory rested on Federal Rule of Civil Procedure 4(k)(1)(A). *See Lelchook II*, 67 F.4th at 75 & n.7. That rule, entitled "Territorial Limits of Effective Service," provides that proper service establishes the district court's "personal jurisdiction over a defendant . . . who is subject to the jurisdiction of a court of general jurisdiction in the state where the district court is located." Fed. R. Civ. P. 4(k)(1)(A) (internal punctuation omitted). We therefore ask next whether the law of the forum state—here, New York, and in particular the New York long-arm statute-permits the exercise of personal jurisdiction over SGBL in New York. *See Lelchook II*, 67 F.4th at 75; *Licci IV*, 732 F.3d at 168.[6] We conclude that it does: under *Lelchook III*, a company that acquires all of another entity's assets and liabilities inherits that entity's jurisdictional status in cases arising from the acquired liabilities.

6. We have previously determined that New York's long-arm statute is not co-extensive with the Due Process Clause, and so we address whether it provides for personal jurisdiction over SGBL before ruling on the constitutional question. *See Daou v. BLC Bank, S.A.L.*, 42 F.4th 120, 129 (2d Cir. 2022).

We then turn to the question whether the court's exercise of specific personal jurisdiction over SGBL in this case comports with due process. *See Lelchook II*, 67 F.4th at 75-76. Again, as we explain below, we conclude that it does.

II. Jurisdiction over SGBL under New York's long-arm statute

In *Lelchook III*, the New York Court of Appeals set out a straightforward general rule: "[W]here an entity acquires all of another entity's liabilities and assets, but does not merge with that entity, it inherits the acquired entity's status for purposes of specific personal jurisdiction." 41 N.Y.3d at 638-39, 215 N.Y.S.3d 66, 239 N.E.3d 172. The court reasoned that where the predecessor entity would be subject to specific personal jurisdiction in New York on the claims at issue, subjecting the successor to jurisdiction under the long-arm statute based on the predecessor's contacts was permitted by the statute and would be both fair and reasonable. *Id.* at 636-39, 215 N.Y.S.3d 66, 239 N.E.3d 172.[7]

Applying that rule to the facts at hand easily resolves the state law jurisdictional question before us. As described, SGBL acquired all of LCB's assets and liabilities, without

7. The Court of Appeals further observed that New York is not an outlier in adopting this approach: rather, its decision "accords with nearly all decisions of other state appellate courts and federal circuit courts that have considered the issue of successor jurisdiction." *Lelchook III*, 41 N.Y.3d at 639 n.3, 215 N.Y.S.3d 66, 239 N.E.3d 172.

reservation. It therefore "inherit[ed] [LCB's] status for purposes of specific personal jurisdiction." *Id.* LCB's jurisdictional contacts at the time of the purchase are under New York law properly treated as SGBL's own.

As we have described, the claims and contacts alleged in this case as to LCB are "materially identical" to those at issue in the *Licci/Kaplan* litigation, wherein we held LCB is subject to personal jurisdiction in New York. *Lelchook II*, 67 F.4th at 74. Plaintiffs in both cases allege LCB used its New York correspondent account to finance Hizbollah. *Compare Licci IV*, 732 F.3d at 165-66, *with* App'x at 30-32 ¶¶ 44-56, 40 ¶¶ 87-90. And those allegations satisfy the state long-arm statute: they describe a "transaction of business" in New York, which Plaintiffs' claims "aris[e] from." *Licci IV*, 732 F.3d at 168-69; *see* CPLR 302(a)(1); *Daou v. BLC Bank, S.A.L.*, 42 F.4th 120, 129-31 (2d Cir. 2022) (describing the uses of a correspondent bank account that support jurisdiction under New York's long-arm statute). Because LCB would be subject to personal jurisdiction on those claims in a New York court, Plaintiffs have made a prima facie showing that SGBL too is amenable to personal jurisdiction in New York on those claims pursuant to the state long-arm statute. *Licci IV*, 732 F.3d at 169.

SGBL argues, however, in what it acknowledges to be a "counterintuitive" formulation, that the rule laid out by the New York Court of Appeals actually leads to the contrary conclusion: that a New York court would *not* exercise long-arm jurisdiction over SGBL. SGBL Letter Br. at 1 (Dkt. No. 89); *see also id.* at 3-5. A New York court

would lack jurisdiction, it urges, because the "underlying justifications" for the rule that the New York Court of Appeals articulated are lacking here. *Id.* at 3.

SGBL contends, for example, that Plaintiffs could pursue assets of LCB in New York—the roughly $580 million consideration that SGBL paid to LCB for its assets and liabilities—thus negating any need for courts to apply the idea of inherited jurisdiction over these claims. But the state high court rejected this very argument when it explained that there was "no good reason" to mandate that plaintiffs proceeding against a successor "take an indirect and uncertain path to recompense" against the (perhaps insolvent) predecessor. *Lelchook III*, 41 N.Y.3d at 638, 215 N.Y.S.3d 66, 239 N.E.3d 172.

SGBL similarly attempts to disavow having received any benefit from LCB's New York business, attempting to undercut that part of the Court of Appeals' rationale, too.[8] *See* SGBL Letter Br. at 5. But the Agreement shows that, together with LCB's liabilities, SGBL acquired *all* of LCB's then-listed assets. It does not exclude those assets that were derived from the use of the New York correspondent account—or of any other asset group, for that matter. Accordingly, we reject this argument. *See Lelchook III*, 41 N.Y.3d at 638, 215 N.Y.S.3d 66, 239 N.E.3d 172.

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8. It asserts relatedly that LCB is not in fact "defunct," pointing simply to LCB's continuing litigation in this Circuit. SGBL Letter Br. at 4. But this is in effect an invitation to discount Plaintiffs' plausible allegations on the subject. On review of a motion to dismiss, we are not at liberty to do so.

In sum, these and SGBL's other contentions on successor jurisdiction under New York law are squarely defeated by the state court's ruling.

III. Fourteenth Amendment due process limits on jurisdiction over SGBL

With the state law jurisdictional question resolved, we turn to the bottom line: whether a U.S. district court's exercise of specific personal jurisdiction over SGBL in New York, based on the contacts SGBL inherited from LCB, comports with Fourteenth Amendment due process principles.[9]

Where New York's long-arm statute permits the exercise of jurisdiction over the parties, we have not generally "suggested that due process requires something more than New York law." *Spetner v. Palestine Inv. Bank*, 70 F.4th 632, 645 (2d Cir. 2023) (footnote omitted).[10]

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9. The Supreme Court recently held that the Due Process Clause of the Fifth Amendment and Due Process Clause of the Fourteenth Amendment are not of equal reach, and expressly "declin[ed] to import the Fourteenth Amendment minimum contacts standard into the Fifth Amendment." *Fuld v. Palestine Liberation Org.*, 606 U.S. 1, 145 S. Ct. 2090, 2105, 222 L.Ed.2d 296 (2025). The familiar Fourteenth Amendment analysis continues to apply, however, where state law binds a federal court in determining the bounds of its jurisdiction over persons as it does under Rule 4(k)(1)(A), applicable here. *See id.* at 2102.

10. *See also Licci IV*, 732 F.3d at 170 (noting that CPLR 302(a)(1) is "not coextensive" with due process while remarking that a case would be "rare" in which contacts satisfy the statute yet fail to comport with due process).

Still, we "independently ensure that the constitutional requirements are satisfied." *Id.*

A court's exercise of personal jurisdiction over a person or entity is bound by the Constitution's guarantee of due process. The law of due process governing the exercise of jurisdiction over corporate entities has undergone significant developments in recent decades. *See*, *e.g.*, *Daimler AG v. Bauman*, 571 U.S. 117, 134 S.Ct. 746, 187 L.Ed.2d 624 (2014); *Bristol-Myers Squibb Co. v. Superior Ct. of California*, 582 U.S. 255, 137 S.Ct. 1773, 198 L.Ed.2d 395 (2017). But the seminal principle has not changed: where the Fourteenth Amendment's protections apply, "a tribunal's authority depends on the defendant's having such 'contacts' with the forum State that 'the maintenance of the suit' is 'reasonable . . . ' and 'does not offend traditional notions of fair play and substantial justice.'" *Ford Motor Co. v. Montana Eighth Jud. Dist. Ct.*, 592 U.S. 351, 358, 141 S.Ct. 1017, 209 L.Ed.2d 225 (2021) (quoting *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316-17, 66 S.Ct. 154, 90 L.Ed. 95 (1945)).

To exercise specific personal jurisdiction over a corporate defendant that is not incorporated in or primarily doing business in the State, a court must first determine that a corporate defendant's in-state acts reflect its "purposeful availment" of opportunities within the State, and that the asserted claims arise out of or relate to its contacts with the State.[11] *Id.* at 359, 141

11. In contrast, general jurisdiction over a corporate defendant may be exercised in a State where the corporation has continuous and systematic contacts so extensive as to render

S.Ct. 1017; *see also Mallory v. Norfolk S. Ry. Co.*, 600 U.S. 122, 138, 143 S.Ct. 2028, 216 L.Ed.2d 815 (2023) (plurality); *Fuld v. Palestine Liberation Org.*, 606 U.S. 1, 145 S. Ct. 2090, 2102-03, 222 L.Ed.2d 296 (2025). The corporate defendant's in-state acts must further make it reasonably foreseeable that it would be subject to suit in courts sitting in that State. *See World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297-98, 100 S.Ct. 559, 62 L.Ed.2d 490 (1980); *Licci IV*, 732 F.3d at 170; *Spetner*, 70 F.4th at 645. In other words, it must receive "fair warning" that it might be called to answer claims in the forum. *Ford Motor Co.*, 592 U.S. at 360, 141 S.Ct. 1017; *see also Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 472, 105 S.Ct. 2174, 85 L.Ed.2d 528 (1985). The exercise of jurisdiction in the State as to the related claims over the defendant must be "reasonable"—that is, consistent with "traditional notions of fair play and substantial justice" that the Court referred to in *International Shoe*. *See Licci IV*, 732 F.3d at 169-70, 174.

On review of these factors here, we conclude that Plaintiffs have stated a prima facie case for the exercise of specific personal jurisdiction over SBGL in New York: their allegations satisfy the governing standards at each step of the specific jurisdiction analysis. SGBL's motion

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it "essentially at home"—*i.e.*, in its state of incorporation or its principal place of business. *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 919, 131 S.Ct. 2846, 180 L.Ed.2d 796 (2011); *see*, *e.g.*, *Brown v. Lockheed Martin Corp.*, 814 F.3d 619, 629 (2d Cir. 2016). Those deep contacts subject it to jurisdiction by a court in that forum for any claims at all. *See Goodyear Dunlop Tires Operations*, 564 U.S. at 919, 131 S.Ct. 2846.

to dismiss under Rule 12(b)(2) for want of personal jurisdiction thus fails. *See Dorchester Fin. Sec., Inc. v. Banco BRJ, S.A.*, 722 F.3d 81, 84-85 (2d Cir. 2013) (per curiam). We set forth our reasoning below.

A. Minimum contacts: "purposeful availment" of the forum

As described above, Plaintiffs proceed solely on a successor theory of jurisdiction. State and federal courts alike have consistently permitted the jurisdictional contacts of a predecessor to be imputed to its successor, reasoning that if forum law could also hold the successor liable for its predecessor's actions, its related jurisdictional actions should also attach to the successor. *See*, *e.g.*, *Williams v. Bowman Livestock Equip. Co.*, 927 F.2d 1128, 1132 (10th Cir. 1991) ("A corporation's contacts . . . may be imputed to its successor if forum law would hold the successor liable for the actions of its predecessor."); *State ex rel. Stein v. E.I. du Pont de Nemours & Co.*, 382 N.C. 549, 557-60, 879 S.E.2d 537 (2022) (holding a predecessor corporation's contacts may be imputed to a successor for jurisdictional purposes when forum law would hold the successor liable for its predecessor's actions (referencing *City of Richmond v. Madison Mgmt. Grp., Inc.*, 918 F.2d 438, 454 (4th Cir. 1990))); *Ostrem v. Prideco Secure Loan Fund, LP*, 841 N.W.2d 882, 896 (Iowa 2014) ("[C]ourts commonly impute a corporate predecessor's contacts to its successor in order to exercise personal jurisdiction over the successor.") (collecting cases).

We agree with these courts' analysis and apply it here. As part of the Agreement, SGBL agreed to assume, without qualification, "any and all of [LCB's] liabilities and/or obligations." App'x at 53, 61. Although the Court of Appeals recognized that "liability and jurisdiction are distinct legal concepts," *Lelchook III*, 41 N.Y.3d at 635, 215 N.Y.S.3d 66, 239 N.E.3d 172, it also said that the jurisdictional analysis under New York law is "inform[ed]," if not determined, by the substantive question of successor liability, *id.* at 635, 215 N.Y.S.3d 66, 239 N.E.3d 172. In light of this substantial overlap, we read *Lelchook III* as concluding that, taking Plaintiffs' allegations as true, SGBL could be liable under New York law for LCB's acts as a result of the Agreement. *See id.* at 637-38, 215 N.Y.S.3d 66, 239 N.E.3d 172 (reasoning that SGBL should have "anticipated being subject to jurisdiction over LCB's liabilities in New York" because "the great weight of authority at the time [of the Agreement] permitted imputation whenever the forum state's law would hold the successor liable" (internal quotation marks omitted, alterations adopted)). Accordingly, because Plaintiffs have alleged sufficient facts to establish successor liability under New York law, we impute LCB's forum contacts to SGBL for purposes of our personal jurisdiction analysis.[12]

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12. Because this appeal is from the district court's order on SGBL's motion to dismiss for lack of personal jurisdiction under New York law, we do not address the adequacy of Plaintiffs' federal claims under the ATA or JASTA. Nor do we express any view regarding the merits of SGBL's Rule 12(b)(6) motion.

1. SGBL reached out to acquire the fruits of LCB's business transactions in New York, purposefully availing itself of the forum

LCB, if still viable, would be subject to specific personal jurisdiction in New York in an action on Plaintiffs' claims. In its supplemental briefing, SGBL does not appear to dispute this proposition. Rather, it seeks to distance itself from LCB, taking the view that it "(as opposed to third-party LCB) has no contacts with the forum," and urging that New York courts cannot exercise specific jurisdiction over it notwithstanding the assets and liabilities it acquired. SGBL Letter Br. at 6-7. It denies any "purposeful availment" of the state of New York of its own. But this argument both mischaracterizes the nature of SGBL's acquisition of LCB's liabilities and ignores that SGBL benefited from LCB's activities in New York when it acquired LCB's assets.

LCB's use of the correspondent bank in New York was an activity "*purposefully directed toward the forum State*." *Asahi Metal Indus. Co. v. Superior Ct. of California*, 480 U.S. 102, 112, 107 S.Ct. 1026, 94 L.Ed.2d 92 (1987) (emphasis in original). LCB's deliberate and recurring use of that correspondent bank is reasonably seen as a form of "exploit[ation of] a State's market," the paradigmatic example of "purposeful availment." *Ford Motor Co.*, 592 U.S. at 359, 364, 141 S.Ct. 1017 (internal quotation marks omitted, alterations adopted); *see Licci IV*, 732 F.3d at 170-172. LCB's repeated reliance on New York banking services "indicates desirability" of the state's banking system "and a lack of coincidence" in LCB's usage

of that system. *Licci III*, 20 N.Y.3d at 340, 960 N.Y.S.2d 695, 984 N.E.2d 893 (explaining analogous portion of the state long-arm statute inquiry). LCB's selection of that correspondent bank as opposed to another intermediary (as the New York Court of Appeals observed) was likely "cheaper and easier for LCB." *Id.* It conferred "financial and other benefits" that allowed LCB to retain those customers who sought the alleged monetary transfers. *Id.* As we observed earlier, LCB benefitted from the U.S. dollar's "stable and fungible" nature; from New York's "dependable and transparent" banking system; and from the "predictable jurisdictional and commercial" law of the state. *Licci IV*, 732 F.3d at 171. This made LCB susceptible to the New York court's jurisdiction on claims like those raised here, arising out of its use of that correspondent account. *See id.* at 170-73.

Under the Agreement, SGBL obtained the fruits of *all* of LCB's business, including its transactions in New York. Few courts have considered whether, in similar circumstances, a corporate successor is subject to jurisdiction that would properly have been exercised over its predecessor. Those that have addressed the issue have held that it is: where a predecessor "purposefully avail[ed] itself of the privilege of exploiting forum-based business opportunities," the successor's "express assumption of liability" constitutes a "deliberate undertaking" that "amounts to a purposeful availment of [the in-state] opportunities" exploited by the predecessor. *Jeffrey v. Rapid Am. Corp.*, 448 Mich. 178, 187, 198-99, 529 N.W.2d 644 (1995); *see Perry Drug Stores v. CSK Auto Corp.*, 93 F. App'x 677, 681 (6th Cir. 2003) (summary order)

(referencing *Jeffrey*, 448 Mich. at 198-99, 529 N.W.2d 644); *Simmers v. Am. Cyanamid Corp.*, 394 Pa. Super. 464, 489-90, 576 A.2d 376 (1990) (holding successor jurisdiction proper in part on ground that it would be "absurd" to deny jurisdiction where "the assets purchased by the successor, at least in part, were derived from the forum"). Entering into the Agreement represented SGBL's choice to obtain LCB's assets and to answer for LCB's activities; that choice properly forms the basis for a court to impute LCB's contacts to SGBL. *Cf. Burger King*, 471 U.S. at 479-80, 105 S.Ct. 2174 (upholding exercise of specific jurisdiction over defendants who purposefully "reach[ed] out beyond" their State by entering a contractual relationship that "envisioned continuing and wide-reaching contacts" in the forum and that contractual relationship gave rise to the suit (alteration in original)).

That SGBL acquired those contacts through its transaction with LCB, rather than directly, does not make the exercise of jurisdiction in New York improper. In a somewhat different context, we have recognized that the actions of a third party can properly support the exercise of specific jurisdiction over a defendant where the defendant's exploitation of forum opportunities through that third party is intentional. *See, e.g.*, *Oklahoma Firefighters Pension & Ret. Sys. v. Banco Santander (México) S.A. Institución de Banca Multiple*, 92 F.4th 450, 457-58 (2d Cir. 2024) (permitting imputation of brokers' contacts to defendant and noting that "a defendant can also avail itself of a forum" absent a formal agency relationship); *Spetner*, 70 F.4th at 645. The same principle applies here and makes specific personal jurisdiction over SGBL consistent with due process.

Resisting the exercise of jurisdiction, SGBL points to the Supreme Court's general statement that it has "consistently rejected . . . attempts to satisfy the . . . 'minimum contacts' inquiry by demonstrating contacts between the plaintiff (or third parties) and the forum state." *Walden v. Fiore*, 571 U.S. 277, 284, 134 S.Ct. 1115, 188 L.Ed.2d 12 (2014) (citing *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 417, 104 S.Ct. 1868, 80 L.Ed.2d 404 (1984)). *See* SGBL Letter Br. at 6. SGBL urges that LCB's activities are such "third party" contacts that are impermissibly ascribed to it, relying on a trio of Supreme Court cases. *Id.* at 6-7 (citing *Walden*, 571 U.S. at 284, 134 S.Ct. 1115; *World-Wide Volkswagen*, 444 U.S. at 291-92, 100 S.Ct. 559; and *Hanson v. Denckla*, 357 U.S. 235, 253-54, 78 S.Ct. 1228, 2 L.Ed.2d 1283 (1958)). But it misunderstands these cases. Each holds that a plaintiff or a third party's "*unilateral* activity" may not form the sole basis for a forum state's exercise of specific personal jurisdiction over a defendant, as we explain in the margin. *Walden*, 571 U.S. at 286, 134 S.Ct. 1115 (emphasis added).[13]

13. First, in *Hanson*, the Supreme Court concluded that a Florida court could not exercise specific personal jurisdiction over a corporate trustee based in Delaware when the jurisdictional claim rested "solely on the contacts of the trust's settlor," a Florida domiciliary who executed powers of appointment in Florida. *Walden*, 571 U.S. at 284, 134 S.Ct. 1115 (describing *Hanson*, 357 U.S. at 253-54, 78 S.Ct. 1228). Earlier, when the corporate trustee and the settlor executed the trust, the settlor resided in Pennsylvania. *Hanson*, 357 U.S. at 252, 78 S.Ct. 1228. The defendant trust company "transact[ed] no business" in Florida and, so far as the record showed, it had never even solicited business there. *Id.* at 251, 78 S.Ct. 1228. "The first relationship Florida had to the agreement" was initiated unilaterally by the

In all three, and different from the circumstances before us, no act on the defendant's part determined that it would be subject to putative liability in the forum chosen by the plaintiff.

SGBL's summons to a New York-based court to answer Plaintiffs' claims is attributable neither to serendipity nor to Plaintiffs' will. Unlike the defendants in *Hanson*, *World-Wide Volkswagen*, and *Walden*, SGBL was able to assess its transaction with LCB *before* assuming LCB's liabilities, and it was able to assess "where jurisdiction over such liabilities may lie." *Lelchook III*, 41 N.Y.3d at 637,

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settlor "years later" when she moved to the state. *Id.* at 251-52, 78 S.Ct. 1228.

Similarly, in *World-Wide Volkswagen*, due process barred Oklahoma courts from exercising personal jurisdiction over an automobile distributor operating in New York, New Jersey, and Connecticut, when jurisdiction was asserted based only on an automobile purchaser's travel on Oklahoma highways, where they "happened to suffer an accident while passing through."444 U.S. at 295, 100 S.Ct. 559.

Most recently, in *Walden*, the Supreme Court held that a federal district court in Nevada could not exercise specific personal jurisdiction over a defendant police officer residing in Georgia. The police officer was alleged to have seized cash from the plaintiffs while they stopped at the Atlanta airport on their way to their part-time residence in Nevada. *Walden*, 571 U.S. at 279-81, 288-89, 134 S.Ct. 1115. He then helped draft a false affidavit in support of the forfeiture claim to the cash. *Id.* But the *officer's* acts "formed no jurisdictionally relevant contacts with Nevada." *Id.* at 289, 134 S.Ct. 1115. It was instead only plaintiffs' Nevada residence and their Nevada destination while in the Atlanta airport that formed the defendant's only connection to the state. *Id.* at 280, 288-89, 134 S.Ct. 1115.

215 N.Y.S.3d 66, 239 N.E.3d 172; *see also Simmers*, 394 Pa. Super. at 490, 576 A.2d 376 ("[I]n today's sophisticated world of corporate takeovers, a corporation[] [that] assumes another's liabilities . . . considers the possible extent of any liabilities and where those liabilities may exist."). The potential reach of LCB's liabilities, and its jurisdictional contacts, were known to SGBL at that time. SGBL cannot now reasonably urge that due process bars subjecting it to specific personal jurisdiction based on LCB's conduct, which generated the very assets and liabilities that it purchased. *See* SGBL Letter Br. at 7.

2. In 2011, when SGBL entered into the Agreement, the legal landscape made it foreseeable that its acquisition would render it subject to the exercise of specific personal jurisdiction in New York

As we have said, due process requires "that the defendant's conduct and connection with the forum State [be] such that he should reasonably anticipate being haled into court there." *World-Wide Volkswagen*, 444 U.S. at 297, 100 S.Ct. 559. SGBL contends that this requirement is not met here.[14] It cites the legal questions raised in the

14. SGBL's related point that foreseeability alone does not suffice for the exercise of jurisdiction is, of course, beyond dispute. *See* SGBL Letter Br. at 8-9. But that general point offers no support for SGBL's position. Plaintiffs' jurisdictional theory is not exclusively grounded in foreseeability: it also relies on SGBL's acquisition of LCB's liabilities. *See id.* at 9. And foreseeability is not *irrelevant* to personal jurisdiction. Rather, it is a necessary element of the due process analysis for a corporate defendant.

Licci/Kaplan litigation, as well as in this case, that had yet to be answered definitively in 2011 when it made its purchase and argues that the pendency of those questions made the exercise of jurisdiction over it unforeseeable. SGBL Letter Br. at 11-12. We disagree.

Certainty of result is not necessary to establish the reasonable foreseeability that due process requires to support specific personal jurisdiction. The defendant needs only "fair warning" that it may be subject to the state's authority. *Bensmiller v. E.I. Dupont de Nemours & Co.*, 47 F.3d 79, 85 (2d Cir. 1995); *see also World-Wide Volkswagen*, 444 U.S. at 297, 100 S.Ct. 559; *Ford Motor Co.*, 592 U.S. at 360, 141 S.Ct. 1017. SGBL had that fair warning. As the Fourth Circuit wrote as early as 1990, holding a successor subject to personal jurisdiction based on the actions of its predecessor, the "great weight" of authority existing even then permitted "imputation of a predecessor's actions" to its successor "*whenever* forum law would hold the successor liable for its predecessor's actions." *Madison Mgmt. Grp.*, 918 F.2d at 454 (internal quotation marks omitted, emphasis in original) (citing cases). SGBL does not point to a single federal appellate or state high court decision issued before 2011 or since that rejects this successor-jurisdiction analysis.[15]

See World-Wide Volkswagen, 444 U.S. at 297, 100 S.Ct. 559 ("[It is] critical to due process" that the defendant "should reasonably anticipate being haled into court" in the forum.); *Licci IV*, 732 F.3d at 171-72.

15. Some courts have framed successor jurisdiction in part as a matter of consent. *See Stein*, 382 N.C. at 559, 879 S.E.2d 537 ("[W]hen a successor corporation assumes the liabilities of its

As to the claims asserted and their relationship to LCB's contacts in New York, first, the possibility of ATA liability for LCB was apparent at the time of the Agreement. By the time SGBL acquired LCB's assets and liabilities in June 2011, the Treasury Department had designated LCB a "primary money laundering concern." App'x at 51 ¶ 117. The *Licci* litigation had begun, based on allegations of LCB's repeated, deliberate use of its New York bank correspondent account to support Hizbollah; indeed, it was already the subject of an appeal to this Court. *See Licci IV*, 732 F.3d at 166-68. When a successor company adopts liabilities that are "no secret" and for which the predecessor has already been subject to public legal battles, the successor has ample notice that it might become liable "in any venue" where liability accrued. *Stein*, 382 N.C. at 563, 879 S.E.2d 537. When it acquired LCB's assets and liabilities, SGBL thus had fair warning that LCB's contacts in New York might subject it to suit

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corporate predecessors, the successor in effect consents to be held liable in the same locations where its predecessor would have been exposed." (quoting *Simmers*, 394 Pa. Super. at 490, 576 A.2d 376)); *Jeffrey*, 448 Mich. at 194, 529 N.W.2d 644 (same); *cf. Mallory*, 600 U.S. at 138, 143 S.Ct. 2028 (plurality) ("[A]ll *International Shoe* did was stake out an additional road to jurisdiction over out-of-state corporations. . . . Our precedents have recognized, too, that 'express or implied consent' can continue to ground personal jurisdiction—and consent may be manifested in various ways by word or deed." (citations omitted)). That rubric could offer a persuasive way of understanding an express assumption of assets and unlimited liabilities, we agree. But Plaintiffs here did not advance a consent theory of specific personal jurisdiction, and so we will not examine it further.

there for ATA claims related to LCB's alleged support for and facilitation of Hizbollah's terrorist acts.[16]

SGBL further denies that it was reasonably foreseeable that it would be subject to suit in New York based on a theory of secondary liability under JASTA. It observes that Plaintiffs' secondary liability claims were not viable until 2016, when JASTA was enacted to include aiding-and-abetting liability for terrorist acts under the ATA. *See* JASTA, Pub. L. No. 114-222, § 4(d), 130 Stat. 852, 854 (2016) (codified at 18 U.S.C. § 2333(d)).[17] It therefore could not reasonably have known when it entered the Agreement in 2011, it asserts, that LCB would be vulnerable to aiding-and-abetting claims.

It is true that "[a] plaintiff must establish the court's jurisdiction with respect to each claim asserted," and we therefore must consider both whether the court had jurisdiction to hear the Plaintiffs' primary liability claims against SGBL (under the ATA) and their secondary liability claims (under JASTA). *Charles Schwab Corp.*

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16. For the same reason, we reject SGBL's other attempts to narrow the applicability of New York's successor liability rule—for instance, its argument that specific jurisdiction might be properly limited to circumstances in which the "underlying lawsuit for which a plaintiff seeks to hold an entity liable on a successor theory . . . is pending in New York at the time of the asset-and-liability purchase." SGBL Letter Br. at 7.

17. In JASTA, Congress made these ATA amendments retroactively available to a plaintiff in any action pending when, or filed after, it enacted JASTA. *See* JASTA, Pub. L. No. 114-222, § 7, 130 Stat. 852, 855 (2016).

v. Bank of Am. Corp., 883 F.3d 68, 83 (2d Cir. 2018) (internal quotation marks omitted). But the court's exercise of specific personal jurisdiction over SGBL on the secondary liability claims, too, satisfies due process. It is enough that (1) the claims "arise out of or relate to [LCB's imputed] contacts with the forum," *Ford Motor Co.*, 592 U.S. at 359, 141 S.Ct. 1017 (internal quotation marks omitted), as Plaintiffs' aiding-and-abetting claims do; (2) SGBL could reasonably anticipate being subjected to ATA-related liability in New York based on LCB's alleged in-forum conduct and affiliation with Hizbollah; and (3) SGBL, in the Agreement, assumed the assets and liabilities of LCB—and thus its contacts. *See* App'x at 53 ¶ 126, 61 (specifying liabilities "of any kind," "determined, determinable or otherwise"). In these circumstances, due process does not require that SGBL be allowed to invoke a putative jurisdictional barrier and avoid one set of LCB's potential liabilities.[18]

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18. SGBL urges that Plaintiffs' claims lack the "connection between the forum and the specific claims at issue" necessary for specific personal jurisdiction, as identified in *Bristol-Myers Squibb v. Superior Ct. of California*, 582 U.S. 255, 265, 137 S.Ct. 1773, 198 L.Ed.2d 395 (2017). It suggests that the suit therefore does not arise from or relate to LCB's New York contacts. SGBL Letter Br. 14-15. It emphasizes that Plaintiffs are not New York residents; that they did not suffer harm in New York; and its view that the conduct complained of did not "occur" in New York. *Id.* But this argument is squarely foreclosed by *Licci IV*. There, we held that the requisite "affiliation between the forum and the underlying controversy" existed where a bank "deliberate[ly] and recurring[ly]" uses a New York correspondent relationship to execute the transactions that gave rise to the claims. *Licci IV*, 732 F.3d at 170-73; *see also Spetner*, 70 F.4th at 645-46 (use of

B. Reasonableness factors: traditional notions of fair play and substantial justice

In addition to satisfying the "minimum contacts" and "relatedness" requirements, the exercise of jurisdiction over a defendant must "comport with fair play and substantial justice." *Licci IV*, 732 F.3d at 170 (quoting *Burger King*, 471 U.S. at 476, 105 S.Ct. 2174). To determine whether this requirement is satisfied, we consider the following factors: "(1) the burden that the exercise of jurisdiction will impose on the defendant; (2) the interests of the forum state in adjudicating the case; (3) the plaintiff's interest in obtaining convenient and effective relief; (4) the interstate judicial system's interest in obtaining the most efficient resolution of the controversy; and (5) the shared interest . . . in furthering substantive social policies." *Am. Girl, LLC v. Zembrka*, 118 F.4th 271, 279 (2d Cir. 2024), *cert. denied sub nom. Zembrka v. Am. Girl, LLC.*, ___ U.S. ___, 145 S. Ct. 1130, 220 L.Ed.2d 423 (2025). It is only in an "exceptional situation" will we find the exercise of specific personal jurisdiction "unreasonable" once minimum contacts and the claims' relationship to the forum are sufficiently established. *In re Platinum & Palladium Antitrust Litig.*, 61 F.4th 242, 274 (2d Cir. 2023), *cert. denied sub nom. BASF Metals Ltd. v. KPFF Inv., Inc.*, ___ U.S. ___, 144 S. Ct. 681, 217 L.Ed.2d 382 (2024).

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correspondent was "sufficiently related" to injuries because the account "was an instrument to achieve the very wrong alleged" where funds transferred supported terrorist activity (internal quotation marks omitted)). The place of Plaintiffs' residence does not change this conclusion. *See Keeton v. Hustler Mag., Inc.*, 465 U.S. 770, 779-81, 104 S.Ct. 1473, 79 L.Ed.2d 790 (1984).

On review, we conclude that these reasonableness factors readily permit the court's exercise of specific personal jurisdiction over SGBL here.

1. The burden on the defendant

We have no doubt that, as SGBL complains, the burden on it to litigate in New York may be significant. SGBL is based in Lebanon; the 2006 attacks occurred in Israel; and Plaintiffs, all but one of whom are American citizens, live outside of New York, and indeed, outside of the United States. As a result, "many of the documents and witnesses relevant to this litigation are located abroad." *Licci IV*, 732 F.3d at 174. This factor plainly cuts in SGBL's favor.

Still, we conclude that this burden is a manageable one. As we have said before, "the conveniences of modern communication and transportation ease any burden the defense of this case in New York might impose on [SGBL]." *Id.* (internal quotation marks omitted). The company's required appearance in New York would not place on it an insurmountable or even undue burden.

2. The interests of the forum state

While the attacks that caused harm occurred in Israel, not in New York, Plaintiffs' claims against SGBL stem from its predecessor's "use of a correspondent account [in New York] to support a terrorist organization." *Id.* As a result, and as has we have earlier recognized, the suit implicates "the United States' and New York's interest in monitoring banks and banking activity to ensure that its system is

not used as an instrument in support of terrorism, money laundering, or other nefarious ends." *Id.*; *see also Spetner*, 70 F.4th at 646 (recognizing that the forum's interest in monitoring bank activity may be "heightened" when a nesting set of correspondent accounts is used to shield a bank's identity); *Am. Girl*, 118 F.4th at 280 (recognizing New York's "exceptionally strong interest" in protecting businesses in the state from unlawful foreign activity). This factor cuts in favor of exercising jurisdiction in New York over SGBL on these claims.

3. Plaintiffs' interest in convenient and effective relief

It is evident that Plaintiffs would likely struggle to "obtain[] convenient and effective relief" in the absence of the New York federal court's exercise of jurisdiction in this case. *Licci IV*, 732 F.3d at 170. The record before us suggests that LCB has not been dissolved—at least for the purpose of actively litigating the many suits brought against it. But, as mentioned above, the company stated in 2017 that it was "defunct, insolvent, and unable to pay any judgment rendered against it." Brief in Opposition to Petition for Writ of Certiorari at 4, *Licci v. Lebanese Canadian Bank, SAL*, 584 U.S. 959 (2018) (No. 16-778), 2017 WL 712025, at *4. The record provides little basis to conclude otherwise.[19] If so, Plaintiffs have at best

19. As alleged in the operative complaint, LCB obtained $580 million in exchange for its assets and liabilities. The record does not show what has happened to these funds. In the procedural posture of this case, we must credit Plaintiffs' allegation that, despite the large payment, LCB is now defunct and unable to satisfy a judgment against it on these claims.

remote—and likely illusory—prospects of success in receiving redress from LCB.

Relatedly, and as observed above in connection with the general rule of successor liability, a holding in SGBL's favor on its jurisdictional defense would both enable and incentivize companies to pass their assets on to successors in other jurisdictions and "shield[] [them] from direct claims for . . . liabilities in that forum." *Lelchook III*, 41 N.Y.3d at 638, 215 N.Y.S.3d 66, 239 N.E.3d 172. Plaintiffs would need "to directly sue the successor in a forum that may . . . be less favorable," reducing the value of their claims and requiring they "absorb those costs themselves." *Id.* That would be a particularly concerning outcome in this case, where SGBL has not even tried to demonstrate that Plaintiffs would be able to seek, never mind obtain, the relief they request in Lebanon, SGBL's place of incorporation and principal place of business. Denying jurisdiction would harm Plaintiffs' reasonable interests in pursuing effective relief. *See Fuld*, 145 S. Ct. at 2107 (acknowledging, in *dicta*, the "strong interest" of U.S. citizen plaintiffs in "seeking justice through an ATA damages action in U.S. courts").

4. International comity; efficient administration of justice; fairness

SGBL urges next that "considerations of international rapport and comity" counsel against the exercised of specific personal jurisdiction here, as do concerns about the efficient administration of justice. SGBL Letter Br. at 13 (internal quotation marks omitted, alterations adopted).

These arguments fail to persuade us. Our decisions suggest that these concerns, explored by the Supreme Court in *Daimler v. Bauman*, 571 U.S. 117, 134 S.Ct. 746, 187 L.Ed.2d 624 (2014), are most salient when a court attempts to subject a foreign entity to the *general* jurisdiction of a state. *See In re Platinum & Palladium Antitrust Litig.*, 61 F.4th at 274. Undoubtedly, international rapport may suffer when a court in one sovereign jurisdiction takes an unjustifiably expansive view of its *general* jurisdiction over foreign entities. But "[t]he international rapport concerns of *Daimler* do not apply equally in a case . . . that involves specific jurisdiction." *Id.* For that reason, the alarming specters that SGBL invokes—premised on the concept that permitting specific personal jurisdiction here will, for example, discourage foreign investment in the United States and harm foreign and interstate commerce—have no traction. *See* SGBL Letter Br. at 13-14. A court's exercise of specific personal jurisdiction on claims that are among voluntarily acquired liabilities is hardly "unduly expansive and unpredictable." *See id.* at 13.

Nor is SGBL correct in claiming that judicial efficiency concerns should foreclose the exercise of specific personal jurisdiction here. *See* SGBL Letter Br. at 13-14. It complains that the possible inconvenient location of witnesses and of evidence will impair judicial efficiency as well as burden SGBL as a litigant. *Id.* at 13. But, as explained above, these concerns are adequately abated by modern technology.

And although SGBL also emphasizes its view that it is "simply unfair" to force the company "to litigate

Plaintiffs' claims almost ten years after the transaction (and 15 years after their alleged injuries)," SGBL Letter Br. at 14, legislative bodies in the United States have adopted lengthy statutes of limitations in terrorism cases to help enable victims to recover damages from responsible parties. *See* 18 U.S.C. § 2335(a) (establishing 10-year limitations period under the ATA). In these circumstances, allowing the case to proceed hardly strikes us as unfair. Rather, we agree with Plaintiffs that it would be a truly unfair outcome and would hinder the efficient administration of justice to deny them a New York forum in the circumstances presented here. And in our view, due process presents no bar.

5. Policy considerations

Finally, SGBL insists that LCB's contacts cannot be imputed to it for personal jurisdiction purposes because the two banks are not "one" or "the same entity," as in the case of statutory mergers, de facto mergers, parent-subsidiary relationships, or corporate reorganizations. *See* SGBL Letter Br. at 9-11.[20] In essence, it asks us to create a rule denying specific personal jurisdiction over a successor entity if the successor and predecessor are not effectively one another's alter egos.

Such a rule would require the Court to close its eyes to the reality of the relationship between these two banks. But "for personal jurisdiction, we look through form to

20. SGBL does not present the arguments discussed here as matters of "policy" in its letter brief, *see* SGBL Letter Br. at 14, but these are policy arguments, no matter how framed.

substance." *Oklahoma Firefighters Pension & Ret. Sys.*, 92 F.4th at 456-57. Although LCB still formally exists as a separate entity, SGBL's acquisition resembles a merger in key respects.[21] As this Court has previously explained, "a distinguishing feature" between "a merger" and a simple asset purchase is that, under the former, the merged entity "is subject to all the liabilities of the acquired companies." *U.S. Bank Nat'l Ass'n v. Bank of Am. N.A.*, 916 F.3d 143, 155-56 (2d Cir. 2019) (quoting James D. Cox & Thomas Lee Hazen, 4 Treatise on the Law of Corporations § 22:8). That is no distinction here, however, where SGBL expressly acquired all of LCB's liabilities.

As courts applying successor liability theories have described, allowing specific personal jurisdiction in this setting helps to prevent abuse of the corporate form by wrongdoers and helps maintain legitimate avenues of recourse for plaintiffs. *See Ostrem*, 841 N.W.2d at 897 (warning against a rule that would allow "corporations and other entities . . . to shirk liability by switching names"); *Stein*, 382 N.C. at 560, 879 S.E.2d 537 (same); *Jeffrey*, 448 Mich. at 195, 529 N.W.2d 644 (same); *Lelchook III*, 41 N.Y.3d at 638, 215 N.Y.S.3d 66, 239 N.E.3d 172. LCB is a distinct legal entity, true. But that separate identity provides cold comfort to Plaintiffs if LCB is judgment-proof, as they allege. As the New York Court of Appeals observed, it makes little sense to require Plaintiffs to jump through the hoops of suing SGBL outside the United

21. We note, indeed, that the record excerpt of the Agreement provides that it was entered into under the "Facilitating Bank Merger" law of Lebanon, a fact that the parties have neither highlighted nor explained. App'x at 61.

States when SGBL voluntarily undertook liabilities that LCB created in this forum. *See Lelchook III*, 41 N.Y.3d at 638, 215 N.Y.S.3d 66, 239 N.E.3d 172 (expressing concern against "'catch me if you can' gamesmanship," if Plaintiff's sole remedy is to sue SGBL in other jurisdictions).

SGBL presses further that permitting successor liability is unnecessary, because a fraudulent asset-and-liability purchase "may constitute fraud within or on the State of New York," which would independently constitute a forum contact; therefore, it reasons, a bright line rule would not allow bad actors to exploit a ruling that denies jurisdiction here. SGBL Letter Br. at 7-8. But still, as described, such a ruling would leave Plaintiffs with a less favorable forum, an additional burden of showing fraud, and claims "perhaps . . . significant[ly]" reduced in value. *Lelchook III*, 41 N.Y.3d at 638, 215 N.Y.S.3d 66, 239 N.E.3d 172. If we were to hold for SGBL, a predecessor facing substantial liability in New York could render itself effectively judgment-proof even where no fraud occurs. In fact, we reject any formal distinction between cases involving statutory and de facto mergers, or corporate alter egos and reorganizations, on the one hand, and cases involving the wholesale assumption of assets and liabilities in a way that would needlessly redound to the benefit of wrongdoers, on the other. Such an outcome would not further the goal of "substantial justice."

* * *

Although SGBL doubtless faces a burden in being required to litigate in New York, it is a manageable and not

unfair burden, and all of the remaining "reasonableness factors" favor Plaintiffs. We conclude that the exercise of specific personal jurisdiction over SGBL in New York does not offend traditional notions of fair play and substantial justice.

CONCLUSION

Under New York law, SGBL's purchase of LCB's assets and liabilities means that it also acquired LCB's jurisdictional status. SGBL's decision to enter into the Agreement satisfies the "purposeful availment" requirement of our due process assessment; it was foreseeable at the time of purchase that the Agreement would render SGBL subject to suit in New York on the claims asserted here; and considerations of fair play and substantial justice support the district court's exercise of specific personal jurisdiction over SGBL in New York.

We therefore conclude that New York law allows and due process permits the exercise of specific personal jurisdiction over SGBL as LCB's successor.

For the foregoing reasons, we **VACATE** the order of the district court dismissing this action and **REMAND** for further proceedings consistent with this decision.

APPENDIX B — OPINION OF THE COURT OF APPEALS FOR THE STATE OF NEW YORK, DECIDED APRIL 18, 2024

STATE OF NEW YORK
COURT OF APPEALS

No. 29

ESTER LELCHOOK, &C., *et al.*,

Appellants,

v.

SOCIÉTÉ GÉNÉRALE DE BANQUE
AU LIBAN SAL,

Respondent.

Argued March 12, 2024
Decided April 18, 2024

OPINION

This opinion is uncorrected and subject to revision before publication in the New York Reports.

HALLIGAN, J.

The United States Court of Appeals for the Second Circuit has certified two questions concerning whether an entity inherits the contacts of a predecessor for purposes

of specific personal jurisdiction. The first question asks, "Under New York law, does an entity that acquires all of another entity's liabilities and assets, but does not merge with that entity, inherit the acquired entity's status for purposes of specific personal jurisdiction?" (67 F4th 69, 71-72 [2d Cir 2023]). The second question asks, "In what circumstances will the acquiring entity be subject to specific personal jurisdiction in New York?" (*id.* at 72). We answer the first question affirmatively and decline to reach the second as unnecessary.

I.

Plaintiffs are 21 United States citizens who were harmed, and the estate and family members of a U.S. citizen who was killed, in rocket attacks perpetrated in 2006 by the Hizbollah terrorist organization in Israel (*id.*). Plaintiffs allege that in the years leading up to the attacks, the Lebanese Canadian Bank (LCB) provided extensive financial services to Hizbollah, including millions of dollars in wire transfers that LCB facilitated through a New York-based correspondent bank.

In separate litigation commenced in 2008, many of the plaintiffs here sued LCB for its alleged assistance to Hizbollah (*see Licci v Lebanese Canadian Bank, SAL*, 673 F3d 50, 55 [2d Cir 2012]). In response to two certified questions, we held that the pleadings established the transaction of business in New York with a sufficient "nexus" or "relationship" to give rise to personal jurisdiction over LCB under our long-arm statute, CPLR 302 (*see Licci v Lebanese Canadian Bank*, 20 NY3d 327,

984 N.E.2d 893, 960 N.Y.S.2d 695 [2012]), and the Second Circuit subsequently held that exercising jurisdiction over LCB comported with due process (*see Licci v Lebanese Canadian Bank, SAL*, 732 F3d 161, 165 [2d Cir 2013]). Years later, the Second Circuit also held that the plaintiffs' complaint in that case adequately stated an aiding-and-abetting claim against LCB under the Anti-Terrorism Act of 1990 (ATA) (18 USC § 2331 *et seq.*), as amended in 2016 by the Justice Against Sponsors of Terrorism Act (JASTA) (18 USC § 2333 [d] [2]) (*see Kaplan v Lebanese Canadian Bank, SAL*, 999 F3d 842, 847-848, 864 [2d Cir 2021]).

While the above litigation was ongoing, the United States Department of Treasury in February 2011 designated LCB a "primary money laundering concern" based on this conduct (67 F4th at 72). In June 2011, LCB and respondent Société Générale de Banque au Liban SAL (SGBL), a private company incorporated in Lebanon with headquarters in Beirut, executed a purchase agreement that, according to plaintiffs, expressly provided that, in exchange for a $580 million payment to LCB, "the Seller [LCB] shall transfer, convey, and assign . . . to the Purchaser [SGBL], . . . and the Purchaser shall receive and assume from the Seller, all of the Seller's Assets and Liabilities" (*id.*).

In 2019, plaintiffs brought similar claims against SGBL, as LCB's successor, in the Eastern District of New York for damages stemming from the 2006 attacks (*see id.* at 74). Plaintiffs alleged that SGBL inherited LCB's jurisdictional status and is subject to personal jurisdiction in New York because it "assumed and bears successor

liability for LCB's liability to the plaintiffs" by virtue of the June 2011 deal between LCB and SGBL, and that although LCB continues to exist at least for the purpose of defending litigation, it is insolvent (*id.* at 72, 74). SGBL contended that under New York law, a theory of successor jurisdiction may not be invoked to permit imputation of LCB's jurisdictional contacts to SGBL (*see* 2021 WL 4931845, *2 [ED NY 2021]).

The federal district court dismissed the action for lack of personal jurisdiction over SGBL (*id.* at *2-3). The court explained that it read several Appellate Division and federal decisions to allow imputation of jurisdictional status only in the event of a merger, not an acquisition of all assets and liabilities (*id.* at *2).

On appeal, the Second Circuit determined that New York courts have not addressed whether successor jurisdiction lies when "a successor acquires all of a predecessor's assets and liabilities, but does not do so through either a statutory merger or a transaction that meets established standards for a *de facto* merger" (67 F4th at 81). The circuit court accordingly certified the two questions noted above, and reserved consideration of whether exercising personal jurisdiction over SGBL under a successor jurisdiction theory would comport with constitutional due process. This Court accepted the certified questions (39 NY3d 1146 [2023]).

II.

We begin with the first question: whether under New York law, an entity may inherit another entity's specific personal jurisdiction status when it acquires all of that entity's liabilities and assets, but does not merge with the entity.

New York's long-arm statute, CPLR 302, sets forth the acts of a non-domiciliary that may give rise to specific personal jurisdiction.[1] As the Second Circuit noted in its certification decision, it previously held that LCB is subject to specific personal jurisdiction in New York under CPLR 302 for claims "materially identical" to those raised here (67 F4th, at 74; *see also Licci*, 732 F3d at 168-174), and so we proceed on the assumption that the predecessor entity here, LCB, is subject to specific personal jurisdiction in New York.

SGBL argues that plaintiffs must establish that SGBL independently had contacts sufficient to satisfy CPLR 302, wholly apart from LCB's contacts with New York. That would be so if plaintiffs sought to exercise personal jurisdiction based on SGBL's own conduct, but plaintiffs' theory of successor jurisdiction relies instead on the imputation of a predecessor entity's contacts. If we credit

1. Specific personal jurisdiction "permits a court to exercise jurisdiction only where the suit arises out of or relates to the defendant's contacts with the forum state" (*Aybar v Aybar*, 37 NY3d 274, 288-289, 177 N.E.3d 1257 [2021], citing *Bristol-Myers Squibb Co. v Superior Ct. of California, San Francisco County*, 582 US 255, 262, 137 S. Ct. 1773, 198 L. Ed. 2d 395 [2017]).

that theory, LCB's jurisdictional contacts would become SGBL's jurisdictional contacts for purposes of the long-arm statute, and requiring a showing that SGBL itself had sufficient contacts would render this proposition irrelevant. For this reason, courts that have accepted successor jurisdiction have taken the view that only the contacts of the predecessor, not the successor, must satisfy the long-arm statute (*see State ex rel. Stein v E. I. du Pont de Nemours & Co.*, 382 NC 549, 556-558, 879 SE2d 537, 543-544 [2022]; *Jeffrey v Rapid Am. Corp.*, 448 Mich 178, 195-197, 205-206, 529 NW2d 644, 653-654, 657-658 [1995]; *Williams v Bowman Livestock Equip. Co.*, 927 F2d 1128, 1131-1132 [10th Cir 1991]; *City of Richmond, Va. v Madison Mgmt. Grp., Inc.*, 918 F2d 438, 454-455 [4th Cir 1990]; *Simmers v Am. Cyanamid Corp.*, 394 Pa Super 464, 488-489, 576 A2d 376, 389 [1990], *appeal denied* 527 Pa 649, 593 A.2d 421 [1991], *cert denied* 502 US 813, 112 S. Ct. 62, 112 S. Ct. 63, 116 L. Ed. 2d 38 [1991]).

III.

That brings us to the question of whether the jurisdictional status of a predecessor entity may be imputed to a successor who acquires all assets and liabilities. CPLR 302 does not resolve the question, contrary to what SGBL contends. SGBL argues that CPLR 302 expressly provides that an agent's acts may give rise to personal jurisdiction, and that successor jurisdiction is available only where the successor and predecessor are "one and the same" because they are alter egos, or via a merger or corporate reorganization. Applying the principle of *expressio unius est exclusio alterius*, SGBL contends that CPLR 302

precludes successor jurisdiction in all other circumstances. We are not persuaded. However helpful canons of statutory construction might generally be, the text of the long-arm statute cannot bear the weight SGBL places on it. Nor has SGBL shown that the legislature even contemplated theories of successor jurisdiction, let alone meant to preclude it in a sale of all assets and liabilities.

Turning to precedent, this Court has not decided when, if ever, a successor corporation may inherit a predecessor's jurisdictional status (*cf. Andrew Greenberg, Inc. v Sir-Tech Software, Inc.*, 4 NY3d 185, 191, 824 N.E.2d 944, 791 N.Y.S.2d 504 [2005] [successor's own alleged contacts satisfied CPLR 302]). The Appellate Divisions have addressed successor jurisdiction only sparingly (*see Matter of Gronich & Co., Inc. v Simon Prop. Grp., Inc.*, 180 AD3d 541, 542, 119 N.Y.S.3d 456 [1st Dept 2020] [determining without explanation that a merger imputes successor jurisdiction, but "merely acquir(ing) the assets of the predecessor company" does not], citing *U.S. Bank N.A. v Bank of Am. N.A.*, 916 F3d 143, 156-158 [2d Cir 2019]; *Semenetz v Sherling & Walden, Inc.*, 21 AD3d 1138, 1140-1141, 801 N.Y.S.2d 78 [3d Dept 2005] [broadly stating that "in certain circumstances a successor corporation may inherit its predecessor's jurisdictional status," but finding no such jurisdiction on "the facts of the subject case" (internal quotation marks omitted)]; *BRG Corp. v Chevron U.S.A., Inc.*, 163 AD3d 1495, 1496, 82 N.Y.S.3d 798 [4th Dept 2018] [confirming issue of successor jurisdiction is "novel and unsettled"]; *Applied Hydro–Pneumatics v Bauer Mfg.*, 68 AD2d 42, 46, 416 N.Y.S.2d 817 [1979] [holding that successor corporation's nunc pro

tunc ratification and adoption of its predecessor's acts in New York yields personal jurisdiction over the successor without discussing imputation]).[2]

This Court, however, has considered the separate but related question of successor liability on several occasions. Although liability and jurisdiction are distinct legal concepts (*see Kreutter v McFadden Oil Corp.*, 71 NY2d 460, 470, 522 N.E.2d 40, 527 N.Y.S.2d 195 [1988]), the principles animating one may inform the other. We have identified four exceptions to the general rule that a purchaser of assets is not liable for the seller's torts: when "(1) [a corporation] expressly or impliedly assumed the predecessor's tort liability, (2) there was a

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2. The federal district court decisions addressing successor jurisdiction under New York law do not resolve the question. Some involve theories not presented here (*see Abbacor, Inc. v Miller*, 2001 WL 1006051, *4 [SD NY 2001] ["alter ego" theory]; *Societe Generale v Florida Health Sciences Ctr.*, 2003 WL 22852656, *4 [SD NY 2003] [de facto merger and "mere continuation" theory]). *Schenin v Micro Copper Corp.* suggests in a cursory fashion that an acquisition of all assets does not confer successor jurisdiction, but cites no supporting New York precedent on this point (272 F Supp 523, 526 [SD NY 1967]). *U.S. Bank* opined in dicta that under New York law, a merger, but not an acquisition of assets, would confer successor jurisdiction, but that case did not address the express assumption of all liabilities (*see* 916 F3d at 155-159; 67 F4th at 81-82). *Bartlett v Société Générale de Banque Au Liban SAL* presented a question of successor jurisdiction "nearly identical" to that before us here, and although that court rejected successor jurisdiction, it did so primarily in reliance on *U.S. Bank* and without clearly deciding whether assumption of liabilities may confer jurisdiction (*see* 2020 WL 7089448, *16-17 [ED NY 2020]; 67 F4th at 81-82).

consolidation or merger of seller and purchaser, (3) the purchasing corporation was a mere continuation of the selling corporation, or (4) the transaction is entered into fraudulently to escape such obligations" (*Schumacher v Richards Shear Co.*, 59 NY2d 239, 245, 451 N.E.2d 195, 464 N.Y.S.2d 437 [1983], citing *Hartford Acc. & Indem. Co. v Canron*, 43 NY2d 823, 825, 373 N.E.2d 364, 402 N.Y.S.2d 565 [1977]; *see also Semenetz v Sherling & Walden, Inc.*, 7 NY3d 194, 196-198, 851 N.E.2d 1170, 818 N.Y.S.2d 819 [2006]).

We have not extensively probed the rationale for these four exceptions. The earliest cases, *Hartford* and *Schumacher*, recite them with minimal analysis (*see Hartford*, 43 NY2d at 825; *Schumacher*, 59 NY2d at 245). In *Grant-Howard Assoc. v General Housewares Corp.* (63 NY2d 291, 472 N.E.2d 1, 482 N.Y.S.2d 225 [1984]), we explained that successor liability is motivated in part by principles of product liability, and as such is intended to ensure that a "responsible source" (the manufacturer) is available to compensate an injured party and can in turn "transfer the costs to the general public as a component of the selling price" (*id.* at 296). We described the second and third exceptions (merger and "mere continuation") as "based on the concept that a successor that effectively takes over a company in its entirety should carry the predecessor's liabilities as a concomitant to the benefits it derives from the good will purchased" (*id.* at 296). But because the question in *Grant-Howard* was whether the successor had to indemnify the predecessor despite assuming no contractual liability for the specific harm alleged, these policy considerations were ultimately not

dispositive (*id.*). Finally, although we noted that a sale of assets "may allow an injured plaintiff to proceed against a successor corporation" (*id.* at 297), we did so without explanation.

In *Semenetz v Sherling & Walden, Inc.* (7 NY3d 194, 851 N.E.2d 1170, 818 N.Y.S.2d 819 [2006]), we rejected the "product line" exception to successor liability adopted by several other jurisdictions, where a successor acquires most of a manufacturing business's assets and continues to produce its line of products, but does not assume broad liabilities (*see id.* at 197-199). We considered three rationales for the proposed exception: the purported destruction of the plaintiff's remedies against the original manufacturer caused by the successor's acquisition of the business, which we concluded simply restated the problem; the successor's ability to spread the risk of injury, which we determined improperly assumed that the successor manufacturer in fact had capacity to spread (and absorb) the risk of injuries; and the fairness of imposing liability where the successor benefits from the predecessor's goodwill by continuing to operate the business, which we found ignored that the sale price already incorporated goodwill (*see id.* at 199-200). We further noted that the proposed exception could substantially harm small businesses, explained why it would improperly shift responsibility away from the entity that created the risk to one that only remotely benefited and could not have eliminated the risk, and noted that most courts had likewise declined to adopt the exception (*see id.* at 200-201).

These considerations are helpful touchstones in considering successor jurisdiction. Relevant factors include the impact of our rule on parties to a potential acquisition, whether imputing jurisdiction fairly reflects the reasonable assumptions and expectations of the parties to such transactions, whether doing so induces responsible parties to internalize responsibility for risks they create, and the impact of imputing jurisdiction on those injured by a predecessor's acts (*see Grant-Howard*, 63 NY2d at 296-297; *Semenetz*, 7 NY3d at 200-201; *see also Kreutter*, 71 NY2d at 471-472 [declining to adopt fiduciary shield limit on personal jurisdiction where unnecessary as a matter of fairness and public policy]).

Those factors tip in favor of allowing successor jurisdiction where a successor purchases all assets and liabilities. An express assumption of all assets and liabilities is not akin to the limited acquisition in *Semenetz*, which involved only the purchase and continuation of a product line. Sophisticated corporate entities such as SGBL will undoubtedly engage in robust due diligence before agreeing to acquire all assets and liabilities of another entity. In doing so, they should understand where jurisdiction over such liabilities may lie and the potential cost if ultimately found liable, and will presumably negotiate a purchase price that is discounted by that prospect (*see* State*State ex rel. Stein v E. I. du Pont de Nemours & Co.*, 382 NC at 559-561, 879 SE2d at 545-546, quoting *Simmers*, 576 A2d at 390).

Indeed, the history of this case indicates that SGBL, as the successor, would have been on notice when it made

this acquisition of LCB's potential exposure in New York in connection with the terrorist attacks. Based on its support for Hizbollah, LCB had been designated as a primary money laundering concern by the U.S. Department of Treasury before SGBL agreed to assume LCB's liabilities. The *Licci* litigation, which involves allegations nearly identical to those in this case, was commenced against LCB in 2008, well before SGBL acquired LCB's assets and liabilities in 2011 (*see Lelchook*, 67 F4th at 73). And although the exact parameters of successor jurisdiction under New York law may not have been settled in 2011, "[t]he great weight" of authority at the time permitted imputation whenever the forum state's law would hold the successor liable (*see City of Richmond*, 918 F2d at 454 [internal quotation marks omitted], quoting *Simmers*, 394 Pa Super at 480, 576 A2d at 385; *see also* 2 Jurisdiction in Civil Actions § 7.03 [4] [d] [2022] ["The basic test seems to gear the (personal) jurisdiction question to whether, as a substantive matter, the successor corporation may be liable for the obligations of the predecessor. . . . If it is liable for the predecessor's obligations . . . , it will be subject to personal jurisdiction in a suit to enforce the obligation if the predecessor would have been subject to such jurisdiction"]). Under these circumstances, SGBL should reasonably have anticipated being subject to jurisdiction over LCB's liabilities in New York.

A contrary rule would give rise to unfortunate incentives. Allowing a successor to acquire all assets and liabilities, but escape jurisdiction in a forum where its predecessor would have been answerable for those liabilities, would allow those assets to be shielded from

direct claims for those liabilities in that forum. As the Second Circuit put it, a predecessor could "decouple its assets from its enforceable liabilities, for value" (*see* 67 F4th at 87). Injured parties would be left to directly sue the successor in a forum that may well be less favorable, with respect to both the likely outcome and available mechanisms to enforce a judgment. As a consequence, the value of plaintiffs' claims would likely be reduced, perhaps by a significant amount, leaving the injured parties to absorb those costs themselves. That, in turn, would compromise the objective of having a "responsible source" available to absorb the risk of liability and compensate injured parties (*see Grant-Howard*, 63 NY2d at 296; *Semenetz*, 7 NY3d at 200).

Additionally, while a predecessor's assets should be available to satisfy a judgment against it prior to a sale of all assets and liabilities, that may no longer be true afterwards, depending on the terms of the deal. That risk appears to be borne out here: although plaintiffs allege that LCB had substantial assets in 2010, LCB stated in 2017 that it was "defunct, insolvent, and unable to pay any judgment rendered against it" (LCB's brief in opp to cert in *Licci v Lebanese Canadian Bank*, 2017 WL 712025, at *4 [U.S., filed Feb. 17, 2017]). SGBL's response to this concern—that plaintiffs can sue SGBL or pursue its assets in other jurisdictions—encourages "catch me if you can" gamesmanship, to the detriment of New York plaintiffs.

We see no good reason to require plaintiffs to take an indirect and uncertain path to recompense where a predecessor entity allegedly caused harm, subjecting it to

jurisdiction in New York, and then agreed to an acquisition of all of its assets and liabilities by a successor, who in turn reaps the benefits of the predecessor's business in New York while evading jurisdiction here. Thus, we clarify that where an entity acquires all of another entity's liabilities and assets, but does not merge with that entity, it inherits the acquired entity's status for purposes of specific personal jurisdiction.[3]

Accordingly, the first certified question should be answered in the affirmative and the second question not answered as unnecessary.

Following certification of questions by the United States Court of Appeals for the Second Circuit and acceptance of

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3. Our conclusion that jurisdictional contacts may be imputed here accords with nearly all decisions of other state appellate courts and federal circuit courts that have considered the issue of successor jurisdiction (*see State ex rel. Stein v E. I. du Pont de Nemours & Co.*, 382 NC at 560-564, 879 SE2d at 545-548; *Jeffrey*, 448 Mich at 206, 529 NW2d at 658; *Simmers*, 394 Pa Super at 489-490, 576 A2d at 389-390; *City of Richmond*, 918 F2d at 454-455; *Williams*, 927 F2d at 1132; *Perry Drug Stores v CSK Auto Corp.*, 93 Fed Appx 677, 681 [6th Cir 2003]; *CenterPoint Energy, Inc. v Superior Ct.*, 157 Cal App 4th 1101, 1120, 69 Cal Rptr 3d 202, 218 [2007]; *see also Anotek LLC v Venture Exchange*, 2021 WL 2577604, *2 [Del Sup Ct 2021] ["Court must deny (successor's) Motion to Dismiss (for lack of personal jurisdiction) if the Amended Complaint contains well-pleaded factual allegations as to *any* of these (four) bases of successor liability"]). The few cases reaching a contrary holding offer no persuasive counterpoints (*see e.g. Johnston v Pneumo Corp.*, 652 F Supp 1402, 1406 [SD Miss 1987]; *Sullivan v Fellows Testagar & Co.*, 518 So 2d 1111, 1113 [La Ct App 1987]).

the questions by this Court pursuant to section 500.27 of this Court's Rules of Practice, and after hearing argument by counsel for the parties and consideration of the briefs and record submitted, first certified question answered in the affirmative and second certified question not answered as unnecessary. Opinion by Judge Halligan. Chief Judge Wilson and Judges Rivera, Garcia, Singas, Cannataro and Troutman concur.

Decided April 18, 2024

APPENDIX C — OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT, DECIDED APRIL 26, 2023

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket No. 21-975

ESTER LELCHOOK, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DAVID MARTIN LELCHOOK, MICHAEL LELCHOOK, YAEL LELCHOOK, ALEXANDER LELCHOOK, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DORIS LELCHOOK, MALKA KUMER, CHANA LIBA KUMER, MIRIAM ALMACKIES, CHAIM KAPLAN, RIVKA KAPLAN, BRIAN ERDSTEIN, KARENE ERDSTEIN, MA'AYAN ERDSTEIN, CHAYIM KUMER, NECHAMA KUMER, LAURIE RAPPEPPORT, MARGALIT RAPPEPORT, THEODORE (TED) GREENBERG, MOREEN GREENBERG, JARED SAUTER, DVORA CHANA KASZEMACHER, CHAYA KASZEMACHER ALKAREIF, AVISHAI REUVANE, ELISHEVA ARON, YAIR MOR, MIKIMI STEINBERG,

Plaintiffs-Appellants,

v.

SOCIÉTÉ GÉNÉRALE DE BANQUE AU LIBAN SAL,

*Defendant-Appellee.**

* The Clerk of Court is directed to amend the case caption to conform to the above.

Appendix C

August Term, 2021

Argued: May 17, 2022
Decided: April 26, 2023

Before: RAGGI, WESLEY, and CARNEY, *Circuit Judges.*

CARNEY, *Circuit Judge*:

This appeal concerns the implications, for purposes of specific personal jurisdiction, of an entity's acquisition of all of another entity's assets and liabilities. Plaintiffs-Appellants are 21 U.S. citizens who were harmed, and the estate and family members of a U.S. citizen who was killed, in rocket attacks perpetrated in Israel in 2006 by the terrorist organization Hizbollah. Plaintiffs allege that the Lebanese Canadian Bank ("LCB") provided extensive financial assistance to Hizbollah in the years leading up to the attacks. In parallel litigation against LCB, we have held that LCB is subject to personal jurisdiction in New York for claims related to the 2006 attacks, *see Licci v. Lebanese Canadian Bank, SAL*, 732 F.3d 161, 174 (2d Cir. 2013), and that factual allegations similar to those here, brought against LCB, state a plausible claim under the Anti-Terrorism Act of 1990 ("ATA"), 18 U.S.C. § 2331 *et seq.*, *Kaplan v. Lebanese Canadian Bank, SAL*, 999 F.3d 842, 863-67 (2d Cir. 2021). In 2011, Defendant-Appellee Société Générale de Banque au Liban SAL ("SGBL") acquired all of LCB's assets and liabilities in a transaction conducted under the laws of Lebanon. In this action, filed in the United States District Court for the Eastern District of New York (Raymond J. Dearie, *J.*), Plaintiffs

now seek to hold SGBL liable, as LCB's successor, under the ATA for damages stemming from the 2006 attacks.

The district court granted SGBL's motion to dismiss for lack of personal jurisdiction under Federal Rule of Civil Procedure 12(b)(2). *Lelchook v. Société Générale de Banque au Liban SAL*, No. 19-cv-33 (RJD), 2021 WL 4931845 (E.D.N.Y. Mar. 31, 2021). In the district court's view, New York law recognizes an inherited-jurisdiction theory only when there has been a "merger" of the two entities in question. *Id.* at *2-3. Plaintiffs now challenge that conclusion, contending that when a successor entity acquires a predecessor's assets and liabilities, it also inevitably acquires the predecessor's jurisdictional status with respect to claims that give rise to those liabilities. Because we conclude that Plaintiffs' successor-jurisdiction theory raises an important and unresolved issue under New York law, and because we cannot predict with confidence how the New York Court of Appeals would resolve the issue, we certify to the court the following two questions:

1. Under New York law, does an entity that acquires all of another entity's liabilities and assets, but does not merge with that entity, inherit the acquired entity's status for purposes of specific personal jurisdiction?

2. In what circumstances will the acquiring entity be subject to specific personal jurisdiction in New York?

Appendix C

BACKGROUND

I. Factual background[1]

Plaintiffs are the estate and family members of a U.S. citizen—David Martin Lelchook—who was killed, and 21 other U.S. citizens who were harmed, in rocket attacks carried out by the Hizbollah terrorist organization against civilian population centers in Israel between July 12 and August 14, 2006 (the "2006 attacks"). Plaintiffs allege that LCB, a corporation organized under the laws of Lebanon and headquartered in Beirut, Lebanon, provided extensive banking services to Hizbollah in the period leading up to the 2006 attacks. SGBL is a private joint stock company incorporated in Lebanon and with headquarters in Beirut.

In February 2011, the U.S. Department of the Treasury designated LCB as a financial institution of "primary money laundering concern," citing LCB's extensive involvement with and support for Hizbollah. App'x at 51. About four months later, in June 2011, SGBL and LCB executed a "Purchase Agreement."

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1. The factual narrative presented here is drawn from the complaint filed on December 9, 2019. For purposes of reviewing the district court's ruling, we construe the pleadings and supporting materials in the light most favorable to Plaintiffs. *Chloe v. Queen Bee of Beverly Hills, LLC*, 616 F.3d 158, 163 (2d Cir. 2010). We are not bound, however, by "'a legal conclusion couched as a factual allegation.'" *Jazini v. Nissan Motor Co., Ltd.*, 148 F.3d 181, 185 (2d Cir. 1998) (quoting *Papasan v. Allain*, 478 U.S. 265, 286, 106 S.Ct. 2932, 92 L.Ed.2d 209 (1986)).

The Purchase Agreement provided that, in exchange for a payment to LCB of $580 million (to occur upon a "Completion Date"), "the Seller [LCB] shall transfer, convey, and assign . . . to the Purchaser [SGBL], . . . and the Purchaser shall receive and assume from the Seller, all of the Seller's Assets and Liabilities." App'x at 52, 61, 140. Importantly, it provided further:

> The Assumed Liabilities consist *inter alia* of any and all of the Seller's liabilities and/or obligations and/or debts of any kind, character or description, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, determined, determinable or otherwise, to the extent they relate to the Seller's Business, all as at the Completion Date.

App'x at 53, 61.[2]

Plaintiffs allege that, in February 2017, "after SGBL's purchase of LCB's assets and assumption of its liabilities, LCB represented to the United States Supreme Court that it had been rendered 'defunct, insolvent, and unable to pay any judgment rendered against it.'" App'x at 54. It appears LCB continues to exist, however, at least for the

2. Plaintiffs have provided only a portion of the text of the Purchase Agreement in their Appendix. We cite to the available text where possible, and to the allegations about the Purchase Agreement's terms made in Plaintiffs' amended complaint where necessary.

purpose of defending related litigation in this Court. *See Kaplan v. Lebanese Canadian Bank, SAL*, 999 F.3d 842, 866-67 (2d Cir. 2021) (concluding that the plaintiffs had stated a plausible ATA claim against LCB). In 2020, the United States District Court for the Eastern District of New York found, in similar litigation based on the record before it, that "LCB continues to exist as an entity and is litigating in the *Kaplan* case currently before the Second Circuit." *Bartlett v. Société Générale de Banque au Liban SAL*, No. 19-cv-7 (CBA) (VMS), 2020 WL 7089448, at *17 (E.D.N.Y. Nov. 25, 2020).

II. The *Licci*/*Kaplan* litigation

The factual allegations in Plaintiffs' amended complaint closely track the allegations made in the separate, long-running action brought in 2008 against LCB by substantially the same set of plaintiffs (the "*Licci*/*Kaplan*" litigation).

In the instant case, Plaintiffs rely heavily on our holdings in prior appeals in the *Licci*/*Kaplan* litigation. As mentioned above, that litigation also involves claims under the ATA seeking damages related to the 2006 attacks. We have detailed the protracted course of that litigation in four prior opinions:

- *Licci v. Lebanese Canadian Bank, SAL*, 673 F.3d 50 (2d Cir. 2012) ("*Licci II*")
- *Licci v. Lebanese Canadian Bank, SAL*, 732 F.3d 161 (2d Cir. 2013) ("*Licci IV*")

- *Licci v. Lebanese Canadian Bank, SAL*, 834 F.3d 201 (2d Cir. 2016) ("*Licci VI*")
- *Kaplan v. Lebanese Canadian Bank, SAL*, 999 F.3d 842 (2d Cir. 2021) ("*Kaplan v. LCB II*")[3]

Accordingly, we describe that history now only to the extent relevant to the jurisdictional issue before us.[4]

First, we have found that LCB is subject to specific personal jurisdiction in New York for ATA claims related to the 2006 attacks. In *Licci II*, we certified two related questions regarding New York's law of personal jurisdiction to the New York Court of Appeals, namely: (1) whether "a foreign bank's maintenance of a correspondent bank account at a financial institution in New York, and use of that account to effect dozens of wire transfers on behalf of a foreign client, constitute a transaction of business in New York within the meaning of [New York's long-arm statute,] N.Y. C.P.L.R. § 302(a)(1)"; and (2) whether "the

3. When in 2018 the plaintiffs in the *Licci/Kaplan* action filed their second amended complaint, Chaim Kaplan replaced Yaakov Licci as the first named plaintiff.

4. In this Opinion, when referring to the *Licci/Kaplan* line of cases, we generally continue to use the case-naming conventions adopted in *Kaplan v. LCB II*, in which some cases are shorthand labeled *Licci* and some *Kaplan*, each with a roman numeral. *See* 999 F.3d at 846. For consistency and clarity across appeals, we have endeavored to maintain the case-naming conventions that have emerged in other related opinions. The reader is advised that, in referring to these lines of cases, we have omitted only those cases that we find unnecessary to discuss for the purposes of this Opinion.

plaintiffs' claims . . . arise from LCB's transaction of business in New York within the meaning of N.Y. C.P.L.R. § 302(a)(1)." *Licci II*, 673 F.3d at 74-75 (alterations and internal quotation marks omitted). The New York Court of Appeals accepted the certified questions, and it answered them in the affirmative. *See Licci v. Lebanese Canadian Bank*, 20 N.Y.3d 327, 341, 960 N.Y.S.2d 695, 984 N.E.2d 893 (2012) ("*Licci III*"). The Court of Appeals ruled that the *Licci/Kaplan* plaintiffs' "pleadings establish the 'articulable nexus' or 'substantial relationship' necessary for purposes of [exercising] personal jurisdiction [over LCB]" under New York's long-arm statute. *Id.* at 340, 960 N.Y.S.2d 695, 984 N.E.2d 893.

With the benefit of that decision, we then held that the exercise of personal jurisdiction over LCB in New York comports with due process protections provided by the U.S. Constitution. *See Licci IV*, 732 F.3d at 165. Thus, we concluded, LCB is subject to personal jurisdiction in New York for claims stemming from its alleged connections to Hizbollah in the period leading to the 2006 attacks.

Second, in *Kaplan v. LCB II*, we held that the *Licci/Kaplan* plaintiffs' factual allegations—which, again, virtually mirror those made by Plaintiffs in this case—state a plausible claim for damages against LCB under the ATA regime, as modified in 2016 by the Justice Against Sponsors of Terrorism Act ("JASTA"), 18 U.S.C. § 2333(d)(2). *See* 999 F.3d at 863-67. More specifically, we ruled that the *Licci/Kaplan* plaintiffs plausibly alleged that LCB aided and abetted Hizbollah in committing the 2006 attacks. *See id.*

These two aspects of our prior decisions serve as the foundation of Plaintiffs' claims here. The first underlies Plaintiffs' theory of personal jurisdiction over SGBL: we have found that LCB is subject to jurisdiction in New York for claims that are materially identical to those at issue in this case, and Plaintiffs submit that SGBL inherited that jurisdictional status from LCB. And the second forms the basis for Plaintiffs' theory of liability against SGBL: we have found that it is plausible to assert that LCB is liable for damages stemming from the 2006 attacks, and Plaintiffs allege that SGBL acquired that liability from LCB.

III. Procedural history

In January 2019, Plaintiffs filed this action, naming as defendants SGBL and numerous other parties. In December 2019, Plaintiffs filed an amended complaint—the operative complaint in this appeal—naming only SGBL. The amended complaint asserts claims against SGBL under the ATA, as amended by JASTA, on the theory that "SGBL assumed and bears successor liability for LCB's liability to the plaintiffs." App'x at 58. As discussed, the amended complaint asserts that SGBL is subject to personal jurisdiction in New York on the sole ground that "SGBL assumed and bears successor liability for LCB's conduct . . . and so is also subject to personal jurisdiction in New York." App'x at 23.

SGBL moved to dismiss the complaint for want of jurisdiction and for failure to state a claim, *see* Fed. R. Civ. P. 12(b)(2), (b)(6), and the district court dismissed

the complaint for want of personal jurisdiction, ruling that "New York courts have held that short of a merger an asset acquisition is not sufficient to impute a target's jurisdictional status on an acquiror." 2021 WL 4931845, at *2. SGBL's concurrent assumption of LCB's assets and liabilities simply "does not address whether SGBL is subject to jurisdiction in New York," it ruled. *Id.* The district court concluded that because Plaintiffs did not allege that SGBL and LCB "merged" and did not otherwise allege that SGBL has any connection to New York relevant to this lawsuit, personal jurisdiction over SGBL did not lie.[5] The district court did not reach SGBL's argument under Rule 12(b)(6).[6]

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5. In some tension with the district court's conclusion that SGBL and LCB did not merge, the portion of the Purchase Agreement that Plaintiffs attach to their amended complaint states that the sale of assets and assumption of liabilities shall take place "in accordance with Law n[o.] 192 of January 4, 1993 on *Facilitating Bank Merger*." App'x at 61. From the documents in the record, "Law no. 192" appears to refer to the law of Lebanon governing bank mergers. Separately, in its 2012 decision, the New York Court of Appeals described LCB as "now defunct" and stated that LCB "merged with the Lebanese subsidiary of the French bank, Société Générale SA"—apparently a reference to SGBL. *Licci III*, 20 N.Y.3d at 330 & n.1, 960 N.Y.S.2d 695, 984 N.E.2d 893. Nonetheless, neither in their amended complaint nor in their papers on appeal have Plaintiffs alleged or argued that SGBL and LCB completed either a statutory or *de facto* merger as those concepts are commonly used under New York law. Accordingly, we have no occasion in this appeal to consider whether Plaintiffs could establish personal jurisdiction over SGBL on the ground that SGBL and LCB in fact "merged" under New York law.

6. Plaintiffs argued before the district court that, if the court were to reject its arguments related to personal jurisdiction, the

Plaintiffs timely appealed.

DISCUSSION

We review *de novo* a district court's decision to dismiss a complaint for lack of personal jurisdiction, construing the pleadings in the light most favorable to the plaintiffs. *Chloe*, 616 F.3d at 163. To survive a motion to dismiss, "Plaintiffs need only make a prima facie showing of personal jurisdiction over the defendant." *Id.* (alterations and internal quotation marks omitted).

A federal court exercising personal jurisdiction over a defendant "must [have] a statutory basis for personal jurisdiction that renders . . . service of process effective." *Licci II*, 673 F.3d at 59. Federal Rule of Civil Procedure 4(k) lists the bases available in federal courts for serving process. *Id.* Plaintiffs' primary jurisdictional theory relies on Rule 4(k)(1)(A). That rule provides that "[s]erving a summons or filing a waiver of service establishes personal jurisdiction over a defendant . . . who is subject to the jurisdiction of a court of general jurisdiction in the state where the district court is located."[7] Fed. R. Civ. P. 4(k)(1)(A).

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court should permit jurisdictional discovery. The district court did not address this issue directly, but Plaintiffs do not argue in their appellate briefing that the district court erred in failing to grant them jurisdictional discovery. We therefore consider the issue waived. *See Conn. Citizens Def. League, Inc. v. Lamont*, 6 F.4th 439, 444 (2d Cir. 2021).

7. At the threshold, we reject two alternative theories of personal jurisdiction that Plaintiffs raise on appeal. First, Plaintiffs argue that SGBL is subject to personal jurisdiction

We understand Rule 4(k)(1)(A) to call for a two-step inquiry. First, "we look to the law of the forum state to determine whether personal jurisdiction will lie."[8] *Licci IV*, 732 F.3d at 168. Second, if the forum state's law provides for personal jurisdiction, we "consider whether the district court's exercise of personal jurisdiction over a

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under Federal Rule of Civil Procedure 4(k)(2)(B). That rule generally authorizes service of a complaint alleging federal claims when (1) the defendant is not subject to jurisdiction in any state's court of general jurisdiction and (2) exercising jurisdiction comports with constitutional principles. Because Plaintiffs did not raise this argument or invoke Rule 4(k)(2) in the district court, we deem it waived and do not address it further. *See*, *e.g.*, *Spiegel v. Schulmann*, 604 F.3d 72, 77 n.1 (2d Cir. 2010).

Second, Plaintiffs' contention that SGBL is subject to personal jurisdiction under the "substantial continuity" doctrine is unpersuasive. *See* Appellants' Br. at 15-16, 25-29 (citing, inter alia, *E.E.O.C. v. G-K-G, Inc.*, 39 F.3d 740, 747 (7th Cir. 1994)). Even if that doctrine applied to ATA claims—an issue we do not address here—the doctrine relates to a successor's *liability*, not to personal jurisdiction. Indeed, Plaintiffs advise that they "have been unable to locate precedents" applying the doctrine in the jurisdictional context. Appellants' Br. at 28. Such an expansion of the substantial continuity doctrine would be improper in any event: Federal Rule of Civil Procedure 4(k) sets forth the sole permissible bases for a federal court to exercise personal jurisdiction over a defendant. *See Licci II*, 673 F.3d at 59.

8. As we recently observed, "Because '[t]he reach of New York's long-arm statute . . . does not coincide with the limits of the Due Process Clause,' when the forum is in New York, we must look to that statute's specific provisions to determine whether personal jurisdiction exists as a matter of state law." *Daou v. BLC Bank, S.A.L.*, 42 F.4th 120, 129 (2d Cir. 2022) (alteration and omission in original) (quoting *Best Van Lines, Inc. v. Walker*, 490 F.3d 239, 244 (2d Cir. 2007)).

foreign defendant comports with due process protections established under the United States Constitution." *Id.*

I. Inherited-Jurisdiction Theory

According to Plaintiffs, SGBL is subject to liability under the ATA as LCB's "successor." Appellants' Br. at 16. We have explained that "[u]nder both New York law and traditional common law, a corporation that purchases the assets of another corporation is generally not liable for the seller's liabilities." *New York v. Nat'l Serv. Indus., Inc.*, 460 F.3d 201, 209 (2d Cir. 2006) (Sotomayor, *J.*). Even so, it is established that "[b]oth New York law and traditional common law . . . recognize certain exceptions to this rule." *Id.*[9] Thus, we have held that

> a buyer of a corporation's assets will be liable as its successor if: (1) it expressly or impliedly assumed the predecessor's tort liability, (2) there was a consolidation or merger of seller and purchaser, (3) the purchasing corporation was a mere continuation of the selling corporation, or (4) the transaction is entered into fraudulently to escape such obligations.

Id. (quoting *Schumacher v. Richards Shear Co.*, 59 N.Y.2d 239, 245, 464 N.Y.S.2d 437, 451 N.E.2d 195

9. In using the term "traditional common law," then-Judge Sotomayor appeared to be referring to a widely accepted "national rule" that other circuits regularly applied, and with which New York law aligned. *See* 460 F.3d at 209 (citing *United States v. Gen. Battery Corp.*, 423 F.3d 294, 305 (3d Cir. 2005), and *N. Shore Gas Co. v. Salomon Inc.*, 152 F.3d 642, 651 (7th Cir. 1998)).

(1983)). Plaintiffs contend that the first exception covers SGBL because, under the Purchase Agreement, SGBL "expressly assumed" LCB's liabilities. Appellants' Br. at 17. And they submit that, when a successor in interest is covered by any one of these enumerated exceptions—and in particular the first, for *express* assumption of tort liability—that successor inherits not only its predecessor's liability, but also its predecessor's "jurisdictional status." Appellants' Br. at 17-18 (citing *LiButti v. United States*, 178 F.3d 114 (2d Cir. 1999)).

At the first step of the Rule 4(k)(1)(A) jurisdictional inquiry, we consider whether New York law recognizes this theory of inherited jurisdiction. To the extent that New York law is uncertain or ambiguous on the issue, our task is "carefully to predict how the highest court of the forum state would resolve the uncertainty or ambiguity." *Yukos Cap. S.A.R.L. v. Feldman*, 977 F.3d 216, 241 (2d Cir. 2020) (internal quotation marks omitted). "In doing so, we give fullest weight to the decisions of a state's highest court and proper regard to the decisions of a state's lower courts, and we also consider the decisions of federal courts construing state law." *Id.* (internal quotation marks omitted). If, after doing so, we conclude that we are unable to predict how New York law would resolve the issue, we may consider certifying questions "determinative of a claim before us" to the New York Court of Appeals. *Licci II*, 673 F.3d at 74 (internal quotation marks omitted).

In SGBL's efforts to defeat jurisdiction, SGBL relies (as did the district court) on decisions of the New York appellate courts and federal courts that do not address

the particular theory that Plaintiffs advance. And in their efforts to claim jurisdiction, Plaintiffs, in turn, rely on decisions that do not apply New York law and are otherwise inapposite. We review this authority below in some detail because it appears to us that misunderstandings may have been introduced over the years.

After such review, we are compelled to conclude that this issue of New York law has yet to be definitively resolved and that we cannot predict its resolution with confidence. We think that definitive clarification by the New York Court of Appeals is needed.

II. New York state court decisions provide only limited guidance on Plaintiffs' jurisdictional theory

The parties have not identified any decision of the New York Court of Appeals addressing Plaintiffs' inherited-jurisdiction theory. Three Appellate Divisions have issued rulings relevant to the theory, but, on inspection, we find that these rulings provide only limited guidance.

A. *Semenetz*

In *Semenetz v. Sherling & Walden, Inc.*, the Third Department "recognize[d] that in certain circumstances a successor corporation 'may inherit its predecessor's jurisdictional status.'" 21 A.D.3d 1138, 1140-41, 801 N.Y.S.2d 78 (3d Dep't 2005) (quoting *Societe Generale v. Fla. Health Scis. Ctr., Inc.*, No. 03-cv-615 (MGC), 2003 WL 22852656, at *4 (S.D.N.Y. Dec. 1, 2003)), *aff'd on other grounds*, 7 N.Y.3d 194, 818 N.Y.S.2d 819, 851 N.E.2d 1170 (2006). But it found this doctrine inapplicable because

Semenetz involved the "product line" and "continuing enterprise" exceptions to the general rule that corporations are not liable for the torts of their predecessors. *Id.* The court explained that these two exceptions "do not and cannot confer [in personam] jurisdiction over the successor in the first instance" because they "deal with the concept of tort liability, not jurisdiction." *Id.* at 1139, 801 N.Y.S.2d 78.[10] And on close examination, the authority cited by the *Semenetz* court falls short of establishing the proposition advanced by Plaintiffs here.

The *Semenetz* court cited four cases in support of the general proposition that "in certain circumstances" a successor "may" inherit its predecessor's jurisdictional status. *Id.* at 1140-41, 801 N.Y.S.2d 78. First, it quoted *Florida Health Sciences Center*, in which the United

10. The four traditional exceptions that create successor liability—the exceptions we cited in *National Service Industries*—also arose in the tort liability context. *See Schumacher*, 59 N.Y.2d at 245, 464 N.Y.S.2d 437, 451 N.E.2d 195. Although the *Semenetz* court "recognize[d] that in certain circumstances a successor corporation may inherit its predecessor's jurisdictional status," the court did not make clear whether (or why) the traditional exceptions that create successor liability can confer jurisdiction even though they, too, "deal with the concept of tort liability." 21 A.D.3d at 1140-41, 801 N.Y.S.2d 78 (quotation omitted). This confusion has persisted through the caselaw. *See BRG Corp. v. Chevron U.S.A., Inc.*, 163 A.D.3d 1495, 1496 (4th Dep't 2018) (quoting *Semenetz* as holding that "the [*successor liability rules*] do not and cannot confer [] jurisdiction over the successor in the first instance") (first alteration by the *BRG* court) (emphasis added); *U.S. Bank Nat'l Ass'n v. Bank of Am. N.A.*, 916 F.3d 143, 158 (2d Cir. 2019) (describing *BRG*'s quotation of *Semenetz* as a "slight misquotation of the *Semenetz* precedent").

States District Court for the Southern District of New York observed that "a successor may inherit its predecessor's jurisdictional status in several situations: for example, if there was a *de facto* merger or consolidation of the two entities or if the successor is a 'mere continuation' of the predecessor." 2003 WL 22852656, at *4 (quoting *Kidz Cloz, Inc. v. Officially for Kids, Inc.*, No. 00-cv-6270, 2002 WL 1586877, at *4 (S.D.N.Y. July 17, 2002)). These two examples correspond to the second and third exceptions providing for successor liability as enumerated in *National Service Industries*, but the *Florida Health Sciences Center* court did not expressly address, much less approve, the assumption-of-liability exception that Plaintiffs rely on here.[11] That court further found that these two exceptions addressed issues different from the jurisdictional issue presented in that case. *See id.* Thus, *Florida Health Sciences Center* recognizes, at a high level, that a successor may inherit its predecessor's jurisdictional status through circumstances that correspond to some of the successor liability exceptions, but the *Semenetz* court's citation to *Florida Health Sciences Center* does not shed light on the validity of Plaintiffs' inherited-jurisdiction theory under New York law.[12]

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11. The *Florida Health Sciences Center* court further noted that "a successor-in-interest may be subject to jurisdiction based on the activities of its predecessor if the predecessor and successor [are] one and the same and the predecessor continue[s] to exist as part of the successor." 2003 WL 22852656, at *4 (alterations and internal quotation marks omitted). That circumstance is not relevant here.

12. The *Florida Health Sciences Center* court did not resolve the jurisdictional issue because it granted the defendants' motion

Second, the *Semenetz* court cited *Abbacor, Inc. v. Miller*, No. 01-cv-0803 (JSM), 2001 WL 1006051 (S.D.N.Y. Aug. 31, 2001), as relevant to its discussion. In *Abbacor*, the plaintiff alleged that the defendant was an "alter ego" of a predecessor organization that had jurisdictionally relevant contacts in New York. *Id.* at *4. The court wrote, "New York courts have frequently held that the pre-incorporation acts of a predecessor corporation can be attributed to a successor corporation for the purpose of establishing long arm jurisdiction where the predecessor and the successor are one and the same." *Id.* (internal quotation marks omitted). Because Plaintiffs do not allege that SGBL and LCB are "one and the same," *Abbacor* is not instructive here.

Third, the *Semenetz* court cited *Applied Hydro-Pneumatics, Inc. v. Bauer Mfg.*, 68 A.D.2d 42, 416 N.Y.S.2d 817 (2d Dep't 1979). There, the Second Department considered a situation in which the defendant purchased the assets, including contract rights, of another company, and utilized the contract rights it had purchased, but refused to pay commissions to the plaintiff—the agent who brokered the contracted-for transaction. *Id.* at 43-45, 416 N.Y.S.2d 817. The court held that the defendant's "voluntary election to complete the contracts constituted, in effect, a nunc pro tunc ratification and adoption of [the predecessor's] acts in New York [that] is sufficient to subject [the defendant] to personal jurisdiction in our courts on a cause of action arising out of transaction of business here

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to transfer venue to another district, where the defendants were subject to personal jurisdiction. 2003 WL 22852656, at *7-8.

between [the plaintiff] and [the defendant's] corporate predecessor." *Id.* at 46, 416 N.Y.S.2d 817. *Applied Hydro-Pneumatics*, too, thus involved circumstances different from those presented here: the successor's performance of the predecessor's contracts subjected it to personal jurisdiction over disputes arising out of the contracts, just as if the successor had been the original contracting party. The holding is grounded in the law of contracts, more than any general doctrine of successor jurisdiction, and so is not relevant in the present tort case.

The fourth authority cited in *Semenetz* is *Schenin v. Micro Copper Corp.*, 272 F. Supp. 523 (S.D.N.Y. 1967). In *Schenin*, a Nevada corporation, Vanura, sold all of its assets to the defendant, Micro, in exchange for shares of Micro common stock. *Id.* at 526. Vanura's stockholders received the Micro shares as a liquidating dividend, and Vanura was then duly dissolved. *See id.* Over a year earlier, however, Vanura had accepted payment from the plaintiff, Schenin, for one million shares of Vanura. *Id.* at 525. Vanura failed to deliver the shares, and following Vanura's dissolution, Schenin sued Micro in New York. Schenin argued that, because Vanura would have been subject to personal jurisdiction under New York's long-arm statute, the court had personal jurisdiction over Micro as Vanura's "successor-in-interest." *Id.* at 526. The district court was unpersuaded. It reasoned that "[t]he insurmountable hurdle in plaintiff's path is the sound distinction in law between a statutory merger and an acquisition of assets." *Id.* In the district court's view, "There exist[ed] no basis in law or reason to impute to Micro, for jurisdictional purposes, activities of Vanura in

New York," and it was "untenable" to attribute Vanura's activities to Micro. *Id.* In concluding that it lacked personal jurisdiction over Micro, the *Schenin* court held in essence that successor jurisdiction lies only if there is either (1) a statutory merger or (2) fraud. *See id.*

To be sure, the *Schenin* court did briefly explain that because there had been "no statutory merger between Micro and Vanura," the plaintiff's argument "must rest on an assumption of Vanura's liabilities by Micro." *Id.* The court went on to reject that theory. But, to the extent its description of plaintiff's argument might be read to suggest that an assumption of liabilities would have supported the exercise of personal jurisdiction over Micro under a successor-jurisdiction theory, in the absence of any holding to that effect, *Schenin* sheds no more light on the validity of Plaintiffs' inherited-jurisdiction theory than do cases like *National Service Industries* and *Florida Health Sciences Center.*

Further, when assessing how the New York Court of Appeals would resolve this issue, we hesitate to give much weight to *Schenin* or *Semenetz*'s citation to it. *Schenin* is not a New York state court decision, and the relevant portion of the opinion did not rely on any decisions of New York state courts. Although *Semenetz* cited *Schenin*, it did so in support of the general proposition—which *Semenetz* did not apply—that "in certain circumstances a successor corporation may inherit its predecessor's jurisdictional status." *Semenetz*, 21 A.D.3d at 1140-41, 801 N.Y.S.2d 78 (internal quotation marks omitted). It thus did not directly endorse *Schenin*'s limits on successor jurisdiction—

namely, that such jurisdiction lies *only* in the event of a statutory merger or fraud. Indeed, *Schenin* appears to take a stricter view than do more recent decisions of when under New York law a corporation may be a successor for jurisdictional purposes.[13]

For these reasons, in our view, *Semenetz* and the cases it cites do not resolve the issue presented here; nor do they offer especially meaningful guidance.

B. *BRG Corp.*

The next relevant Appellate Division decision cited by Plaintiffs is *BRG Corp. v. Chevron U.S.A., Inc.*, 163 A.D.3d 1495 (4th Dep't 2018). There, the "plaintiffs contend[ed] that personal jurisdiction exist[ed] over defendant because it ostensibly bears successor liability for a predecessor corporation that was itself subject to personal jurisdiction in New York." *Id.* at 1496. The Fourth Department rejected this theory and concluded that the defendant was not subject to personal jurisdiction in New York. *See id.* In doing so, the court explained that the "plaintiffs do not claim that defendant qualifies for personal jurisdiction under the narrow 'inherited jurisdictional status' exception recognized in *Semenetz*." *Id.* (quoting *Semenetz*,

13. For example, as discussed above, more recent cases have suggested that evidence of a *de facto* merger would be sufficient to subject a successor to personal jurisdiction. *See Fla. Health Scis. Ctr.*, 2003 WL 22852656, at *4. That may be inconsistent with *Schenin*, where the court required a *statutory* merger; indeed, the court's description of the transaction in *Schenin* suggests that it could have involved a *de facto* merger.

21 A.D.3d at 1140-41, 801 N.Y.S.2d 78) (alteration omitted). Crucially, the *BRG* court emphasized that the "[p]laintiffs do not challenge *Semenetz*'s holding or its rationale, nor do they ask us to chart our own course on this *novel and unsettled jurisdictional issue*." *Id.* (emphasis added).[14]

While the outcome in *BRG* superficially supports SGBL's position, the court's stated reasoning does nothing to shore up the inherited-jurisdiction theory. Instead, *BRG* simply followed *Semenetz*, apparently in light of the plaintiffs' failure to argue it should not. Rather than

14. In support of the highlighted characterization, the *BRG* court collected cases from other jurisdictions articulating a more expansive view of successor jurisdiction, including several holding that a successor inherits a predecessor's jurisdictional status when assuming its liabilities. *See Patin v. Thoroughbred Power Boats Inc.*, 294 F.3d 640, 653 & n.18 (5th Cir. 2002) (collecting cases suggesting that it is consistent with due process for a court to exercise personal jurisdiction over an "alter ego or successor of a corporation that would be subject to personal jurisdiction in that court"); *Williams v. Bowman Livestock Equip. Co.*, 927 F.2d 1128, 1132 (10th Cir. 1991) (explaining that a sale of "all, or substantially all, the assets of a corporation" could support imputing that corporation's contacts to its successor if forum law would hold the successor liable for the predecessor's actions); *City of Richmond, Va. v. Madison Mgmt. Grp., Inc.*, 918 F.2d 438, 454 (4th Cir. 1990) (collecting cases from states other than New York that "permit[] imputation of a predecessor's actions upon its successor *whenever* forum law would hold the successor liable for its predecessor's actions"); *Jeffrey v. Rapid Am. Corp.*, 448 Mich. 178, 206, 529 N.W.2d 644 (1995) ("[T]he jurisdictional contacts of a predecessor can be imputed to a successor when the successor expressly assumes all liabilities of the predecessor[.]"). These out-of-state cases do not permit us confidently to conclude that New York law would recognize Plaintiffs' jurisdictional theory.

suggest that New York law is clear about when a successor should be treated as having inherited a predecessor's jurisdictional status, the Fourth Department was of the view that the issue is "novel and unsettled." *Id.* In expressing that view, it highlighted decisions of other courts whose holdings, if adopted by New York courts, would seem to provide for personal jurisdiction over SGBL in this case. But because *BRG* did not adopt those holdings, it is not decisive here on the inherited-jurisdiction theory; rather, it suggests the issue is unresolved in New York.

C. *Gronich*

The third relevant—and most recent—Appellate Division case is *Matter of Gronich & Co. v. Simon Prop. Grp., Inc.*, 180 A.D.3d 541, 119 N.Y.S.3d 456 (1st Dep't 2020). There, a judgment creditor sought "to enforce its judgment against the alleged successor corporation (and affiliates) of the judgment debtor." *Id.* at 542. The First Department concluded that it had jurisdiction over one of the defendants because that defendant was a successor by merger of a company that had received a transfer of assets from the judgment debtor. *See id.* In so concluding, the First Department explained that the defendants' "argument that jurisdictional contacts are not imputed to a successor by merger is misplaced. It is where the 'successor' has merely *acquired the assets* of the predecessor company that the contacts are not imputed." *Id.* (emphasis added).

Gronich therefore did not address or resolve whether Plaintiffs' inherited-jurisdiction theory is viable. As

SGBL emphasizes, the court distinguished between mergers, where contacts are inherited for jurisdictional purposes, and *acquisitions of assets*, where contacts are not inherited by the successor. But contrary to the district court's analysis, *Gronich* did not "h[o]ld that short of a merger an asset acquisition is not sufficient to impute a target's jurisdictional status on an acquiror." 2021 WL 4931845, at *2. Instead, as Plaintiffs highlight, the court contrasted a merger with the "mere[]" acquisition of assets. 180 A.D.3d at 542. *Gronich* did not hold that a merger is the only path for a successor to inherit a predecessor's jurisdictional status under New York law. Here, SGBL did not acquire merely LCB's assets; it also acquired all of its liabilities. Accordingly, in our view, *Gronich* does not directly support the position of either party in this case.

* * *

Our takeaway from the foregoing caselaw is that New York state courts have not spoken on the precise issue presented by this appeal. On one hand, New York courts have firmly held that an asset purchase alone is insufficient to confer personal jurisdiction over a successor. On the other hand, New York courts have also held that in some circumstances a successor does inherit its predecessor's jurisdictional status, including when there is a merger. But New York courts have not squarely addressed a situation in which a successor acquires all of a predecessor's assets and liabilities, but does not do so through either a statutory merger or a transaction that meets established standards for a *de facto* merger.

III. Federal court decisions do not resolve this issue of New York law

The parties also submit that federal court decisions resolve the jurisdictional issue. We are not persuaded.

A. *U.S. Bank*

First, SGBL contends that Plaintiffs' jurisdictional theory is foreclosed by our decision in *U.S. Bank Nat'l Ass'n v. Bank of Am. N.A.*, 916 F.3d 143 (2d Cir. 2019). There, in dicta, the panel majority examined "whether Bank of America, as the successor entity following its merger with LaSalle, is subject to personal jurisdiction where LaSalle's activities in relation to the events giving rise to liability would have subjected LaSalle to specific jurisdiction in a suit alleging breach of LaSalle's contracts."[15] *Id.* at 155. The majority discussed *BRG*, *Semenetz*, and *Schenin*, commenting that "[w]hat those New York decisions reveal is that . . . whether liability as a successor in interest also entails being subject to personal jurisdiction where the actions of the predecessor would have made the predecessor subject . . . depends on

15. The panel majority acknowledged that, in light of Bank of America's forfeiture of the issue, the detailed discussion that it provided of personal jurisdictional by successorship was dicta. *U.S. Bank*, 916 F.3d at 155. The panel addressed the issue in response to a concurrence by Judge Chin, who argued that the record did not establish successorship personal jurisdiction and that the Court should have remanded for the district court to address the question of personal jurisdiction in the first instance. *Id.* at 159 (Chin, *J.*, concurring).

the basis of the successor liability." *Id.* at 156. "The fair inference of the precedents," the panel majority continued, "is that, while successor liability based on acquisition of a predecessor's assets does not necessarily make the defendant also amenable to jurisdiction where the predecessor's actions would have made the predecessor subject to specific jurisdiction, the rule is different where the successor liability of the defendant derives from a merger with the predecessor." *Id.* It concluded, still in dicta, that "these decisions imply, indeed virtually state, that where the successor status is based on merger, the merged entity is subject to jurisdiction wherever its merger partner's actions would have made the merger partner subject in a suit based on the merger partner's liability." *Id.*

Even if its comments were not dicta, however, the *U.S. Bank* majority's analysis would not resolve the issue presented here. As with the New York precedents it discusses, the *U.S. Bank* majority distinguishes between asset acquisitions and mergers, but does not address the cloudy middle ground, where the two entities do not formally *merge*, but the one acquires the other's assets *and, expressly, all of its liabilities*, and the other continues as a corporate entity with assets from its sale. As the *U.S. Bank* majority noted, whether jurisdictional contacts are imputed to a successor "depends on the basis of the successor liability," *id.*, and neither *U.S. Bank* nor the New York cases address the basis presented here—the express assumption of all of the predecessor's liabilities.

B. *Bartlett*

Second, SGBL points to a district court decision addressing an issue nearly identical to that presented here as persuasive authority for ruling that the court does not have personal jurisdiction over SGBL. *Bartlett*, 2020 WL 7089448. In *Bartlett*, the plaintiffs were individuals and their family members who were injured by Hizbollah terror attacks in Iraq between 2004 and 2011. *Id.* at *1. As relevant here, the plaintiffs brought a claim for successor liability against SGBL resulting from its assumption of LCB's assets and liabilities in the Purchase Agreement, and the plaintiffs argued that "SGBL inherited LCB's personal jurisdiction status." *Id.* at *16.

The *Bartlett* district court rejected the plaintiffs' theory, but on a record somewhat different from that here, and based on an analysis of New York law that, while thorough, was necessarily not definitive.[16] Focusing on the distinction between an asset purchase and a merger, the *Bartlett* court found that it did not have personal jurisdiction over SGBL for the successor liability claim because the plaintiffs did not allege that a merger occurred, nor did they allege an essential

16. We recognize that "under New York law certification was not an option for the district court" in *Bartlett* or in the instant case. *Indus. Risk Insurers v. Port Auth. of N.Y. & N.J.*, 493 F.3d 283, 285 n.1 (2d Cir. 2007); *see* N.Y. Comp. Codes R. & Regs. tit. 22, § 500.27(a). Accordingly, we do not fault either district court for fulfilling its duty by attempting to predict how New York would resolve the ambiguities of this "novel and unsettled" area of law. *BRG*, 163 A.D.3d at 1496.

element of a merger, "continuity of ownership."[17] *Id.* at *16-17. Crucially, relying on the dicta in *U.S. Bank*, the court reasoned that it was "*only* 'because a successor by merger is deemed by operation of law to be both the surviving corporation and the absorbed corporation' that the successor would incur the predecessor's jurisdictional status." *Id.* at *16 (quoting *U.S. Bank*, 916 F.3d at 156) (emphasis added).[18] But as discussed above, *U.S. Bank* and the relevant New York cases do not hold that successor jurisdiction lies "only" when there is a merger. Rather, they suggest that (1) merger is an example of a situation where successor jurisdiction is available, and (2) asset acquisitions, on their own, are not sufficient to implicate successor jurisdiction. Those principles do not foreclose the possibility of successor or inherited jurisdiction when a successor expressly assumes all of its predecessor's liabilities.

Focusing on continuity of ownership, the *Bartlett* court also stated that "[e]ven if SGBL obtained all of LCB's

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17. The *Bartlett* court also held that it had personal jurisdiction over SGBL for direct claims related to primary liability and aiding-and-abetting liability under the ATA and JASTA. 2020 WL 7089448, at *4-6. That analysis is not at issue in this case, where the sole basis advanced by Plaintiffs for personal jurisdiction over SGBL involves a successorship theory.

18. The district court in this case followed *Bartlett* and adopted the same reasoning. *See* 2021 WL 4931845, at *3 (stating that *U.S. Bank* "observed it was only 'because a successor by merger is deemed by operation of law to be both the surviving corporation and the absorbed corporation that the successor would incur the predecessor's jurisdiction status.'" (quoting *Bartlett*, 2020 WL 7089448, at *17, and *U.S. Bank*, 916 F.3d at 156)).

liabilities, that does not necessarily confer jurisdiction." 2020 WL 7089448, at *17. Because *Bartlett* did not definitively state whether an assumption of liabilities is sufficient to confer jurisdiction, the case does not provide clear guidance on the viability of Plaintiffs' theory. In any event, the two cases it cites to distinguish between a sale and purchase of all assets and liabilities and a merger do not directly support the proposition that a merger is necessary to confer successor jurisdiction. The first citation is to the dicta in *U.S. Bank*, but even in its dicta, that court did not state that conclusion. The second citation is to *National Service Industries*, which addressed the *de facto* merger doctrine under New York law and successor *liability* but did not address the jurisdictional question that we face. *See* 460 F.3d at 212.

C. *LiButti*

Plaintiffs, for their part, argue that broad language from another two of our decisions apply here and support this novel inherited-jurisdiction theory. Again, we are not convinced.

In *LiButti v. United States*, the Internal Revenue Service ("IRS") sought restitution from Margaux, a Kentucky limited liability company that had received an interest in a prize racehorse from Edith LiButti, the daughter of Robert LiButti, a delinquent taxpayer. *See* 178 F.3d at 116-17, 122-23. The United States District Court for the Northern District of New York held that it had neither *in personam* nor *in rem* jurisdiction over Margaux because Margaux did not have minimum

contacts with New York. We affirmed those holdings. *See id.* at 122-23. The IRS, however, advanced as an "alternate theory" for personal jurisdiction in New York that Margaux was a successor in interest to the obligations of Edith LiButti, whom the district court had ordered to pay restitution.[19] *See id.* at 123-24. The IRS grounded its alternate jurisdictional theory in two Federal Rules of Civil Procedure: Rule 25(c),[20] which governs substitution of parties; and Rule 71,[21] which

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19. Edith LiButti's business, Lion Crest Stable, was a New Jersey entity, but the case arose from the IRS's delivery of a Notice of Seizure and Levy to the racehorse's trainer while the horse was in Saratoga, New York. *LiButti v. United States*, 894 F. Supp. 589, 590 (N.D.N.Y. 1995). The Northern District of New York was therefore able to exercise *in rem* jurisdiction over the horse and adjudicate the dispute between LiButti and the IRS.

20. When *LiButti* was decided, Rule 25(c) provided:

> Transfer of Interest. In case of any transfer of interest, the action may be continued by or against the original party, unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party.

Fed. R. Civ. P. 25(c) (1999). The Rule has been revised since 1999, but the revisions are only stylistic. *See* Fed. R. Civ. P. 25(c) (2022); Fed. R. Civ. P. 25 advisory committee's note to 2007 amendment.

21. When *LiButti* was decided, Rule 71 provided that "when obedience to an order may be lawfully enforced against a person who is not a party, that person is liable to the same process for enforcing obedience to the order as if a party." Fed. R. Civ. P. 71 (1999). Like Rule 25(c), Rule 71 has been subject only to stylistic revisions since 1999. *See* Fed. R. Civ. P. 71 advisory committee's note to 2007 amendment.

provides the standard for enforcing relief for or against a non-party. *See id.* at 123-24. The IRS had not moved to join Margaux under Rule 25(c), but it argued that even without such a motion "the judgment against the original party binds the successor in interest as though the successor had been joined or substituted," thereby allowing the judgment against Edith LiButti to be "lawfully enforced" against Margaux per Rule 71. *See id.* at 124.

We rejected the IRS's jurisdictional theory in *LiButti*, but in doing so we spoke in somewhat unnecessarily expansive language about personal jurisdiction being transferred to a successor under Rule 25(c). Plaintiffs cite our observation there that "[i]n several cases involving the question of whether a person could be substituted or joined under Rule 25(c), various courts have held that when a person is found to be a successor in interest [under applicable state law], the court gains personal jurisdiction over them simply as a consequence of their status as a successor in interest, without regard to whether they had any other minimum contacts with the state." 178 F.3d at 123-24 (collecting cases).[22] In each of the cited cases in which the court exercised personal jurisdiction over a non-resident successor, we said, jurisdiction "was established only where the non-resident was found to be a 'successor in interest' to the obligations of the party." *Id.* at 124.

22. We referenced five cases in which personal jurisdiction transferred to the substituted or successor party pursuant to Rule 25(c), but we did not cite any case in which the basis for personal jurisdiction was that the successor had assumed the predecessor's liabilities. *LiButti*, 178 F.3d at 124-25.

Observing that "[s]uccessor liability is a question of State law," we applied the law of New Jersey, which adopted the traditional four exceptions that create successor liability, including when the successor "agreed to assume" the predecessor's liabilities. *Id.* We concluded that Margaux "[did] not fall into any of these exceptions, and therefore it [was] not a successor in interest or subject to successor liability. As a consequence, the district court lacked personal jurisdiction over [it,]" we explained. *Id.* at 125.

Thus, the language from *LiButti* that Plaintiffs point to—that "successors inherit the jurisdictional status of their predecessor, 'simply as a consequence of their status as a successor in interest,'" Appellants' Br. at 17—was merely the Court's reading of "several cases involving the question of whether a person could be substituted or joined under Rule 25(c)," a question that was not before the Court in *LiButti*. 178 F.3d at 123. The *LiButti* Court did not cite or purport to rely on New York law; it concluded that Margaux was "not a successor in interest or subject to successor liability" under New Jersey law. *Id.* at 124-25. In consequence of that conclusion, the Court held that "[e]ven assuming the government's argument [was] properly before [it] despite the lack of a motion under Rule 25(c)," Margaux could not be subject to personal jurisdiction. *Id.*

To be sure, *LiButti*'s holding did not *foreclose* the possibility that, had Margaux been a successor in interest, it might have been subject to jurisdiction based on that status. But *LiButti* fell far short of holding that, as a matter of New York law, a successor in interest always

inherits the jurisdictional status of its predecessor. *LiButti* applied another state's law; the Court concluded that Margaux was *not* a successor in interest; and the case did not involve a situation where one company acquired all the assets and liabilities of another company. *LiButti* does not, therefore, determine the viability of Plaintiffs' theory here.

D. *Transfield*

In the second case that Plaintiffs rely on, *Transfield ER Cape Ltd. v. Industrial Carriers, Inc.*, we considered whether a company was "found within the district" for the purpose of maritime attachment under federal law. 571 F.3d 221, 222 (2d Cir. 2009). We held that "if a corporation is registered with the New York Department of State—and is therefore 'found within the district' . . . —that corporation's alter egos are also 'found within the district' and, therefore, the property of those alter egos is not subject to maritime attachment." *Id.* at 224. In reaching that conclusion, we observed that "in general, 'alter egos are treated as one entity' for jurisdictional purposes." *Id.* (quoting *Wm. Passalacqua Builders, Inc. v. Resnick Devs. S., Inc.*, 933 F.2d 131, 142-43 (2d Cir. 1991)). We also cited *Patin v. Thoroughbred Power Boats Inc.* in support of our assertion about jurisdiction over alter egos, quoting in a parenthetical that court's statement that "federal courts have consistently acknowledged that it is compatible with due process for a court to exercise personal jurisdiction over an individual or a corporation that would not ordinarily be subject to personal jurisdiction in that court when the individual or corporation is an alter ego

or successor of a corporation that would be subject to personal jurisdiction in that court." *Transfield*, 571 F.3d at 224 (quoting *Patin v. Thoroughbred Power Boats Inc.*, 294 F.3d 640, 653 (5th Cir. 2002)).

As this discussion makes clear, *Transfield* arose in the context of federal maritime law, not New York law. What is more, it addressed jurisdiction over alter egos, rather than a purchaser of assets or liabilities, as evidenced by *Transfield*'s discussion of *Patin*.[23] Accordingly, *Transfield*, too, is inapposite to the question before us.

Plaintiffs emphasize that numerous federal district courts in New York have interpreted the broad language in *LiButti* and *Transfield* to hold that successors are subject to personal jurisdiction whenever they fall into an exception that renders them subject to substantive successor liability—even when ruling on a Rule 12(b)(2) motion to dismiss rather than on issues similar to those discussed in *LiButti* and *Transfield*. In particular, the district courts have relied on *LiButti*'s statement that "the court gains personal jurisdiction over [successors] simply as a consequence of their status as a successor in interest" and the text that *Transfield* quoted from *Patin*

23. As the *Patin* court explained, "The theory underlying these cases [addressing alter ego liability] is that, because the two corporations (or the corporation and its individual alter ego) are the *same entity*, the jurisdictional contacts of one *are* the jurisdictional contacts of the other[.]" 294 F.3d at 653. That analysis does not carry the same force when, as here, there is no allegation of alter ego liability and the predecessor and successor corporations both continue to exist after the transfer of liabilities.

to create, essentially, a rule of thumb: if a plaintiff "state[s] a claim against the [successor] for successor liability, there is personal jurisdiction over the [successor]." *Time Warner Cable, Inc. v. Networks Grp., LLC*, No. 09-cv-10059 (DLC), 2010 WL 3563111, at *6 (S.D.N.Y. Sept. 9, 2010); *accord Snowbridge Advisors LLC v. ESO Cap. Partners UK LLP*, 589 F. Supp. 3d 401, 415-16 (S.D.N.Y. 2022); *Fly Shoes s.r.l. v. Bettye Muller Designs Inc.*, No. 14-cv-10078 (LLS), 2015 WL 4092392, at *2 (S.D.N.Y. July 6, 2015); *Vorcom Internet Servs., Inc. v. L & H Eng'g & Design LLC*, No. 12-cv-2049 (VB), 2013 WL 335717, at *3 (S.D.N.Y. Jan. 9, 2013). But these statements tend to oversimplify the issue by proclaiming that any entity deemed a "successor" is subject to jurisdiction where its "predecessor" is so subject. In the word "successor," many different configurations of assets, individuals, and control may be found.

* * *

Respectfully, in our view, *LiButti* and *Transfield* do not support the proposition that such a broad rule of personal jurisdiction is established under New York law. As described above, the two cases discussed distinct issues—Rule 25(c) substitution and federal law regarding maritime attachment—and they did not interpret or apply New York law. The district court decisions above, meanwhile, simply apply the broad language in *LiButti* and *Transfield* to arrive at an interpretation of New York's law of successor jurisdiction that those two cases do not fully support.

In light of the confusion prompted by our decisions in *LiButti* and *Transfield*, we emphasize now that they address successorship issues only in the circumstances in which they arose, and that they should not be read to resolve broad and open issues of personal jurisdiction under New York law. We do not express a view on whether New York law *could* support the rule of inherited jurisdiction that some district courts have adopted and that Plaintiffs urge on us here. Rather, in view of the observations set forth above, we conclude that those cases do not provide a sound basis for us to predict with confidence that New York would adopt those courts' interpretations as the correct jurisdictional standard under New York law.

Accordingly, *U.S. Bank*, *Bartlett*, *LiButti*, and *Transfield* do not resolve whether SGBL is subject to personal jurisdiction in this action.

IV. Certification

Plaintiffs request that, if we do not rule in their favor, we certify the question whether New York law recognizes inherited jurisdiction to the New York Court of Appeals. We may certify a question of state law to a state's highest court if state law permits certification. *See* 2d Cir. Loc. R. 27.2(a). Under New York law, we may certify to the New York Court of Appeals "dispositive questions of law" in cases pending before us "for which no controlling precedent of the Court of Appeals exists." 22 N.Y.C.R.R. § 500.27(a). When determining whether to certify a question to the New York Court of Appeals, we consider three primary factors. First, we may certify a question "if the New York

Court of Appeals has not squarely addressed [the] issue and other decisions by New York courts are insufficient to predict how the Court of Appeals would resolve it." *Licci II*, 673 F.3d at 74 (internal quotation marks omitted). Second, the issue must be important to the state and "its resolution must require value judgments and important public policy choices that the New York Court of Appeals is better situated than we to make." *Id.* (alteration and internal quotation marks omitted). Third, the issue must be potentially "determinative of a claim before us." *Id.* (internal quotation marks omitted).

We find that each of these three factors weighs in favor of certification in this case. First, the Court of Appeals has not addressed the issue whether a successor inherits its predecessor's jurisdictional contacts when it assumes all of its predecessor's liabilities but there is no claim of merger in law or fact. While some Appellate Division and federal court decisions provide some guidance, they do not address the precise issue presented here. Indeed, a New York Appellate Division recently recognized it as "novel and unsettled." *BRG*, 163 A.D.3d at 1496. Accordingly, the first factor weighs in favor of certification.

Second, we think this issue is of importance to New York. As we explained in *Licci II*, determining the scope of personal jurisdiction under New York law is "a task that requires the exercise of value judgments and important public policy choices, best left to New York's highest court, if possible." 673 F.3d at 74 (internal quotation marks omitted).

We explored some of those public policy choices in our 2019 decision in *U.S. Bank*. There, the panel majority discussed the jurisdictional impact of a business combination effected through a formal merger. The general rule, we said, is that "a successor by merger is deemed by operation of law to be *both* the surviving corporation and the absorbed corporation, subject to all the liabilities of the absorbed corporation." *U.S. Bank*, 916 F.3d at 156 (citing James D. Cox & Thomas Lee Hazen, 4 Treatise of the Law of Corporations § 22:8) (emphasis added). We commented that, in light of that general rule, "we can see no reason why, in a suit to enforce a merger partner's contract, the entity that survives the merger should not be subject to personal jurisdiction in whatever court the actions of the merger partner in relation to the contract would have made the merger partner subject." *Id.* at 155. Moreover, we warned, a different rule would allow "serious abuse" because "a corporation liable to suit in a state in which it does not wish to be sued could simply arrange a merger with a dummy corporation and thus avoid being subject to an undesired jurisdiction in the state where its actions incurred the liability." *Id.* at 156.

The same warning seems apt here. LCB's existence may offer scant promise to the hopeful tort claimant notwithstanding LCB's status as a defendant in a lawsuit pending in New York. *See Kaplan v. LCB II*, 999 F.3d at 866-67. A fact-based rule that would allow LCB effectively to decouple its assets from its enforceable liabilities, for value, and SGBL to acquire "all assets and liabilities" but escape jurisdiction for claims asserting LCB's liabilities seems anomalous and pregnant with the same possibility

for abuse that we identified in *U.S. Bank*, especially when significant aspects of the acquisition are not known.

Further, *U.S. Bank* arose in the context of a contract claim against a successor corporation, with sophisticated business entities on each side of the transaction. Here, where the claimants allege grave personal injury for which LCB may bear responsibility, the concern that an abuse of form (if any there be) could allow avoidance of liability seems even more compelling. In these circumstances, New York might choose to give even closer scrutiny to the facts of the combination than in cases past, and less weight to the label affixed by the parties, so as to avoid allowing the seller to shed its liabilities while shielding the acquirer from "being subject to an undesired jurisdiction in the state where [the seller's] actions incurred the liability." *See U.S. Bank*, 916 F.3d at 156. Further factual development about the business combination that the parties undertook might be warranted.

To be sure, New York serves important state interests when it facilitates various forms of business combinations within its borders and adopts rules of liability and jurisdiction whose clarity makes them easy to follow and their results easy to predict. It may be that, when both the acquiring and acquired entities continue to exist as a formal matter, New York's long-arm statute was not intended to or simply does not permit—consistent with New York's policies and values—the exercise of jurisdiction over a nondomiciliary successor corporation.

This case thus calls for a close calibration of the differences, for purposes of successor jurisdiction in New York, between a formal merger and a complete acquisition of assets and liabilities for money in which one entity formally survives the other. We conclude, therefore, that the second factor weighs in favor of certification.[24]

Finally, for the third factor, the questions are potentially determinative of the claim at issue here: if New York does not recognize an inherited-jurisdiction theory under these circumstances, then the district court's judgment dismissing Plaintiffs' claims must be affirmed.[25]

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24. Furthermore, state courts outside of New York that have addressed the inherited-jurisdiction theory carefully weighed state public policy considerations that in our view are best left to the forum state to decide in the first instance. *See*, *e.g.*, *Jeffrey*, 448 Mich. at 199, 529 N.W.2d 644 (describing how the successor "reaped the benefits of [the predecessor's] Michigan business and correspondingly should be held to the same jurisdictional qualities of its predecessor"); *Bridges v. Mosaic Glob. Holdings, Inc.*, 23 So. 3d 305, 317 (La. Ct. App. 2008) ("[T]he successor corporation, who is able to derive benefits from the forum, should also be expected to answer for alleged liabilities of its predecessor in this forum.").

25. If New York law does provide that an entity that assumes all of another entity's assets and liabilities may inherit the acquired entity's jurisdictional status, then we will determine whether, at the second step of the jurisdictional inquiry, exercising jurisdiction over SGBL comports with constitutional due process. Guided by the doctrine of constitutional avoidance, we reserve decision on that issue at this juncture. *See Licci II*, 673 F.3d at 61, 75.

Accordingly, we certify to the New York Court of Appeals the following questions:

1. Under New York law, does an entity that acquires all of another entity's liabilities and assets, but does not merge with that entity, inherit the acquired entity's status for purposes of specific personal jurisdiction?

2. In what circumstances will the acquiring entity be subject to specific personal jurisdiction in New York?

Consistent with our standard practice, we do not constrain the scope of the Court of Appeals' analysis through the formulation of the questions that we have adopted here. *See 10 Ellicott Square Ct. Corp. v. Mountain Valley Indem. Co.*, 634 F.3d 112, 126 (2d Cir. 2011). We invite the Court of Appeals to expand upon or modify these questions as it deems appropriate, including by directing the parties to address other questions it finds relevant. *Glob. Reinsurance Corp. of Am. v. Century Indem. Co.*, 843 F.3d 120, 128 (2d Cir. 2016), *certified question accepted*, 28 N.Y.3d 1129, 45 N.Y.S.3d 369, 68 N.E.3d 98 (2017), *and certified question answered*, 30 N.Y.3d 508, 69 N.Y.S.3d 207, 91 N.E.3d 1186 (2017).

CONCLUSION

For the foregoing reasons, we certify the following questions to the New York Court of Appeals:

1. Under New York law, does an entity that acquires all of another entity's liabilities and assets, but does not merge with that entity, inherit the acquired entity's status for purposes of specific personal jurisdiction?

2. In what circumstances will the acquiring entity be subject to specific personal jurisdiction in New York?

It is hereby ORDERED that the Clerk of the Court transmit to the Clerk of the New York Court of Appeals a certificate in the form attached, together with a copy of this Opinion and a complete set of the briefs, appendices, and record filed by the parties in this Court. This panel will retain jurisdiction to decide the appeal once we have had the benefit of the views of the New York Court of Appeals or once that Court declines to accept certification.

CERTIFICATE

We hereby certify the foregoing questions to the New York Court of Appeals pursuant to Second Circuit Local Rule 27.2 and New York Compilation of Codes, Rules, and Regulations, title 22, section 500.27(a).

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

/s/ Catherine O'Hagan Wolfe

APPENDIX D — MEMORANDUM ORDER AND JUDGMENT OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK, FILED MARCH 31, 2021

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

19-cv-00033 (RJD) (SJB)

ESTER LELCHOOK, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DAVID MARTIN LELCHOOK; MICHAL LELCHOOK; YAEL LELCHOOK; ALEXANDER LELCHOOK, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DORIS LELCHOOK; MALKA KUMER; CHANA LIBA KUMER; MIRIAM ALMACKIES; CHAIM KAPLAN; RIVKA KAPLAN; BRIAN ERDSTEIN; KARENE ERDSTEIN; MA'AYAN ERDSTEIN; CHAYIM KUMER; NECHAMA KUMER; LAURIE RAPPEPORT; MARGALIT RAPPEPORT; THEODORE (TED) GREENBERG; MOREEN GREENBERG; JARED SAUTER; DVORA CHANA KASZEMACHER; CHAYA KASZEMACHER ALKAREIF; AVISHAI REUVANE; ELISHEVA ARON, YAIR MOR; AND MIKIMI STEINBERG,

Plaintiffs,

v.

Appendix D

SOCIÉTÉ GÉNÉRALE DE BANQUE
AU LIBAN SAL,

Defendant.

Filed March 31, 2021

MEMORANDUM & ORDER

DEARIE, District Judge.

Plaintiffs, the estate and family members of United States citizens killed or injured as a result of a series of terrorist attacks carried out by Hizbollah in Israel in 2006, bring this action against Société Générale De Banque Au Liban SAL ("SGBL") seeking damages pursuant to the Anti-Terrorism Act ("ATA"), 18 U.S.C. § 2333. Plaintiffs' claims against SGBL are predicated on the alleged conduct of another bank, Lebanese Canadian Bank SAL ("LCB"). According to plaintiffs, SGBL is subject to jurisdiction in New York and liable for LCB's actions because SGBL purchased LCB assets and liabilities in 2011 and thus inherited LCB's jurisdictional status in the forum and assumed successor liability. Defendant moves to dismiss the amended complaint (ECF No. 73), pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(6) for lack of personal jurisdiction and for failure to state a claim. The Court lacks jurisdiction over defendant. The complaint is dismissed.

Appendix D

BACKGROUND

For the purposes of defendant's motion to dismiss, the allegations in the complaint are assumed to be true.

SGBL is a private joint stock company with limited liability incorporated in Lebanon in 1953 with its headquarters in Beirut. (Am. Compl. ¶¶ 10-11.) On June 22, 2011, SGBL entered into a Sale and Purchase Agreement ("SPA") with LCB and pursuant to that agreement "SGBL purchased all of LCB's assets, and assumed all of LCB's liabilities." (*Id.* at ¶ 12.)

Plaintiffs claim SGBL's assumption of LCB liabilities renders SGBL liable for the damages plaintiffs incurred when Hizbollah, a purported banking client of LCB, carried out deadly missile attacks in Israel in July and August 2006. (Am. Compl. ¶¶ 3, 12, 16, 59-80, 118-30.) Plaintiffs do not allege SGBL, itself, provided any services to Hizbollah triggering potential direct liability for their damages under the ATA. They only allege SGBL is liable for LCB's purported conduct as a result of the SPA.

The Court assumes knowledge of facts regarding Hizbollah, the July and August 2006 rocket and missile attacks, and LCB's relevant conduct (*see* am. compl. ¶¶ 17-117), as they are the subject of extensive litigation in *Kaplan v. Lebanese Canadian Bank SAL*, No. 08-cv-7253 (S.D.N.Y.). Indeed, as defendant notes, the allegations supporting LCB's liability in *Kaplan* are virtually identical to the allegations in this action. *Compare Kaplan v. Lebanese Canadian Bank SAL*, No. 08-cv-7253 (GBD)

(S.D.N.Y.) (ECF No. 99) *with Lelchook v. Société Générale De Banque Au Liban SAL*, No. 19-cv-00033 (RJD) (SJB) (E.D.N.Y.) (ECF No. 73).

DISCUSSION

1. Legal Standard

To determine a Rule 12(b)(2) motion to dismiss for lack of personal jurisdiction, a court must first determine if New York law confers jurisdiction over the defendant, and if it does, then determine whether such an exercise of jurisdiction comports with due process. *See Licci ex rel. Licci v. Lebanese Canadian Bank, SAL*, 732 F.3d 161, 168 (2d Cir. 2013). A plaintiff "bears the burden of showing that the court has jurisdiction over the defendant." *Metropolitan Life Ins. Co. v. Robertson-Ceco Corp.*, 84 F.3d 560, 566 (2d Cir. 1996). At the motion to dismiss stage, a plaintiff need only "make a prima facie showing that jurisdiction exists," which "entails making legally sufficient allegations of jurisdiction, including an averment of facts that, if credited, would suffice to establish jurisdiction over the defendant." *Charles Schwab Corp. v. Bank of America Corp.*, 883 F.3d 68, 81 (2d Cir. 2018).

2. Analysis

Plaintiffs do not allege SGBL is subject to personal jurisdiction in New York by virtue of its own contacts with the state. Instead, plaintiffs claim SGBL is subject to jurisdiction because the Second Circuit "determined that LCB's conduct described [in the complaint] rendered

it subject to personal jurisdiction" in New York, and SGBL "assumed and bears successor liability for LCB's conduct . . . and so is also subject to personal jurisdiction in New York." (Am. Compl. ¶ 16.) SGBL contends there is no jurisdiction because jurisdiction-by-inheritance has been "squarely rejected in New York and does not comport with federal due process principles." (ECF No. 85 at 13.)

New York's long-arm statute confers jurisdiction "over any non-domiciliary" who, *inter alia*, "transacts any business within the state." N.Y. C.P.L.R. 302(a)(1). Under certain limited circumstances, New York also recognizes that a non-domiciliary "may inherit its predecessor's jurisdictional status." *Semenetz v. Sherling & Walden, Inc.*, 21 A.D.3d 1138, 1140-41 (3rd Dep't App. Div. 2005). For instance, where two companies enter into an agreement containing a New York forum selection clause. *Id.* at 1140-41 (citing *Société Générale v. Florida Health Sciences Ctr., Inc.*, 2003 WL 22852656, at *4 (S.D.N.Y. Dec. 1, 2003) (defining the jurisdictional issue as "whether minimum contacts could be transferred" and not "whether the defendant's assumption of its predecessor's rights and obligations constituted a voluntary adoption of all the terms of the contracts that the predecessor had executed")).

New York courts have held that short of a merger an asset acquisition is not sufficient to impute a target's jurisdictional status on an acquiror. *See, e.g.*, *Gronich & Co., Inc. v. Simon Prop. Grp., Inc.*, 180 A.D.3d 541, 542 (1st Dep't App. Div. 2020) (finding jurisdiction existed as to a "successor by merger," but that contacts are not imputed

where successor acquires assets of predecessor); *Schenin v. Micro Cooper Corp.*, 272 F. Supp. 523, 526 (S.D.N.Y. 1967) (finding plaintiff "failed to adduce a single shred of probative evidence that the transaction was anything but an acquisition of assets" and accordingly dismissing because there "ha[d] been no statutory merger"). Tellingly, the term "merger" does not appear anywhere in plaintiffs' 41-page complaint. And a review of New York decisions in this area confirms the SGBL-LCB transaction does not meet the definition of a merger. Courts have held that "continuity of ownership is the essence of a merger," *New York v. Nat'l Serv. Indus., Inc.*, 460 F.3d 201, 211-12 (2d Cir. 2006), and plaintiffs do not allege continuity of ownership between SGBL and LCB given that it was an all-cash transaction from which both continue to survive. *See, e.g.*, *Cargo Partner AG v. Albatrans, Inc.*, 352 F.3d 41, 47 (2d Cir. 2003) (observing that under New York law "continuity of ownership is the essence of a merger" and is distinct from an asset purchase where "the seller's ownership interest in the entity is given up in exchange for consideration"); *Schumacher v. Richards Shear Co., Inc.*, 451 N.E.2d 195, 198 (N.Y. 1983) (no merger where predecessor survives the transaction as "a distinct, albeit meager, entity").

Still, plaintiffs urge the Court to exercise jurisdiction over defendant because it "assumed ***all*** of LCB's liabilities" as defined in the Sale and Purchase Agreement. (ECF No. 88 at 2 (emphasis in original).) But plaintiffs' emphasis on "all" liabilities is misplaced. While SGBL may be liable for any liability it assumed in the SPA, that does not address whether SGBL is subject to jurisdiction in New York.

The transaction between SGBL and LCB does not fall under New York's limited merger exception for successor jurisdiction and plaintiffs do not allege SGBL is otherwise subject to jurisdiction due to a relationship or contact with the forum. *Bartlett v. Société Générale De Banque Au Liban SAL*, No. 19-cv-00007 (CBA) (VMS), 2020 WL 7089448, at *16-*17 (E.D.N.Y. Nov. 25, 2020).

Despite plaintiffs' arguments to the contrary, this outcome is consistent with the Circuit's decision in *U.S. Bank Nat'l Assoc. v. Bank of America N.A.*, 916 F.3d 143 (2d Cir. 2019), where the Court observed it was only "'because a successor by merger is deemed by operation of law to be both the surviving corporation and the absorbed corporation' that the successor would incur the predecessor's jurisdiction status." *Bartlett*, 2020 WL 7089448, at *16-*17 (quoting *U.S. Bank*, 916 F.3d at 156). This rule would avoid the unfairness that would result if a corporate tortfeasor was able to evade liability simply by subsuming itself into another entity that is not subject to jurisdiction. Critically, however, plaintiffs admit in their amended complaint, and in opposition to defendant's motion, that LCB has continued to operate since the execution of the SPA in 2011. (Am. Compl. ¶¶ 118-20; ECF No. 88 at 9-15.) Indeed, LCB is even defending itself in nearly identical ATA suits in other New York courts, as plaintiffs admit. (*See, e.g.*, Am. Compl. at ¶¶ 91-94, 112-15, n.12). Plaintiffs have failed to allege any connection between SGBL and the forum, and have failed to allege that the two companies have merged such that SGBL is merely a continuation of LCB and so SGBL must answer for LCB's purported bad acts in this court.

SGBL's potential exposure in the wake of the SPA cannot be resolved in this action, but must await an appropriate forum consistent with applicable law and perhaps the demands of due process.

CONCLUSION

Jurisdiction and liability are of course two distinct considerations. Whatever the arrangement is between the two banks where the alleged wrongdoer continues to exist as a going concern, the non-culpable purchaser of assets and liabilities does not fall within the court's jurisdiction merely by virtue of that transaction. Because plaintiffs do not allege SGBL and LCB executed a merger, SGBL did not inherit LCB's jurisdictional status in this forum and so the Court does not have jurisdiction over defendant under Rule 12(b)(2). Accordingly, defendant's motion to dismiss is granted and plaintiffs' complaint is dismissed.

SO ORDERED.

Dated: March 31, 2021
Brooklyn, NY

/s/ Raymond J. Dearie
Raymond J. Dearie
United States District Judge

APPENDIX E — ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT, FILED OCTOBER 16, 2025

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

Docket No: 21-975

ESTER LELCHOOK, AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DAVID MARTIN LELCHOOK, MICHAEL LELCHOOK, YAEL LELCHOOK, ALEXANDER LELCHOOK, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DORIS LELCHOOK, MALKA KUMER, CHANA LIBA KUMER, MIRIAM ALMACKIES, CHAIM KAPLAN, RIVKA KAPLAN, BRIAN ERDSTEIN, KARENE ERDSTEIN, MA'AYAN ERDSTEIN, CHAYIM KUMER, NECHAMA KUMER, LAURIE RAPPEPPORT, MARGALIT RAPPEPORT, THEODORE (TED) GREENBERG, MOREEN GREENBERG, JARED SAUTER, DVORA CHANA KASZEMACHER, CHAYA KASZEMACHER ALKAREIF, AVISHAI REUVANE, ELISHEVA ARON, YAIR MOR, MIKIMI STEINBERG,

Plaintiffs-Appellants,

v.

Appendix E

SOCIETE GENERALE DE BANQUE
AU LIBAN SAL,

Defendants-Appellees.

Filed October 16, 2025

ORDER

Appellees Societe Generale De Banque Au Liban Sal, filed a petition for panel rehearing, or, in the alternative, for rehearing en banc. The panel that determined the appeal has considered the request for panel rehearing, and the active members of the Court have considered the request for rehearing en banc.

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

s/ Catherine O'Hagan Wolfe

APPENDIX F — ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT, FILED NOVEMBER 10, 2025

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket No. 21-975

ESTER LELCHOOK, *et al.*,

Plaintiffs-Appellants,

v.

SOCIÉTÉ GÉNÉRALE DE BANQUE
AU LIBAN S.A.L.,

Defendant-Appellee.

Filed November 10, 2025

ORDER

Before: Reena Raggi,
Richard C. Wesley,
Susan L. Carney,
Circuit Judges.

Appellee moves to stay the issuance of the mandate.

IT IS HEREBY ORDERED that the motion is DENIED.

For the Court:

Catherine O'Hagan Wolfe,
Clerk of Court

s/ Catherine O'Hagan Wolfe

APPENDIX G — JUDGMENT OF THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT, FILED NOVEMBER 11, 2025

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket No. 21-975

ESTER LELCHOOK, AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DAVID MARTIN LELCHOOK, MICHAL LELCHOOK, YAEL LELCHOOK, ALEXANDER LELCHOOK, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DORIS LELCHOOK, MALKA KUMER, CHANA LIBA KUMER, MIRIAM ALMACKIES, CHAIM KAPLAN, RIVKA KAPLAN, BRIAN ERDSTEIN, KARENE ERDSTEIN, MA'AYAN ERDSTEIN, CHAYIM KUMER, NECHAMA KUMER, LAURIE RAPPEPORT, MARGALIT RAPPEPORT, THEODORE (TED) GREENBERG, MOREEN GREENBERG, JARED SAUTER, DVORA CHANA KASZEMACHER, CHAYA KASZEMACHER ALKAREIF, AVISHAI REUVANE, ELISHEVA ARON, YAIR MOR, MIKIMI STEINBERG,

Plaintiffs-Appellants,

v.

Appendix G

SOCIÉTÉ GÉNÉRALE DE BANQUE
AU LIBAN SAL,

Defendants-Appellees.

Filed November 10, 2025

JUDGMENT

The appeal in the above captioned case from a judgment of the United States District Court for the Eastern District of New York was argued on the district court's record and the parties' briefs.

IT IS HEREBY ORDERED, ADJUDGED and DECREED that the order of the district court dismissing this action is VACATED and the case is REMANDED for further proceedings consistent with this Court's decision.

For the Court:

Catherine O'Hagan Wolfe,
Clerk of Court

s/ Catherine O'Hagan Wolfe