

Mazzarelli, J.P., Sweeny, Renwick, Freedman, Román, JJ.

2529 Christopher I. Georgakis, Index 650322/08
Plaintiff-Respondent,

-against-

Excel Maritime Carriers Ltd.,
Defendant-Appellant,

NYSE Euronext,
Amicus Curiae.

Friedman Kaplan Seiler & Adelman LLP, New York (Edward A. Friedman of counsel), for appellant.

Brown Gavalas & Fromm LLP, New York (Peter Skoufalos of counsel), for respondent.

Milbank, Tweed, Hadley & McCloy, LLP, New York (Douglas W. Henkin of counsel), for amicus curiae.

Order, Supreme Court, New York County (Richard B. Lowe III, J.), entered October 28, 2009, which denied defendant's motion to dismiss the complaint for lack of personal jurisdiction or on the ground of forum non conveniens, unanimously reversed, on the law, with costs, and the motion granted. The Clerk is directed to enter judgment dismissing the complaint.

Even assuming that defendant transacted business in New York, CPLR 302(a)(1) does not authorize the courts to exercise jurisdiction over it, because there is no relationship between defendant's transaction of business and plaintiff's claims

against defendant (see *Kreutter v McFadden Oil Corp.*, 71 NY2d 460, 467 [1988]; *Holness v Maritime Overseas Corp.*, 251 AD2d 220, 224 [1998]).

In any event, we find that New York is not a convenient forum for this litigation between a foreign corporation and its former CEO, in which both parties are residents of Greece, which arose from conduct occurring principally in Greece, and in which the bulk of the witnesses and evidence needed by defendant to defend the action are located in Greece (see *Gonzalez v Victoria Lebensversicherung AG*, 304 AD2d 427 [2003], *lv denied* 1 NY3d 506 [2004]; *Holness v Maritime Overseas Corp.*, 251 AD2d 220, 224 [1998]; *Blueye Nav. v Den Norske Bank*, 239 AD2d 192 [1997]).

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: APRIL 13, 2010



CLERK