

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

THE GOVERNMENT OF THE LAO  
PEOPLE’S DEMOCRATIC  
REPUBLIC,

Plaintiff,

v.

JOHN K. BALDWIN; BRIDGE  
CAPITAL, LLC; COLEMAN, LLC;  
and CAMPBELL HOLDINGS, LLC,

Defendants.

Case No.: 2:20-cv-00195-CRK

MEMORANDUM DECISION AND  
ORDER RE: MOTION TO DISMISS  
THIRD AMENDED COMPLAINT

I. INTRODUCTION

Before the Court is defendants John K. Baldwin’s (“Baldwin”) and Bridge Capital, LLC’s (“Bridge-CNMI”) (“Defendants”) motion to dismiss Count I of the plaintiff the Government of the Lao People’s Democratic Republic’s (“Lao PDR”) third amended complaint. [Defs.’] Mot. to Dismiss Third Am. Compl. for Lack of Personal Juris. or Improper Venue, Aug. 5, 2021, ECF No. 121 (“Def. Mot.”); see Memo. Supp. [Def. Mot.], Aug. 5, 2021, ECF No. 121-1 (“Def. Br.”); Third Am. Compl. to Enforce Foreign Arbitration Awards, July 16, 2021, ECF No. 108 (“TAC”). Defendants contend that Count I of Lao PDR’s TAC, asking the Court to find alter ego liability and enforce two foreign arbitral awards against Defendants, fails to allege sufficient facts to support a finding that this Court may exercise general, specific, or quasi in rem jurisdiction over Defendants. Def. Br. at 2–25. Alternatively, Defendants argue

that Count I of the TAC should be dismissed for improper venue. Id. at 25. Lao PDR opposes the motion, arguing that Defendants’ use of Idaho bank accounts, in connection with the two arbitrations leading to the awards Lao PDR seeks to enforce, is sufficient for the Court to exercise jurisdiction. Pl.’s Opp’n to [Def. Mot.] at 7–13, Aug. 31, 2021, ECF No. 125 (“Pl. Opp.”). Lao PDR also contends that Defendants own property in Idaho sufficient to establish quasi in rem jurisdiction. Id. at 17–24. Finally, Lao PDR asserts that the Court should exercise pendent jurisdiction over Count I of the TAC because the Court has jurisdiction over Defendants for Count III of the TAC. Id. at 15–17.

In reply, Defendants argue that Defendants’ contacts with Idaho are “random, fortuitous, or attenuated” and are not sufficiently related to Lao PDR’s claims because the alleged contacts at most relate to conduct underlying the arbitrations, not to the arbitrations themselves. Reply Supp. [Def. Mot.] at 1–5, Sept. 15, 2021, ECF No. 126 (“Def. Reply”). Defendants further contend that exercising jurisdiction would be unreasonable. Id. at 5–6. Defendants assert that the Court does not have quasi in rem jurisdiction because Lao PDR has not established that Defendants own any property in Idaho and Lao PDR does not have a judgment against either of the Defendants. Id. at 6–11. Finally, Defendants argue that the Court should decline to exercise pendent jurisdiction because there is no connection between Counts I and III and, even if there were, Count III is “secondary” to Count I. Id. at 12–13. The parties filed supplemental briefs elaborating their respective positions regarding purposeful availment in light of documents produced in jurisdictional discovery. Pl.’s Suppl. Opp’n [Def. Mot.], June 30, 2022, ECF No. 157 (“Pl. Suppl. Br.”); Suppl. Reply Supp.

[Def. Mot.], July 28, 2022, ECF No. 161 (“Def. Suppl. Br.”). For the following reasons, Defendants’ Motion is granted and Count I of the TAC is dismissed.

## II. BACKGROUND<sup>1</sup>

The present motion to dismiss the TAC is Defendants’ fifth motion to dismiss. See Def. Mot. Plaintiff answered each previous motion with a motion to amend the complaint. See Mots. Dismiss, ECF Nos. 21, 34, 56, 57, 121; Mots. Amend, ECF Nos. 26, 45, 59, 141. The Court denied Lao PDR’s most recent motion to amend its complaint on the grounds that the proposed amendment was futile and prejudicial. Gov’t of the Lao People’s Dem. Repub. v. Baldwin, Case No. 2:20-cv-00195-CRK, 2022 WL 2047825, at \*16–17 (D. Idaho June 7, 2022) (“Baldwin”). The extensive factual and procedural background to this case is set forth at length in the Court’s decision denying Lao PDR’s fourth motion to amend its complaint, see generally id. at \*2–5, the Court now only briefly summarizes the factual and procedural history relevant to its decision on the motion to dismiss Count I of the TAC.

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<sup>1</sup> The facts taken from the TAC and set forth in the Background section are assumed to be true for the purposes of this motion. However, the record before the Court is not solely comprised of the TAC. Defendants attached a declaration by Clay Crawford, Decl. Clay Crawford, dated Aug. 4, 2021, ECF No. 121-2, to their motion to dismiss and both parties filed supplemental briefs containing additional written materials which the Court also considers in deciding the present motion to dismiss. Pl. Opp.; Decl. David J. Branson, dated June 30, 2022, ECF No. 157-1; Def. Suppl. Br.; Decl. [Baldwin], dated July 28, 2022, ECF No. 161-1 (“Baldwin Decl.”); Def. Suppl. Br., Ex. A, July 28, 2022, ECF No. 161-2; see LNS Enterprises LLC v. Cont’l Motors, Inc., 22 F.4th 852, 858 (9<sup>th</sup> Cir. 2022) (in deciding a motion to dismiss for lack of personal jurisdiction based solely on written materials, the court considered uncontroverted facts contained in a declaration and an affidavit attached to the defendants’ motions to dismiss); Omeluk v. Langsten Slip & Batbyggeri A/S, 52 F.3d 267, 268 (9<sup>th</sup> Cir. 1995) (construing a motion for summary judgment as a motion to dismiss for lack of personal jurisdiction under Federal Rule of Civil Procedure 12(b)(2) and considered “declarations, deposition testimony and other evidence.”)

In 2007, Lao PDR agreed to jointly construct and operate several gambling venues in Laos with non-parties Sanum Investments Ltd. (“Sanum”), a Macau limited company, and ST Group, a Laotian entity. TAC ¶¶ 4, 11, 78–79. Bridge-CNMI loaned Sanum funds to build the Savan Vegas casino (“Savan Vegas”), one of the gambling venues Lao PDR, Sanum, and ST Group agreed to jointly operate. *Id.* ¶¶ 4, 11, 78–79, 158. After several years of operating Savan Vegas, Lao PDR initiated an audit of Savan Vegas’ books; however, the audit was abruptly discontinued. *Id.* ¶¶ 80, 114, 168.

In or around 2012, Baldwin directed an officer of Bridge-CNMI to form Lao Holdings, N.V. (“LHNV”) in Aruba. *Id.* ¶ 12. LHNV is a holding company owning 100% of Sanum. *Id.* Sanum and LHNV each commenced bilateral investment treaty arbitrations against Lao PDR, alleging unfair treatment inconsistent with Lao PDR’s treaty obligations.<sup>2</sup> *Id.* ¶¶ 82–91. The parties to the arbitrations initially settled their claims in 2014; however, both sides commenced new arbitrations alleging various breaches of the settlement agreement. *Id.* ¶¶ 93–106. After two separate arbitral tribunals found the settlement agreement had been breached, the tribunals permitted Sanum and LHNV to re-assert their claims against Lao PDR. *Id.* ¶ 105. The tribunals heard Sanum and LHNV’s claims together, and, in August 2019, each

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<sup>2</sup> The TAC alleges that Baldwin initiated the bilateral investment treaty arbitrations. TAC ¶¶ 84, 86. The arbitral awards that Lao PDR seeks enforcement of identify the Claimants as LHNV and Sanum. *Id.*, Ex. C at 3, ¶ 3; Ex. D at 7, ¶ 3 (Exhibits C and D are referred to collectively as the “Awards”). The TAC uses Baldwin, Sanum, and LHNV interchangeably when describing the initiation of the bilateral investment treaty arbitrations and to attribute conduct throughout the arbitral proceedings. *See, e.g.*, TAC ¶¶ 82–98, 105–123.

tribunal issued an award finding Lao PDR had not breached its investment treaty obligations, awarding Lao PDR certain costs, fees, and expenses related to defending itself in the arbitrations. Id. ¶¶ 107–112; Awards. The two awards totaled \$3,727,358.98. TAC ¶ 120.

Lao PDR commenced this enforcement action in April 2020, initially asserting one count for enforcement of the Awards against Baldwin and a Nevada entity also named Bridge Capital, LLC. See Compl. to Enforce Arbitral Awards, Apr. 21, 2020, ECF No. 1 (“Initial Compl.”). Lao PDR subsequently amended its complaint three times, naming the correct Bridge entity, adding two other parties, Coleman, LLC (“Coleman”) and Campbell Holdings, LLC (“Campbell”), and asserting two additional claims for alleged voidable transactions. See Am. Compl. to Enforce Foreign Arbitration Awards, Aug. 31, 2020, ECF No. 26 (“FAC”); Second Am. Compl. to Enforce Arbitration Awards, Mar. 19, 2021, ECF No. 52 (“SAC”); TAC. These amendments were in response to four separate motions to dismiss. See Mots. Dismiss, ECF Nos. 21, 34, 56, 57. After Lao PDR filed the TAC, Baldwin and Bridge-CNMI filed the present motion to dismiss Count I, and Coleman and Campbell filed an answer. See TAC; Def. Mot.; [Coleman] and [Campbell]’s Ans. to [TAC], Aug. 5, 2021, ECF No. 122.

Along with its opposition to the present motion, Lao PDR filed a motion for jurisdictional discovery. Pl.’s Mot. for Jurisdictional Disc., Aug. 5, 2021, ECF No. 120. The Court granted in part and denied in part the motion for jurisdictional discovery, ordering limited discovery into Defendants’ banking activities in Idaho related to the arbitrations and the conduct underlying the arbitrations, and ordering the parties to

submit a proposed briefing schedule for any supplemental briefing necessitated by discovery. Gov't of the Lao People's Dem. Repub. v. Baldwin, Case No. 2:20-cv-00195-CRK, 2021 WL 5435114, at \*1, 9 (D. Idaho Nov. 19, 2021) (“Juris. Disc. Order”). After obtaining the ordered discovery, Lao PDR again moved to amend its complaint to add Sanum and LHNV as additional defendants. Pl.’s Fourth Mot. to Amend Compl., Mar. 14, 2022, ECF No. 141. The Court denied Lao PDR’s fourth motion to amend as futile and prejudicial and again ordered the parties to submit a briefing schedule for any supplemental briefing necessitated discovery. Baldwin, 2022 WL 2047825 at \*16–17.

### III. STANDARD OF REVIEW

On a motion to dismiss for lack of personal jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(2), the party asserting jurisdiction bears the burden of establishing that the court has jurisdiction over the parties moving to dismiss. Schwarzenegger v. Fred Martin Motor Co., 374 F.3d 797, 800 (9<sup>th</sup> Cir. 2004). Where, as here, the motion to dismiss is based on written materials rather than an evidentiary hearing, the party asserting jurisdiction must only make a prima facie showing of personal jurisdiction. Sher v. Johnson, 911 F.2d 1357, 1361 (9<sup>th</sup> Cir. 1990). The Court is free to consider affidavits, declarations, and other materials attached to the complaint, motion to dismiss, and briefs, uncontroverted allegations must be accepted as true, and conflicts between party affidavits must be resolved in the non-moving party’s favor. LNS Enterprises, 22 F.4th at 858; Schwarzenegger, 374 F.3d at 800; Omeluk, 52 F.3d at 268.

The Due Process Clause of the Fourteenth Amendment of the United States Constitution limits the Court’s power to exercise personal jurisdiction over a nonresident defendant.<sup>3</sup> See Sher, 911 F.2d at 1360–61. The Due Process Clause prevents the Court from asserting jurisdiction over a nonresident defendant unless the nonresident defendant has “certain minimum contacts with [the forum] such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice.” Int’l Shoe Co. v. State of Wash., Off. of Unemployment Comp. & Placement, 326 U.S. 310, 316 (1945) (internal quotation marks omitted). Furthermore, the nonresident’s “conduct and connection with the forum State’ must be such that the defendant ‘should reasonably anticipate being haled into court there.’” Sher, 911 F.2d at 1361 (quoting World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 297 (1980)).

#### IV. DISCUSSION

Lao PDR asserts four different theories as to why the Court could exercise jurisdiction over both Baldwin and Bridge-CNMI. Each of these theories fail. Lao PDR falls short of the extraordinary showing of systematic and continuous contacts that would permit the Court to exercise general jurisdiction over either Baldwin or Bridge-CNMI. Lao PDR’s quasi in rem jurisdictional theory fails because Lao PDR does not have a judgment against either Baldwin or Bridge-CNMI. The Court

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<sup>3</sup> Idaho’s long-arm statute confers jurisdiction beyond the limits of the Due Process Clause; therefore, the Court need only analyze whether the exercise of jurisdiction in this case comports with the Due Process Clause. See Cornelius v. DeLuca, 709 F. Supp. 2d 1003, 1010, 1010 n.3 (D. Idaho 2010); see also Smalley v. Kaiser, 130 Idaho 909, 912–14 (1997); Saint Alphonsus Regional Medical Center v. State of Wash., 123 Idaho 739, 743–45 (1993).

declines to exercise pendent jurisdiction over Defendants because Lao PDR's voidable transfer claims are at most secondary and dependent on Lao PDR's enforcement claim. The Court concludes exercising pendent jurisdiction based on a secondary and dependent claim would be unfair to Defendants. Lao PDR's allegations relating to the Court's purported specific jurisdiction over Defendants are insufficient. Neither Defendants' individual activity amounts to purposeful availment of conducting activities in Idaho, and Baldwin's attenuated contacts with Idaho are not sufficiently related to Lao PDR's claims. Moreover, it would be unreasonable to exercise specific jurisdiction over Defendants, because the underlying dispute between Lao PDR, and Sanum and LHNV has minimal connection to Idaho. Thus, the Court grants Defendants' motion.

#### **A. General Jurisdiction**

The Court does not have general jurisdiction over Baldwin or Bridge-CNMI. General jurisdiction over an individual or entity is limited to his or its domicile,<sup>4</sup> and, in extraordinary circumstances, another jurisdiction where his or its contacts are so systematic and continuous as to render him or it essentially at home. Daimler AG v. Bauman, 571 U.S. 117, 137–39 (2014).

Here, Plaintiff does not contest Baldwin's assertion that he is a domiciliary of the Commonwealth of the Northern Mariana Islands ("CNMI"). See Def. Br. at 9; Pl. Opp.; Pl. Suppl. Br. Thus, for the Court to exercise general jurisdiction over Baldwin, Lao PDR bears the burden of making a prima facie showing of extraordinary

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<sup>4</sup> An entity's domicile is usually its place of incorporation or principal place of business. Daimler AG v. Bauman, 571 U.S. 117, 137–39 (2014).



systematic and continuous contact with Idaho rendering Baldwin essentially at home. The contacts that Lao PDR identifies between Baldwin and Idaho are: a bank account in Idaho, bank transfers to or from Idaho using a bank account in Baldwin's name, visiting Idaho on vacation, formerly owning real property in Idaho, owning shares in Campbell, participating in various companies' activities in Idaho pursuant to his responsibilities as a corporate officer of those companies, and allegedly attempting, from Idaho, to negotiate a contract to sell Savan Vegas in 2014. These contacts do not render Baldwin essentially at home in Idaho, a conclusion Lao PDR minimally opposes. See Pl. Opp. at 25 (defending its allegation of general jurisdiction solely on the ground that "jurisdictional discovery may well show that this is an 'exceptional case'").

Likewise, it is uncontroverted that Bridge-CNMI is incorporated in CNMI and its principal place of business is in CNMI. See TAC ¶ 8; Def. Br. at 24. Thus, Lao PDR bears the burden of demonstrating that Bridge-CNMI's contacts with Idaho are so systematic and continuous as to render it essentially at home in Idaho. See Daimler, 571 U.S. at 137–39. Lao PDR did not attempt to make such a showing. See Pl. Opp. at 24–25. Bridge-CNMI, on the other hand, presented evidence that its activities in Idaho amounted to less than one percent of its global business. See Decl. of Clay Crawford, ¶¶ 7–8, Aug. 4, 2021, ECF No. 121-2. Companies cannot be at home in every jurisdiction in which they have operations. See Daimler, 571 U.S. at 139, 139 n.20 ("general jurisdiction . . . calls for an appraisal of a corporation's activities in their entirety, nationwide and worldwide. A corporation that operates in many places can scarcely be deemed at home in all of them").

In its opposition, Lao PDR claims that additional discovery might lead to additional facts supporting general jurisdiction, an assertion which essentially concedes Lao PDR has not alleged sufficient facts. See Pl. Opp. at 25. The Court rejected Lao PDR's prior attempt to conduct such a fishing expedition to find facts supporting general jurisdiction.<sup>5</sup> Juris. Disc. Order, 2021 WL 5435114 at \*1, \*1 n.1, \*9. Although Lao PDR makes a cursory defense of its general jurisdiction theory in its brief, it makes no serious claim that either of the Defendants is essentially at home in Idaho. See Pl. Opp. at 24–25; see generally Pl. Suppl. Br. Neither of the Defendants is subject to general jurisdiction.

**B. Quasi in rem Jurisdiction**

Quasi in rem jurisdiction does not exist over Defendants' intangible property in Idaho. To establish quasi in rem jurisdiction, a plaintiff must demonstrate (1) the defendant owns property in the forum; (2) the plaintiff has a judgment that it seeks to enforce against such property; and (3) a court of competent jurisdiction has determined that the defendant is the plaintiff's debtor. See Shaffer v. Heitner, 433 U.S. 186, 199 n.17, 210, 210 n.36 (1977). Leaving aside the parties' disputes over whether intangible property can serve as the basis for quasi in rem jurisdiction and whether Baldwin's intangible property, i.e., "Baldwin's interest in Idaho companies and Bridge-CNMI's deeds of trust securing loans to companies and residents," Def. Br. at 3; see also TAC ¶¶ 71–72, should be considered property in Idaho for the

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<sup>5</sup> The Court did permit Lao PDR to conduct limited jurisdictional discovery related to Lao PDR's assertions that Defendants are subject to specific jurisdiction, but the Court denied Lao PDR's request to conduct discovery in support of its theory of general jurisdiction. Juris. Disc. Order.

purposes of quasi in rem jurisdiction, Def. Br. at 3–7; Pl. Opp. at 17–19, Lao PDR does not have a judgment against Baldwin or Bridge-CNMI, and Lao PDR has not demonstrated that a court of competent jurisdiction has determined that Baldwin or Bridge-CNMI is Lao PDR’s debtor. See Awards. Instead, Lao PDR alleges it has arbitral awards against Sanum and LHNV. TAC ¶¶ 120–22. Lao PDR does not allege that any court has ever held that Baldwin or Bridge-CNMI is Lao PDR’s debtor or that Baldwin or Bridge-CNMI is Sanum’s or LHNV’s alter ego.<sup>6</sup> See generally TAC. As discussed in the Court’s decision granting in part and denying in part Lao PDR’s motion for jurisdictional discovery, the Court cannot conduct an alter ego analysis prior to establishing jurisdiction over at least one of the alleged alter egos.<sup>7</sup> Juris. Disc. Order, 2021 WL 5435114 at \*8–9. Therefore, the Court cannot exercise quasi in rem jurisdiction over any of Defendants’ alleged Idaho property.

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<sup>6</sup> Lao PDR relies on the arbitral tribunals’ statements that “Mr. Baldwin is the directing mind of both Claimant companies. His conduct throughout was to advance their corporate interests. His bad faith conduct is their conduct.” TAC ¶ 125. However, this statement does not amount to the tribunals holding Baldwin liable for the Awards, as the tribunals specifically state that Baldwin’s actions were “to advance [Sanum’s and LHNV’s] corporate interests.” Id. Rather, the statements appear to support an inference that Sanum and LHNV had corporate interests independent of Baldwin.

<sup>7</sup> Lao PDR contends that Baldwin is estopped from arguing that he is not the alter ego of LHNV. Pl. Opp. at 22. This contention is incorrect. To be judicially estopped from taking a litigating position, a party must have taken a “clearly inconsistent” position in a prior proceeding. Tri-State Elec., Inc. v. W. Sur. Co., No. 1:14-CV-00245, 2017 WL 123426, at \*7 (D. Idaho Jan. 11, 2017) (quoting In re Hoopai, 581 F.3d 1090, 1097 (9<sup>th</sup> Cir. 2009)). Lao PDR asserts that during the arbitration, LHNV’s attorneys argued Lao PDR could “try” to enforce any award against Baldwin if LHNV did not pay. Pl. Opp. at 22. It was LHNV, not Baldwin, that took that position. Further, the assertion that Lao PDR could “try” to enforce an award against Baldwin is consistent with Baldwin’s current position that the award is not enforceable against him personally. Therefore, Baldwin is not estopped from arguing he is not the alter ego of LHNV.

### C. Pendent Jurisdiction

The Court declines to exercise pendent jurisdiction over Count I of the TAC. “[A] court may assert pendent personal jurisdiction over a defendant with respect to a claim for which there is no independent basis of personal jurisdiction so long as it arises out of a common nucleus of operative facts with a claim in the same suit over which the court does have personal jurisdiction.” Action Embroidery Corp. v. Atl. Embroidery, Inc., 368 F.3d 1174, 1180 (9<sup>th</sup> Cir. 2004). Moreover, “the actual exercise of personal pendent jurisdiction in a particular case is within the discretion of the district court. The district court may have discretion to dismiss the pendent claims where considerations of judicial economy, convenience and fairness to litigants so dictate.” Id. at 1181 (internal citations and quotation marks omitted). Thus, a court may exercise pendent personal jurisdiction over a defendant if the two claims share a common nucleus of operative fact, but whether to exercise pendent personal jurisdiction is within the court’s discretion.

Lao PDR contends the Court should exercise pendent jurisdiction over Count I because the Court has uncontested jurisdiction over Count III. Pl. Opp. at 15–16. Count III is a voidable transfer claim relating to a real estate transaction between Baldwin and Coleman and bank transfers made by Baldwin and Bridge-CNMI. TAC ¶¶ 269–83. In Count III, Lao PDR asserts Baldwin and Bridge-CNMI fraudulently transferred their Idaho property either to other entities or out of state in order to avoid paying an eventual judgment as to Count I. TAC ¶¶ 278–82. Thus, Counts I and III do not share a common nucleus of operative fact because Count I arises from the conduct of the arbitrations and Count III arises from transfers of assets. Under

these circumstances, the Court declines to exercise pendent jurisdiction based on Count III.

#### **D. Specific Jurisdiction**

Where a defendant's activities are not pervasive enough to subject him to general jurisdiction, the Court evaluates "the nature and quality of the defendant's contacts in relation to the cause of action" to determine if the Court has specific jurisdiction over the defendant. Data Disc, Inc. v. Sys. Tech. Assocs., Inc., 557 F.2d 1280, 1287 (9<sup>th</sup> Cir. 1977). Here, the Court determines it lacks specific jurisdiction over Defendants. The contacts Lao PDR identifies between Baldwin and Idaho are both too attenuated to constitute personal availment and too tangential to arise out of or relate to Lao PDR's claim. Lao PDR fails to establish a prima facie case for specific jurisdiction over Bridge-CNMI because the identified contacts between Bridge-CNMI and Idaho do not constitute purposeful availment. Finally, exercising specific jurisdiction over Defendants would be unreasonable.

##### **1. Legal Framework**

The Ninth Circuit Court of Appeals ("Ninth Circuit") applies a three-part test to determine whether the Court may exercise specific jurisdiction over a defendant:

(1) the nonresident defendant must purposefully direct his activities or consummate some transaction with the forum or residents thereof; or perform some act by which he purposefully avails himself of the privilege of conducting activities in the forum, thereby invoking the benefits and protections of its laws;

(2) the claim must be one which arises out of or relates to the defendant's forum-related activities; and

(3) the exercise of jurisdiction must comport with fair play and substantial justice, i.e. it must be reasonable.

Lake v. Lake, 817 F.2d 1416, 1421 (9<sup>th</sup> Cir. 1987); see also Glencore Grain Rotterdam B.V. v. Shivnath Rai Harnarain Co., 284 F.3d 1114, 1123 (9<sup>th</sup> Cir. 2002). The plaintiff bears the burden of satisfying the first two prongs of the test, and if the plaintiff meets that burden, the burden shifts to the defendant to “present a compelling case that the presence of some other considerations would render jurisdiction unreasonable.” Sher, 911 F.2d at 1364 (quoting Burger King Corp. v. Rudzewicz, 471 U.S. 462, 477 (1985)) (internal quotation marks omitted).

Due Process requires that a defendant “purposefully direct[ ] his activities at residents of the forum, and the litigation results from alleged injuries that ‘arise out of or relate to’ those activities.” Burger King, 471 U.S. at 472 (internal citations omitted). In contract cases, a defendant must “reach out beyond one state and create continuing relationships and obligations with citizens of another state” to be subject to personal jurisdiction. Id. at 473 (quoting Travelers Health Ass’n v. Virginia, 339 U.S. 643, 647 (1950)) (internal quotation marks omitted). The Court of Appeals for the Ninth Circuit requires that a defendant “purposefully avail[ ] himself of the privileges of conducting activities in the forum.” Glencore Grain, 284 F.3d at 1123. “In order to have purposefully availed oneself of conducting activities in the forum, the defendant must have performed some type of affirmative conduct which allows or promotes the transaction of business within the forum state.” Sinatra v. Nat’l Enquirer, Inc., 854 F.2d 1191, 1195 (9<sup>th</sup> Cir. 1988). A defendant will not be found to have purposefully availed itself of the protections of the forum based solely on “random, fortuitous, or attenuated contacts, or of the unilateral activity of another party or third person.” Burger King, 471 U.S. at 475 (internal citations and quotation

marks omitted). Instead, the Court looks to whether there is a “substantial connection” with the forum state. McGee v. Int’l Life Ins. Co., 355 U.S. 220, 223 (1957); see also Kulko v. Cal. Super. Ct. in and for City & Cnty. of S.F., 436 U.S. 84, 94 n.7 (1978).

Purposeful availment must be based on intentional acts of the defendant, but intentional acts alone are not enough to establish jurisdiction. Burger King, 471 U.S. at 478–79. Although a contract with a forum resident is an intentional act, it is insufficient by itself to establish jurisdiction; the Court must analyze the consequences of the defendant’s intentional acts as well as the relationship between the defendant and the forum. Id.; see also Walden v. Fiore, 571 U.S. 277, 283–86 (2014). Where a contract with a resident of the forum is the basis for the alleged jurisdiction, the Court must evaluate “prior negotiations and contemplated future consequences, along with the terms of the contract and the parties’ actual course of dealing.” Burger King, 471 U.S. at 479.

A plaintiff also needs to show that its claims “arise out of or relate to the defendant’s contacts with the forum.” Bristol-Myers Squibb Co. v. Super. Ct. of Cal., S.F. Cnty., 137 S. Ct. 1773, 1780 (2017) (quoting Daimler, 571 U.S. at 127); see also Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct., 141 S. Ct. 1017, 1025 (2021). The Ninth Circuit has adopted a “but for” test to determine whether the plaintiff’s claim arises out of a defendant’s contact with the forum. Shute v. Carnival Cruise Lines, 897 F.2d 377, 385 (9<sup>th</sup> Cir. 1990), rev’d on other grounds, 499 U.S. 585 (1991). As explained in W. States Wholesale Nat. Gas Antitrust Litig., “[u]nder the ‘but for’ test, ‘a lawsuit arises out of a defendant’s contacts with the forum state if a direct nexus

exists between those contacts and the cause of action.” 715 F.3d 716, 742 (9<sup>th</sup> Cir. 2013) (quoting Fireman’s Fund Ins. Co. v. Nat’l Bank of Coops., 103 F.3d 888, 894 (9<sup>th</sup> Cir. 1996)); see also Glencore Grain, 284 F.3d at 1123–24 (plaintiff “must show that it would not have been injured ‘but for’ [the defendant’s] contacts with California”). A defendant’s forum activities can also be “related to” the plaintiff’s claims, which does not require a strict causal connection. See LNS Enterprises, 22 F.4th at 861–62, 864 (citing Ford, 141 S. Ct. at 1025–27). Conversely, a court lacks specific jurisdiction where the connection between the forum state and the defendant’s contacts is unrelated to the plaintiff’s claim. See Ford Motor Co., 141 S. Ct. at 1026.

If the plaintiff meets its burden under the first two prongs, the burden shifts to the defendant to make a compelling showing that exercising jurisdiction over the defendant would not be reasonable. See Burger King, 471 U.S. at 477; see also Shute, 897 F.2d at 385 (stating that if the connection between a potential defendant’s forum-related activities and the claim is too attenuated, the exercise of jurisdiction over the potential defendant would be unreasonable). The Court’s evaluation of reasonableness requires weighing the burden on the defendant to litigate in the forum against other relevant factors. See Burger King, 471 U.S. at 476–77. The Ninth Circuit evaluates seven factors to determine if the exercise of jurisdiction is reasonable:

- (1) the extent of a defendant's purposeful interjection into the forum state's affairs;
- (2) the burden on the defendant of defending in the forum;
- (3) the extent of conflict with the sovereignty of the defendant's home state;
- (4) the forum state's interest in adjudicating the dispute;
- (5) the most efficient judicial resolution of the controversy;
- (6) the importance of the forum to the plaintiff's interests in convenient and effective relief; and
- (7) the existence of an alternative forum.



Glencore Grain, 284 F.3d 1114, 1125 (quoting Myers v. Bennett L. Offs., 238 F.3d 1068, 1075 (9<sup>th</sup> Cir. 2001)).

## 2. Baldwin

Lao PDR's allegations are insufficient to support specific jurisdiction over Baldwin. Baldwin's contacts with Idaho are too attenuated to constitute purposeful availment, and the few of Baldwin's contacts that do have some connection to the underlying dispute are too tangential for Lao PDR's claim to be said to arise out of or be related to those contacts. Moreover, it would not be reasonable to exercise jurisdiction over Baldwin in these circumstances.

Lao PDR alleges that the Court may exercise specific jurisdiction over Baldwin based on the following contacts with Idaho. First, Lao PDR alleges that Baldwin maintained a bank account in Idaho and received two transfers from Savan Vegas totaling approximately \$113,000 to that account. Pl. Suppl. Br. at 5. Lao PDR also contends that Baldwin made four transfers totaling approximately \$2.2 million from his personal Idaho account to Bridge-CNMI. Id. Next, Lao PDR asserts that Baldwin participated in "dozens" of bank transactions in Idaho in his various capacities as a corporate officer of numerous companies by directing such transactions. Id. Finally, Lao PDR alleges that Baldwin negotiated an attempted sale of Savan Vegas from Idaho in 2014. Id. at 6. These contacts are not sufficient to demonstrate purposeful availment, and, even if they were, Lao PDR's claims do not arise out of or relate to Baldwin's contacts with Idaho.

As discussed at length in the Court's decision denying Lao PDR's motion for leave to file a fourth amended complaint, the maintenance and use of Idaho bank accounts alone, does not satisfy the Ninth Circuit's test for purposeful availment, absent some showing that the defendant chose the forum for some specified purpose or conducted its day-to-day business via bank accounts. See Baldwin, 2022 WL 2047825, at \*7–11. Here, Lao PDR alleges that Baldwin used his Idaho account to accept purportedly embezzled funds from Savan Vegas and transfer funds to Bridge-CNMI for some unknown purpose related to Lao PDR's disputes with Sanum and LHNV. Pl. Suppl. Br. at 5 (arguing that by disclosing the transactions in response to the Jurisdictional Discovery Order, Defendants "effectively concede" that the transactions are related to the parties' dispute, but not asserting any specific purpose for the transfers). Baldwin's maintenance and use of an Idaho bank account for transactions without an allegation that Baldwin used his Idaho bank account for a specific purpose unique to the Idaho banking system or to conduct his day-to-day business, does not constitute purposeful availment. Baldwin, 2022 WL 2047825, at \*10–11; see also Roth v. Garcia Marquez, 942 F.2d 617, 622 (9<sup>th</sup> Cir. 1991).

The remaining contacts upon which Lao PDR relies are not Baldwin's contacts, but those of third parties. Lao PDR argues that the Court should treat Baldwin's activities, performed in his various capacities as corporate officer for several companies, as Baldwin's individual contacts for the purpose of jurisdiction.<sup>8</sup> Pl.

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<sup>8</sup> Even if the Court considered Baldwin's corporate activities, such as the negotiation for the sale of Savan Vegas, Lao PDR has not provided any theory on how its claims sufficiently relate to, or would not have accrued, but for Baldwin's corporate activities. Baldwin's attempt to negotiate a sale of Savan Vegas, was conducted

Suppl. Br. at 5–6. Lao PDR misconstrues the cases upon which it relies. Although Lao PDR correctly asserts that in some circumstances courts will use an individual’s actions taken as a corporate officer or employee to find personal jurisdiction over that individual, id., those circumstances are not present here. Lao PDR relies on two Ninth Circuit cases to support its position that actions taken by individuals in their capacity as employees can be used to support jurisdiction over them in their capacity as individuals. See id. (citing Global Commodities Trading Grp., Inc. v. Beneficio de Arroz Choloma, S.A., 972 F.3d 1101, 1109 (9<sup>th</sup> Cir. 2020), and Davis v. Metro Prods., Inc., 885 F.2d 515, 520–22 (9<sup>th</sup> Cir. 1989)). Lao PDR contends that in its Jurisdictional Discovery Order, the Court mistakenly relied on Boon Global Ltd. v. United States Dist. Ct. (In re Boon Global, Ltd.), 923 F.3d 643 (9<sup>th</sup> Cir. 2019), for the proposition that only where plaintiffs alleged tortious conduct or the court pierced the

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pursuant to the settlement agreement between Lao PDR, Sanum, and LHNV. Baldwin 2022 WL 2047825 at \*2. Lao PDR’s breach of the settlement agreement served as the basis for the renewed arbitral proceedings, giving rise to the costs at issue in this enforcement action. See TAC ¶¶ 105–06 see generally Baldwin 2022 WL 2047825 at \*2–3, 3 n.5 (detailing the terms of the settlement agreement; Lao PDR’s, Sanum’s, and LHNV’s breaches of the settlement agreement; and additional arbitral proceedings resulting from Sanum’s and LHNV’s breach). Lao PDR fails to relate the negotiation for the sale of Savan Vegas to the claim against it for breaching the settlement agreement. See generally id. There is no allegation that but for that negotiation, the arbitration claims against Lao PDR for its breach of the settlement agreement would not have arisen. Moreover, Baldwin’s negotiations in Idaho, like the defendant in Picot, were incidental to Lao PDR’s claims and “had no special place” in either Baldwin’s or Sanum’s role in the arbitrations. Thus, Baldwin’s negotiations have little connection to Lao PDR’s damages. Baldwin’s alleged directions to issue transfers from accounts belonging to various companies may be sufficiently related to Lao PDR’s claims, particularly to the extent Lao PDR relies on the same transfers it argued in its attempt to add Sanum and LHNV as parties; however, as discussed, communication with Idaho residents does not constitute purposeful availment. See Applied Underwriters, 371 F. Appx. at 835.

corporate veil could corporate actions be imputed to individuals. Pl. Suppl. Br. at 6 n.1 (citing Juris. Disc. Order, 2021 WL 5435114, at \*6 n.7).

However, there is no conflict between the Court's statements in the Jurisdictional Discovery Order, Boon, Global Commodities, and Davis. In Davis, the Ninth Circuit held that individuals' fraudulent activities in violation of securities laws performed under the color of official corporate duties, could be used as a basis for personal jurisdiction over them as individuals. Davis, 885 F.2d at 521–23. Both the Jurisdictional Discovery Order and Boon specifically note that tortious acts, such as fraud, even while acting as an employee, can be used as a basis for jurisdiction over him as an individual.<sup>9</sup> See Juris. Disc. Order, 2021 WL 5435114, at \*6 n.7 (citing Boon for the proposition that “other than alter ego status and individual torts, corporate form generally shields officers from jurisdiction”); Boon, 923 F.3d at 651–52. Thus, Davis does not support Lao PDR's conclusion that a court must always consider an individual's contacts with a forum connected to his duties as an employee. Likewise, in Global Commodities, the plaintiff asserted that the individual defendant personally guaranteed the contract that was allegedly breached, thereby subjecting him to personal jurisdiction by “interject[ing] himself into the transaction” in his individual capacity. Global Commodities, 972 F.3d at 1110. Moreover, the Global

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<sup>9</sup> Although the plaintiff in Davis alleged fraud, the court ultimately found a per se violation of securities laws. Davis, 885 F.2d at 518, 521 n.8, 524. Nonetheless, personal liability for a per se violation of securities laws is akin to tort, where an employee's individual unlawful actions (unlicensed sale of unregistered securities for which personal liability attaches) cause harm to the in-forum plaintiff. Here, Lao PDR's injury comes not from any allegedly unlawful action by Baldwin—or even Sanum or LHNV—but instead from expenses defending against arbitration claims.

Commodities court found personal jurisdiction over the two individual employees based on certain statements made to induce Global to enter a contract. Id. Such statements are analogous to fraud, and the court found that those statements may be the basis for jurisdiction because it was reasonably foreseeable that such actions could cause harm in the forum. Id. Therefore, the issue in Global Commodities is akin to tort, where an individual's actions go beyond mere duties as a corporate officer or employee and instead evidence individual action.

Thus, where a plaintiff asserts a claim sounding in contract, an individual's actions pursuant to his role as an employee of a corporate entity cannot be the basis for exercising jurisdiction over that person in an individual capacity unless the individual inserts himself into the contractual relationship. See id.; Davis, 885 F.2d at 520 (“the corporate form serves as a shield for the individuals involved for purposes of liability as well as jurisdiction”). Where the individual's actions go beyond the scope of his corporate duties or are taken to serve some individual purpose, such as where the individual inserts himself, in his individual capacity, into the dispute, commits a tort or some unlawful action causing harm to a plaintiff, or uses the corporate vehicle as a mere instrumentality to perpetrate fraud or injustice, then an individual's actions can be used as a basis for jurisdiction over the individual. See Global Commodities, 972 F.3d at 1110 (ruling that individuals inserted themselves into dispute by personally guaranteeing the contracts and making misrepresentations to induce the other side to enter into the contracts); Davis, 885 F.2d at 523 (ruling that individuals faced personal liability for violations of securities

laws); Calder v. Jones, 465 U.S. 783, 789–90 (1984) (ruling that tort claim alleging intentional libel was sufficient for jurisdiction over individuals).

Here, Lao PDR does not assert tort claims against Baldwin, allege its damages result from any unlawful action by Baldwin,<sup>10</sup> or allege that Baldwin inserted himself, in his individual capacity, into Lao PDR’s contractual relations with Sanum or LHNV. Nor has a court of competent jurisdiction found that Baldwin is the alter ego of Sanum, LHNV, or any of the other companies for which Baldwin performs corporate duties.<sup>11</sup> Lao PDR seeks enforcement of arbitral awards comprised of sums expended defending the arbitrations, not any underlying tortious or contractual conduct giving rise to liability, which were issued against two non-parties to this action. Lao PDR’s claim is not akin to the claims in Global Commodities, Davis, Calder, or Boon. Therefore, Lao PDR may not use Baldwin’s activities as a corporate

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<sup>10</sup> Lao PDR contends that its defenses to Sanum’s and LHNV’s arbitration claims were based on allegedly fraudulent, bad faith, and/or criminal behavior; however, Lao PDR does not contend that the arbitrations themselves were unlawful or that its damages resulted from the allegedly fraudulent, bad faith, and/or criminal behavior as opposed to defending Sanum’s and LHNV’s claims. Contra Global Commodities, 972 F.3d at 1110 (determining that individuals’ misrepresentations induced plaintiff to enter into a contract with, and supply goods to, defendant company for which defendant company was unable to pay).

<sup>11</sup> Although Lao PDR asserts its claim against Baldwin based on alleged alter ego liability, the Court will not use the allegation of alter ego to exercise jurisdiction over parties where neither of the alleged alter ego has been found to be subject to the Court’s jurisdiction. See Gov’t of Lao People’s Dem. Repub. v. Baldwin, 2021 WL 5435114, at \*9 (D. Idaho 2021); see also Ranza v. Nike, Inc., 793 F.3d 1059, 1073 (9<sup>th</sup> Cir. 2015) (alter ego theory of liability may be used “to extend” jurisdiction over a foreign subsidiary of a local parent).

officer of various companies as a basis for jurisdiction over Baldwin because the identified actions are not his actions, they are Sanum's, LHNV's, or Bridge-CNMI's.<sup>12</sup>

Moreover, even if the Court considered the various activities Baldwin undertook in his role at Sanum, LHNV, and Bridge-CNMI, none of those activities amount to purposeful availment. "While physical entry into the State . . . is certainly a relevant contact, a defendant's transitory presence will support jurisdiction only if it was meaningful enough to create a substantial connection with the forum State." Picot v. Weston, 780 F.3d 1206, 1213 (9<sup>th</sup> Cir. 2015) (internal citations and quotation marks omitted). Baldwin's negotiations to sell Savan Vegas in 2014 are "incidental" to Lao PDR's claim, and "given the limited nature of the transaction at issue" in this dispute, Baldwin's presence in Idaho does not constitute a "substantial connection."<sup>13</sup> See id. at 1213. Thus, Baldwin cannot be said to have purposely availed himself of conducting individual activities in Idaho sufficient for specific jurisdiction based on his activities as an officer or employee of the various companies in which he is involved.

Baldwin's activities in Idaho do not give rise or relate to Lao PDR's claim. The Court previously found that Lao PDR's claim relates to Sanum's use of Idaho bank accounts to pay certain fees related to Sanum's arbitration against Lao PDR because,

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<sup>12</sup> Lao PDR did not argue for jurisdiction over Sanum or LHNV based on Baldwin's activities in Idaho. See Memo. Supp. Pl.'s Fourth Mot. Amend. Compl. at 9–14, Mar. 14, 2022, ECF No. 141-1 (relying solely on forum bank accounts).

<sup>13</sup> The remaining activities Lao PDR relies upon are Baldwin's alleged direction of bank transfers on behalf of various entities. TAC ¶¶ 33–62. Communicating with Idaho banks to direct bank transfers does not constitute purposeful availment. See Applied Underwriters, Inc. v. Combined Mgmt., Inc., 371 F. Appx. 834, 835 (9<sup>th</sup> Cir. 2010); Baldwin, 2022 WL 2047825, at \*10.



“but for” Sanum’s payment of such fees, the arbitration would not have taken place, and Lao PDR would not have any claim for damages. Baldwin, 2022 WL 2047825, at \*12. Here, Lao PDR’s claim cannot be said to have arisen “but for” Baldwin’s activities. Regardless of whether Baldwin received allegedly embezzled funds from Savan Vegas to his Idaho accounts, that activity is not necessary to Lao PDR’s claim. Lao PDR argues that, if Baldwin had not received allegedly embezzled funds, Lao PDR would not have initiated an audit of Savan Vegas’ books, and thus there would have been no dispute. See Pl. Opp. at 1, 9. Lao PDR’s reasoning is flawed. Lao PDR concedes that the audit was cancelled prior to the auditors making any findings. See Id. at 3. Sanum and LHNV cited the audit as one of the reasons they were allegedly treated unfairly by Lao PDR, but the audit was not the only basis for their claims. See TAC ¶¶ 88–91. Thus, Lao PDR’s chain of causation fails—the arbitrations would have occurred regardless of the transfers to Baldwin.

Although the transfers of allegedly embezzled funds “relate to” Lao PDR’s claim tangentially, not all related conduct will satisfy Ford, which imposes “real limits” on what relationships will suffice. See Ford, 141 S. Ct. at 1025–26. Here, the two transfers are so far removed from Lao PDR’s claim for damages that they cannot satisfy the test. Two transfers to an Idaho bank account occurring years prior to Lao PDR’s expenditures for which it seeks reimbursement are not sufficiently related to those expenditures to meet the test. See Picot, 780 F.3d at 1213 (determining that taking two business trips to forum to perform alleged contract at issue were insufficiently related to the dispute); LNS Enterprises, 22 F.4th at 864 (determining



that owning a service center in the forum was an insufficient connection to plaintiffs' claims involving plane crash).

Likewise, Lao PDR's claims did not arise but for Baldwin's transfers to Bridge-CNMI. Lao PDR does not allege precisely what the purpose of these transfers was, only that the transfers must be related to Lao PDR's dispute with Sanum and LHNV because the Defendants produced the records pursuant to the Court's jurisdictional discovery order. See Pl. Suppl. Br. at 5. Even accepting Lao PDR's conclusion that the transfers are somehow related to the arbitrations as true, Lao PDR has not met its burden to show that its claims would not have accrued but for Baldwin's transfers to Bridge-CNMI. There is no indication Lao PDR would not have had to defend the arbitrations had Baldwin's transfers to Bridge-CNMI not taken place, and the connection between these transfers and Lao PDR's claims is too attenuated to satisfy the Ninth Circuit's standard. See Shute, 897 F.2d at 385 (adopting the "but for" test for specific jurisdiction). There is no indication these contacts are anything but "incidental" to Lao PDR's claim to enforce the arbitral awards for its costs. See Picot, 780 F.3d at 1213.

Finally, even if Lao PDR met its burden to establish that Baldwin purposefully availed himself of conducting activities in the forum and those activities were sufficiently related to Lao PDR's claim in this action, it would not be reasonable for the Court to exercise jurisdiction over Baldwin. Of the seven Burger King factors, five weigh against jurisdiction, one is neutral, and one weighs in favor of jurisdiction.

First, Baldwin's purposeful interjection into Idaho is slight. "The degree to which a defendant interjects himself into the state affects the fairness of subjecting

him to jurisdiction,” and it is less reasonable for the court to exercise jurisdiction over a non-resident defendant when the degree of interjection is low. Data Disc, 557 F.2d at 1288. Baldwin’s maintenance of a bank account and bank transfers does not constitute more than minimal interjection into Idaho. See Baldwin, 2022 WL 2047825, at \*10–11. Moreover, Baldwin’s use of the mail and wires to allegedly direct additional bank transfers is less significant than his banking activities. See Roth, 942 F.2d at 622 (determining that “ordinarily use of the mails, telephone, or other international communications simply do not qualify as purposeful activity invoking the benefits and protection of the forum state”). Finally, Baldwin submitted uncontroverted evidence that Baldwin’s contractual negotiations in Idaho, identified by Lao PDR, do not constitute significant interjection into Idaho because the single negotiation did not lead to any contract for sale of Savan Vegas and Baldwin asserts that the negotiation was initiated by the other party taking place while Baldwin was in Idaho for other reasons. See Baldwin Decl. Thus, the first Burger King factor weighs against jurisdiction.

Second, Baldwin would be burdened by defending Lao PDR’s claim in Idaho. Ziegler v. Indian River Cnty., 64 F.3d 470, 475 (9<sup>th</sup> Cir. 1995) (“the law of personal jurisdiction is primarily concerned with the defendant’s burden” (internal quotation marks omitted)). It is uncontroverted that Baldwin is a resident of CNMI, Decl. of [Baldwin] ¶ 7, Sept. 21, 2020, ECF No. 31-1; see Pl. Opp. at 14; Pl. Suppl. Br., which is approximately 6,000 miles from Idaho. Def. Br. at 24. Apart from bank records, Lao PDR does not allege that any of Baldwin’s documentary evidence or witnesses are in Idaho. Thus, the burden on Baldwin would be significant.

The third factor, the extent to which exercising jurisdiction over Baldwin conflicts with the sovereignty of his home state is neutral.

Fourth, Idaho does not have a strong interest in adjudicating Lao PDR's enforcement action against Baldwin. Lao PDR asserts that Idaho has interests in how its banks are used and in enforcing foreign arbitral awards. Pl. Opp. at 14. Although Idaho may have an interest in how its banks are used, Lao PDR's claim seeking the enforcement of an arbitral award does not implicate the any alleged misuse of the Idaho banking system. See Baldwin, 2022 WL 2047825, at \*14. Furthermore, Idaho's interest in enforcing foreign arbitral awards is no different than that of any U.S. jurisdiction. Id. at \*14 n.27. Therefore, Idaho's purported interests do not weigh in favor of exercising jurisdiction over Baldwin.

Fifth, Idaho is not the most efficient forum for Lao PDR's enforcement claim against Baldwin. In determining the most efficient forum, the Court focuses on the location and evidence of the witnesses. Harris Rutsky & Co. Ins. Servs., Inc. v. Bell & Clements Ltd., 328 F.3d 1122, 1133 (9<sup>th</sup> Cir. 2003). Although it is unclear to the Court what evidence or witnesses will be necessary for this enforcement action, Lao PDR alleges nothing about the witnesses or evidence suggesting that Idaho would be more convenient than alternative forums.

Sixth, it is unclear whether this forum can provide convenient and effective relief to Lao PDR. Lao PDR contends that Idaho is convenient because Lao PDR will be able to enforce any judgment against Baldwin's intangible property in Idaho. Pl. Opp. at 15. Baldwin disputes that any of his intangible property is located in Idaho. Def. Br. at 5 n.1. Given the uncertainty, and the fact that litigating in Idaho cannot

be characterized as “convenient” for Lao PDR, which is located more than 7,500 miles away, the sixth factor does not weigh in favor of jurisdiction.<sup>14</sup>

Seventh, the existence of an alternative forum that may have a stronger connection to, and jurisdiction over, Baldwin weighs against exercising jurisdiction over Baldwin. Harris Rutsky, 328 F.3d at 1133–34 (ruling that plaintiff bears the burden of establishing that an alternative forum is unavailable). The District Court for the Northern Mariana Islands is an alternative forum that may have jurisdiction over Baldwin, who asserts he is a domiciliary of CNMI, Def. Br. at 9; see also Decl. of [Baldwin] ¶ 7, Sept. 21, 2020, ECF No. 31-1 (declaring under penalty of perjury that Baldwin is a resident of CNMI), and its decisions are entitled to enforcement in all U.S. courts. See U.S. Const. art. IV, § 1; 28 U.S.C. § 1738 (2018); 48 U.S.C. § 1824 (2018). Thus, the presence of an alternative forum weighs against exercising jurisdiction in this case.

Because five of the seven Burger King factors weigh against exercising jurisdiction, Baldwin has made a compelling showing that exercising jurisdiction would be unreasonable, even if Lao PDR had met its burden to make a prima facie showing that Baldwin purposely availed himself of conducting activities in Idaho and

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<sup>14</sup> Moreover, if Lao PDR were to obtain a judgment against Baldwin and a court were to find that Baldwin has property in Idaho, an Idaho judgment would only be slightly more convenient than a judgment from the District Court for the Northern Mariana Islands. CNMI is a United States territory, and decisions by its courts are entitled to full faith and credit under the Full Faith and Credit Clause of the United States Constitution. See U.S. Const. art. IV, § 1; 28 U.S.C. § 1738 (2018) (authenticated judicial proceedings from U.S. territories have the same full faith and credit in every U.S. court as they have in the courts of such U.S. territory); 48 U.S.C. § 1824 (2018). Thus, Lao PDR could enforce a judgment from a court in CNMI against any of Baldwin’s property located in Idaho.

that Lao PDR's claim arises out of or relates to those activities, which it did not. See Sher, 911 F.2d at 1364. Count I of Lao PDR's TAC against Baldwin is dismissed.

### 3. Bridge-CNMI

Likewise, the contacts identified by Lao PDR are insufficient for the Court to exercise specific jurisdiction over Bridge-CNMI. Lao PDR fails to make out a prima facie case that Bridge-CNMI purposely availed itself of conducting activities in Idaho. Although Lao PDR's claim may be said to arise out of Bridge-CNMI's contacts, it would nonetheless be unreasonable to exercise jurisdiction over Bridge-CNMI.

Lao PDR argues the quantity of banking transfers Bridge-CNMI made to and from its Idaho bank accounts constitutes purposeful availment. See Pl. Suppl. Br. at 7 (“the sheer number of . . . transactions . . . supports an inference of purposeful availment”). However, the Court has already explained that maintenance and use of bank accounts, without more, is insufficient to establish purposeful availment. Baldwin, 2022 WL 2047825, at \*7–11. Here, Lao PDR does not allege that Bridge-CNMI used Idaho accounts for any particular reason, nor does Lao PDR allege that Bridge-CNMI essentially conducted its business through its Idaho bank accounts. See Pl. Suppl. Br. at 7–8 (“At some point, the sheer number and size of transactions at a bank supports the inference that the defendant is using the bank deliberately rather than fortuitously”). Therefore, the Court concludes that Bridge-CNMI's contacts with Idaho were not purposeful, and regardless of the number of non-

purposeful contacts Bridge-CNMI had, those contacts do not amount to purposeful availment.<sup>15</sup>

As explained in the Court's order denying Lao PDR leave to file a fourth amended complaint, maintenance and use of a forum bank account, without more, does not constitute purposeful availment. Baldwin, 2022 WL 2047825, at \*10–11. If a defendant chooses to bank in the forum to exploit an advantage, or if a defendant essentially conducts its business through its forum bank account, then use and maintenance of such a bank account may be sufficient to confer jurisdiction over that defendant. See Licci ex rel. Licci v. Lebanese Canadian Bank, SAL, 732 F.3d 161, 168 (2d Cir. 2013) (determining that bank defendant purposefully availed itself of conducting business in New York based on its use of correspondent account to take advantage of particular advantages of banking in New York); Ballard v. Savage, 65 F.3d 1495, 1498, 1500–01 (9<sup>th</sup> Cir. 1995) (determining that an Austrian bank purposefully availed itself of conducting activities in the United States due to its maintenance and use of correspondent account through which it conducted approximately 60% of its business in the United States).

In Baldwin, the Court held that Sanum had not purposefully availed itself of conducting activities in Idaho based solely on its maintenance and use of two Idaho bank accounts despite Lao PDR alleging dozens of transfers worth millions of dollars.

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<sup>15</sup> However, Lao PDR's claims do "arise out of" Bridge-CNMI's Idaho contacts because Bridge-CNMI paid certain fees related to the arbitrations out of its Idaho accounts. Had Bridge-CNMI not made those payments, the arbitrations would not have occurred, and Lao PDR would not have had to defend against Sanum's and LHNV's claims. Therefore, Lao PDR would not have been injured "but for" Bridge-CNMI's payments. See Baldwin, 2022 WL 2047825, at \*12.

Baldwin, 2022 WL 2047825, at \*7–11. That Lao PDR now alleges that Bridge-CNMI engaged in even more transactions than Sanum does not transform such transactions into purposeful availment. Despite having the opportunity to review the Court’s prior opinion, Lao PDR nonetheless chose to focus exclusively on the number of Bridge-CNMI’s transactions in its supplemental brief, rather than attempting to argue that Bridge-CNMI chose Idaho for a particular reason or that Bridge-CNMI essentially conducted its business through its Idaho bank transfers. See Pl. Suppl. Br. at 7–8. As Defendants note, Lao PDR “does not assert that [either Defendant] is a bank, or that [Defendants] conduct [their] business through bank accounts such that [Defendants] could be said to be operating [their] business in Idaho as a result of [their] use of bank accounts in Idaho.” Def. Suppl. Br. at 3–4 (brackets in original). Without such allegations, Lao PDR’s argument that Bridge-CNMI purposefully availed itself of the privileges of conducting activities in Idaho fails. Like Sanum, Bridge-CNMI’s only connection with Idaho is to Idaho Independent Bank. Bridge-CNMI’s communications with Idaho Independent Bank to direct transfers and Bridge-CNMI’s use of the bank account for transactions outside of Idaho are not sufficient activities in Idaho to confer jurisdiction.<sup>16</sup>

Exercising jurisdiction over Bridge-CNMI is unreasonable for the same reasons that exercising jurisdiction over Baldwin is unreasonable. Bridge-CNMI’s purposeful interjection into Idaho is less than Baldwin’s, as Bridge-CNMI’s only

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<sup>16</sup> Lao PDR also asserts that Bridge-CNMI owns numerous deeds of trust for properties in Idaho, see Pl. Opp. at 18; however, those contacts are unrelated to Lao PDR’s claim. See Bristol-Meyers Squibb, 137 S. Ct. at 1781 (defendant’s contacts unrelated to the dispute are not relevant to jurisdictional analysis).

relevant contacts with Idaho are the maintenance and use of bank accounts. Moreover, Bridge-CNMI faces the same burdens as Baldwin if it were to defend this suit in Idaho, as Bridge-CNMI is located in CNMI, and, apart from certain bank records, there is no allegation that Bridge-CNMI's evidence or witnesses are located in Idaho. The analysis of the other factors remains unchanged. Therefore, five of the seven Burger King factors weigh against exercising jurisdiction even if Lao PDR had met its burden under the first two prongs. Therefore, Count I of Lao PDR's TAC against Bridge-CNMI is dismissed.<sup>17</sup>

## V. CONCLUSION

For the foregoing reasons, Defendants' Motion is granted, and it is **ORDERED** that Defendants' Motion is GRANTED; and it is further **ORDERED** that Count I of the TAC is DISMISSED; and it is further **ORDERED** that the defendants shall respond to Counts II and III of Lao PDR's TAC within 21 days of the date of this Memorandum and Decision and Order.

/s/ Claire R. Kelly  
Claire R. Kelly, Judge\*

Dated: August 29, 2022  
New York, New York

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<sup>17</sup> Because the Court grants Defendants' motion to dismiss Count I for lack of personal jurisdiction, the Court declines to reach Defendants' alternative theory as to improper venue.

\* Judge Claire R. Kelly, of the United States Court of International Trade, sitting by designation.