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# [***Wertheim Jewish Educ. Trust, LLC v. Deutsche Bank AG***](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5R4F-9D21-F04D-11HB-00000-00&context=)

United States District Court for the Southern District of Florida

December 6, 2017, Decided; December 6, 2017, Entered on Docket

CASE NO.: 17-cv-60120-KMM

**Reporter**

2017 U.S. Dist. LEXIS 201731 \*

WERTHEIM JEWISH EDUCATION TRUST, LLC, Plaintiff, v. DEUTSCHE BANK AG; DEUTSCHE BANK GROUP; DEUTSCHE BANK (SUISSE) SA; DEUTSCHE BANK SOCIEDAD ANÓNIMA ESPAÑOLA; DEUTSCHE BANK PRIVATE WEALTH MANAGEMENT; CREDIT SUISSE GROUP AG; CREDIT SUISSE AG; and CREDIT SUISSE TRUST AG, Defendants.

**Core Terms**

Wertheim, personal jurisdiction, general jurisdiction, contacts, allegations, declarations, principal place of business, documents, rights, motion to dismiss, corporation's, Defendants', concealed, employees, offices, heirs, amended complaint, subsidiaries, operations, lack of personal jurisdiction, power of attorney, activities, personal knowledge, forum state, show cause, inheritance, belonging, banking, courts, Reply

**Counsel:** **[\*1]**For Wertheim Jewish Education Trust, LLC, Plaintiff: Kenneth Foard McCallion, LEAD ATTORNEY, PRO HAC VICE, McCallion & Associates, LLP, New York, NY; Robert J Pearl, The Pearl Law Firm, P.A., Naples, FL; Yechezkel Rodal, Rodal Law, P.A., Dania Beach, FL.

For Deutsche Bank AG, Defendant: Robert J. Liubicic, Samir Vora, LEAD ATTORNEYS, PRO HAC VICE, Milbank, Tweed, Hadley & McCloy, LLP, Los Angeles, CA; Michael Ira Goldberg, Akerman Senterfitt & Eidson, Fort Lauderdale, FL.

For Credit Suisse AG, Credit Suisse Trust AG, Defendants: Bruce Judson Berman, LEAD ATTORNEY, Carlton Fields Jorden Burt, Miami, FL; Daniel L. Cantor, Jonathan Rosenberg, LEAD ATTORNEYS, PRO HAC VICE, O'Melveny & Myers LLP, New York, NY.

**Judges:** K. MICHAEL MOORE, CHIEF UNITED STATES DISTRICT JUDGE.

**Opinion by:** K. MICHAEL MOORE

**Opinion**

**ORDER GRANTING DEFENDANTS' MOTIONS TO DISMISS AMENDED COMPLAINT**

THIS CAUSE came before the Court upon Defendants Credit Suisse AG and Credit Suisse Trust AG's Motion to Dismiss the First Amended Complaint (ECF No. 53) (hereinafter, "Credit Suisse's Motion") and Defendant Deutsche Bank AG's Motion to Dismiss First Amended Complaint (ECF No. 49) (hereinafter "Deutsche Bank's Motion"). Both motions are fully briefed and**[\*2]** now ripe for review.[[1]](#footnote-0)1 For the reasons that follow, both motions to dismiss are GRANTED.

**I. BACKGROUND**[[2]](#footnote-1)2

In its First Amended Complaints, Wertheim Jewish Education Trust, LLC ("Plaintiff") alleges a "scheme" involving Credit Suisse AG ("CSAG"), Credit Suisse Trust AG's ("CSTAG"), Credit Suisse Group AG ("CSGAG"), Deutsche Bank AG's ("DBAG"), Deutsche Bank Group ("DBG"), Deutsche Bank (Suisse) SA ("DBS"), Deutsche Bank Sociedad Anónima Española ("DBSAE"), and Deutsche Bank Private Wealth Management ("DBPWM") (together, "Defendants").[[3]](#footnote-2)3 *See* DBFAC ¶ 1; CSFAC ¶ 1.[[4]](#footnote-3)4

This case concerns Defendants' alleged handling of an estimated $3 billion estate that Karl Wertheim, a long-deceased German national then living in Spain, originally deposited into Credit Suisse accounts in Switzerland beginning in the 1930s. Plaintiff, a limited liability company formed in December 2016, claims an interest in those foreign assets based on a series of alleged bequests and transactions involving Wertheim, his wife, his son, the son's friends (the Sutors), and someone who has been assigned a contingent right to retain a portion**[\*3]** of any assets he realizes from the alleged inheritance (Tim Fuhr).[[5]](#footnote-4)5

A. The Creation and Inheritance of the Wertheim Family Estate

Joseph Wertheim was a German-Jewish industrialist who established the Wertheim Sewing Machine Company in Frankfurt, Germany, in 1862. CSFAC ¶¶ 1, 45, 55. When he died in 1899, his "corporate empire" was worth "hundreds of millions of dollars." *Id.* ¶ 58. He left all of his business assets to Karl Wertheim, one of his ten children. *Id.* ¶¶ 53, 57.

In the 1920s, Karl Wertheim relocated his family and major business interests from Germany to Spain, and relocated their financial assets to Switzerland. *Id.* ¶¶ 60, 62. Beginning in 1931, Wertheim opened accounts at Credit Suisse[[6]](#footnote-5)6 in Switzerland, which would become the primary custodian of the Wertheim accounts and assets. *Id.* ¶¶ 15, 64, 69.

The assets at Credit Suisse were held in numbered accounts, Wertheim pseudonym accounts, and trust accounts that identified the beneficial owners as Wertheim family members or their pseudonyms. *Id.* ¶¶ 70-72. From the 1930s through 1976, the names of the accounts' beneficial owners included (i) Karl Wertheim a/k/a Carlos Vallin Ballin, (ii) Maria Wertheim (Karl Wertheim's**[\*4]** wife) a/k/a Maria Vallin Ballin, (iii) Hispano Olivetti SA, (iv) Hispano Olivetti Office SA, (v) Interwiko AG, and (vi) Intertrade Development & Finance Ltd. *Id.* ¶¶ 73, 87, 107. The Wertheim Estate includes, but is not limited to, five accounts ending in "794," one account with an internal reference number ending in "2238," pseudonym accounts in the names of Juan de Pages, Delores de Pages and Manuel de Pages, and other accounts where the beneficial owners included Karl Wertheim a/k/a Carlos Vallin Ballin, Maria Wertheim a/k/a Maria Vallin Ballin, Dr. Ambrosius Wolfgang Bäuml, Hispano Olivetti SA, Hispano Olivetti Office SA, Interwiko AG and Intertrade Development & Finance Ltd. *See, e.g., id.* ¶¶ 70-73.

Karl Wertheim died in 1945, and his entire estate passed to his wife, Maria. *Id.* ¶ 78. Maria died in 1976 and left all of her assets to Dr. Ambrosius Wolfgang Bäuml, who was not her biological son, but rather the son of Karl and Maria's sister. *Id.* ¶¶ 75-77, 101-02.[[7]](#footnote-6)7

Dr. Bäuml died on August 2, 1990, and his will named as his sole heirs Rudolf Sutor and Giselheide Eichammer-Sutor (together, the "Sutors"), a German couple that Dr. Bäuml had befriended while living in Barcelona,**[\*5]** Spain. *Id.* ¶¶ 122-29, 131; *see also* Certified Translation of DBFAC Ex. 18 (ECF No. 49-1) at 5.[[8]](#footnote-7)8 The Sutors are residents of Spain, Germany, and Switzerland. *See* DBFAC Ex. 2 (ECF No. 43-2) at 2; Plaintiff's Response to DBAG's Notice of Supplemental Information (ECF No. 89) ¶ 5. The Sutors informed Credit Suisse in 1990 of Dr. Bäuml's death and requested that Credit Suisse freeze any accounts holding his assets Dr. Bäuml. *See* CSFAC ¶¶ 136-37. The Sutors also wrote DBAG to inform it of Dr. Bäuml's death and of their designation as sole heirs in Dr. Bäuml's will. *See* DBFAC ¶ 158. Although Deutsche Bank Luxembourg SA (which operates as part of Deutsche Bank Wealth Management) notified the Sutors of one account belonging to Dr. Bäuml, no other Deutsche Bank entity acknowledged the existence of any other accounts. *Id.* ¶¶ 158-160.[[9]](#footnote-8)9

Dr. Bäuml's will (naming the Sutors as heirs) was contested in a German court proceeding. On May 22, 1991, after a trial, the German court appointed the Sutors as the sole heirs to Dr. Bäuml's estate. *See* DBFAC ¶ 140-143; *see also* DBFAC Ex. 20 (ECF No. 43-20). After their appointment, the Sutors sent follow-up letters to banks in an effort to**[\*6]** identify, collect, locate, and recover the assets of Dr. Bäuml's Estate. *See* DBFAC ¶ 146.

B. The Theft and the Concealment

Don Federico Marimón Griffel ("Griffel")—Karl and Maria's personal counsel—was listed as the "Trustee/Nominee" on the CSAG accounts from 1945 until Griffel's death in 1980. *See* CSFAC ¶¶ 88, 108. After Griffel's death, his sons—Frederico and Luis Marimón Garnier ("Luis Marimón")—were listed on the Wertheim accounts. *Id.* ¶ 109. Luis Marimón was also the executor of Maria Wertheim's will, and secretary and board member of Hispano Olivetti and later Olivetti Espana. *Id.* ¶ 109. Additionally, Luis Marimón was Secretary, board member, and Chief Counsel of DBSAE. *Id.* ¶ 117.

The two Marimóns jointly held powers of attorney for the Wertheim estate until September 26, 1983. *Id.* ¶ 114. On that date Federico Marimón and Luis Marimón went with Dr. Bäuml to the Credit Suisse offices in Geneva to make a change in the powers of attorney over the accounts, whereby Federico Marimón gave up his powers and Luis Marimón alone continued to hold power of attorney to help manage the Wertheim assets and accounts under the heading of \*\*\*794. *Id.*; *see also* DBFAC ¶ 121-123. On the same date,**[\*7]** Luis Marimón met with CSAG officers in Geneva and directed that all the correspondence related to all the Wertheim accounts be kept at the bank and not sent to the beneficial owner or trustee. CSFAC ¶ 116. On September 26, 1983, November 4, 1986, and November 16, 1989, Luis Marimón met with Credit Suisse officers in Geneva, Switzerland, to confirm that he had power of attorney over the Wertheim accounts. *Id.* ¶¶ 115, 118, 119. Luis Marimón held power of attorney over the Wertheim accounts from 1983 until the death of Dr. Bäuml on August 2, 1990. *Id.* ¶ 109, 131.

In the early 1990s Luis Marimón (Secretary, board member, and Chief Counsel of DBSAE) worked together with Pierre Diehr and Jairo Espinosa (both Vice CEOs at DBS) to transfer some funds belonging to Dr. Bäuml from CSAG. *See* DBFAC ¶¶ 117, 161-165. Unbeknownst to the Sutors, on November 2, 1990, Luis Marimón met with CSAG in Geneva to "re-verify" his authority over the accounts. *Id.* ¶ 147; *see also* DBFAC Ex. 21. CSAG concealed from the Sutors the fact that this meeting took place. CSFAC ¶ 139. Since Luis Marimón's authority as a trustee terminated at the time of Bäuml's death, both Marimón and Credit Suisse knew, or should have**[\*8]** known, that Marimón had no authority over the accounts at that time. *Id.* ¶ 140.

At some point during or prior to May 1992, Diehr and Espinosa had authorized the creation of an account ending in "12 INT" at DBS in to which some monies from Dr. Bauml's accounts were transferred from CSAG. *See id.* ¶¶ 162-163.[[10]](#footnote-9)10 In May 1992, a meeting was convened with the Sutors, Luis Marimón, and Deutsche Bank Spain officials at their offices in Barcelona. *Id.* ¶ 161. At the May 1992 meeting, Deutsche Bank officials concealed the creation of accounts into which Luis Marimón transferred assets that originated with the Wertheim Family, Dr. Bäuml and/or their businesses (Hispano Olivetti SA and real estate holdings). *Id.* ¶ 162. During the period from June 17, 1992 until January 25, 1993, Deutsche Bank officials, including Pierre Diehr and Jairo Espinosa (both Vice CEOs at DBS), concealed evidence from the Sutors and cooperated with Luis Marimón in the transfer of assets that were at Credit Suisse, including accounts beneficially owned by Dr. Bäuml and his heirs to an internal account at Deutsche Bank (Suisse) SA account numbered \*\*\*\*12 INT. *Id.* ¶ 164. During this period, Deutsche Bank officials were involved**[\*9]** with the above transfer of monies and concealed their actions from the Sutors. *Id.* ¶ 165. Some funds remained at CSAG. *Id.* ¶ 199.

On June 17, 1992, the Sutors and their lawyer met with CSAG in Zurich, Switzerland, presented evidence that they were Dr. Bäuml's sole heirs, and requested information concerning accounts as to which Dr. Bäuml or the Wertheims were beneficial owners. *Id.* ¶¶ 144-46. Credit Suisse (i) denied that it had any relationship with, or accounts belonging to, Dr. Bäuml or the Wertheims, (ii) denied that CSAG officials met with Luis Marimón regarding the Wertheim accounts and assets, and (iii) concealed evidence and documents regarding the same. *Id.* ¶¶ 147-150.

On December 7, 1992, Luis Marimón visited Credit Suisse and gave written instructions instructions (via letter) to transfer funds from the Credit Suisse accounts to an account at DBS; the transfer was completed in January 1993. CSFAC ¶¶ 164, 166. Defendants concealed from the Sutors both the December 7, 1992 letter and the January 23, 1993 confirmation of the receipt of the transfer. *See id.* ¶¶ 165-166; *see also* DBFAC ¶¶ 168-169.

C. Attempts to Locate and Collect the Inheritance

In 2005, the Sutors retained Gerda**[\*10]** Mangliers, a special investigator, to assist them in their search for the missing accounts, monies, and assets allegedly belonging to the Wertheim family and Dr. Bäuml, and which allegedly should have been at Credit Suisse. *See* CSFAC ¶ 175. The Sutors and their investigator requested assistance from Credit Suisse's Legal & Compliance Department ("CS Legal Department"). *Id.* ¶ 177.[[11]](#footnote-10)11 In 2006, CS Legal Department officers reported that they could not find any records on the regular Credit Suisse servers of accounts and/or a banking relationship involving the Wertheims, Dr. Bäuml, and the Marimóns. *Id.* ¶ 180.

In May 2006, after a broader search was conducted on what the CS Legal Department referred to as a "back server," CS Legal Department officers informed the Sutors that they had, in fact, found a limited number of documents. *Id.* ¶ 182. Although many of these documents had been altered and redacted, these documents allegedly confirmed the existence of the banking relationship between Credit Suisse and the Wertheims and/or Dr. Bäuml. *Id.* ¶ 182. After finding the documents, CS Legal Department officers Sgier and Ribes informed the Sutors and their investigator that the named trustee,**[\*11]** Luis Marimón, objected to Credit Suisse's production of documents referencing the accounts with his name. *Id.* ¶ 184. However, CS Legal officers Sgier and Ribes informed the Sutors and the investigator that it was the official position of the CS Legal Department that the rights of the heirs to the account holders or the beneficial owners of accounts were superior to the rights of the trustee whose name appeared on the accounts and/or who held limited powers of attorney over the accounts. *Id.* ¶ 185.

On May 11, 2006, the Sutors obtained from Credit Suisse in Switzerland documents that allegedly provided evidence of the following: (i) the Wertheims and Dr. Bäuml had Credit Suisse accounts, (ii) from the death of Griffel until September 1983, CSAG was informed and knew that both Federico Marimón and Luis Marimón were given Power of Attorney to help manage the Wertheim Family assets and accounts under the heading of \*\*\*794; (iii) Luis Marimón met with Credit Suisse officials in the 1980s and asserted or confirmed his power of attorney over the accounts, and (iv) in 1993 funds were transferred to a DBS account. CSFAC ¶¶ 186-88. The documents also allegedly showed that (i) CSAG and CSTAG misled**[\*12]** the Sutors when they denied the existence of a banking relationship with the Wertheims, Dr. Bäuml and their companies, and that (ii) CSAG and CSTAG concealed documents since as early as 1991/1992. *Id.* ¶ 188. Additionally, the documents allegedly showed that Deutsche Bank was involved with (i) misleading the Sutors about the existence of a banking relationship with the Wertheims, Dr. Bäuml and their companies, (ii) the transfer of monies belonging to the estate, and (iii) the concealment of documents since as early as 1991 or 1992. DBFAC ¶ 188.

During a September 7, 2006, meeting with the Sutors in Zurich, Switzerland, CSAG officials acknowledged a transfer to the Deutsche Bank account on Luis Marimón's instruction, but denied any wrongdoing and refused to provide the Sutors with additional documents or information concerning the accounts. CSFAC ¶¶ 190-191. From 2006 onward, CSAG, DBAG, DBS, DBSAE, DBPWM and their senior management have refused to assist Dr. Bäuml's heirs. *See* DBFAC ¶ 210; CSFAC ¶ 191. The Supervisory Board of Deutsche Bank concealed the location of the transferred assets and interfered with the heirs' efforts to locate and recover the transferred assets. DBFAC ¶ 213.**[\*13]**

On June 16, 2012, the Sutors assigned their rights to the "unrealized assets" of Dr. Bäuml's estate to Tim Fuhr, a German national. *See* Deutsche Bank's Motion Ex. 2 (ECF No. 49-1) at 9-20 (Certified Translation of DBFAC Ex. 3 [ECF No. 43-3]). The "Sale price" for this assignment was originally 30% of any assets realized by December 31, 2018, *see id.* at 11, but was revised to 25% of any assets realized by August 2, 2020, *see id.* at 18. The agreement states that the alleged inheritance rights were conveyed to Fuhr to "search for, find and realize any as yet unrealized assets." *Id.* at 10. The assignment is of limited duration, however. *See id.* at 18. If Fuhr is not able to realize assets from the estate of Dr. Bäuml by August 2, 2020, the assignment shall lapse, and all rights revert back to the Sutors. *Id.*

Based on a series of subsequent assignments (attached as exhibits to the Complaints), it appears the following currently have rights to realized assets from Dr. Bäuml's estate: Fuhr (57.5%); Friends of LBS, Inc. ("LBS"), a South Carolina non-profit (32.5%); Chabad of Great Fort Lauderdale, Inc. ("Chabad"), a Florida non-profit (5%), and American Friends of JCC, Inc. ("JCC"), an Illinois non-profit (5%). *See* Deutsche Bank's**[\*14]** Motion Ex. 2 (ECF No. 49-1) at 9-46 (Certified Translation of DBFAC Ex. 3 [ECF No. 43-3]). Each of these ownerships is conditional upon the realization of the inheritance claims either by August 2, 2020 (the date on which Fuhr's and JCC's rights lapse) or by December 31, 2018 (the date on which LBS's and Chabad's rights lapse). *Id.* If the inheritance claims are not realized by those dates, it appears that the shares revert back to the Sutors or Fuhr (or potentially Edward Fagan[[12]](#footnote-11)12)—none of whom are members of Plaintiff or otherwise parties to this action. *Id.*

D. This Action

On December 21, 2016,[[13]](#footnote-12)13 LBS, Chabad, and JCC formed Plaintiff Wertheim Jewish Education Trust, LLC as a limited liability company. *See* Plaintiff's Response to the Court's Order to Show Cause (ECF No. 94) at 1-2. Plaintiff seeks to pursue inheritance rights to the estate of Dr. Bäuml and purportedly "has the authority of, and is acting on behalf of, all lawful heirs to the Wertheim/Bäuml assets." *See* CSFAC ¶ 8; DBFAC ¶ 11.

Plaintiff has styled its six causes of action as follows: Demand for the Return of $3 Billion, plus interest and attorneys' fees (Count I of the Complaints); Accounting, plus attorneys' fees (Count**[\*15]** II of the Complaints); Spoliation of Evidence (Count III of the Complaints); Declaratory Judgment Directing Production of Foreign Account Information to Comply with the [*Foreign Account Tax Compliance Act ("FATCA")*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GWD1-NRF4-40FC-00000-00&context=) (Count IV in the CSFAC; Count V in the DBFAC); Complaint for Pure Bill of Discovery (Count V in the CSFAC; Count VI in the DBFAC); and Continuing Conspiracy and Aiding & Abetting (Count VI in the CSFAC; Count VII in the DBFAC). Additionally, Plaintiff seeks a declaration under [*Florida Statute 726.108*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:5C24-MR51-6SKW-D401-00000-00&context=) that DBAG is insolvent (Count IV in the DBFAC).

The Remaining Defendants[[14]](#footnote-13)14 moved to dismiss the Complaints on seven grounds. First, the Remaining Defendants argue that this Court lacks personal jurisdiction over each of the Remaining Defendants. Second, they argue that the *forum non conveniens* doctrine requires dismissal of this action. Third, they argue that the case should be dismissed because Plaintiff failed to join necessary parties, who would destroy diversity jurisdiction. Fourth, the Remaining Defendants argue that venue is improper in this District. Fifth, DBAG argues that this Court lacks subject matter jurisdiction. Sixth, DBAG argues that the claims are time-barred. Seventh, DBAG argues that**[\*16]** Plaintiff has failed to state a claim against DBAG under [*Rules 12(b)(6)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:5GYC-1WP1-6N19-F0YW-00000-00&context=) and [*9(b) of the Federal Rules of Civil Procedure*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:5GYC-1WP1-6N19-F0YN-00000-00&context=).

**II. LEGAL STANDARD**

Personal jurisdiction is "'an essential element of the jurisdiction of a district . . . court,' without which the court is 'powerless to proceed to an adjudication.'" [*Ruhrgas AG v. Marathon Oil Co., 526 U.S. 574, 584, 119 S. Ct. 1563, 143 L. Ed. 2d 760 (1999)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3WGP-C5X0-004B-Y018-00000-00&context=) (quoting [*Employers Reins. Corp. v. Bryant, 299 U.S. 374, 382, 57 S. Ct. 273, 81 L. Ed. 289 (1937))*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-9GY0-003B-72DC-00000-00&context=). A complaint may be dismissed for lack of personal jurisdiction without settling whether subject-matter jurisdiction exists. [*Jankovic v. Int'l Crisis Grp., 494 F.3d 1080, 1086, 377 U.S. App. D.C. 434 (D.C. Cir. 2007)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4P8B-ST90-TXFX-H2N5-00000-00&context=). A district court must engage in a two-part inquiry to determine whether it may exercise personal jurisdiction over a nonresident defendant. [*Sculptchair, Inc. v. Century Arts, Ltd., 94 F.3d 623, 626 (11th Cir. 1996)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-1240-006F-M242-00000-00&context=); *see also* [*Daimler AG v. Bauman, 571 U.S. 117, 134 S. Ct. 746, 753, 187 L. Ed. 2d 624 (2014)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5B8W-3031-F04K-F0Y2-00000-00&context=).

The first step for a court sitting in Florida is to determine "whether personal jurisdiction exists over the nonresident defendant . . . under Florida's long-arm statute." [*Louis Vuitton Malletier, S.A. v. Mosseri, 736 F.3d 1339, 1350 (11th Cir. 2013)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:59YP-HTF1-F04K-X1C7-00000-00&context=). "A defendant can be subject to personal jurisdiction under Florida's long-arm statute in two ways: first, [*section 48.193(1)(a)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:5JHN-GHW1-DXC8-00NV-00000-00&context=) lists acts that subject a defendant to specific personal jurisdiction—that is, jurisdiction over suits that arise out of or relate to a defendant's contacts with Florida . . . ." [*Carmouche v. Tamborlee Mgmt., Inc., 789 F.3d 1201, 1203-04 (11th Cir. 2015)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5G74-DVJ1-F04K-X023-00000-00&context=) (citing [*Fla. Stat § 48.193(1)(a)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:5JHN-GHW1-DXC8-00NV-00000-00&context=)). "[S]econd, [*section 48.193(2)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:5JHN-GHW1-DXC8-00NV-00000-00&context=) provides that Florida courts may exercise general personal jurisdiction—that is, jurisdiction over any claims against a defendant, whether or not they involve the defendant's activities**[\*17]** in Florida—if the defendant engages in 'substantial and not isolated activity' in Florida . . . ." *Id.* (quoting [*Fla. Stat. § 48.193(2)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:5JHN-GHW1-DXC8-00NV-00000-00&context=)).

If personal jurisdiction exists under the statute, the second step is for the Court to determine whether the exercise of jurisdiction "would violate the *Due Process Clause of the Fourteenth Amendment to the U.S. Constitution*." [*Louis Vuitton Malletier, 736 F.3d at 1350*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:59YP-HTF1-F04K-X1C7-00000-00&context=). Specifically, the Court must determine whether the defendant has established sufficient "minimum contacts" with the State of Florida, such that the exercise of jurisdiction over the defendant would not offend "traditional notions of fair play and substantial justice." [*Atmos Nation LLC v. Alibaba Grp. Holding Ltd., No. 0:15-CV-62104-KMM, 2016 U.S. Dist. LEXIS 33228, 2016 WL 1028332, at \*3 (S.D. Fla. Mar. 15, 2016)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5J9N-X851-F04D-102M-00000-00&context=) (quoting [*Int'l Shoe Co. v. State of Wash., Office of Unemployment Comp. & Placement, 326 U.S. 310, 316, 66 S. Ct. 154, 90 L. Ed. 95 (1945))*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-JY70-003B-S3DS-00000-00&context=). Both requirements must be satisfied for the court to exercise jurisdiction. [*Slaihem v. Sea Tow Bahamas Ltd., 148 F. Supp. 2d 1343, 1349 (S.D. Fla. 2001)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:43W1-4CS0-0038-Y4PJ-00000-00&context=).

In evaluating a motion to dismiss premised on a lack of personal jurisdiction, the Court is permitted to consider materials outside the pleadings. *See* [*Bracewell v. Nicholson Air Servs., Inc., 748 F.2d 1499, 1501 n.1 (11th Cir. 1984)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4W-TPD0-003B-G0J9-00000-00&context=); *see also* [*Bryant v. Rich, 530 F.3d 1368, 1376 (11th Cir. 2008)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4ST8-5970-TXFX-G279-00000-00&context=) ("[A] judge may make factual findings necessary to resolve motions to dismiss for lack of personal jurisdiction, improper venue, and ineffective service of process.").

When a party moves for dismissal under [*Rule 12(b)(2)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:5GYC-1WP1-6N19-F0YW-00000-00&context=) for lack of personal jurisdiction, the "plaintiff bears the burden of establishing a prima facie case of jurisdiction over the movant,**[\*18]** non-resident defendant." [*Morris v. SSE, Inc., 843 F.2d 489, 492 (11th Cir. 1988)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-19R0-001B-K06S-00000-00&context=) (citing [*Delong v. Washington Mills, 840 F.2d 843, 845 (11th Cir. 1988)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-1YH0-001B-K2HD-00000-00&context=); [*Bracewell, 748 F.2d at 1504*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4W-TPD0-003B-G0J9-00000-00&context=). "The district court must accept the facts alleged in the complaint as true, to the extent they are uncontroverted by the defendant's affidavits." [*Snow v. DirecTV, Inc., 450 F.3d 1314, 1317 (11th Cir. 2006)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4K3C-N600-0038-X2G0-00000-00&context=) (quoting [*Madara v. Hall, 916 F.2d 1510, 1514 (11th Cir. 1990))*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-1FM0-003B-510H-00000-00&context=). "After a plaintiff has established a prima facie case for jurisdiction and the defendant has filed affidavits contesting jurisdiction, the plaintiff bears the burden of proving sufficient jurisdiction by affidavits or other sworn statements." [*Abramson v. Walt Disney Co., 132 F. App'x 273, 276 (11th Cir. 2005)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4G6K-Y7M0-TVRT-V27N-00000-00&context=). In meeting that burden, the plaintiff's evidence must be credited even if it conflicts with the defendant's. *See* [*Ruiz de Molina v. Merritt & Furman Ins. Agency, Inc., 207 F.3d 1351, 1356 (11th Cir. 2000)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:401W-4W20-0038-X4C7-00000-00&context=) ("If there is conflict between the plaintiff's and the defendant's allegations or in the evidence, the plaintiff's evidence is to be believed and all reasonable inferences must be drawn in his favor.").

**III. DISCUSSION**

As discussed above, the only defendants remaining in this action are DBAG, CSAG, and CSTAG. *See* fn.4. For the reasons set forth below, the Court finds that Plaintiff has failed to allege or otherwise show facts sufficient to establish personal jurisdiction over the Remaining Defendants. Because the Court finds that it lacks personal jurisdiction over the Remaining Defendants, dismissal of this action is warranted and the Court**[\*19]** does not reach the other arguments presented by the Parties.

A. Specific Jurisdiction

"[S]pecific personal jurisdiction authorizes jurisdiction over causes of action arising from or related to the defendant's actions within Florida and concerns a nonresident defendant's contacts with Florida only as those contacts related to the plaintiff's cause of action." [*Louis Vuitton Malletier, S.A., 736 F.3d at 1352*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:59YP-HTF1-F04K-X1C7-00000-00&context=). In other words, there must be some "nexus or connection between the business that is conducted in Florida and the cause of action alleged." [*Polskie Linie Oceaniczne v. Seasafe Transport A/S, 795 F.2d 968, 971 (11th Cir. 1986)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-2GX0-0039-P34J-00000-00&context=) (citation omitted); *see also* [*Goodyear Dunlop Tires Operations, S.A. v. Brown, 564 U.S. 915, 919, 131 S. Ct. 2846, 180 L. Ed. 2d 796 (2011)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5364-BJ81-F04K-F4X2-00000-00&context=) ("Specific jurisdiction . . . depends on an 'affiliatio[n] between the forum and the underlying controversy,' principally, activity or an occurrence that takes place in the forum State and is therefore subject to the State's ***regulation***." (alteration in original) (citation omitted)). Accordingly, this form of personal jurisdiction applies only "if the claim asserted against the defendant arises from the defendant's contacts with Florida, and those contacts fall within one of the enumerated categories set forth in [[*Fla. Stat.] section 48.193(1)(a)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:5JHN-GHW1-DXC8-00NV-00000-00&context=)." [*Thompson v. Carnival Corp., 174 F. Supp. 3d 1327, 1333 (S.D. Fla. 2016)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5JDS-F3C1-F04D-10VC-00000-00&context=) (citing [*Schulman v. Inst. for Shipboard Educ., 624 Fed. Appx. 1002, 1004-05 (11th Cir. 2015))*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5GPR-VN71-F04K-X10C-00000-00&context=).

Plaintiff cannot establish specific jurisdiction over the Remaining Defendants because none of the alleged "facts relevant to plaintiff's causes of action" relates**[\*20]** to the Remaining Defendants' Florida contacts, much less establishes that this action arises from or relates to any of [*section 48.193(1)(a)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:5JHN-GHW1-DXC8-00NV-00000-00&context=)'s nine categories. CSFAC ¶¶ 40-272; DBFAC ¶¶ 50-296. For example, Plaintiff does not allege that the theft of the Wertheim estate occurred in Florida, but rather explicitly alleges that the theft occurred in Europe. *See, e.g.*, DBFAC ¶¶ 117, 161-165; CSFAC ¶¶ 139-140, 161-163.

In response to the instant motions to dismiss, Plaintiff conclusorily argues that "[t]here is specific personal jurisdiction over both sets of Defendants in Florida." *See* Opp. (ECF No. 70) at 11-12. In support, Plaintiff points to exhibits purportedly showing the Remaining Defendants' operations in Florida. *See* Opp. at 4-6. However, personal jurisdiction "concerns a nonresident defendant's contacts with Florida *only as those contacts relate[] to the plaintiff's cause of action*." [*Louis Vuitton Malletier, S.A., 736 F.3d at 1352*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:59YP-HTF1-F04K-X1C7-00000-00&context=) (emphasis added). Plaintiff's only attempt to tie its jurisdictional allegations to Florida consists of speculation that the alleged transfer of a "U.S. dollar denominated" Wertheim account from Credit Suisse to Deutsche Bank *may* have been done through the United States—not even specifically Florida. *See* Opp. 5-6; *see also Fuhr Decl*. (ECF**[\*21]** No. 66-3) at 6 (stating that, because "US dollar accounts were involved," it is "logical and probable" that CSAG and DBS used their own "foreign currency account departments . . . or accounts in the United States" to "transfer, clear, trade and exchange the US dollar denominated accounts that were at Credit Suisse and were then transferred to Deutsche Bank."). In any event, this speculation fails to establish an "affiliatio[n] between the forum and the underlying controversy." *See* [*Goodyear, 564 U.S. at 919*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5364-BJ81-F04K-F4X2-00000-00&context=) (alteration in original). To the extent this theory implicates any U.S. jurisdiction, it is New York, not Florida. *See Fuhr Decl*. (ECF No. 66-3) at 6 (indicating that CSAG and DBS likely used "their own foreign currency account departments," or "accounts in the United States," or "their branch offices in New York City"). Accordingly, Plaintiff fails to establish specific personal jurisdiction as a matter of law.[[15]](#footnote-14)15

B. General Jurisdiction

General jurisdiction empowers this Court to adjudicate "any claims against a defendant, whether or not they involve the defendant's activities in Florida." [*Carmouche, 789 F.3d at 1204*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5G74-DVJ1-F04K-X023-00000-00&context=). In relevant part, Florida's long-arm statute provides: "A defendant who is engaged in substantial and not isolated activity within**[\*22]** this state, whether such activity is wholly interstate, intrastate, or otherwise, is subject to the jurisdiction of the courts of this state, whether or not the claim arises from that activity." [*Fla. Stat. § 48.193(2)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:5JHN-GHW1-DXC8-00NV-00000-00&context=). The Eleventh Circuit has held that "[t]he reach of [*[section 48.193(2)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:5JHN-GHW1-DXC8-00NV-00000-00&context=)] extends to the limits on personal jurisdiction imposed by the *Due Process Clause of the Fourteenth Amendment*." [*Carmouche, 789 F.3d at 1204*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5G74-DVJ1-F04K-X023-00000-00&context=) (alteration in original) (citing *Fraser v. Smith, 594 F.3d 842, 846 (11th Cir. 2010))*.

In *Daimler*, the Supreme Court made a "sweeping declaration" that "only a limited set of affiliations with a forum will render a defendant amenable to all-purpose jurisdiction there." [*Thompson, 174 F. Supp. 3d at 1334*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5JDS-F3C1-F04D-10VC-00000-00&context=) (citing [*Daimler, 134 S. Ct. at 760*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5B8W-3031-F04K-F0Y2-00000-00&context=)). This "dramatic change in the personal jurisdiction landscape" reinforced that "there are two 'paradigm bases' for asserting general jurisdiction over a corporation: its place of incorporation and its principal place of business." [*Id. at 1336*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5JDS-F3C1-F04D-10VC-00000-00&context=) (citing [*Daimler, 134 S. Ct. at 760*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5B8W-3031-F04K-F0Y2-00000-00&context=)).

Where a corporate defendant is neither incorporated in a forum, nor maintains its principal place of business there, general jurisdiction will only arise in the "exceptional case" where its "operations" in the forum are "so substantial and of such a nature as to render the corporation at home in that State." [*Daimler, 134 S. Ct. at 761 n.19*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5B8W-3031-F04K-F0Y2-00000-00&context=). The *Daimler* Court held out [*Perkins v. Benguet Consol. Mining Co., 342 U.S. 437, 72 S. Ct. 413, 96 L. Ed. 485, 63 Ohio Law Abs. 146 (1952)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-JJ80-003B-S2FJ-00000-00&context=), as an example of an "exceptional" case warranting the exercise of general personal**[\*23]** jurisdiction. *See* [*Daimler, 134 S. Ct. at 761 n.19*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5B8W-3031-F04K-F0Y2-00000-00&context=). In *Perkins*, a Philippine corporation was sued in Ohio on a claim having no relation to the corporation's Ohio activities. [*Id. at 438*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-JJ80-003B-S2FJ-00000-00&context=). However, because the corporation had moved its headquarters from the Philippines to Ohio due to war in the Pacific, the Court held that general jurisdiction in Ohio was not inconsistent with due process. [*Perkins, 342 U.S. at 448*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-JJ80-003B-S2FJ-00000-00&context=). By contrast, the *Daimler* court rejected the exercise of general jurisdiction over a foreign defendant who had "slim contacts" with the forum state, which included being "the largest supplier of luxury vehicles to the California market" and having "multiple California-based facilities." [*Daimler, 134 S. Ct. at 752-760*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5B8W-3031-F04K-F0Y2-00000-00&context=).

More recently, the Supreme Court held that a corporation, which had "over 2,000 miles of railroad track and more than 2,000 employees" in the forum state, was not so "heavily engaged in activity" as to render it "essentially at home" in that state. [*BNSF Ry. Co. v. Tyrrell, 137 S. Ct. 1549, 1559, 198 L. Ed. 2d 36 (2017)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5NNK-1D51-F04K-F0WV-00000-00&context=). The *BNSF* Court explained that the general jurisdiction inquiry "calls for an appraisal of a corporations activities in their entirety"—not just the "magnitude of the defendant's in-state contacts," and clarified that a "corporation that operates in many places can scarcely be deemed at home in all of them." *Id.****[\*24]*** (quoting [*Daimler, 134 S. Ct. at 762 n.20*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5B8W-3031-F04K-F0Y2-00000-00&context=)). Accordingly, the Court found that the defendant corporation's contacts with the forum state did not constitute an "exceptional case" under *Daimler*, and thus the corporation was not subject to general jurisdiction. *See* [*BNSF Railway Co., 137 S. Ct. at 1558*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5NNK-1D51-F04K-F0WV-00000-00&context=).

The Eleventh Circuit has embraced this "cabined conception" of general jurisdiction, [*Thompson, 174 F. Supp. at 1334*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5JDS-F3C1-F04D-10VC-00000-00&context=). *See* [*Carmouche, 789 F.3d at 1205*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5G74-DVJ1-F04K-X023-00000-00&context=) ("A foreign corporation cannot be subject to general jurisdiction in a forum unless the corporation's activities in the forum closely approximate the activities that ordinarily characterize a corporation's place of incorporation or principal place of business."); *see also* [*McCullough v. Royal Caribbean Cruises, Ltd., 268 F. Supp. 3d 1336, 2017 U.S. Dist. LEXIS 113876, 2017 WL 3115751 at \*4 (S.D. Fla. July 21, 2017)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5P2P-V2K1-F04D-13DR-00000-00&context=) ("[O]nly a forum that has, for all practical purposes, supplanted a corporation's principal place of business (or state of incorporation) will be an appropriate forum in which the corporation can reasonably be subjected to general personal jurisdiction.").

Plaintiff does not allege that the Remaining Defendants are incorporated or maintain their principal places of business in Florida. *See generally* CSFAC ¶ 16; DBFAC ¶ 24; *see also* Opp. at 9 ("[N]either the Credit Suisse Defendants nor the Deutsche Bank Defendants were incorporated in Florida or maintain their principal places of business in the forum . . . .").[[16]](#footnote-15)16 As a result,**[\*25]** general jurisdiction can only be satisfied where the defendants' contacts with Florida are "so continuous and systematic as to render [the defendants] essentially at home in the forum state." [*Daimler, 134 S. Ct. at 754*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5B8W-3031-F04K-F0Y2-00000-00&context=) (quotation omitted).

"Given recent decisions by the Supreme Court and the Eleventh Circuit the analysis of this issue practically ends before it begins." [*Thompson, 174 F. Supp. 3d at 1334*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5JDS-F3C1-F04D-10VC-00000-00&context=). A review of the Complaints and the submissions of the parties, reveals that this is not the "exceptional" case where the Remaining Defendants' "operations" in the forum are "so substantial and of such a nature as to render the corporation[s] at home in that State." [*Daimler, 134 S. Ct. at 761 n.19*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5B8W-3031-F04K-F0Y2-00000-00&context=).

1) DBAG

Again, Plaintiff does not allege that DBAG is incorporated or maintains its principal place of business in Florida. *See* DBFAC ¶ 24. However, Plaintiff alleges that DBAG has several contacts with Florida, including the following: having a registered agent in Florida; maintaining offices with employees in Florida; having telephone, fax, and internet services in Florida; advertising and soliciting for its international banking business and for its divisions or other wholly owned subsidiaries in Florida; maintaining bank accounts and international bank codes ("SWIFT Codes") for its Florida**[\*26]** operations; and having interactive websites through which it conducts business in and through the State of Florida. *See* DBFAC ¶ 24. Finally, Plaintiff alleges that DBAG solicits and maintains accounts for high net worth US citizens within this District. *Id.* These allegations are accepted "as true, to the extent they are uncontroverted by the defendant's affidavits." [*Snow, 450 F.3d at 1317*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4K3C-N600-0038-X2G0-00000-00&context=).

In support of its motion to dismiss, DBAG has submitted a declaration from Vijay Dewan, Vice President and Senior Counsel at the New York branch of DBAG. *See* Dewan Decl. (ECF No. 50). Dewan testified that DBAG's physical presence in Florida is limited to a single administrative office established in 2014 and located in Jacksonville, Florida. *Id.* ¶ 13. This office markets and solicits products offered by DBAG's New York branch to consumers in the United States and performs "middle and back office functions" for DBAG and its U.S.-based banking subsidiaries. *Id.* Dewan testified that this office has officers, but no employees; and DBAG has no other offices or physical presence in Florida. *Id.* ¶ 14. Dewan further testified that 67% of all of DBAG's retail outlets are located in Germany, and that DBAG does not have any retail**[\*27]** outlets in Florida (or in the United States). *Id.* ¶ 9. Finally, Dewan testified that DBAG employs just 10.6% of its full-time employees in the U.S. *See* Dewan Decl. (ECF No. 50) ¶ 10.

In response, Plaintiff argues that DBAG (i) maintains its largest office outside of New York in Florida; (ii) has multiple offices in Florida, including in Miami, Fort Lauderdale, Boca Raton and West Palm Beach; (iii) has hundreds of employees in Florida; (iv) buys and sells mortgages in Florida; (v) owns real estate in Florida, including in Fort Lauderdale; (vi) maintains banking, lending, financial services, securities and other businesses in Florida; (vii) regularly uses Florida Courts to enforce its rights; (viii) solicits and underwrites offerings and advises Florida businesses on sales, mergers and acquisitions; (ix) sells products to the Florida Government; and (x) does hundreds of millions if not billions of dollars in business in and through Florida. *See* Opp. at 9-11.[[17]](#footnote-16)17

However, the evidence Plaintiff attaches—which this Court is obligated to accept as true at this stage, *see* [*Ruiz de Molina, 207 F.3d at 1356*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:401W-4W20-0038-X4C7-00000-00&context=)—does not support all of these contentions. For example, although Plaintiff asserts that DBAG "regularly uses Florida Courts to enforce**[\*28]** its rights," the attached evidence only shows that "Deutsche Bank National Trust Co." and "Deutsche Bank Trust Company Americas" have used Florida courts. *See* McCallion Decl. Ex. 3 (ECF No. 60-3) at 2, 5-21. Plaintiff does not state the relationship between these entities and DBAG; however, even if these entities were subsidiaries of DBAG, that relationship, without more, would be insufficient to attribute their Florida contacts to DBAG. *See* [*Consol. Dev. Corp. v. Sherritt, Inc., 216 F.3d 1286, 1293 (11th Cir. 2000)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:40S7-2RD0-0038-X40M-00000-00&context=) ("Generally, a foreign parent corporation is not subject to the jurisdiction of a forum state merely because a subsidiary is doing business there."); *cf.* [*Daimler, 134 S. Ct. at 760*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5B8W-3031-F04K-F0Y2-00000-00&context=) (finding that "subject[ing] foreign corporations to general jurisdiction whenever they have an in-state subsidiary or affiliate" would "sweep beyond even the "sprawling view of general jurisdiction . . . rejected in *Goodyear*" (internal quotation marks omitted) (quoting [*Goodyear, 564 U.S. at 929*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5364-BJ81-F04K-F4X2-00000-00&context=))).

Similarly, although Plaintiff alleges that DBAG has offices in Boca Raton, Miami, and Fort Lauderdale, the exhibits show that these offices are attributable to other Deutsche Bank subsidiaries and affiliates—not to DBAG. *See* McCallion Decl. Ex. 3 at 27 (institution with office in Palm Beach is named "Deutsche Bank Florida, NA"); *id.* at 28 (institution**[\*29]** with office in Boca Raton is "Deutsche Bank National TR"); *id.* at 30 (purchaser of building in Fort Lauderdale is "TAF gg Las Olas LP" which is purportedly "an affiliate of Deutsche Bank's asset management division"); *see also* Dewan Reply Decl. (ECF No. 74) ¶ 5 ("The Florida contacts that Mr. McCallion identifies, other than the Jacksonville [office] . . . are attributable to various DBAG subsidiaries and affiliates—not to DBAG itself.").[[18]](#footnote-17)18 Because a foreign parent corporation is generally "not subject to the jurisdiction of a forum state merely because a subsidiary is doing business there," Plaintiff's evidence does not compel a finding that exercising general jurisdiction over DBAG is appropriate. *See* [*Consol. Dev. Corp., 216 F.3d at 1293*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:40S7-2RD0-0038-X40M-00000-00&context=).

Accepting all of Plaintiff's evidence and uncontroverted allegations as true, *see* [*Snow, 450 F.3d at 1317*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4K3C-N600-0038-X2G0-00000-00&context=); [*Ruiz de Molina, 207 F.3d at 1356*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:401W-4W20-0038-X4C7-00000-00&context=), the Court finds the alleged contacts do not present an "exceptional" case under [*Daimler*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5B8W-3031-F04K-F0Y2-00000-00&context=). Although DBAG appears to conduct some business in the state, it is not incorporated in Florida, it does not maintain its principal place of business in the state, and its operations in Florida are not "so substantial and of such a nature as to render the corporation at home" in Florida. [*BNSF Ry. Co., 137 S. Ct. at 1558*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5NNK-1D51-F04K-F0WV-00000-00&context=).

In fact, several of Plaintiff's**[\*30]** exhibits undermine Plaintiff's argument for general jurisdiction. For example, one of the news articles that Plaintiff attaches indicates that DBAG's Jacksonville location "represents about one-sixth of the 10,842 staff the bank had in North America at the end of December [2016]." *See* McCallion Decl. Ex. 3 at 26. Given that it is uncontroverted that DBAG employs just 10.6% of its full-time employees in the U.S., *see* Dewan Decl. (ECF No. 50) ¶ 10, it appears that only one-sixtieth (or approximately 1.6%) of DBAG's employees are in DBAG's Florida office. Further, a statement in another of Plaintiff's exhibits indicates that "Deutsche Bank's North American operations are headquartered at 60 Wall Street, New York, New York." *See* McCallion Decl. Ex. 4 (ECF No. 60-4) at 37. Finally, in its application to establish an "international administrative office" in Florida, DBAG indicated that all of the members on DBAG's Board of Directors live in Germany, and nearly all of its Executive Officers live in Germany (one lives in the United Kingdom). *See id.* at 245-47. In short, the evidence presented regarding DBAG's Florida presence is a far cry from the "exceptional" case envisioned in *Daimler* or found in *Perkins****[\*31]***.

After *Daimler*, Courts in this Circuit have routinely found that foreign corporations with similar (or greater) contacts to the forum are not "at home" in this forum for the purposes of exercising general personal jurisdiction. In *Carmouche*, the Eleventh Circuit held that a foreign defendant was not subject to general personal jurisdiction under *Daimler* when it had a Florida bank account, two Florida addresses, purchased insurance from Florida companies, filed financing statements with the Florida Secretary of State, joined a non-profit trade organization in Florida, and consented to jurisdiction in the Southern District of Florida for cases arising out of agreements with a cruise line. [*789 F.3d at 1204-05*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5G74-DVJ1-F04K-X023-00000-00&context=). Similarly, in *Hinkle v. Cont'l Motors, Inc.*, the Court found no general jurisdiction over a California corporation even though the corporation (i) maintained an active registration with the Florida Department of State, (ii) had a registered agent in Florida, (iii) had a "massive volume of aircraft in Florida" with at least 428 planes there, (iv) maintained a sales representative in Florida, (v) had a training network in Florida, and (vi) had employees in Florida. [*Hinkle v. Cont'l Motors, Inc., 268 F. Supp. 3d 1312, 2017 U.S. Dist. LEXIS 170930, 2017 WL 3333120, at \*9-10 (M.D. Fla. July 21, 2017)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5PRC-VX71-F04D-14RG-00000-00&context=).

Additionally, Plaintiff appears to**[\*32]** concede that DBAG's contacts in Florida do not rise to the level of its contacts in New York, where our sister district cours has already twice found that it could not exercise general personal jurisdiction over DBAG.[[19]](#footnote-18)19 *See* Opp. at 11 (claiming DBAG "maintains its largest office outside of New York in Florida"); *see also* Opp. to DBAG's Motion to Stay (ECF No. 61) at 3 ("The objective evidence shows that . . . DBAG has sought to turn Florida into its 'home outside of New York.'"). Accordingly, Plaintiff has failed to allege or otherwise show that DBAG is subject to general personal jurisdiction in this forum.

Finding no personal general jurisdiction over DBAG is also consistent with a prior decision by this Court concerning a request for judicial assistance. In May 2013, Tim Fuhr filed an application for judicial assistance under [*28 U.S.C. § 1782*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GPK1-NRF4-450Y-00000-00&context=) in this Court, seeking discovery from CSAG and DBAG to defend himself against a defamation suit that Luis Marimón lodged against Fuhr in Germany. *See In re Petition of Tim Fuhr Pursuant to* [*28 U.S.C. § 1782*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GPK1-NRF4-450Y-00000-00&context=), 13-cv-21598 (DE 1) (S.D. Fla. May 3, 2013).[[20]](#footnote-19)20 The defamation claim was based**[\*33]** on Fuhr's letters to Deutsche Bank alleging that Luis Marimón directed the transfer of money belonging to the Wertheim Estate from a Credit Suisse branch in Geneva, Switzerland to a Deutsche Bank branch in Geneva, Switzerland. *See id.* at 2. On August 29, 2013, this Court denied the application with respect to DBAG because the evidence established that Deutsche Bank neither resided in this District, nor was it "found" in this District for the purposes of [*§1782*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GPK1-NRF4-450Y-00000-00&context=). *See* Order Adopting Report and Recommendation (DE 23). 2)

CSAG

Plaintiff admits that CSAG is headquartered and incorporated in Switzerland. *See* CSFAC ¶¶ 14, 16; *see also* Opp. at 9 ("[N]either the Credit Suisse Defendants nor the Deutsche Bank Defendants were incorporated in Florida or maintain their principal places of business in the forum . . . ."). Plaintiff alleges, however, that CSAG has offices, employees, a registered agent and SWIFT Codes in Florida. *See id.* Additionally, CSAG allegedly has telephone, fax, and internet services in Florida, maintains interactive websites through which it conducts business in Florida, and solicits and advertises for its international banking business in Florida. *See id.* ¶ 16. These allegations are accepted "as true,**[\*34]** to the extent they are uncontroverted by the defendant's affidavits." [*Snow, 450 F.3d at 1317*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4K3C-N600-0038-X2G0-00000-00&context=).

CSAG and CSTAG (together, the "Credit Suisse Defendants") have submitted a sworn affidavit from Jennifer Huffman, a Director and Counsel at Credit Suisse Securities (USA) LLC. *See* Huffman Decl. (ECF No. 53-1). Huffman attests that, although CSAG's corporate predecessor opened a representative office in Miami, this office was closed in 2012. *Id.* ¶¶ 5-6. Further, Huffman testified that although CSAG has been authorized to transact business in Florida, and maintains a statutory agent there, CSAG currently has no employees working in Florida and no physical office in the state. *Id.* ¶ 4, 7. Huffman also denies that CSAG has telephone, fax, and internet services in Florida, and contends that, although CSAG has a website, CSAG does not conduct targeted advertising in Florida specifically. *Id.* ¶ 7.

Plaintiff argues that Huffman's affidavit is contradicted by Plaintiff's evidence, which purportedly reveals, *inter alia*, that CSAG has offices and employees in Boca Raton, West Palm Beach, Fort Lauderdale, and Miami. *See* Opp. at 5 (citing McCallion Decl. Ex. 4 (ECF No. 60-5)).[[21]](#footnote-20)21 Plaintiff's exhibit also purportedly shows that CSAG owns**[\*35]** real estate in Florida, conducts business in Florida, uses Florida courts to enforce its rights, and hosts annual conferences in Florida. McCallion Decl. Ex. 4 (ECF No. 60-5) at 2. The Court need not resolve this factual dispute, however, because even if Plaintiff's factual contentions are true, they are inadequate to establish general jurisdiction as a matter of law because they do not suggest that CSAG is "at home" in this forum. *See, e.g.,* [*BNSF Ry. Co., 137 S. Ct. at 1559*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5NNK-1D51-F04K-F0WV-00000-00&context=); [*Carmouche, 789 F.3d at 1204-05*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5G74-DVJ1-F04K-X023-00000-00&context=); [*Hinkle, 2017 U.S. Dist. LEXIS 170930, 2017 WL 3333120 at \*9-10*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5PRC-VX71-F04D-14RG-00000-00&context=); [*Thompson, 174 F. Supp. 3d at 1334*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5JDS-F3C1-F04D-10VC-00000-00&context=). They pale in comparison to the forum contacts in *Daimler*, where defendant was "the largest supplier of luxury vehicles to the California market" and had "multiple California-based facilities." [*Daimler, 134 S. Ct. at 752*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5B8W-3031-F04K-F0Y2-00000-00&context=). But the Supreme Court held that those contacts were insufficient to establish general jurisdiction. [*Id. at 761-62*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5B8W-3031-F04K-F0Y2-00000-00&context=). In light of these precedents, the Court finds that Plaintiff's allegations are necessarily inadequate for this Court to exercise general jurisdiction over CSAG.

The Court also rejects Plaintiff's contention that other judges in this district have "found" general personal jurisdiction over Credit Suisse in Florida. *See* Opp. at 5. As of the date of this Order, this Court has never found that CSAG is subject to general jurisdiction in Florida—much**[\*36]** less in the wake of the Supreme Court's *Daimler* opinion. Instead, Plaintiff refers to Fuhr's Petition for Judicial Assistance, *In re Petition of Tim Fuhr Pursuant to* [*28 U.S.C. § 1782*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GPK1-NRF4-450Y-00000-00&context=), 13-cv-21598 (DE 1) (S.D. Fla. May 3, 2013), discussed above. Plaintiff is correct to note that Fuhr's Petition for Judicial Assistance was granted with respect to CSAG, which had not appeared in that action at the time the Petition was granted. *See* Order Adopting Report and Recommendation (DE 23). However, a finding that a defendant is "found" in a district within the meaning of [*§ 1782*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GPK1-NRF4-450Y-00000-00&context=) does not mean that this Court may exercise general jurisdiction over CSAG. *See* [*In re Application of MTS Bank, No. 17-21545-MC, 2017 U.S. Dist. LEXIS 120232, 2017 WL 3276879, at \*5 (S.D. Fla. Aug. 1, 2017)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5P51-K2M1-F04D-14RR-00000-00&context=) ("And it is also evident that the relationship between [*section 1782*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GPK1-NRF4-450Y-00000-00&context=) and the contours of personal jurisdiction are not the same."). In any case, to the extent a finding that a defendant is "found" in the district for the purposes of [*§ 1782*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GPK1-NRF4-450Y-00000-00&context=) implicates a finding that the court may exercise general jurisdiction, the decision was issued before the Supreme Court ushered in a "dramatic change in the personal jurisdiction landscape" in *Daimler. See* [*Thompson, 174 F. Supp. 3d at 1334*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5JDS-F3C1-F04D-10VC-00000-00&context=). Accordingly, Plaintiff has failed to allege or otherwise show that CSAG is subject to general personal jurisdiction in this forum.

3) CSTAG

Plaintiff**[\*37]** does not allege that CSTAG has any contacts with Florida, but alleges that CSTAG is a wholly owned subsidiary of CSAG and that it "does business in the United States." *See* CSFAC ¶ 17. These allegations are plainly insufficient to establish general jurisdiction over CSTAG. *See* [*Carmouche, 789 F.3d at 1205*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5G74-DVJ1-F04K-X023-00000-00&context=) (requiring "activities in the forum closely approximat[ing] the activities that ordinarily characterize a corporation's place of incorporation or principal place of business"). Accordingly, Plaintiff has failed to meet its burden "burden of establishing a prima facie case of jurisdiction over the movant, non-resident defendant." [*Morris, 843 F.2d at 492*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-19R0-001B-K06S-00000-00&context=).

Nevertheless, the Credit Suisse Defendants have submitted a sworn affidavit indicating CSTAG is not registered to do business in Florida and does not have any physical offices or employees working in Florida. *See* Huffman Decl. ¶ 8. The affidavit also controverts Plaintiff's conclusory allegation that CSTAG conducts business in the United States. *Id.* In response, Plaintiff does not submit an affidavit—or any evidence—challenging Huffman's testimony concerning CSTAG's contacts with Florida. *See generally* Opp. (ECF No. 70); McCallion Decl. Ex. 4 (ECF No. 60-5) at 2 (asserting only that "Defendant Credit**[\*38]** Suisse" has certain contacts).[[22]](#footnote-21)22 As a result, even if Plaintiff had alleged a prima facie case for jurisdiction, it has failed to meet its burden of proving sufficient jurisdiction. *See* [*Abramson, 132 F. App'x at 276*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4G6K-Y7M0-TVRT-V27N-00000-00&context=) (setting forth burden shifting framework); *see also* [*Meier ex rel. Meier v. Sun Int'l Hotels, Ltd., 288 F.3d 1264, 1269 (11th Cir. 2002)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:45MN-HG40-0038-X076-00000-00&context=) (same). Accordingly, Plaintiff has failed to allege or otherwise show that CSTAG is subject to general personal jurisdiction in this forum.

C. Due Process

Because the Court concludes that Plaintiff has not established through its allegations or competent evidence that the Remaining Defendants are subject to personal jurisdiction under Florida's long-arm statute, the Court need not reach the due process inquiry. *See* [*United Techs. Corp. v. Mazer, 556 F.3d 1260, 1275 n.15 (11th Cir. 2009)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4VK5-5CD0-TXFX-G2HW-00000-00&context=) ("Because we conclude, as discussed below, that UTC has failed to establish through its allegations or competent evidence that APM is subject to personal jurisdiction under Florida's long-arm statute, we do not reach the due process inquiry.").

**IV. CONCLUSION**

Because dismissal is warranted due to lack of personal jurisdiction, the Court need not address the Remaining Defendants' additional arguments. For the foregoing reasons, it is hereby ORDERED AND ADJUDGED that this action is DISMISSED. The Clerk of Court is instructed to CLOSE this**[\*39]** case.

DONE AND ORDERED in Chambers at Miami, Florida, this 6th day of December, 2017.

/s/ Kevin Michael Moore

K. MICHAEL MOORE

CHIEF UNITED STATES DISTRICT JUDGE

**End of Document**

1. 1Plaintiff filed a consolidated response to both motions. *See* Plaintiff's Memorandum of Law in Opposition to Defendants' Motions to Dismiss (hereinafter, "Opp.") (ECF No. 70). Defendants replied. *See* Deutsche Bank AG's Reply in Support of Motion to Dismiss First Amended Complaint ("Deutsche Bank's Reply") (ECF No. 73); Credit Suisse's Reply Memorandum of Law in Further Support of its Motion to Dismiss the First Amended Complaint ("Credit Suisse's Reply") (ECF No. 72). [↑](#footnote-ref-0)
2. 2Unless otherwise noted, the following background facts are taken from the First Amended Complaint as Against the Deutsche Bank Defendants (ECF No. 43) (hereinafter, "DBFAC"); First Amended Complaint Against the Credit Suisse Defendants (ECF No. 44) (hereinafter, "CSFAC"), and are accepted as true for purposes of ruling on a Motion to Dismiss. *See* [*Florida Family Policy Council v. Freeman, 561 F.3d 1246 (11th Cir. 2009)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4VTF-NY30-TXFX-G2VV-00000-00&context=). [↑](#footnote-ref-1)
3. 3Plaintiff originally filed two separate actions. This action was originally exclusively against DBAG, DBS, DBG, DBAE, and DBPWM. The other action, filed 1 day after, was against CSAG, CSTAG, and CSGAG. *See* *Wertheim Jewish Education Trust, LLC v. Credit Suisse AG et al*, Case No. 0:17-cv-60141-KMM (S.D. Fla. Jan. 19, 2017). Because the two cases involved common issues of law and fact, this Court accepted transfer to adjudicate both cases under the above-numbered case and caption. *See* Order of Transfer (ECF No. 19). [↑](#footnote-ref-2)
4. 4On November 15, 2017, this Court *sua sponte* noted that Plaintiff had failed to file proof of service of process upon DBS, DBG, DBSAE, DBPWM, or CSGAG. *See* Order to Show Cause (ECF No. 92). The Court ordered Plaintiff to show cause as to why this action should not be dismissed as to those defendants for failing to timely serve them. In its Response, Plaintiff has not shown—or attempted to show—good cause. *See* Response to the Court's Order to Show Cause Regarding Service Upon Certain Defendants (ECF No. 95). Instead, Plaintiff explains that it seeks to file an amended complaint which "will not include the defendants that were the subject" of the Court's Order to Show Cause. *Id.* at 2. The Court construes Plaintiff's response to be a concession that these defendants have not been served, that Plaintiff has no intention of serving them, and that Plaintiff now seeks to voluntarily dismiss those unserved defendants. In light of Plaintiff's request and Plaintiff's failure to show cause, DBS, DBG, DBSAE, DBPWM, and CSGAG are HEREBY DISMISSED from this action. As a result of this dismissal, only CSAG, CSTAG, and DBAG (the "Remaining Defendants") remain as defendants in this action. [↑](#footnote-ref-3)
5. 5Tim Fuhr has the right to retain 57.5% percent of any assets belonging to the Wertheim Estate that he is able to recover and collect before August 2, 2020. *See* Deutsche Bank's Motion Ex. 2 (ECF No. 49-1) at 21-26 (Certified Translation of DBFAC Ex. 3 [ECF No. 43-3]). [↑](#footnote-ref-4)
6. 6This Order will refer to "Credit Suisse" and "CSAG" interchangeably. *See* CSFAC ¶ 15; *see also* Huffman Decl. (ECF No. 53-1) ¶¶ 4-5 (explaining that Credit Suisse is the corporate predecessor to CSAG). [↑](#footnote-ref-5)
7. 7While the Complaint refers to Dr. Bäuml as Maria's "adopted" son, *see* CSFAC ¶ 93, there is no allegation that Maria ever legally adopted Dr. Bäuml. *Cf. id.* ¶ 76. [↑](#footnote-ref-6)
8. 8Page numbers for any document cited in this Order refer to the ECF page numbers of each document instead of the internal page numbers (if any). [↑](#footnote-ref-7)
9. 9Although Plaintiff does not explicitly state that this Luxemburg account does not contain the Wertheim Estate, the Court infers that it does not because the account number ends with "760" instead of "12 INT." *Compare* DBFAC ¶ 159 *with id.* ¶ 167 (discussing the concealment of a DBS account ending in "12 INT"); *cf. id.* ¶ 160 ("Deutsche Bank failed to acknowledge the existence of any accounts at any other Deutsche Bank entity . . . ."). [↑](#footnote-ref-8)
10. 10The DBFAC and CSFAC both allude to Deutsche Bank's concealment of "facts relating to the creation/designation" of this account between May 1992 and January 1993, but do not specify when exactly the account was created. *See* DBFAC ¶ 163; CSFAC ¶ 159. [↑](#footnote-ref-9)
11. 11The Sutors focused on Credit Suisse because they believed that the Wertheim Family and Bäuml primary accounts were kept at that bank. CSFAC ¶ 176. This belief is based on Dr. Bäuml's documents identifying Credit Suisse, including the following: (1) a 1956 letter from Maria Wertheim to Credit Suisse directing that Dr. Bäuml be given power of attorney over their accounts; (2) diary entries by Dr. Bäuml about his and Maria Wertheim's trips in the 1960s and 1970s to both Credit Suisse in Zurich and to Credit Suisse Trust in Vaduz; and (3) diary entries about Dr. Bäuml's own trips to Credit Suisse Zurich in the 1980s. *Id.* [↑](#footnote-ref-10)
12. 12It is unclear whether JCC's rights, which were assigned to JCC from Fagan, *see id.* at 42-51, revert back to Fagan or the Sutors because Plaintiff has not attached the agreement which provided Fagan rights to Dr. Bäuml's estate. [↑](#footnote-ref-11)
13. 13Division of Corporations — Florida Department of State, Wertheim Jewish Education Trust L.L.C., available at [*http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=WERTHEIMJEWISHEDU*](http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=WERTHEIMJEWISHEDU) CATIONTRUST%20L160002302770&aggregateId=flal-l16000230277-a7d564a8-2bb3-418d-a480-c74dacbaed7d&searchTerm=wertheim&listNameOrder=WERTHEIM%208269840 (last visited on November 21, 2017). [↑](#footnote-ref-12)
14. 14As noted above, Plaintiff (i) failed to file proof of service of process upon DBS, DBG, DBSAE, DBPWM, or CSGAG, (ii) failed to show cause as to why those defendants should not be dismissed, and (iii) indicated that it seeks to voluntarily dismiss those defendants. Accordingly, the Court has dismissed those defendants from this action. *See* fn.4, *supra*. As a result of this dismissal, only CSAG, CSTAG, and DBAG (the "Remaining Defendants") remain as defendants in this action. [↑](#footnote-ref-13)
15. 15Plaintiff also attacks the adequacy of the Remaining Defendants' declarations on the grounds that the declarations are not based on facts "with[in] the affiant's personal knowledge." *See* Opp. at 12 (quoting [*Louis Vuitton Malletier, S.A., 736 F. 3d at 1351*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:59YP-HTF1-F04K-X1C7-00000-00&context=)). However, because Plaintiff has not alleged or shown any facts supporting the exercise of specific jurisdiction, the Court need not consider the Remaining Defendants' submissions in order to find that the Court may not exercise specific personal jurisdiction over the Remaining Defendants. In any case, for the reasons discussed in footnotes 17 and 21, the Court finds that this argument is without merit. [↑](#footnote-ref-14)
16. 16Defendants have also submitted sworn declarations stating that the Remaining Defendants are incorporated elsewhere and maintain their principal places of business elsewhere. *See* Huffman Decl. (ECF No. 53-1) ¶ 3 (CSAG and CSTAG are Swiss corporations with their principal places of business in Switzerland); Dewan Decl. (ECF No. 50) ¶ 4 (DBAG is a German corporation with its principal place of business in Germany). [↑](#footnote-ref-15)
17. 17Plaintiff also attacks the adequacy of the Remaining Defendants' declarations on the grounds that the declarations are not based on facts "with[in] the affiant's personal knowledge." *See* Opp. at 12 (quoting [*Louis Vuitton Malletier, S.A., 736 F. 3d at 1351*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:59YP-HTF1-F04K-X1C7-00000-00&context=)). However, Plaintiff does not explain why Dewan, Vice President and Senior Counsel at the New York branch of DBAG, lacks personal knowledge over the facts contained within his declarations. Moreover, each of Dewan's declarations includes a sworn statement that his "statements are based upon [his] personal knowledge, [his] review of documents prepared and maintained by DBAG in their ordinary course of business, and upon information provided by employees of DBAG responsible for and with knowledge of the business and accounting records of DBAG." *See* Dewan Decl. (ECF No. 50) ¶ 3; Dewan Reply Decl. (ECF No. 74) ¶ 3. Accordingly, the Court rejects Plaintiff's conclusory and unsupported argument aimed at discrediting Dewan's affidavits. [↑](#footnote-ref-16)
18. 18Additionally, one of the exhibits submitted by Plaintiff contradicts Plaintiff's contention that DBAG has locations in Boca Raton, Fort Lauderdale and Miami. *See* McCallion Decl. Ex. 3 at 22 (showing screenshot of Deutsche Bank USA's website indicating that it only has two Florida addresses, and both are in the same office park in Jacksonville). [↑](#footnote-ref-17)
19. 19*See* [*In re LIBOR-Based Fin. Instruments* ***Antitrust*** *Litig., No. 11 MDL 2262 NRB, 2015 U.S. Dist. LEXIS 107225, 2015 WL 4634541, at \*21 n.43 (S.D.N.Y. Aug. 4, 2015)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5GNM-BDJ1-F04F-03FX-00000-00&context=) (dismissing complaint against DBAG for lack of personal jurisdiction despite much more substantial business in New York); [*Cortlandt Street Recovery Corp. v. DBAG, London Branch, No. 14-cv-01568, 2015 U.S. Dist. LEXIS 114533, 2015 WL 5091170, at \*4 (S.D.N.Y. Aug. 28, 2015)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5GSW-YMH1-F04F-0000-00000-00&context=) ("DBAG is incorporated under the laws of Germany and has its principal place of business in Frankfurt, Germany. DBAG is not 'at home' in New York, and exercising general jurisdiction would not comport with the requirements of due process"). [↑](#footnote-ref-18)
20. 20Citations to the docket of case number 13-cv-21598 are to "DE    ." [↑](#footnote-ref-19)
21. 21Plaintiff also attacks the adequacy of the Remaining Defendants' declarations on the grounds that the declarations are not based on facts "with[in] the affiant's personal knowledge." *See* Opp. at 12 (quoting [*Louis Vuitton Malletier, S.A., 736 F. 3d at 1351*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:59YP-HTF1-F04K-X1C7-00000-00&context=)). However, Plaintiff does not explain why Huffman—a Director and Counsel at Credit Suisse Securities (USA) LLC and a Credit Suisse employee of twenty years—lacks personal knowledge over the facts contained within her declaration. Moreover, Huffman's declaration includes a sworn statement that her statements are based on, *inter alia*, "personal knowledge . . . ." *See* Huffman Decl. (ECF No. 53-1) at 1-2. Accordingly, the Court rejects Plaintiff's conclusory and unsupported argument aimed at discrediting Huffman's declaration. [↑](#footnote-ref-20)
22. 22*See* CSFAC ¶¶ 15-16 (defining CSAG as "Credit Suisse" and "Defendant Credit Suisse"). [↑](#footnote-ref-21)