

New York's Long-Arm Jurisdiction Extends its Reach

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The scope of New York's long arm jurisdiction may be broader than you anticipate. In *State of New York v. Vayu*, 2023 N.Y. Slip Op. 801, 2023 WL 1973001 (February 14, 2023), the New York Court of Appeals, in a 5-1 decision, overturned Supreme Court's and the Third Department's decisions to dismiss a contractual dispute based on lack of personal jurisdiction over an out-of-state entity that had contracted to provide unmanned aerial vehicles ("UAVs") to SUNY Stony Brook for use in Madagascar. The Court of Appeals found that Defendant Vayu's numerous telephone calls and emails to SUNY Stony Brook over the course of two years, and one face-to-face meeting between the two in New York, were sufficient to demonstrate a clear intent by Vayu, a Delaware corporation headquartered in Michigan, to engage purposefully in business activities in New York within the meaning of CPLR § 302(a)(1). While this case did not originate in the Commercial Division, all New York state court practitioners need to take account of the expansion of specific jurisdiction announced in *Vayu*.

New York's long arm statute, CPLR § 302, "is a single-act statute" that requires only one "purposeful transaction" to confer specific jurisdiction in New York. Under CPLR § 302(a)(1), a New York court may exercise specific jurisdiction over any non-domiciliary who in person or through an agent (1) "transacts any business within the state" or (2) "contracts anywhere to supply goods or services in the state."

In *Vayu*, Supreme Court had dismissed the case for lack of personal jurisdiction over Vayu, and the Appellate Division, Third Department affirmed. In its own opinion affirming Supreme Court, the Appellate Division reasoned that, although "[i]t is undisputed that the parties formed a relationship," the parties' interactions did not amount of purposeful transaction of business within New York. *State of New York v. Vayu, Inc.*, 195 A.D.3d 1337, 1339, 151 N.Y.S.3d 206 (2021), *rev'd*, No. 2, 2023 WL 1973001 (Feb. 14, 2023).

Rather, the Appellate Division agreed with Supreme Court that the transaction for the sale of UAVs to SUNY Stony Brook for use in Madagascar did not subject Vayu to New York long-arm personal jurisdiction because, Vayu's CEO and a Stony Brook professor had met in person in New York in 2017, that was merely a "one-time occurrence" and not enough to confer jurisdiction. *Id.*

The Court of Appeals disagreed. In reversing the Appellate Division's decision, the Court of Appeals found "the fact that [Vayu's CEO] traveled to New York to meet with [Dr. Small, a Stony Brook professor] in furtherance of the ongoing business relationship" to be significant. Relying

on *Presidential Realty Corp. v Michael Sq. W., Ltd.*, 44 N.Y.2d 672, 673, 405 N.Y.S.2d 37, 376 N.E.2d 198 [1978], the Court held that “the nature and purpose of a solitary business meeting conducted for a single day in New York may supply the minimum contacts necessary to subject a nonresident participant to the jurisdiction of our courts.” *Vayu*, 2023 WL 1973001, at *3. In any event, the Court of Appeals noted that this case involved “more than this bare minimum: the meeting was part of a far reaching and long-standing relationship,” especially given the parties had a two-year business relationship, where they exchanged emails and calls, prior to the meeting. *Id.*

The Court of Appeals also rejected *Vayu*’s argument that, because the UAVs were bought by SUNY Stony Brook for use in Madagascar, there was insufficient contact with New York under CPLR § 302. The Court explained that *Vayu*’s argument “confuses the concept of potential third-party beneficiaries of a commercial agreement with the long-arm jurisdictional inquiry into defendant’s activities in New York [...] The fact that persons located in remote areas of Madagascar might benefit from delivery of much-needed medical supplies by SUNY Stony Brook’s drones does not mean that SUNY Stony Brook itself would reap no benefit from the success of the program.” *Id.* at *4.

In a lone dissent, the Honorable Justice Jenny Rivera expressed concern with the majority’s decision, arguing that it “adopts an overly broad reading and unconstitutional extension of CPLR 302(a)(1).” Rather, Justice Rivera opined that the contacts in *Vayu* were indeed insufficient under CPLR § 302(a)(1) to establish that a “commercial, non-domiciliary defendant transacted business within New York State such that it could be subjected to personal jurisdiction in our state courts.”

Out-of-state parties who negotiate or transact with parties in New York should be mindful of *Vayu* and be prepared for the possibility that they may be subject to personal jurisdiction in New York courts in connection with those transactions.

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