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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
ELETSON HOLDINGS INC., *et al.,*	Case No. 23-10322 (JPM)
Debtors.[1]	(Jointly Administered)
	Hearing: **April 30, 2025 at 10:00 AM via Zoom**

REPLY OF ELAFONISSOS SHIPPING CORPORATION IN FURTHER SUPPORT OF MOTION FOR RELIEF FROM THE COURT'S ORDERS OF JANUARY 29, 2025 AND MARCH 13, 2025 PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 60(b)4 AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 9024

[1] The Debtors in these chapter 11 cases are: Eletson Holdings Inc., Eletson Finance (US) LLC, and Agathonissos Finance LLC. The address of the Debtors' corporate headquarters is 118 Kolokotroni Street, GR 185 35 Piraeus, Greece. The Debtors' mailing address is c/o Eletson Maritime, Inc., 1 Landmark Square, Suite 424, Stamford, Connecticut 06901.

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PRELIMINARY STATEMENT

1. In its Objection to the Motion,[2] Reorganized Holdings does not argue that Elafonissos has any contacts with the U.S., nor does it argue that it even so much as attempted to serve Elafonissos pursuant to the Hague Convention or that it sought permission to serve Elafonissos by alternative means pursuant to Rule 4(f)(3). Conceding every fact relevant to this Motion—and baselessly accusing Elafonissos of "gamesmanship" for having avoided direct participation in these bankruptcy cases until it was forced to do so by the increasingly broad Orders—Reorganized Holdings stakes its objection primarily on two extraordinary arguments.

2. First, Reorganized Holdings argues that this Court properly exercised personal jurisdiction over Elafonissos because Elafonissos, a foreign minority shareholder in a foreign corporation, submitted a ballot in voting as to plan acceptance. Reorganized Holdings cites no authority for this proposition because, it appears, ***no U.S. court*** has ever found personal jurisdiction on this basis. Indeed, submission of a ballot is not (like filing a proof of claim) akin to commencing an action against a debtor and submitting to the court's jurisdiction to adjudicate the action. Elafonissos has never voluntarily submitted itself to this Court's jurisdiction to determine any dispute over any issue—as is its unqualified right. If the Court were to deny the Motion, it would be creating new law, and vastly expanding the reach of personal jurisdiction to parties that avoid contacts with the U.S. and participation in U.S. court actions. Such worldwide reach of personal jurisdiction is wholly incompatible with personal jurisdiction principles as they have existed for centuries in U.S. law and would chill ballot submission from foreign creditors and equity holders in U.S. bankruptcies.

[2] Capitalized terms not defined herein have the same meaning as in the Motion (Dkt. No. 1569.). "Objection" or "Obj." refers to Reorganized Holdings' objection to the Motion (Dkt. No. 1622).

3. What Reorganized Holdings derides as "gamesmanship"—Elafonissos's decision not to object to or appeal the Plan—is nothing of the sort. A foreign creditor or equity holder of a foreign corporation in a U.S. bankruptcy is under no obligation to submit to personal jurisdiction in a U.S. bankruptcy court. Elafonissos's decision not to object to the Plan, nor to appeal it, does not result in personal jurisdiction, as argued by Reorganized Holdings. Rather, quite the opposite, it protects Elafonissos from the reach of this Court's orders. Had Reorganized Holdings not aggressively sought extraordinary relief against Elafonissos—including a foreign-anti-suit injunction and significant monetary sanctions—this Motion would not have been necessary. It is Reorganized Holdings that is trying to play Elafonissos's lack of presence in this jurisdiction to its advantage, improperly seeking and obtaining an ever escalating suite of injunctions and sanctions against Elafonissos—a party with no U.S. presence.

4. Second, Reorganized Holdings argues it need not have properly effectuated service on Elafonissos for personal jurisdiction to attach. This is the opposite of the law. Whether Elafonissos had actual knowledge of the sanctions motions, and whether that actual knowledge satisfied due process concerns, is irrelevant as to whether service was proper—an independent requirement for establishing personal jurisdiction. Here it inarguably was not. Reorganized Holdings' attempts to extend the Court's reach around the globe are all the more brazen given its total lack of attempt to properly serve process on Elafonissos. If Reorganized Holdings wished to properly serve Elafonissos, it easily could have done so pursuant to the Hague Convention by hiring a Greek process server and obtaining a court order in Greece. If it believed it had a basis to use alternative email service, it was required to seek an order from this Court allowing it to do so. It did neither. Having chosen a shortcut that deprived this Court of personal jurisdiction, it must now abide the consequences of its choice.

5. As with its other arguments, Reorganized Holdings' argument that the Court is divested of jurisdiction as to this particular Motion is baseless. The cases cited by Reorganized Holdings firmly establish that the Court is only divested of jurisdiction as to those aspects of an order that have been appealed. But unlike Reorganized Holdings' pending motion to modify the March 13 Order as to aspects of the Order that are on appeal, there is no currently pending appeal raising the question of whether the Court had personal jurisdiction over Elafonissos when it entered the Orders.

6. There are few principles of U.S. law more basic and fundamental than that foreign persons who have no contacts with the U.S. and who do not reach into the U.S. with their actions are not subject to personal jurisdiction in U.S. courts. Reorganized Holdings asks this Court to vastly expand the reach of this Court beyond the U.S. in a way that has never been done before on the basis of no authority. Making matters worse, it asks this Court to retroactively excuse its failure to properly serve Elafonissos, or to seek permission to effectuate alternative service. The Court has no discretion to do so. The Court inarguably lacked personal jurisdiction in entering the Orders as to Elafonissos, and therefore must vacate them as to Elafonissos pursuant to Rule 60(b)(4).

ARGUMENT

A. The Court Was Not Divested of Jurisdiction Over the Orders as to Whether It Had Personal Jurisdiction Over Elafonissos Because That Question Has Not Been Raised on Appeal

7. As a threshold matter, Reorganized Holdings argues the Court cannot grant the Motion as a matter of law. Not so. The Court was not divested of jurisdiction over the question of whether it had personal jurisdiction over Elafonissos in entering the Orders when the Orders were appealed by other parties on other grounds. As the authority relied upon by Reorganized Holdings makes clear, an appeal from an order does not divest the Court of jurisdiction as to any aspect of that order, but rather, "[t]he filing of a bankruptcy appeal confers jurisdiction on the

appellate court and divests the trial court of control over ***those aspects of the case involved in the appeal***." *In re Sabine Oil & Gas Corp.*, No. 16cv2561 (JGK), 2016 WL 4203551, at *6 (S.D.N.Y. Aug. 9, 2016) (emphasis added). "But the bankruptcy courts do retain jurisdiction to decide issues different from those on appeal." *Id.*

8. Here, Elafonissos has not yet appealed either of the Orders, so no appeal is pending as to Elafonissos. Further, no party has raised on appeal the issue of whether the Court lacked personal jurisdiction ***over Elafonissos*** in entering the Orders as to Elafonissos. (*See* Dkt. Nos. 1456, 1462, 1568, 1581.) Accordingly, the appeals of the Orders did not divest the Court of jurisdiction as to the instant Motion because the issues raised in the Motion are different from and collateral to those raised in the appeals. (*See id.*); *see also In re Arcapita Bank B.S.C.(c)*, 648 B.R. 489, 503 (Bankr. S.D.N.Y. 2023) (explaining bankruptcy court is not divested of jurisdiction "to decide issues and proceedings different from and collateral to those involved in the appeal.") (internal quotes omitted).

9. Reorganized Holdings' attempt to cast the April 17, 2025 letter to the Court by counsel to Elafonissos and the Majority Shareholders (the "April 17 Letter") as a concession that the Court has been divested of jurisdiction as to this Motion ignores this significant distinction. (*See* Obj. ¶ 38 (citing Dkt. No. 1611).) The April 17 Letter specifically noted that Reorganized Holdings' motion to modify the Court's March 13 Order (Dkt. No. 1602) "seeks to amend an Order over which the District Court now has jurisdiction ***on the very same grounds that are the issue of the District Court appeal***." (Dkt. No. 1611 at 2 (emphasis added).) Indeed, the appeals directly implicate the Court's ability to impose the monetary sanctions Reorganized Holdings seeks to increase through amendment. Thus Reorganized Holdings' motion to amend the March 13 Order—in contrast to the instant Motion—involves "those aspects of the case involved in the

appeal." *In re Sabine Oil & Gas Corp.*, 2016 WL 4203551, at *6. While Reorganized Holdings' reliance now on an argument that the Court is divested of jurisdiction as to those aspects of an order that has been appealed estops it from further pursuing its motion to amend the March 13 Order, it is irrelevant as to this Motion, which raises issues "different from and collateral to those involved in the appeal." *In re Arcapita Bank B.S.C.(c)*, 648 B.R. at 503.

B. Elafonissos Did Not "Implicitly Consent" to Personal Jurisdiction

10. Reorganized Holdings asks this Court to establish an extraordinary principle of worldwide personal jurisdiction over foreign shareholders of foreign corporations that find themselves in a U.S. bankruptcy. Implicit in Reorganized Holdings' argument is the principle that a U.S. bankruptcy court can direct the actions of, and impose sanctions on, a foreign person who owns shares in a foreign corporation and has no contacts with the U.S. merely because that foreign person—who filed no claims, objections, or motions in the bankruptcy case—returned a ballot for a plan of reorganization as to the corporation in which it held shares. As is readily apparent from Reorganized Holdings' failure to cite a case where a U.S. bankruptcy court has asserted such jurisdiction, no U.S. court has ***ever*** found personal jurisdiction under these circumstances. This Court should not be the first to do so in the absence of any authority establishing such broad and sweeping worldwide jurisdiction.

11. Turning the law regarding personal jurisdiction on its head, Reorganized Holdings argues that, because Elafonissos did not object to the proposed Confirmation Order, or appeal it, Elafonissos "waived any personal-jurisdiction-based defense" to the Confirmation Order, thereby somehow consenting to the Court's jurisdiction to subsequently enter the Orders. (*See* Obj. 53-55.) But a party over whom a court lacks personal jurisdiction is not obligated to challenge an action of the court at the time the action is being considered by the court. *"R" Best Produce, Inc. v. DiSapio*, 540 F.3d 115, 123 (2d Cir. 2008) ("A defendant is always free to ignore the judicial

proceedings, risk a default judgment, and then challenge that judgment on jurisdictional grounds" under FRCP 60(b)(4).) (quoting *Ins. Corp. of Ireland, Ltd. v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 706 (1982)).

12. Indeed, as is made clear by the authority relied upon by Reorganized Holdings, objecting to the Confirmation Order and litigating that issue in this Court—or simply appealing it as Reorganized Holdings argues Elafonissos should have done—would have acted as a consent to personal jurisdiction. Reorganized Holdings relies on *In re Petrie Retail, Inc.*, 304 F.3d 223, 231-32 (2d Cir. 2002) for the proposition that, because Elafonissos did not appeal from the Confirmation Order, it consented to the Court's personal jurisdiction to enter the Orders. (Obj. ¶ 59.) But in *In re Petrie Retail*, unlike here, the party objecting to personal jurisdiction actively participated in numerous aspects of the bankruptcy case, including most importantly by filing an objection to the "debtors' plan of reorganization." 304 F.3d at 231. The objecting party in that case also filed a proof of claim, filed a motion "seeking determination and payment of its administrative rent charge," and filed an objection "to the debtors' motion seeking approval of the assumption and assignment of unexpired leases." *Id.* In none of those filings did the objecting party challenge personal jurisdiction. *Id.* In stark contrast, here, Elafonissos (1) did not file any claim, (2) did not file any motions, and (3) did not file any objections, and therefore did not submit itself to the personal jurisdiction of the Court.

13. Further, given the Court's lack of personal jurisdiction over Elafonissos—a party with no ties to the U.S.—the vague reference in the Confirmation Order to "Related Parties" being directed "to cooperate in good faith to implement and consummate the Plan" (Dkt. No. 1223 § 5.i) is inapplicable to Elafonissos, particularly in light of the Confirmation Order's express acknowledgment that it extends only so far as "applicable law" allowed. (*See id.* § 5.iv.) Given

Elafonissos's lack of participation in the bankruptcy case, and its total lack of ties to the U.S., Elafonissos could not have reasonably interpreted the Confirmation Order as allowing the Court to impose anti-suit injunctions and coercive sanctions upon it until the Court issued the January 29 Order, which (unlike the Plan and Confirmation Order) imposed affirmative obligations expressly upon Elafonissos, and raised the specter of sanctions. Elafonissos, having not submitted to the Court's jurisdiction by litigating aspects of the bankruptcy case as other Related Parties did, was not subject to the Confirmation Order's direction to Related Parties because "applicable law"—*i.e.* the law of personal jurisdiction—does not grant U.S. bankruptcy courts the authority to enjoin the actions of foreign parties with no U.S. ties who have not participated in a bankruptcy case. *See Sec. Investor Protection Corp. v. Bernard L. Madoff Inv. Sec. LLC*, Nos. 12-mc-115(JSR), 12-cv-5597(JSR), 2013 WL 4077586, at *3 (S.D.N.Y. Aug. 2, 2013) ("It is well established that a court may not grant an 'injunction over a party over whom it does not have personal jurisdiction.'") (quoting *Hyundai Mipo Dockyard Co. v. AEP/Borden Indus.*, 261 F.3d 264, 270 (2d Cir. 2001)).

14. In an attempt to avoid the inconvenient facts of Elafonissos's lack of U.S. contacts and lack of participation in this bankruptcy matter, Reorganized Holdings relies on a single action as establishing the Court's personal jurisdiction over Elafonissos—Elafonissos's submission of a ballot to vote on the Plan. (*See, e.g.,* Obj. ¶¶ 54, 58.) Absent from Reorganized Holdings' Objection, however, is any citation to ***any*** legal authority finding that the submission of a ballot is tantamount to a submission to personal jurisdiction of a U.S. bankruptcy court for all matters pertaining to the bankruptcy case. (*See id.* §§ 52-59 (citing no authority holding submission of a ballot sufficient to confer personal jurisdiction).) That is because no such authority exists. Nor does Reorganized Holdings point to a statute or any language in the Plan, Disclosure Statement, or ballot indicating that casting a vote would result in submitting to personal jurisdiction. In

essence, Reorganized Holdings asks this Court to make new law holding U.S. bankruptcy courts have extraordinary powers to regulate the activity of foreign shareholders in foreign corporations if that corporation becomes involved in a U.S. bankruptcy. This novel argument admits of virtually no limiting principle and would greatly expand personal jurisdiction jurisprudence beyond its current bounds.

15. Nor does this situation resemble the limited personal jurisdiction a creditor consents to in filing a proof of claim. *See, e.g.*, *In re Lehman Bros. Holdings Inc.*, 544 B.R. 16, 36 (Bankr. S.D.N.Y. 2015) (explaining that filing a proof of claim acts as a "submission to the jurisdiction of the Court only with respect to litigation concerning the claims allowance process" and finding lack of personal jurisdiction for non-claims allowance adversary proceeding against foreign creditor who filed proof of claim). Even in that limited case, a proof of claim submits the filer to the court's jurisdiction to determine its allowed claim because "a proof of claim filed by a creditor is conceptually analogous to a civil complaint[.]" *In re Cruisephone, Inc.*, 278 B.R. 325, 330 (E.D.N.Y. 2002). Because it is akin to initiating a legal proceeding in the bankruptcy court, "[t]he filing of a proof of claim by a creditor is not merely a means of providing information to the bankruptcy court, but it is a submission to the bankruptcy court's jurisdiction to establish that creditor's right to participate in the distribution of the bankruptcy estate." *Id.*

16. Here, the return of Elafonissos's ballot ***was*** merely a means of "providing information" to the Court and ***was not***, in any way, akin to initiating a legal action against the debtor to establish its right to payment from the debtor. *See In re Smallhold, Inc.*, 665 B.R. 704, 724 (Bankr. D. Del. 2024) ("Under the Bankruptcy Code . . . the creditor's vote is intended to indicate only whether the creditor does or does not accept the plan's treatment of the creditor's allowed claim."). Thus, Elafonissos's mere vote of a ballot, with nothing else, did not in any way

constitute submission to the Court's jurisdiction, as submitting a ballot did not commence an action to be determined by the Court.

17. Finally, the subject matter of the Orders is broad and wide-reaching, further militating against the Court's expanding the law of personal jurisdiction in these circumstances. The March 13 Order, in particular, constitutes an anti-foreign suit injunction against a foreign entity with coercive monetary sanctions concurrently imposed to force the foreign entity's compliance. Such an order would be extraordinary under any circumstance. A U.S. court may only enjoin a foreign legal action where, among other things, (1) it has personal jurisdiction over the enjoined party, and (2) the parties to the foreign suit are the same as those before the U.S. court. *See China Trade Development Corp. v. M.V. Choong Yong*, 837 F.2d 33, 35-36 (2d Cir. 1987). "[B]ecause such an order effectively restricts the jurisdiction of the court of a sovereign . . . an anti-foreign-suit injunction should be used sparingly" and the court must pay "due regard to principles of international comity." *See id.* Here, the extensive anti-foreign-suit injunction entered in the March 13 Order includes more than a dozen parties, many of which are foreign entities that are not parties to these Chapter 11 cases. (*See* Dkt. No. 1537, Ex. 1.) Elafonissos has not appeared in this matter, has not sought any relief in this matter, and has no contacts with the U.S. Establishing new law holding such a party is subject to the personal jurisdiction of this Court for purposes of imposing an anti-foreign-suit injunction and monetary sanctions upon Elafonissos would be an extraordinary outcome, contrary to Second Circuit precedent directing that such orders (independent even of personal jurisdiction concerns) be "used sparingly." *See China Trade Development Corp.*, 837 F.2d at 35-36.

C. The Court Did Not Have Personal Jurisdiction Over Elafonissos Because Reorganized Holdings Did Not Properly Serve Elafonissos

18. Relying almost exclusively on a Supreme Court case that did not involve a challenge to personal jurisdiction, Reorganized Holdings again turns the law on its head by arguing Elafonissos need not have been properly served with the motions resulting in the Orders for personal jurisdiction to attach. (*See* Obj. ¶ 62 (citing *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260 (2010)).) Reorganized Holdings argues, in essence, that if Elafonissos had actual notice of the motions, the Court could exercise personal jurisdiction over Elafonissos regardless of whether Elafonissos was properly served. (*See* Obj. ¶ 62.) But, unlike here, the Supreme Court in *Espinosa* was not asked to determine whether the court that entered the order at issue properly exercised personal jurisdiction over the party against whom the order was entered. *See* 559 U.S. at 271 ("This case presents no occasion to engage in such an 'arguable basis' inquiry or to define the precise circumstances in which a jurisdictional error will render a judgment void because [the appellant] does not argue the Bankruptcy Court's error was jurisdictional.").

19. "The lawful exercise of personal jurisdiction by a federal court requires satisfaction of three primary requirements." *Licci ex rel. Licci v. Lebanese Canadian Bank, SAL*, 673 F.3d 50, 59 (2d Cir. 2012). Those requirements are (1) service of process "must have been procedurally proper[,]" (2) "there must be a statutory basis for personal jurisdiction that renders such service of process effective[,]" and (3) "the exercise of personal jurisdiction must comport with constitutional due process principles." *Id.* at 59-60. Thus, *Espinosa's* examination of whether actual knowledge fulfilled requirements of due process is insufficient for the Court to determine whether it had personal jurisdiction over Elafonissos. Reorganized Holdings fails to address that its service of Elafonissos was procedurally improper and had no statutory basis. *Compare id.* at 59 (finding service was proper under Rule 4(f)(2)(c)(ii) and statutory basis was found in Rule 4(k)(1)(A)).

20. Even Reorganized Holdings' lengthy footnote arguing that, perhaps, email service in Greece may be proper under the Hague Convention because Greece has not expressly prohibited such service (Obj. ¶ 63, n. 21) undermines its own argument. In those cases, the party wishing to effectuate service sought a court order pursuant to Rule 4(f)(3) to serve by email, which requires that the manner of alternative service ordered by the court is "not prohibited by international agreement." *See, e.g.*, *Montano v. Herrera*, No. 22cv7272 (VSB), 2023 WL 2644340, at *2 (S.D.N.Y. Mar. 27, 2023) (granting motion to allow alternative service by email pursuant to Rule 4(f)(3) after serving party attempted to serve through judicial means in Venezuela under Hague Convention); *Peanuts Worldwide LLC v. Partnerships & Unincorporated Assocs. Identified on Schedule "A"*, 347 F.R.D. 316, 320 (N.D. Ill. 2024) (denying Rule 60 motion where email service in China was made ***after obtaining*** court order allowing such service pursuant to Rule 4(f)(3)). But service pursuant to Rule 4(f)(3) requires the serving party to obtain an order from a court allowing for alternative service. Fed. R. Civ. P. 4(f)(3). Unlike the cases it cites, Reorganized Holdings never attempted service pursuant to the Hague Convention and Greek law—as is required by Rule 4(f)(1)—nor did it move for an order allowing alternative service pursuant to Rule 4(f)(3), as it was required to do if it wished to serve in a way other than as expressly permitted by Greek law.[3]

21. Similarly, the cases relied upon by Reorganized Holdings in arguing that a Rule 60(b)(4) motion should be denied despite improper service where a party has actual notice of a proceeding do not support their argument. In *In re Kirwan Offices S.a.r.l.*, 592 B.R. 489, 500-01 (S.D.N.Y. 2018), *aff'd* 792 F. App'x 99 (2d Cir. 2019), the moving party was an active participant

[3] As noted in the Motion, Greek law requires Hague Convention service by obtaining an order of "the competent Public Prosecutor" and service by a process server. (Mot. at 14.)

in the bankruptcy case—having moved through counsel to intervene and to dismiss the case—but he subsequently fired his counsel and disabled his email in an attempt to prevent service in subsequent proceedings, and the parties seeking confirmation sought and obtained an order allowing for alternative email service, none of which happened here. *Id.* at 497-501. In *Velez v. Valasso*, 203 F. Supp. 2d 312, 323-24 (S.D.N.Y. 2002), the court acknowledged that despite the moving parties' actual knowledge of the action against them, and substantial delay in moving (more than 10 months following entry of default judgment), "the Court is nevertheless constrained to consider [the defendants'] belated challenges to its jurisdiction." *Id.* at 318. The court found, however, that the moving parties waived improper service as their attorney had sent a letter to the plaintiffs' attorney acknowledging service when the summons and complaint were improperly served. *Id.* 318-21.

22. Throughout its Objection, Reorganized Holdings repeats its mantra that Elafonissos should be found subject to personal jurisdiction not because it has contacts with the U.S., or because service was proper, but because of Elafonissos's purported gamesmanship. (*See, e.g.* Obj. ¶¶ 58, 64-65.) But unlike the parties in the cases it relies on, Elafonissos has not selectively participated in the bankruptcy proceedings, nor has it acknowledged and then withdrawn it acknowledgment of service, nor has it unreasonably delayed in bringing this Motion. Reorganized Holdings does not even attempt to demonstrate that (1) it attempted proper Hague Convention service, (2) that Elafonissos attempted to evade service, or (3) that Reorganized Holdings sought an order allowing for alternate email service—because none of those things happened. The Court should not reward Reorganized Holdings for making no effort to properly serve Elafonissos. As a foreign minority shareholder of a foreign corporation with no U.S. contacts, Elafonissos has consistently steered clear of this bankruptcy proceeding, choosing not to voluntarily submit to this

Court's jurisdiction—as is its right. Unfortunately for Elafonissos, it is Reorganized Holdings that has aggressively now reached into Greece by succeeding in obtaining the Orders purporting to prohibit Elafonissos from exercising its rights in Greece, pursuant to Greek law, and fining Elafonissos thousands of dollars per day ostensibly for not heeding the orders of a foreign court in a proceeding in which it never consented to participate. Within two weeks of the March 13 Order granting this extraordinary relief to Reorganized Holdings, Elafonissos filed this Motion.

23. There is no arguable basis for personal jurisdiction over Elafonissos. Reorganized Holdings does not even dispute that (1) Elafonissos has no U.S. contacts, (2) its participation in this bankruptcy matter was limited to submitting a ballot, an act that has never provided a sole basis for personal jurisdiction, (3) Reorganized Holdings did not serve Elafonissos pursuant to the Hague Convention, and (4) Reorganized Holdings never obtained an order pursuant to Rule 4(f)(3) to effectuate alternative service of the motions resulting in the Orders. "[I]f the underlying judgment is void for lack of jurisdiction, 'it is a *per se* abuse of discretion . . . to deny a movant's motion to vacate the judgment under Rule 60(b)(4).'" *City of New York v. Mickalis Pawn Shop, LLC*, 645 F.3d 114, 138 (2d Cir. 2011) (quoting *Burda Media, Inc. v. Viertel*, 417 F.3d 292, 298 (2d Cir. 2005)). The Court should grant the Motion.

CONCLUSION

For the foregoing reasons, the Court should grant the Motion and vacate the Orders as void as to Elafonissos.

Dated: April 28, 2025
New York, New York

Respectfully submitted,

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